

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

DR. DOROTHY NAIRNE, *et al.*,

Plaintiffs,

v.

R. KYLE ARDOIN, in his official capacity
as Secretary of State of Louisiana,

Defendant.

Civil Action No. 3:22-cv-00178-SDD-SDJ

Chief Judge Shelly D. Dick

Magistrate Judge Scott D. Johnson

DEFENDANTS' POST-TRIAL BRIEF

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INTRODUCTION

Plaintiffs' claim under § 2 of the Voting Rights Act ("VRA") is an overreach. Louisiana's house and senate redistricting plans provide *more* districts of majority Black voting-age population ("BVAP") than any prior plans in entirety of Louisiana history. Four individuals and two advocacy groups ("Plaintiffs") now demand nine new majority-BVAP legislative districts, six in the house and three in the senate. No one advocating before the Legislature during the 2021/2022 redistricting cycle suggested § 2 requires that many majority-Black districts, and no proposed plan came close to matching it. "Forcing proportional representation is unlawful and inconsistent with [the Supreme] Court's approach to implementing § 2." *Allen v. Milligan*, 599 U.S. 1, 28 (2023). But Plaintiffs go further, past proportional representation, into mandating *disproportionate* over-representation. The Court should reject that ploy for multiple reasons.

First, Plaintiffs lack standing to challenge all but a handful of legislative districts. A redistricting plaintiff claiming vote dilution has standing to challenge that plaintiff's own district, nothing more. The four individuals ("Individual Plaintiffs") thus collectively have standing to challenge at most four legislative districts alleged to violate § 2. That cannot get them the 47 districts' worth of relief they demand. Plaintiffs therefore necessarily rely on the standing of advocacy groups (the "Entity Plaintiffs") for the remaining districts.

But the Entity Plaintiffs lack standing entirely. The one Entity Plaintiff that asserts associational standing has not proven it has members in all remaining challenged districts. Nor have the Entity Plaintiffs established Article III standing in their own right for organizational standing. And § 2—which contains no right of action for anyone—certainly cannot be read to confer a right on corporations to assert the voting rights of non-members.

Second, Plaintiffs did not prove the essential threshold prerequisites of a § 2 claim. The minority groups they would gerrymander into new majority-BVAP districts, by an unlawful

maximization policy, are not compact. The only evidence before the Court concerning *population* compactness (as opposed to compactness of district shapes) shows that Plaintiffs' expert stitched together far-flung pockets of Black voting-age persons into new majority-BVAP districts, which § 2 does not require or permit. Moreover, Plaintiffs did not prove that voting is racially polarized: their expert failed to measure, in a reliable way, the very large segment of votes cast in early or absentee voting. Even if Plaintiffs' estimates were reliable, they show that there is political (not racial) polarization in Louisiana. One defense expert properly controlled for partisan polarization in his study and determined that differences in political views—not racial animus—is driving the patterns Plaintiffs count as polarized. Plaintiffs' experts, by contrast, myopically focused on White Democratic voters in attempting to differentiate race from politics, which makes no sense when it is White *Republican* voters whose voting choices Plaintiffs' experts are deeming polarized.

Third, Plaintiffs have no viable claim to *disproportionate* representation, when § 2 disavows even proportionality. With respect to the regions of focus that Plaintiffs have identified (which is the inquiry required by precedent), Plaintiffs uniformly seek *more* than proportionality. For example, in the house plan in the Baton Rouge area (44% BVAP), the enacted plan provides six majority-BVAP districts out of eleven (54%). But Plaintiffs demand *eight*—*i.e.*, 73% of the districts versus 44% BVAP in the Baton Rouge area. Similarly, Plaintiffs also seek disproportionate representation statewide: their illustrative plans make 33.3% of the house district and 35.9% of the senate districts majority-Black, even though the State's BVAP is 31.25%. That illustrative plans are thus “unlawful and inconsistent with” § 2. *Allen*, 599 U.S. at 28. For these reasons, those discussed below, and those raised in Defendants' pretrial filing, Doc. 177, and other briefing in this matter, this Court should enter judgment for the defense.

ARGUMENT

I. PLAINTIFFS LACK STANDING TO CHALLENGE ALL BUT (POSSIBLY) FOUR DISTRICTS.

Plaintiffs lack Article III standing for most of the relief they seek. Plaintiffs “bear[] the burden” to satisfy the “irreducible constitutional minimum” of standing. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). They must prove that they “suffered a concrete and particularized injury that is fairly traceable to the challenged conduct, and is likely to be redressed by a favorable judicial decision.” *Carney v. Adams*, 592 U.S. 53, 58 (2020) (quotation omitted). In the vote-dilution context, that requires showing—at a minimum—that each plaintiff resides in each district challenged as unlawful. *Gill v. Whitford*, 138 S. Ct. 1916, 1930 (2018). Plaintiffs appear to challenge 34 house and 13 senate districts, for a total of 47 districts.¹ But Individual Plaintiffs only presented evidence of standing in, at most, three house districts and one challenged senate district—thereby failing to demonstrate standing for the vast majority of the State.

There are four Individual Plaintiffs: Dr. Nairne, Rev. Lowe, Dr. Washington, and Pastor Harris. Individuals have standing “only with respect to those legislative districts in which they reside.” *North Carolina v. Covington*, 138 S. Ct. 2548, 2553 (2018). Dr. Nairne testified that she resides in HD60 and SD2. 1.TR² 26:22–25, 29:10–12. Rev. Lowe and Dr. Washington both reside in HD66 and SD16, 1.TR 56:25–57:4, 105:5–8 (though SD16 is not challenged). *See* Doc. 163-1 at 5. Pastor Harris resides in HD25 under the enacted plan and he did not disclose his senate district.

¹ Plaintiffs say their case “directly implicate[d] the following enacted districts: House Districts 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 22, 25, 29, 34, 35, 36, 37, 47, 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, 69, 70, 81, 88, and 101, and Senate Districts 2, 5, 7, 8, 10, 14, 15, 17, 19, 31, 36, 38, and 39.” Doc. 163-1 at 5.

² Defendants have requested, but have not yet received, final transcripts in this matter. Due to the expedited nature of this post-trial briefing, and pursuant to Defendants’ understanding of the Court’s instructions, Defendants provide citations to cleaned-up rough transcripts and rough transcripts (when the cleaned-up versions were not available) filed contemporaneously as sequential attachments, with the exception of Day 3, which is broken into Attachments 3A (a.m. session) and 3B (p.m. session). The transcripts will be referred to as “[Day#].TR [Page#:Line#].” For example, 1.TR 26:22–25 refers to the attached Day 1 transcript at page 26, lines 22 through 25. o

1.TR 76:19–20. At best then, Individual Plaintiffs have established standing to challenge SD2, HD60, HD66, and HD25.

Plaintiffs lack standing to challenge SD2, however, because it is majority-Black under the enacted plan. 1.TR 82:5–9. Plaintiffs are not injured by districts that provide them with an equal opportunity to elect their representatives of choice, *see Gill*, 138 S. Ct. at 1932, as SD2 does. Any claim by the Individual Plaintiffs that other districts cause them injury is a “generalized grievance” that does not confer standing. *Id.* at 1931. The Entity Plaintiffs thus have an enormous gap to fill: *i.e.*, the 43-44 districts in which no Individual Plaintiff resides. To do that, Plaintiffs attempt to rely on the alleged standing of Entity Plaintiffs Black Voters Matter Capacity Building Institute (“BVM”) and the Louisiana State Conference of the National Association for the Advancement of Colored People (the “Louisiana NAACP”).

For organizational plaintiffs, Article III standing “can be satisfied in two ways. Either the organization can claim that it suffered an injury in its own right or, alternatively, it can assert ‘standing solely as the representative of its members.’” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023) (“*SFFA*”) (citation omitted). Where an organization asserts members’ standing, it must “make specific allegations establishing that at least one identified member” would have standing in that member’s own right. *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009). “An organization has standing to sue on its own behalf if it meets the same standing test that applies to individuals.” *Ass’n of Cmty. Organizations for Reform Now v. Fowler*, 178 F.3d 350, 356 (5th Cir. 1999) (“*ACORN*”). The Entity Plaintiffs have not established standing under either theory.

Plaintiffs do not claim associational standing for BVM, *see* Doc. 163 at 12 n.4, only for the Louisiana NAACP. And that assertion failed at trial.

To establish associational standing, an entity “must demonstrate that (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *SFFA*, 600 U.S. at 199 (quotation omitted). The Supreme Court’s precedents “have required plaintiff-organizations to make specific allegations establishing that at least one identified member had suffered or would suffer harm.” *Summers*, 555 U.S. at 498; *see also SFFA*, 600 U.S. at 201. This includes a “requirement of naming the affected members.” *Summers*, 555 U.S. at 498; *see Ala. Legislative Black Caucus v. Ala.*, 575 U.S. 254, 271 (2015); *N.A.A.C.P. v. City of Kyle, Tex.*, 626 F.3d 233, 237 (5th Cir. 2010).

Here, the Louisiana NAACP refused to provide the “list of members” necessary to establish standing, *Ala. Legislative Black Caucus*, 575 U.S. at 271, even after Defendants sought that information in discovery. When Defendants moved to compel discovery responses on that topic, the Louisiana NAACP first relied on an interrogatory response of its president, Mr. McClanahan, that he “identified at least one member” in each of the 47 challenged districts, *see* Doc. 135-10 at 2, but the Louisiana NAACP refused discovery into membership. After discovery closed, and after the Court entered an order on November 2, 2023 (just 25 days before trial) clarifying that Plaintiffs must disclose the names of members whose standing they might rely on. *See* Doc. 169 at 2. But the Louisiana NAACP then disclosed “members” in only ten districts, *see* Doc. 173-1, a number that dwindled to nine “members” at trial. *See infra* p. 6. That showing was too little, too late.

First, Mr. McClanahan conceded that Louisiana NAACP—a State Conference of the NAACP—does not actually have individual members itself. 1.TR 134:15–17. Instead, Mr. McClanahan claimed to satisfy the Louisiana NAACP’s associational standing by identifying members of affiliated NAACP branches, despite being the president of no branch. 1.TR 134:25–

135:1. This difference matters because the NAACP's branches are *separate legal entities* with their own officers, 1.TR 135:2–7, and elect “delegates” to attend state conventions and select Louisiana NAACP officers. 1.TR 124:20–25. Mr. McClanahan did not testify that the nine alleged branch members were officers of the Louisiana NAACP or delegates to a state convention. Nor did Plaintiffs provide evidence of what rights and privileges are afforded to “members” of a branch as to the State Conference (the Louisiana NAACP).³ Louisiana NAACP's claim of associational standing thus fails on that basis alone.

Second, the “evidence” that these nine individuals are branch members was scant and objectionable. Mr. McClanahan testified that the nine named individuals reside in three senate districts (SD8, SD17, and SD38) and six house districts (HD1, HD25, HD34, HD65, HD68, HD101). 1.TR* 5-19.⁴ But he could not recall whether branches had members in certain districts or the names or addresses of members, and essentially read an interrogatory response (likely drafted by lawyers) as his testimony. *Id.* Further, Plaintiffs adduced no evidence that those alleged branch members are regular voters or that they are not represented by their candidates of choice.

Much of this testimony was hearsay, which was improperly admitted over Defendants' objections that they were denied discovery, including the right to depose the nine alleged members who waived their First Amendment associational privilege. *See* 1.TR* 12:7–13:5, 23:18–24. That discovery would have allowed adversarial vetting of the Louisiana NAACP's representations about these alleged branch members. Through this series of events, the Louisiana NAACP used

³ Plaintiffs attempted to elicit testimony from Mr. McClanahan about a document they purported to be the Louisiana NAACP's bylaws, but he—the group's president—could not authenticate the document and it was properly excluded. 1.TR 121:17–124:1.

⁴ Upon Plaintiffs' request, this portion of the testimony was designated as “Attorneys Eyes Only,” and the courtroom was cleared. Out of an abundance of caution, Defendants are not filing a rough transcript under seal, but provide citations to the cleaned-up Day 1 sealed testimony (“1.TR*”) to aid the Court once final transcripts are available. If the Court requests, Defendants will provide citations to the final, official trial transcripts once available, to avoid further filing under seal.

its First Amendment associational privilege as both sword and shield by making a highly selective, eleventh-hour disclosures while shielding the topic from discovery. This approach is unsupported in precedent and prejudicial to Defendants, as Defendants argued previously. *See, e.g.*, Doc. 122 at 1–5; Doc. 132-1 at 6–8.

Third, Plaintiffs offered no evidence of *when* these identified individuals became branch members or where they resided when this action commenced. That omission is fatal because the Louisiana NAACP was required to “demonstrate that” the alleged branch members “have standing to sue in their own right,” *SFFA*, 600 U.S. at 199, as judged “as of the commencement of the suit.” *In re Isbell Records, Inc.*, 774 F.3d 859, 869 (5th Cir. 2014) (citation omitted). Without evidence concerning that time period, Plaintiffs’ standing assertion fails.

To establish standing in their own right (i.e., organizational standing), the Entity Plaintiffs must demonstrate a “concrete and demonstrable injury to the organization’s activities,” not “simply a setback to the organization’s abstract social interests.” *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982). Plaintiffs must present specific “evidence showing that [they] [were] ‘directly affected’ by” the challenged redistricting plans. *ACORN*, 178 F.3d at 357. An organization may do this “by showing that it had diverted significant resources to counteract the defendant’s conduct.” *N.A.A.C.P.*, 626 F.3d at 238. Plaintiffs failed these requirements too.

The Louisiana NAACP alleges injury based on the alleged expenditures of time and money it spent to get members “excited” about elections. 1.TR 128:15, 130:11–131:7. But that establishes nothing but “routine” strategic “activities” of a group that always spends money to motivate members and must, in all events, decide where to focus resources. *See N.A.A.C.P.*, 626 F.3d at 238. Moreover, this identifies no cost increase that is “concrete or identifiable” or a diversion of resources from other activities. *ACORN*, 178 F.3d at 360; *Texas State LULAC v. Elfant*, 52 F.4th

248, 253 (5th Cir. 2022) (reversing finding of standing where the evidence “fail[ed] to link any diversion of resources specifically to” the challenged law). The evidence shows (at most) a shift, which includes cost savings in some cases that is consistent with overall net cost reduction. Further, claimed injury in the form of alleged reduced excitement on the part of Black voters “simply” describes “a setback to the organization’s abstract . . . interests.” *Havens Realty*, 455 U.S. at 379.

BVM⁵ likewise failed to prove standing. BVM operates in some 25 states, Doc. 149-6 at 18:7–25, and does not have individual members, 1.TR 195:5–7, but instead works with “partner organizations.” 1.TR 196:5–9. Not all partners have members. 1.TR 196:10–15. BVM’s goal is to increase the outreach capacity of partner organizations engaged in voter participation and that otherwise “address our issues in their community,” 1.TR 164:24–165:3, meaning that not all BVM’s partners engage in voter outreach.

BVM claims that, as a result of the redistricting process, it diverted time and funds it might have otherwise used towards funding its partners’ non-redistricting purposes and missions. *See* 1.TR 172:20–173:7. Specifically, BVM points to costs associated with a bus tour it coordinated during the legislative redistricting and related events from before the maps became law. *See* 1.TR 172:3–19, 199:23–200:7. But BVM has “made no showing that these . . . costs are fairly traceable to any of the conduct by Louisiana that [BVM] claims in its complaint is illegal.” *ACORN*, 178 F.3d at 359. These expenses were undertaken before the challenged plans became law, so, if the Legislature had selected BVM’s desired plan, those same costs would still have been spent. BVM cannot claim injury from legislative deliberations, and, like the “monitoring” and “litigation” costs

⁵ Omari Ho-Sang testified that Black Voters Matter Capacity Building Institute (501(c)(3)) and Black Voters Matter Fund (501(c)(4)) are separate entities. 1.TR 195:10–196:1. Nearly all evidence submitted relates to the activities of the 501(c)(4)—which is not a named plaintiff in this case. *See* PL184–PL208. Defendants maintain that no evidence was presented involving harm to the Capacity Building Institute. That said, even assuming *arguendo* the alleged harm to the 501(c)(3) is the same as the harm to the 501(c)(4), BVM has failed to show it has standing.

found non-cognizable in *ACORN*, *see id.* at 358–59, the costs of lobbying the Legislature for a different outcome cannot be regarded as injuries from the enacted plans, *see N.A.A.C.P.*, 626 F.3d at 238 (“lobbying activities” not cognizable injury-in-fact).

BVM also claims that the redistricting process created an increasing sentiment in minority communities that “their votes doesn’t matter,” which BVM asserted “ma[de] it a bit more challeng[ing] for us to have the conversation” with Black voters. 1.TR 174:17–175:17. Ultimately, this showing, like Louisiana NAACP’s, “simply” describes “a setback to the organization’s abstract . . . interests” insufficient to show standing. *Havens Realty*, 455 U.S. at 379. *See also Texas State LULAC*, 52 F.4th at 253. BVM therefore lacks organizational standing to sue.

II. SECTION 2 OF THE VOTING RIGHTS ACT DOES NOT GRANT A PRIVATE RIGHT OF ACTION.

As the Eighth Circuit recently held, there is no private right of action to enforce § 2. *Arkansas State Conf. NAACP v. Arkansas Bd. of Apportionment*, 86 F.4th 1204 (8th Cir. 2023). Although the Fifth Circuit reached a contrary conclusion in *Robinson v. Ardoin*, 86 F.4th 574 (5th Cir. 2023), that conclusion is incorrect for all of the reasons explained in *Arkansas State Conf. NAACP*. Defendants preserve this argument for additional appellate review for the reasons set forth in their Motion to Dismiss and Memorandum in Support, Docs. 187 and 187-1.

III. PLAINTIFFS DID NOT PROVE A § 2 CLAIM.

For a § 2 claim to be viable, (1) “the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district,” (2) “the minority group must be able to show that it is politically cohesive,” and (3) “the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986). “If a plaintiff makes that showing, it must then go on to prove that, under the totality

of the circumstances, the district lines dilute the votes of the members of the minority group.” *Abbott v. Perez*, 138 S. Ct. 2305, 2331 (2018).

“The question which the court must answer in a section 2 case is whether ‘as a result of the challenged practice or structure plaintiffs do not have an equal opportunity to participate in the political processes and to elect candidates of their choice.’” *Westwego Citizens for Better Gov’t v. City of Westwego*, 946 F.2d 1109, 1120 (5th Cir. 1991) (citation omitted). The inquiry “depends upon a searching practical evaluation of the past and present reality” and on a “functional view of the political process.” *Id.* at 34. In this case, the challenged Louisiana State House and Senate plans contain 40 majority-BVAP districts. SOS_1 at 8. Plaintiffs are therefore asserting, “not the chance for some electoral success in place of none, but the chance for more success in place of some.” *Johnson v. De Grandy*, 512 U.S. 997, 1012–13 (1994). Consequently, this case presents (at best) “closer calls” than many § 2 cases. *Id.* “As facts beyond the ambit of the three *Gingles* factors loom correspondingly larger, factfinders cannot rest uncritically on assumptions about the force of the *Gingles* factors in pointing to dilution.” *Id.*

A. Plaintiffs Did Not Establish the First Precondition.

1. The Minority Population Is Not Compact.

“[T]he first *Gingles* condition requires the possibility of creating more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice.” *Johnson*, 512 U.S. at 1008. Plaintiffs must show that the “minority group” is “sufficiently large and geographically compact to constitute a majority” in more “reasonably configured district[s]” than currently exist. *Allen*, 599 U.S. at 18. “The first *Gingles* condition refers to the compactness of the minority population, not to the compactness of the contested district.” *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 433 (2006) (hereinafter “*LULAC*”).

Plaintiffs failed to adduce *any* evidence of the compactness of the *minority population* in their new illustrative majority-Black districts. Plaintiffs' expert, Bill Cooper, presented those illustrative plans for the house and senate. PL20, PL89. Yet Mr. Cooper did nothing to assess the compactness of the Black population grouped within his proposed new majority-Black districts. 3A.TR 89:9–13. He deemed that inquiry “not necessary” and “something that one does not need to do to answer the *Gingles* I inquiry.” *Id.* at 89:13–14. Mr. Cooper thought it irrelevant the Black population was located across different parts of the district. *Id.* at 90:14–16.

The Fifth Circuit begs to differ: the compactness inquiry evaluates “the compactness of the *minority population* in the proposed district, not the proposed district itself.” *Robinson v. Ardoin*, 37 F.4th 208, 218 (5th Cir. 2022) (citing *LULAC*, 548 U.S. at 433). But Mr. Cooper failed to offer any evidence or analysis as to this dispositive inquiry, instead deeming that controlling inquiry irrelevant. That error—and the resulting absence of *any* relevant analysis/evidence—is fatal here.

The only trial evidence concerning the compactness of the minority population was the reports and testimony of defense expert Sean Trende. Mr. Trende first employed a qualitative approach, examining dot density maps showing the dispersion of the Black population. *See* SOS_3 at 10; 4.TR 173:22–174:20. For example, he showed that in Illustrative House District (“IHD”) 1 in the Shreveport area, the Black population is not compact but rather spread out, separated by White populations. Ex. 1 at 1⁶. Similar maps show similar patterns across Mr. Cooper's new majority-Black districts. SOS_3 at Figs. 21, 33, 48, 52, 71, 83, 96.

Mr. Trende also applied quantitative approaches to assessing population compactness, using both moment of inertia⁷ and the areal/Chen & Rodden compactness measures. SOS_3 at 14-

⁶ Attached hereto as Exhibit 1 (“Ex. 1”) are copies of Figures 5 and 6 from Mr. Trende's Expert Report, SOS_3 at 13, 17.

⁷ Moment of inertia is one of the oldest redistricting metrics. SOS_3 at 14-15 (citing scholarly articles dating back to 1963). “The moment of inertia approach is defined as the ‘sum of squared distances from each person to [their]

16; 4.TR 177:25–179:25, 180:1–181:13. By these methods, Mr. Trende demonstrated the most compact group of Black voting-age residents in Mr. Cooper’ illustrative districts that would constitute a majority. For example, Mr. Trende found in IHD1 (Shreveport) that the most compact Black population sufficient for a majority stretches beyond Shreveport city limits, crossing heavily White areas to pick up distant Black population further north. SOS_3 at 19. He concluded that these isolated Black populations are “not incidental to the 50%+1 district, they are needed to draw such a district in the configuration.” *Id.* He presented these depictions in additional figures in his report. Ex. 1 at 2; *see* SOS_3 at Figs. 7, 22, 23, 34, 35, 49, 50, 53, 54, 72, 73, 84, 85, 97, 98.

Based upon these methods, Mr. Trende concluded that Mr. Cooper’s illustrative majority-Black districts “are not based upon compact minority populations” and that areas within some of Mr. Cooper’s illustrative districts that capture disparate Black populations that “are not large enough to constitute a majority of the district.” SOS_3 at 7-8, 138. *See Cooper v. Harris*, 581 U.S. 285, 305 (2017) (“When a minority group is not sufficiently large to make up a majority in a reasonably shaped district, § 2 simply does not apply.”).

Plaintiffs did not rebut Mr. Trende’s conclusions. Plaintiffs rely on the Reock and Polsby-Popper measures, which measure the compactness of the *district shape*, not its *minority population*. 4.TR 171:14–172:4. That is plainly insufficient under binding Fifth Circuit precedent. *Robinson*, 37 F.4th at 218. This case is in all respects like *Sensley v. Albritton*, 385 F.3d 591 (5th Cir. 2004), which rejected a proposed district that would “lump together two groups of African–American citizens who were from two distinct communities . . . which are separated by

district’s center” *Id.* at 15 (citation omitted). It is not relevant whether courts have in the past accepted moment-of-inertia analyses for the first precondition. 4.TR 188:11–189:5. No court has rejected it, at least one redistricting decision has recognized moment of inertia as a compactness measure, *see In re Colo. General Assembly*, 828 P.2d 185, 198 (Co. 1992), and no rule binds all litigants to the same forms of proof as prior litigants. It is a well-known methodology in the field of geography, with 19,000 references in the academic literature. 6.TR 151:13–152:15 (testimony of Dr. Murray). Besides, the first precondition is Plaintiffs’ to prove, not Defendants’ to disprove.

considerable distance (approximately 18 miles) and share few community interests.” *Id.* at 598. In each region where Plaintiffs demand additional majority-BVAP districts, Mr. Cooper does just that.

Thus, Plaintiffs neither met their burden under the correct standard nor responded adequately to the defense evidence. In addition, Mr. Cooper did not analyze compactness at the district level. He only assessed the compactness of his plans statewide, as compared to the enacted plans. *See* PL20 at ¶¶ 82-85, Fig. 14; ¶¶ 110-113, Fig. 25. While he appended district compactness scores in his illustrative plans to his report, he performed no analysis district by district. 3A.TR 90:17–91:21, 92:8–14. He made only visual assessments of the new district lines. *Id.* at 92:11–14. But the Fifth Circuit in *Robinson* found that assessment of compactness on a statewide basis, and not district-by-district, does not show that the minority population in plaintiffs’ proposed district was geographically compact. 37 F.4th at 218-29 (holding that federal courts “cannot rely on” analysis that “addresses compactness on a plan-wide basis, not a district-by-district basis—as the first *Gingles* precondition requires”).

2. Plaintiffs’ Plans Are Racial Gerrymanders.

Plaintiffs do not establish the first precondition for the additional reason that their illustrative plans, if ratified, would compel illegal racial gerrymandering. In *Harding v. County of Dallas*, the Fifth Circuit recognized that plaintiffs must put forth an alternative map that is demonstrated to enhance the ability of minority voters to elect their candidates of choice to satisfy the *Gingles* preconditions. 948 F.3d 302, 310 (2020). The Fifth Circuit stated that “‘it is hard to see’ how the *Gingles* factors ‘could be met if the alternative to the district decision at issue would not enhance the ability of minority voters to elect the candidates of their choice.’” *Id.* at 308 (quoting *Abbott v. Perez*, 138 S. Ct. 2305, 2332 (2018)). In other words, plaintiffs in a VRA case must present a viable alternative to the challenged plan or practice that would remedy the alleged

vote dilution. The Eleventh Circuit recently reached a similar conclusion. *See Rose v. State of Georgia*, 87 F.4th 469 (11th Cir. 2023); *see also Davis v. Chiles*, 139 F.3d 1414 (11th Cir. 1998); *Sanchez v. Colorado*, 97 F.3d 1303, 1311 (10th Cir. 1996) (“The inquiries into remedy and liability, therefore, cannot be separated”); *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1025 (8th Cir. 2006) (same). This standard requires an early analysis by the Court of whether there is an adequate remedy. *Rose*, 87 F.4th at 482.

Applying the same concept, the Fifth Circuit recently held that an illustrative plan that is the product of racial predominance does not satisfy the first precondition. *See Robinson*, 86 F.4th at 594–95 & n.4. In *Robinson*, the Fifth Circuit held that “Courts must also determine if the illustrative districts have similar needs and interests beyond race.” *Id.* at 590. The Court analyzed whether illustrative plans were racial gerrymanders that would violate the Fourteenth Amendment, *id.* at 590–95, explaining that the illustrative plans carry “Equal Protection implications” because they would direct a future “legislatively enacted map” resulting from a § 2 liability finding, *see id.* at 595 n.4. The Fifth Circuit “recognized ‘a difference between being aware of racial considerations and being motivated by them’” and that awareness of race is permissible because §2 demands such considerations. *Id.* at 593 (quoting *Allen*, 599 U.S. at 30). But “[a]wareness becomes racial predominance when the district lines are drawn with the traditional, race-neutral districting criteria considered *after* the race-based decision is made.” *Id.* (emphasis in original) Another court recently reached a similar holding. *See Alpha Phi Alpha Fraternity Inc v. Raffensberger*, 2023 WL 7037537, at *53 (N.D. Ga. Oct. 26, 2023) (recognizing that race cannot predominate in the drawing of the illustrative plans to satisfy the first *Gingles* prerequisite). The Fifth Circuit holding follows directly from *Allen*. *See* 599 U.S. at 30 (plurality) (quoting *Miller v. Johnson*, 515 U.S. 900 (1995)); *see also id.* at 58 (Thomas, J., dissenting).

Several sources of evidence show that race predominated in this case.⁸ Mr. Cooper started with the enacted maps, 3A.TR 89:24–90:3, and focused only on (a) areas of the state where the Black population experienced growth and/or there was a corresponding decline in White population or (b) areas with high BVAP where additional majority-Black districts might be configured. 3A.TR 90:4–15; 90:23–91:3. He was not asked to, nor did he move any districts lines to improve compactness or to reduce political subdivision splits. *Id.* at 61:3–25. He was explicitly attempting to draw a number of majority-Black districts “in a range that would be reflective of the overall black population in the state.” *Id.* at 65:11–19. And to do so, he had to lower the BVAP of many existing majority-Black districts. *Id.* at 66:8–12. The sole purpose for moving any line from the enacted plans in his illustrative plans was to create a new majority-Black district.

Mr. Cooper claimed that he focused on traditional redistricting principles, but these were “*post hoc* justifications [he] in theory could have used but in reality did not.” *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 189–90 (2017). Mr. Cooper admitted that his illustrative plans did not improve population equality, 3A.TR 75:24–76:1, or core retention (a Joint Rule 21 principle), *id.* at 76:2–9. He claims to have drawn his illustrative plans with certain cultural communities of interest in mind (PL20 ¶ 27), but admitted that his cultural regions were merely “in the background.” 3A.TR 82:23–83:3. Plaintiffs attempt to justify the illustrative-district boundaries through the testimony of Dr. Colten, their communities of interest expert. But Mr. Cooper admitted that he never spoke with Dr. Colten and only saw his report *after* he drew his

⁸ At trial, considerable time was spent on objections to questions and testimony that Plaintiffs perceived as going to Mr. Cooper’s intent. But Plaintiffs’ counsel directly asked Mr. Cooper, “Did race predominate your drawing of the maps here?” to which Mr. Cooper responded in pertinent part: “No, it did not. It was one of several factors. I was constantly balancing traditional redistricting principles.” 3A.TR 19:17–18. Yet several objections were sustained whenever any of Defendants’ experts—even those not subject to pretrial motions like Dr. Barber—discussed Mr. Cooper’s intent. *See, e.g.*, 5.TR 183:6–184:12.

illustrative plans. 3A.TR 76:14–20. Dr. Colten’s opinions thus could not have informed or motivated Mr. Cooper’s line drawing.

The same is true of Mr. Cooper’s statements that he relied upon socio-economic data. Mr. Cooper did not load any of the ACS data into his map-drawing software until *after* he drew his plans, 3A.TR 86:18–87:2, 88:6–10, and hence could not have been drawing lines on that basis. The ACS data that Mr. Cooper purportedly considered outside of his software is reported only at the parish or municipal level, *id.* at 84:19–21, and Mr. Cooper did not disaggregate that data to the census block level, where lines are drawn. *Id.* at 84:22–85:7. And Mr. Cooper admitted that he did not look at each ACS reports for each parish and municipality. *Id.* at 89:3–5.

Mr. Cooper’s report demonstrates that his predominate purpose was race-based, i.e., a goal of maximizing majority-Black districts. PL020. Nowhere does Mr. Cooper’s report explain the bases for district lines that are not racial. For example, in the Shreveport area, Mr. Cooper testified that he took IHD1 further south into Shreveport to pick up Black population for a new majority-Black district. 3A.TR 98:1–99:3. Likewise, Mr. Cooper significantly changed the boundaries of SD17 to anchor his new majority-Black ISD17 in East Baton Rouge Parish to draw in Black population and then eliminated extending the district west to avoid predominantly White communities. *Id.* at 111:8–12:2. As another example, in IHD60, Mr. Cooper admitted that he combined several municipalities “to create a new majority-Black” district. PL020 ¶ 132. He offered no other explanation for changing the lines in these areas (or any other), such as reuniting any municipality or parish, minimizing any subdivision splits, or improving compactness. The only common index is race. *See LULAC*, 548 U.S. at 433. Maximization is also not the law under § 2. *Johnson*, 512 U.S. at 1017 (“Failure to maximize cannot be the measure of § 2.”). In fact, even proportionality is beyond § 2’s dictate: “Forcing proportional representation is unlawful and

inconsistent with [the Supreme] Court’s approach to implementing § 2.” *Allen*, 599 U.S. at 28. The Supreme Court has repeatedly “explained how traditional districting criteria limited any tendency of the VRA to compel proportionality.” *Id.* As a result, proportionality is rare and § 2 suits “rarely” succeed. *Id.* at 28–29. The Supreme Court in *Allen* confirmed that this is as it *should* be, since redistricting “is primarily the duty and responsibility of the States, not the federal courts.” *Id.* at 29 (quotation and bracket marks omitted). In Louisiana, where the Legislature created more majority-BVAP districts than ever before, there is no basis for Plaintiffs to compel more.

Mr. Cooper maximized majority-BVAP districts, resulting in 14 illustrative majority-BVAP senate districts and 35 illustrative majority-BVAP house districts (for increases of 7.4% in the House and 7.1%, respectively, since 2000). SOS_1 at 5–6; LDTX51 at 10–11. But ensembles of 100,000 and 500,000 simulated house and senate plans⁹, configured to respect traditional redistricting principles and not to achieve racial targets, produce no more than 5-8 majority-BVAP Senate districts and 18-23 majority-BVAP House districts. SOS_1 at 15, 56; SOS_4 at 9.¹⁰ The illustrative plans far exceed those figures.

Mr. Cooper’s line drawing was more than just race-conscious. He pervasively employed race with surgical and obsessive precision: creating numerous districts just above 50% BVAP to maximize the number of majority-Black districts.¹¹ Dr. Johnson demonstrated how Mr. Cooper drew lines without reference to any major roads, communities, neighborhoods or clear visible

⁹ As explained by Justice Kavanaugh, “Computer simulations might help detect the presence or absence of intentional discrimination.” *Allen*, 599 U.S. at 44 (Kavanaugh, J. concurring). As such, Dr. Barber’s simulations are directly relevant to determining whether race predominated in the drawing of the illustrative plans.

¹⁰ Dr. Barber’s conclusions are strongly supported by other evidence on the record, such as Mr. Cooper’s admission that his instructions were to draw more majority-Black districts and the undisputed evidence that Mr. Cooper’s Illustrative Plans exceed proportionality on a statewide and regional basis. Dr. McCartan criticized various aspects of Dr. Barber’s simulations, but admitted that his original criticisms were remedied in Dr. Barber’s second report. 7.TR 142:8–18, 161:2–5. Tellingly, Dr. McCartan did not run any simulation studies himself—which he could have easily done. 7.TR 130:13–19.

¹¹ At least four Supreme Court Justices held that race predominates when a mapdrawer draws to a racial target. *Allen*, 599 U.S. at 61-64 (Thomas, J., Gorsuch, J., Barrett, J., Alito, J. dissenting).

features. *See* LDTX51 ¶¶ 69–76. Configurations were driven at reaching BVAP numbers just above 50%. Eleven of the 35 majority Black districts in the illustrative house plan are between 50% and 53% BVAP, PL066; 5.TR 82:4–9, which is eight more than the enacted plans, *id.* 82:10–12, and eight illustrative house districts fall between 50.03% and 50.9% BVAP. PL066. Similarly, 9 of 14 illustrative majority-Black senate districts falls between 50 and 53% BVAP. PL047. Such narrow-banded precision cannot be explained except by the predominance of race as the principal line-drawing criteria.

B. Plaintiffs Did Not Establish the Second and Third *Gingles* Preconditions.

Plaintiffs also failed to establish the second and third preconditions, which require proof that the relevant minority group “is politically cohesive” and that, in the absence of a § 2 remedy, a White voting bloc will usually “defeat the minority’s preferred candidate.” *Allen*, 599 U.S. at 18 (citation omitted). “The second and third *Gingles* preconditions are often analyzed together.” *Christian Ministerial All. v. Sanders*, No. 4:19-cv-00402, 2023 WL 4745352, at *16 (E.D. Ark. July 25, 2023). Plaintiffs failed to prove both for several reasons.

1. Failure of Evidence.

Plaintiffs failed to show both preconditions because their evidence was incomplete and unreliable to prove Black and White voting preferences. For these inquiries, “the central focus is upon voting patterns.” *Campos v. City of Baytown, Tex.*, 840 F.2d 1240, 1244 (5th Cir. 1988). Because the secret ballot prevents direct observation of White and minority voting choices, proving the second and third preconditions “typically requires statistical evaluation of elections.” *Rodriguez v. Harris Cnty., Tex.*, 964 F. Supp. 2d 686, 757 (S.D. Tex. 2013), *aff’d sub nom. Gonzalez v. Harris Cnty., Tex.*, 601 F. App’x 255 (5th Cir. 2015).

Plaintiffs sponsored the opinion of Dr. Handley to make this showing. But her opinions were deficient because she did not adequately account for high levels of absentee and early voting.

See SOS_2¹² at 11–14. Dr. Handley’s main estimation methods (ecological inference and ecological regression) “compare the density of a particular population group in a specified area with the percentage of votes received by a particular candidate in that area.” *Perez v. Pasadena Indep. Sch. Dist.*, 958 F. Supp. 1196, 1215 (S.D. Tex. 1997), *aff’d*, 165 F.3d 368 (5th Cir. 1999). Specifically, they compare the percentage of minority population within precincts against the votes cast for candidates in those precincts to determine whether there is a correlation between minority percentages and candidate preferences. 2.TR 18:24–19:8.

The problem, however, is that about 30% of ballots cast in Louisiana since 2012 were by early or absentee voting, and that number rose to 45.6% in 2020. SOS_2 at 13. Louisiana does not link early or absentee ballots to precincts but instead reports these totals by parish. 2.TR 20:24–21:13. Thus, without a reliable allocation method, a statistical comparison of precinct minority percentages and voting outcomes will be off by anywhere from 20% to nearly 46%, depending on the election. See SOS_2 at 13. An error of this size is too large to overlook, see *Overton v. City of Austin*, 871 F.2d 529, 539 (5th Cir. 1989) (per curiam), as Dr. Handley admitted, 2.TR 22:20–22.¹³

Dr. Handley attempted to correct for this problem by allocating early and absentee votes to particular precincts proportionally based on the votes received by each candidate in the election-day vote. See PL001 at 6 & n.8; 2.TR 21:14–21. But that is unreliable. The point of measuring voting outcomes against minority percentages in each precinct is to *observe* whether there is a

¹² SOS_2, SOS_5, and SOS_39 and the testimony of Dr. Solanky were excluded pursuant to the Court’s pretrial ruling, Doc. 174. Defendants renewed their objection to this exclusion at trial and proffered Dr. Solanky’s reports. 7.TR 45:10–48:3. Notably, Dr. Handley’s supplemental report was received into evidence over Defendants’ objections. The supplemental report, and Dr. Handley’s testimony, show that Dr. Handley did not disclose the fact that her allocation method resulted in misallocation of approximately 30.9% of the votes in her database until Dr. Solanky exposed this flaw. SOS_2 at 13.

¹³ In fact, Dr. Handley rejected review of local elections and criticized Dr. Lewis’s district-specific elections analysis because he analyzed districts where there was overlap of 75% or higher for a given local election because “[t]he other 25 percent could have made a difference in terms of winning or losing.” 7.TR 173:20–:25. Dr. Handley’s own allocation method effected on average 30.9% of all elections she studied, which is even more likely to make a difference in her estimates of voting polarization. SOS_2 at 13.

correlation between the actual votes cast and the minority percentages in each precinct. But to build that observation on an assumption that about one third of voters (in the absentee and early-voting context) exhibit the same preferences as about two thirds (in the election-day vote) is to destroy the process of *observation* and *imputes* the preferences of election-day voters onto early-voting and absentee voters.¹⁴

Moreover, Dr. Handley did not cap the number of absentee and early voting votes assigned to each precinct by total turnout, so the total votes cast for given candidates was overestimated in some precincts and underestimated in others. The result is an impossible set of over- and under-estimates by precinct, which renders Dr. Handley's opinions so unreliable as to fail the threshold *Daubert* standard, *see Overton*, 871 F.2d at 539, much less to satisfy Plaintiffs' demanding burden, *Rodriguez v. Bexar Cnty., Tex.*, 385 F.3d 853, 867 (5th Cir. 2004) (reversing district court's finding of White block voting when it rejected statistical analysis because there was "no information" as to how voters "actually vote" to support the district court's impermissible assumptions); *Grove v. Emison*, 507 U.S. 125, 41–42 (1993) ("a court may not presume block voting even within a single minority group" (citation omitted)).

Finally, Defendants renew their objection to the Court's exclusion of Dr. Solanky's opinions. Dr. Solanky's opinions are typical of defense experts, who "have no burden to produce models or methods of their own; they need only attack those of plaintiffs' experts." *In re Zyprexa Prod. Liab. Litig.*, 489 F. Supp. 2d 230, 285 (E.D.N.Y. 2007); *see also Aviva Sports, Inc. v. Fingerhut Direct Marketing, Inc.*, 829 F. Supp. 2d 802, 834-35 (D. Minn. 2011) (collecting cases). Far from being immaterial, Dr. Solanky's opinion is highly probative to the question of Dr.

¹⁴ While Dr. Handley insisted "political scientists would endorse" her approach, 2.TR 23:2–5, she did not explain why it makes sense in this context. It does not. Mail-in voting populations frequently exhibit different voting preferences from in-person voting populations, and voters of different regions within parishes exhibit different voting preferences. Imputing others' preferences on voters is no better than "to ignore" them. 2.TR 22:20–21.

Handley’s methodology for allocating votes to the precinct level. Indeed, Dr. Handley was permitted to testify in response to Dr. Solanky’s criticisms of her methodology, even though Dr. Solanky’s opinions were excluded. 2.TR 58:11-66:1; 111:7-20. Because a failure to show a proper methodology defeats Plaintiffs’ show regarding polarized voting, Dr. Solanky’s opinions are so relevant as to possibly make the difference in the outcome.

2. Political Polarization.

Even assuming Dr. Handley’s estimates were reliable, Plaintiffs still failed to prove legally significant polarized voting because differences in candidate preferences among White and Black voters reflect a partisan, not racial, divide. Section 2 “is a balm for racial minorities, not political ones—even though the two often coincide.” *Baird v. Consol. City of Indianapolis*, 976 F.2d 357, 361 (7th Cir. 1992) (citation omitted). If “partisan affiliation, not race, best explains the divergent voting patterns among minority and white citizens,” then there is no “legally significant” racially polarized voting under the third *Gingles* precondition. *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 999 F.2d 831, 850 (5th Cir. 1993) (en banc). This is so because “[t]he Voting Rights Act does not guarantee that nominees of the Democratic Party will be elected, even if black voters are likely to favor that party’s candidates.” *Id.* at 854 (quotation omitted). VRA § 2 “is implicated only where Democrats lose because they are black, not where blacks lose because they are Democrats.” *Id.* As the Fifth Circuit explained in *LULAC, Council No. 4434*, a majority of Justices in *Gingles* held § 2 liability does not lie where different candidate preferences reflect “interest-group politics.” *See id.* at 855–59.

In this case, as in *LULAC, Council No. 4434*, the evidence “shows that divergent voting patterns among white and minority voters are best explained by partisan affiliation.” *Id.* at 861. Whereas Dr. Handley looked only to contests with Black candidates, 2.TR 24:10–24, Dr. Alford looked to a broader range of elections—including “fully racially contested election[s],”

“nonracially contested elections,” and “partially racially contested election[s],” 4.TR 106:7–10— to make comparisons necessary to determine whether voting preferences exhibit partisan polarization or racial polarization. *Id.* at 110:24–111:22; 117:8–18.

The data show the former. Beginning with federal contests, the results show that Black support for Black Democratic presidential candidate Obama matched Black support for White Democratic candidates Clinton and Biden, and that White support for White Republican candidates remained stable regardless of whether the Democratic opponent was White or Black. LDTX53 at 7; 4.TR 107:19–109:2. The pattern of partisan (not racial) polarization also appears in the state elections Dr. Handley analyzed. Black voters consistently support Democratic candidates, but not necessarily Black candidates. *See* LDTX52 at 9. In the 2015 attorney general contest and the 2020 senate contest, Black voters cohesively supported Democratic candidates but were divided among Black (Democratic) candidates; in the 2018 secretary of state contest, Black voters cohesively supported Democratic candidates but gave substantial support to a White Democrat; in the November 2020 senate contest, Black voters were divided among three candidates and gave more support to one White candidate (Mixon) over one Black candidate (Steib). 4.TR 112:10–115:7; LDTX53 at 9–10.

In contests Dr. Handley did not analyze, Dr. Alford found that Black voters cohesively supported Democratic candidates but not necessarily Black candidates.¹⁵ LDTX53 at 9–10. In contests between only Republican candidates, the Black vote loses its cohesion. LDTX53 at 14; 4.TR 120:10–122:12. And, in most all contests, White voters cohesively support Republican

¹⁵ For example in the 2015 and 2019 gubernatorial races and the October 2019 agriculture commissioner race, where the Black vote went to White Democrats over a Black Democrats; and the October 2015 insurance commissioner race, the November 2015 and 2019 gubernatorial run-off, where the Black vote cohesively supported Democratic candidates in the absence of a racial choice. 4.TR 118:3–119:13; LDTX53 at 9–10.

candidates regardless of a racial choice on the ballot.¹⁶ LDTX53 at 7–15. The polarization is thus consistently political, not racial.

Plaintiffs do not effectively rebut this point. Their expert, Dr. King, “agree[s] with Dr. Alford’s data;” agrees “that Black support for the Democratic candidates is consistent, whether those candidates are Black or White;” and agrees “that White voters are overwhelmingly Republican.” PL133 at 6–7. Dr. King further agreed there was “evidence of party polarization.” 7.TR 53:24–25. Attempting to show racial polarization, Dr. King erroneously looked solely at votes cast by registered Democrats. PL133 at 4–7; 7.TR 53:18–54:14. But Dr. King’s cherry-picked analysis is misdirected and unavailing. Dr. King admits that White voters consistently vote Republican overall; by focusing purely on White registered Democrats, Dr. King ignores the voting behavior of a super-majority of White voters’ behavior (who do not vote for Democrats), and therefore disregards data highly which is highly relevant to the question of polarization.

Dr. Handley makes the same error, opining that “White voters consistently provide more support to White Democrats than they do to Black Democrats” but admitting “White voters do not provide much support to either White or Black Democratic candidates.” PL012 at 10. Looking to a very small subset of White voters ignores that White voters supporting *Republicans* are the ones whose choices Plaintiffs count as racially polarized, even though Dr. King admitted that technique does not allow one to “evaluate . . . racial polarization separate from party polarization” for all but a small subset of White voters. 7.TR 103:23–104:4. Only Dr. Alford’s analysis gets at the relevant question whether *their* choices are political or racial in character in Louisiana.

¹⁶ The exception is White support for Democrat John Bel Edwards, but his conservative positions on salient issues (like abortion and gun rights) only underscore the partisan basis for voting patterns, as it shows Republican voters will “cross over” party lines to vote for a candidate conservative on such issues, not because of race. 4.TR 119:14–120:2.

Further, in determining that White registered Democrats are more likely to vote for White candidates, Dr. King’s analysis does not address whether that cause is partisan or racial. In particular, Dr. King appears to presume that Democratic registration shows a willingness of the registrant to vote for Democratic candidates, but voters often do not update their registration as their political views change. That is particularly true in Louisiana, where there are more registered Democrats than Republicans but where Republican candidates have a decided edge. *See* PL133 at 2. The fact that many White registered Democrats apparently support White Republicans only demonstrates that Republican candidates (regardless of race) reflect their increasingly conservative political views (more than their outdated registration status)—not that they refuse to support Black candidates on the basis of those candidates’ race.¹⁷

Ultimately, Plaintiffs prove too much in their assertion that conservatism and Republican Party support *is* a racially polarized choice. *See* PL133 at 8–10. All Dr. King does is define policy differences—such as diverging views over “drug legalization” and “police” policies—as racial differences. *Id.* at 8–9. But the fact that differing views on these questions often follow racial lines does not turn political differences into racial polarization. The point of the inquiry is to differentiate these patterns. *See LULAC, Council No. 4434*, 999 F.2d at 850–59. Plaintiffs’ position would effectively codify various left-of-center platforms—e.g., police defunding, drug legalization, ending school standardized tests, etc.—as enjoying special VRA protection, such that jurisdictions that do not implement them risk § 2 liability.

That is why Dr. Alford focuses on policy positions that directly concern *race*, not *politics*, and he found that racial polarization is waning. LDTX53 at 16–17. Plaintiffs are incorrect in their

¹⁷ Similar to Dr. King’s report, PL133, Dr. Solanky’s report, SOS_2, showed voter registration and turnout trends of Republican, Democrat, and Unaffiliated voters, and broke down the trends for Republicans and Democrats based on race. SOS_2 at 4-11. This is yet another piece of probative evidence that Plaintiffs were permitted to submit evidence in support of, but that Defendants were not permitted to rebut at trial.

apparent belief that § 2 creates a right to court-ordered Democratic Party success and Republican failure.

3. No Legally Significant White Bloc Voting.

Plaintiffs further did not prove the existence of an “amount of white bloc voting that can generally ‘minimize or cancel’ black voters’ ability to elect representatives of their choice.” *Gingles*, 478 U.S. at 56 (citations omitted). The question is not merely “whether white residents tend to vote as a bloc, but whether such bloc voting is ‘legally significant.’” *LULAC, Council No. 4434*, 999 F.2d at 850 (citations omitted). “[I]n the absence of significant white bloc voting it cannot be said that the ability of minority voters to elect their chosen representatives is inferior to that of white voters.” *Voinovich v. Quilter*, 507 U.S. 146, 158 (1993) (quoting *Gingles*, 478 U.S. at 49 n. 15). That is, “[i]n areas with substantial crossover voting” a challenger will not “be able to establish the third *Gingles* precondition—bloc voting by majority voters.” *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009). For example, in *Abrams v. Johnson*, 521 U.S. 74 (1997), the Supreme Court concluded that majority-Black districts were unnecessary because “the average percentage of whites voting for black candidates across Georgia ranged from 22% to 38%.” *Id.* at 92 (citation omitted). According to governing precedent, crossover voting becomes “substantial” when it arises to the level that “a VRA remedy,” i.e., a majority-Black district, is not necessary to enable the Black community to usually elect its preferred candidates. *Covington v. North Carolina*, 316 F.R.D. 117, 168 (M.D.N.C. 2016), *aff’d*, 137 S. Ct. 2211 (2017).

The unrebutted evidence shows that no VRA remedy is necessary to replace the districts Plaintiffs challenge. As in *Abrams*, White crossover voting is high, ranging from 18% to 27% on average, and it is higher in two-candidate contests (such as runoffs) than in contests with three or more candidates. *See* LDTX54 at 3. The minimum BVAP needed to create equal opportunity is well below 50% on average, ranging from 23% to 40%, depending on the type of election. *Id.*

Plaintiffs side-stepped the issue. They tendered the expert known for introducing in literature the method for determining “BVAP needed to win” a particular district, 6.TR 229:20–230:6, but did not ask her to perform that analysis. 2.TR 67:23–68:3. Dr. Handley explained she did not conduct that analysis because she “focuse[d] on the residents of the proposed district,” 2.TR 69:4–16, but the BVAP needed to win analysis does the same by analyzing voting demographics and behavior on a district-level basis. *See* 6.TR 223:21–227:23 (Dr. Lewis testimony regarding whether a “particular district provide[s] opportunity” to elect). In literature, Dr. Handley has guided that “a district-specific analysis that includes an analysis of voting patterns” would provide an indication of how to adjust for less than perfect minority voting cohesion, less than 100 percent White Democratic crossover voting, and less than equal minority and White voting age participation rates. SOS_36 at 19; 7.TR 204:11–205:2. But in this case, and contrary to her own guidance, Dr. Handley chose to aggregate her analysis to a regional level and to not report district-specific estimates on voting cohesion, crossover voting, or participation rates. 7.TR 207:16–208:24.

Only Dr. Lewis conducted and reported that analysis and his numbers are stark. He estimated support in “tens of thousands” of different combinations of candidate contests, 6.TR 232:23–233:4, and reported out district-specific results in four different types of elections. LDTX 52 at B-2-25. His estimates—which Dr. Handley does not contest the accuracy of, 7.TR 190:13–15—show that none of Plaintiffs’ illustrative districts require 50%+ BVAP to perform. LDTX62 (showing average percent BVAP needed for win never exceeding 49% for any of Plaintiffs’ new districts in any of the four types of elections analyzed). Dr. Handley “define[s]” an “effective district” for performance as one in which “the Black-preferred Black candidate wins more than 50% of the contests examined.” PL001 at 16. Dr. Lewis’ district-specific analysis shows that *none* of Plaintiffs’ proposed majority-Black Senate districts require 50% or greater BVAP to achieve a

50 percent win rate. LDTX54 at 7-8. Of Plaintiffs’ proposed majority-Black house districts, only *one* requires greater than 50% BVAP for a 50 percent win rate, two require exactly 50% BVAP for that same rate, and the remaining 32 proposed majority-Black house districts do not need 50% BVAP to be “effective” under Plaintiffs’ expert’s definition. LDTX54 at 7. The Louisiana Legislature could not have enacted Mr. Cooper’s illustrative plans because they do not meet *Gingles* I and III and, therefore, do not satisfy the narrow tailoring element required for strict scrutiny. *See Wis. Legislature v. Wis. Elections Comm’n*, 595 U.S. 398, 402–03 (2022) (per curiam); *Cooper*, 581 U.S. at 305.

C. Totality of the Circumstances.

Finally, even if Plaintiffs had established the *Gingles* preconditions, their claims fail under the totality-of-the-circumstances inquiry. “Satisfaction of” the *Gingles* “preconditions” is necessary, but not sufficient, to establish liability.” *Fusilier v. Landry*, 963 F.3d 447, 455 (5th Cir. 2020). “Plaintiffs must also show that, under the ‘totality of circumstances,’ they do not possess the same opportunities to participate in the political process and elect representatives of their choice enjoyed by other voters.” *Id.* (citation omitted). Even if Plaintiffs had shown the three *Gingles* preconditions, that is not enough where “other considerations show that the minority has an undiminished right to participate in the political process.” *Baird*, 976 F.2d at 359. The Court “is instructed to evaluate the totality of the circumstances with a ‘functional view of the political process’” and “[a] searching and practical review of electoral conditions.” *Fusilier*, 963 F.3d at 456, 462. Plaintiffs’ claim fails this inquiry.

1. Plaintiffs’ Demand for Better That Proportionality Lacks a Foundation in § 2.

Plaintiffs’ § 2 claim lacks merit because it demands the creation of more majority-Black districts than the proportion of Black voting-age persons in the regions Plaintiffs challenge and in

Louisiana. Plaintiffs have not shown that § 2 mandates more than proportionality, especially here, where the challenged plans already have majority-Black districts in substantial proportionality to the Black voting-age population.

As the Supreme Court has explained, one “may suspect vote dilution from political famine, but one is not entitled to suspect (much less infer) dilution from mere failure to guarantee a political feast.” *Johnson*, 512 U.S. at 1017. Accordingly, vote dilution will ordinarily not be found where minority voters in the relevant “area would enjoy substantial proportionality,” *id.* at 1014, such as where the districting plan offers “majority-minority districts in substantial proportion to the minority’s share of voting-age population.” *Id.* at 1013. *See also LULAC*, 548 U.S. at 436 (finding it proper to look “first to the proportionality inquiry” in weighing the circumstances).

In this case, Plaintiffs demand a political feast where the challenged plans afford more than equal opportunity. The enacted plans create 40 majority-Black districts (29 in the House and 11 in the Senate), *see SOS_1* at 8, and thereby “thwart [any] historical tendency to exclude [African-Americans], not encourage or perpetuate it.” *Johnson*, 512 U.S. at 1014. That is true at the local geographic areas at issue in this litigation and at the statewide level. By demanding *nine* more majority-Black districts, which substantially exceeds proportionality—something that § 2(b) expressly disavows requiring—Plaintiffs effectively define vote-dilution as the “failure to maximize” majority-Black districts, which “cannot be the measure of § 2.” *Id.* at 1016–17.

Plaintiffs demand the creation of *nine* new majority-Black districts (six in the house, three in the senate) in various regions. However, the additional majority-Black districts Plaintiffs demand exceeds the number of such districts that rough proportionality to the Black voters’ share of the voting-age population in those regions.

To begin, as in *Johnson*, “the relevant population” for the proportionality analysis is the BVAP population in the geographic areas Plaintiffs identified as the locus of vote dilution. 512 U.S. at 1017; *see also id.* at 1021–22. The analysis must be regional in scope for several reasons. First, as in *Johnson*, Plaintiffs have “litigated” this case on “smaller geographical scale[s]” than the entire house and senate plans. *See id.* Plaintiffs have clarified that they challenge only “*specific districts*” in “*specific areas*”—namely, “the Shreveport area, Jefferson Parish, and in the East Baton Rouge area” of the enacted senate plan and “the Shreveport area, the East Baton Rouge area, the Ascension area, the Lake Charles area, and the Natchitoches area” of the enacted house plan. Doc. 163 at 2. Where challengers’ claims focus on regions of a state, courts—following *Johnson*—have conducted the proportionality analysis by region. *See, e.g., Rural W. Tennessee Afr.-Am. Affs. Council v. Sundquist*, 209 F.3d 835, 844 (6th Cir. 2000); *Rodriguez v. Pataki*, 308 F. Supp. 2d 346, 428 (S.D.N.Y.), *aff’d*, 543 U.S. 997 (2004); *Soto Palmer v. Hobbs*, No. 3:22-CV-05035, 2023 WL 5125390, *10 & n.11 (W.D. Wash. Aug. 10, 2023), *petition for cert. docketed Trevino v. Palmer*, No. 23-489 (U.S. Nov. 7, 2023). This Court should too.

Second, foundational § 2 principles require that the analysis “should ordinarily” occur at the local level. *Rural W. Tennessee Afr.-Am. Affs.*, 209 F.3d at 843. The Supreme Court has rejected the theory that § 2 protection “belongs to the minority as a group and not to its individual members” and concluded that, as a result, § 2 liability “is proved for a particular area.” *Shaw v. Hunt*, 517 U.S. 899, 917–18 (1996) (“*Shaw II*”). Absent unique circumstances, such as “racially polarized voting—and the possible submergence of minority votes—throughout” a state, *LULAC*, 548 U.S. at 438, the analysis should be local, *see Soto Palmer*, 2023 WL 5125390, at *10 n.11; *Rural W. Tennessee Afr.-Am. Affs.*, 209 F.3d at 843.

Third, the size and numerosity of Louisiana legislative districts counsels in favor of a regional approach. Louisiana’s 105 house and 39 senate districts plainly afford representation on a more localized basis than its much-less-numerous and necessarily much-larger six congressional districts. And “[a] statewide assessment of proportionality seems particularly inappropriate here where the interests and representation of” voters in “rural and agricultural” regions “may diverge significantly from those who live in” other areas. *Soto Palmer*, 2023 WL 5125390, at *10 n.11. It is difficult to see how a claim of vote dilution can be “based on a statewide plan” in this context, *LULAC*, 548 U.S. at 438, where various regions of the state operate and can be configured and reconfigured independently of each other.

Viewed from that correct regional vantagepoint, the relevant Black communities enjoy *at least* substantial proportionality, and often better. The enacted house plan provides substantial proportionality or better in several regions. In the Shreveport region, three out of eight districts are majority-BVAP (37.5%) in a region of 39.1% BVAP, SOS_1 at 70. *See Johnson*, 512 U.S. at 1014 (finding substantial proportionality in 50% Hispanic VAP region where 45% of districts were majority-Hispanic). In Lake Charles, one of five enacted house districts is majority-BVAP (20%) in an area with 25.1% BVAP. SOS_1 at 86. In Baton Rouge, six of eleven enacted house districts are majority-BVAP (54%) in a region with 43.9% BVAP. SOS_1 at 93; 6.TR 30:10-21. And in the Iberville-Ascension region, one of four enacted house districts is majority-BVAP (25%) in an area with 29% BVAP. SOS_1 at 102.

In each of these regions, to add another majority-BVAP district would exceed proportionality, typically by a large margin. And Plaintiffs demand that and frequently more. For example, the additional two districts in the Baton Rouge region they seek would make 73% of the districts become majority-Black in a 44% BVAP region. *See* 6.TR 30:10–13, 30:22–31:4. But in

all of these instances, substantial proportionality already exists in the enacted house plan. *See Fairley v. Hattiesburg Mississippi*, 662 Fed. Appx. 291, 299 (5th Cir. 2016). The VRA requires no more.

Likewise, in the enacted senate plan, substantial proportionality already exists in each region that Plaintiffs challenge. In the Shreveport Region, one of three districts is majority-BVAP (33.33%) in a region with 39.1% BVAP. SOS_1 at 32. In Jefferson and St. Charles, one of five enacted senate districts is majority-BVAP (20%) in a region with 26.6% BVAP. SOS_1 at 40. Finally, in Baton Rouge, three of eight enacted senate districts are majority-BVAP (37.5%) in a region with 34.3% BVAP. SOS_1 at 47. In each of these regions, to add even one additional majority-BVAP district would exceed proportionality, typically by a large margin. In all cases, Plaintiffs demand that the Court “guarantee a political feast,” *Johnson*, 512 U.S. at 1017, which § 2 does not require. Indeed, § 2(b) explicitly provides that “nothing in this section [§ 2] establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.” 52 U.S.C. §10301(b). But Plaintiffs here would not even be content with “numbers equal to their proportion in the population,” and instead contend that § 2 demands representation disproportionately in their favor. The VRA does no such thing.

The statewide analysis does not yield a different result, as the enacted plans satisfy the “rough proportionality” standard statewide too, *Johnson*, 512 U.S. at 1023. Louisiana has a 31.25% BVAP according to the 2020 Census. SOS_1 at 5. Exact proportionality—which is not required—would call for 12 majority-Black Senate districts out of 39 total, and 33 majority-Black House districts out of 105 total. SOS_1 at 5, 8. The enacted senate plan includes 11 majority-Black districts, which is 28.2% of the 39 total state senate districts, a 3% difference. SOS_1 at 8. The

enacted house plan has 29 majority-Black districts, which is 27.6% of the 105 total state house districts, less than a 4% difference. SOS_1 at 8. *See also* 3A.TR 88:24–89:4.

The fact that the enacted plans fall “just short of perfect proportionality” provides no basis for § 2 liability. *Johnson*, 512 U.S. at 1013–14, 1023–24. The Supreme Court subsequently explained that “[t]here is, of course, no ‘magic parameter,’ and ‘rough proportionality,’ must allow for some deviations.” *LULAC*, 548 U.S. at 438. The Court in *LULAC* therefore assumed that a 16% to 22% comparison between the percentage of majority-Latino districts and Latino citizen voting-age percentage qualified as substantially proportionate—a six-point gap that is substantially larger than here. *See id.* Lower courts have followed suit, upholding deviations in the range of the 2022 enrolled plans’ deviation—and beyond—under the rough proportionality standard. *See, e.g., McConchie v. Scholz*, 577 F. Supp. 3d 842, 863 (N.D. Ill. 2021) (finding substantial proportionality in comparisons of 8.5% and 10% representation with 11.1% minority percentage); *Luna v. Cnty. of Kern*, 291 F. Supp. 3d 1088, 1133 (E.D. Cal. 2018) (20% majority-Hispanic CVAP districts found proportional in 30% Hispanic CVAP jurisdiction). The enacted plans easily satisfy this standard.

Plaintiffs’ illustrative plans, by contrast, *exceed* statewide proportionality. Plaintiffs’ illustrative senate plan includes 14 majority-Black districts—equaling 35.9% of all districts against 31.25% BVAP. SOS_1 at 5, 8. Their illustrative house plan provides 35 majority-Black districts—33.3% of all districts. SOS_1 at 6, 8. The enacted plans do not create a “political famine” that suggests vote dilution; rather Plaintiffs’ illustrative plans instead create a “political feast” that Section 2 does not require. *See Johnson*, 512 U.S. at 1017. Plaintiffs’ demand for greater than a proportional number of majority-Black districts reflects an attempt to maximize the number of majority-Black districts in Louisiana’s legislative district plans, which “cannot be the measure of

§ 2.” *Id.*; see also *Miller v. Johnson*, 515 U.S. 900, 909 (1995) (rejecting a “maximization agenda”); *Shaw II*, 517 U.S. at 913.; *Bush v. Vera*, 517 U.S. 952, 960 (1996) (plurality opinion).

Under the circumstances of this case, the substantial proportionality of the enacted plans confirms that there is no vote dilution. While *Johnson* declined to treat substantial proportionality as a “safe harbor,” 512 U.S. at 1019, that case and its progeny make clear that demands for better than proportionality can succeed only in rare circumstances not present here. *Johnson* notes proportionality would not be a legitimate § 2 defense “in cases of alleged dilution by the manipulation of district lines,” such as where a jurisdiction gerrymandered its districts to counteract the natural creation of majority-minority districts beyond the minority’s proportion of the population due to the state’s political geography and application of neutral criteria. *Johnson*, 512 U.S. at 1018–19. *LULAC* was an example of that: there the Court found the Hispanic group’s likely proportionality offset by “other evidence of vote dilution,” including that the Hispanic community was growing and becoming increasingly active—only to see a functional Hispanic-majority district dismantled. 548 U.S. 399–41.

Nothing remotely equivalent is present here. Louisiana’s plans contain more majority-BVAP districts than any maps of prior decades, despite the general stability of the State’s BVAP over that time. The plans also substantially exceed the number of majority-Black districts in plans simulated to achieve neutral criteria. Instead, the only way to achieve the maximization Plaintiffs demand is by the intentional and intensive use of race in drawing districts specifically combine non-compact minority populations into districts a smidgen above 50% BVAP—in a nutshell: aggressive racial gerrymandering. Likewise, there is no evidence of invidious electoral manipulation. See *Johnson*, 512 U.S. at 1018 (giving, as examples of such “reprehensible practices,” techniques like “ballot box stuffing, outright violence, discretionary registration”).

Johnson suggested § 2 might command more than proportionality to avoid an outcome where “the rights of some minority voters under § 2 may be traded off against the rights of other members of the same minority class,” as might occur where “the most blatant racial gerrymandering in half of a county’s single-member districts” were alleged to be would be “offset by political gerrymandering in the other half.” 512 U.S. at 1019. That is not so here, where Plaintiffs’ demands exceed proportionality at *every* level, both statewide and regional.

It is clear that the predominant—indeed *overwhelming*—motive of Plaintiffs’ illustrative plans was to maximize the number of majority-Black districts. Mr. Cooper even admitted to drawing to a racial target. But, even if Plaintiffs’ illustrative plans merely sought proportionality, any order by the court ordering their adoption would be subject to a “strict scrutiny” analysis. *Fairley*, 62 Fed. Appx. at 300 (citing *Miller*, 515 U.S. at 915–16); *Cooper*, 518 U.S. at 305. But Plaintiffs here don’t seek mere proportionality—rather they affirmatively seek *disproportionality* weighted in their favor. Such transparent and aggressive use of race to maximizes the number of majority-Black districts does not satisfy strict scrutiny. *Miller*, 515 U.S. at 927-28; *Wis. Legislature*, 142 S. Ct. at 402–03. Because Plaintiffs’ illustrative plans seek extra proportionality and are drawn to a racial target, they are illegal and not proper illustrative plans for this Court to consider. *Id.*

2. Additional Factors Undercut Plaintiffs’ Claim.

Plaintiffs have failed to meet their burden of showing vote dilution under the totality of the circumstances. *Fusilier*, 963 F.3d at 455. Plaintiffs’ evidence of a “history of official discrimination,” *Gingles*, 478 U.S. at 37 (citation omitted), is not recent. The discrimination they cite has no iteration past 1975—*nearly a half century ago*—and more recent data points (such as unemployment and school suspensions) are not necessarily evidence of discrimination (as there is no evidence concerning employability or error in suspension). *See* PL126 at 6–12.

The evidence shows that “members of the minority group have been elected to public office in the jurisdiction” in large numbers. *Gingles*, 478 U.S. at 37 (citation omitted) (describing Senate Factor 7). Dr. Burch conceded the Legislature has about 25% Black members. PL126 at 25. Dr. Burch obfuscates this by measuring that this factor against strict proportional representation., 3B.TR92:19–93:2, even though Section 2 expressly disavows a right to proportional representation. 52 U.S.C. § 10301(b). In doing so, Dr. Burch demands what Section 2 explicitly disavows: “nothing in this section establishe[*s*] a right to have members of a protected class elected in numbers equal to their proportion in the population.” *Id.* § 10301(b). But the Senate Report described, as “probative” of unequal opportunity, evidence that “no members of a minority group have been elected to office” or that only “a few minority candidates” had been. S. Rep. No. 97-417 at 29 n. 115 (1982), reprinted in 1982 U.S.C.C.A.N. 177. 25% of the Legislature is lightyears beyond no (or “a few”) members.

The functional reality of the political process is that Black voters have an equal opportunity to participate in the political process in Louisiana. Black registered voters make up not only the majority of registered Democrats in the state of Louisiana, but also a majority of Democrats voting in elections including statewide contests over the last decade. *See* SOS_5 at 8, 10; SOS_2¹⁸. *Every single* leadership position in the Democratic Caucus in the Louisiana Legislature is held by a member of the Louisiana Legislative Black Caucus.¹⁹ The House has 33 Democrat

¹⁸ Dr. Solanky’s reports speak directly to these points, which is another reason why his testimony and reports should not have been excluded.

¹⁹ In the House of Representatives, Rep. Sam Jenkins is the Chairman of the Democratic Caucus, Rep. Matthew Willard is the Vice Chair, and Rep. Randal Gaines is the whip. https://house.louisiana.gov/H_Reps/H_Reps_Caucus_Democrats (last accessed Dec. 18, 2023). In the Senate, Senator Gerald Boudreaux is the Chairman of the Senate Democratic Caucus. <https://louisianademocrats.org/our-party/our-leaders/> (last accessed Dec. 18, 2023). All are members of the Louisiana Legislative Black Caucus. https://www.house.louisiana.gov/llbc/index_members (last accessed Dec. 18, 2023).

Representatives,²⁰ and the Senate has 12 Democratic Senators.²¹ By exerting effective control over one of two major parties, the Black community has an opportunity to participate and elect candidates. Furthermore, Dr. Alford’s reports and testimony show that any polarization is political, not racial. *See Lopez v. Abbott*, 339 F.Supp.3d 589, 602-03 (S.D. Tex. 2018) (holding the plaintiffs met the *Gingles* preconditions, but failed the totality of the circumstances because political polarization was “the better explanation for the defeat of minority-preferred candidates at the polls”). *See* LDTX53 at 7–15.

Plaintiffs also do not show “lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.” *Gingles*, 478 U.S. at 37 (citation omitted). Their expert contends that “[p]olicy outcomes do not track the specific needs of the minority community,” PL126 at 4, but § 2 does not guarantee particular policy outcomes. Furthermore, nearly all the examples used to claim a “lack of responsiveness” were (1) the enacted plans at issue in this case itself; (2) unrelated to the Legislature²²; or (3) statements from a U.S. Senator—who runs *statewide* from boundaries set by Congress, which are thus outside the purview of the Louisiana Legislature. 3B.TR 92:19–93:2. This evidence cannot establish unresponsiveness on the part of the Louisiana Legislature.

IV. PLAINTIFFS’ CONSTRUCTION OF SECTION 2 VIOLATES THE CONSTITUTION AS APPLIED HERE.

Even if Section 2 could even theoretically sustain the racially maximalist construction that Plaintiffs give it, such a construction would squarely violate the Constitution. *Johnson*, 512 U.S. at 1016; *LULAC*, 548 at 446; *Bartlett*, 556 U.S. at 21–22. And, at a bare minimum, Plaintiffs’

²⁰ https://house.louisiana.gov/H_Reps/H_Reps_Caucus_Democrats (last accessed Dec. 18, 2023).

²¹ https://senate.la.gov/Senators_FullInfo (last accessed Dec. 18, 2023).

²² Dr. Washington testified regarding an issue she recently had with her absentee ballot. 1.TR 98:1–103:15. But Dr. Washington’s testimony did not show a lack of responsiveness on the part of elected officials; just the opposite. Dr. Washington received multiple text messages regarding the issues with her ballot, *id.* at 98:18–99:11, and was able to correct the issue at the voter registration office and have her vote counted. *Id.* at 109:6–8.

construction of § 2 invites severe doubts as to whether that statutory provision can be constitutionally applied in that manner. And where “a serious doubt is raised about the constitutionality of an act of Congress, it is a cardinal principle that [courts must] first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.” *Jennings v. Rodriguez*, 138 S. Ct. 830, 842 (2018) (quotation omitted).

The VRA “‘imposes current burdens and *must be justified by current needs.*” *Shelby County, Ala. v. Holder*, 570 U.S. 529, 536 (2013) (emphasis added) (citation omitted). Thus, “even if Congress in 1982 could constitutionally authorize race-based redistricting under § 2 for some period of time, the authority to conduct race-based redistricting cannot extend indefinitely into the future.” *Allen*, 599 U.S. at 45 (Kavanaugh, J., concurring).

Although a five-member majority found the remedy that plaintiffs sought in *Allen* under § 2 within Congress’s remedial authority, *see id.* at 38–42, Justice Kavanaugh cast the fifth vote and expressly noted that a “temporal argument” was not within *Allen*’s holding because “Alabama did not raise” it. *Allen*, 599 U.S. at 45 (Kavanaugh, J., concurring). But Defendants explicitly raise it here. And it is plain that predominance of race that pervades Plaintiffs’ § 2 arguments would render that provision unconstitutional as applied if accepted by this Court.

VRA § 2 “imposes current burdens and must be justified by current needs.” *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193, 203 (2009). That is because Congress’s power to enforce the Reconstruction Amendments is “remedial,” not “substantive,” *City of Boerne v. Flores*, 521 U.S. 507, 519 (1997), so it must “tailor its legislative scheme to remedying or preventing [unconstitutional] conduct,” *Fla. Prepaid Postsecondary Educ. Expense Bd. v. Coll. Sav. Bank*, 527 U.S. 628, 639 (1999). That requirement is particularly essential where Congress seeks to abrogate states’ sovereign immunity, *see id.* at 639–48, which the Fifth Circuit has held it

did in § 2, *Robinson*, 86 F.4th at 588. In § 2, Congress went beyond the contours of the Reconstruction Amendments to prohibit election schemes that are not unconstitutional. *See Allen*, 599 U.S. at 41. This prophylactic approach falls on the outer edge of Congress’s authority, *see City of Boerne*, 521 U.S. at 530–32, necessitating “evidence that unremedied” unconstitutional conduct is “a problem of national import,” *Fla. Prepaid*, 527 U.S. at 641. Because § 2 “imposes current burdens” by invalidating election laws that are not unconstitutional, those burdens must be justified, and that is so regardless of whether § 2 “differentiates between the States.” *See Nw. Austin*, 557 U.S. at 203 (deeming differential treatment and independent basis for this duty).

Moreover, Congress in § 2 has gone further and *created* constitutional difficulties by imposing a scheme that is not “race-neutral.” *Allen*, 599 U.S. at 23; *see Miller*, 515 U.S. at 926–27 (discussing the “troubling questions” raised by a requirement of race-based redistricting). *Allen* held that Congress may properly “authorize[] race-based redistricting,” based on Supreme Court “precedent,” *id.* at 43, but was not presented with the question whether that authority is justified by current needs. It must be so justified. Congress’s authority to effectuate “racial or ethnic criteria” is, when exercised, subject to “close examination,” which it satisfies only with “abundant evidence from which it could conclude” that such criteria are necessary. *See Fullilove v. Klutznick*, 448 U.S. 448, 472, 477–78 (1980) (plurality opinion); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 503–04 (1989). Although it “may legislate without compiling the kind of ‘record’ appropriate with respect to judicial or administrative proceedings,” *Fullilove*, 448 U.S. at 478 (plurality opinion), its decisions nonetheless require “evidence” of some kind, *Fla. Prepaid*, 527 U.S. at 640–41; *City of Boerne*, 521 U.S. at 530–31.

In establishing the VRA’s scope, including by amending § 2 to reach beyond constitutional prohibitions, *see Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2332 (2021), Congress

made “‘findings’ that each of the protected minorities is, or has been, the subject of pervasive discrimination and exclusion from the electoral process.” *Nixon v. Kent Cnty.*, 76 F.3d 1381, 1390 (6th Cir. 1996) (en banc). As of 1982, there were “extensive congressional findings of voting discrimination,” S. Rep. No. 97–417, 97th Cong.2nd Sess. 28 (1982), U.S. Code Cong. & Admin. News 1982, p. 192, including in conjunction with VRA amendments in the prior decade, *see, e.g.*, S. Rep. No. 94-295 at 28–30. But Congress has made no findings in recent decades that may justify § 2’s limitless temporal reach, and it has made no adjustments to § 2’s scope or standard tailored to current (or even recent) conditions. *See Shelby Cnty.*, 570 U.S. at 553–54 (discussing deficiencies in most recent findings of 2006). There can be no doubt that “[o]ur country has changed,” *id.* at 557, but § 2 has not. Its current burdens thus must be justified by current evidence that Plaintiffs have refused to offer here.

Notably, the number of majority-Black districts drawn by the Legislature here is the highest number *ever* in the history of Louisiana. SOS_1 at 8. It exceeds the number of majority-Black districts drawn in 2011, which the Obama Administration pre-cleared under § 5. *See id.* But while racial polarization of voting has generally *decreased* over time, Plaintiffs here are not content with the *highest* number of majority-Black districts *ever* that the Legislature has drawn—a map reflecting a level of race consciousness that already approaches the limits of what the Equal Protection Clause and Fifteenth Amendments permit. Plaintiffs’ racially maximalist reading of § 2, which demands *over*-representation of majority-Black districts—is plainly a constitutional bridge too far. It reflects a view of § 2 that would have been constitutionally dubious—at best—in 1982. Today it is constitutionally indefensible when evaluated under “*current needs.*” *Shelby Cnty.*, 570 U.S. at 536 (emphasis added) (citation omitted). And that is particularly so as Plaintiffs did not offer any evidence to sustain their more-maximalist-than-ever use of race in drawing districts.

Especially considering Dr. Alford’s un rebutted testimony that showed that any polarization is political, not racial. LDTX53 at 7–15. The lack of a temporal restriction on Section 2 means that as a state, like Louisiana, becomes increasingly politically polarized, Section 2 becomes a means by which more Democrats can be elected. At a minimum, Plaintiffs’ construction of § 2 invites the sort of “serious doubt” that requires this Court to construe § 2 in a more restrained and constitutionally sound manner. *Jennings*, 138 S. Ct. at 842.

The § 2 totality-of-circumstances test does not make up this deficiency. Although courts must make a “searching practical evaluation of the ‘past and present reality’” of defendant jurisdictions, *Gingles*, 478 U.S. at 62 (citation omitted), they are no substitute for congressional findings because Congress gave them little meaning: “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Id.* at 45 (citation omitted). Thus, § 2 liability can arise beyond and remedial purpose, such as in a case without evidence of recent or impactful voting-related discrimination, *see, e.g., Sanchez*, 97 F.3d at 1322–24. As shown, Plaintiffs’ totality-of-the circumstances case does not justify race-based remedies.

CONCLUSION

For all the reasons herein, the Court should enter judgment in favor of Defendants.

Respectfully submitted, this the 19th day of December, 2023.

/s/ Phillip J. Strach

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Attachment 1

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL * CIVIL ACTION
*
VERSUS * NO. 3:22-178-SDD
*
KYLE ARDOIN, ET AL * NOVEMBER 27, 2023
* * * * *

DAY 1
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

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COMPUTER-AIDED TRANSCRIPTION SOFTWARE

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1 (NOVEMBER 27, 2023)

2 (CALL TO THE ORDER OF COURT)

3 THE COURT: GOOD MORNING.

4 BE SEATED, PLEASE.

5 OKAY. CALL THE CASE, PLEASE.

6 THE DEPUTY CLERK: THIS IS CIVIL ACTION NO. 22-178,
7 *DR. DOROTHY NAIRNE AND OTHERS VERSUS KYLE ARDOIN AND OTHERS.*

8 THE COURT: OKAY. BEGINNING WITH THE PLAINTIFFS, IF
9 COUNSEL WOULD MAKE THEIR APPEARANCES. PLEASE MAKE YOUR
10 APPEARANCE AT THE MICROPHONE SO THAT I CAN MAKE SURE THAT I
11 HEAR YOU AND THAT THE COURT REPORTER GETS YOU DOWN.

12 MS. KEENAN: GOOD MORNING, YOUR HONOR.

13 MEGAN KEENAN FOR THE PLAINTIFFS.

14 THE COURT: GOOD MORNING, MS. KEENAN.

15 MS. KEENAN: WOULD YOU LIKE US TO ALL MAKE
16 APPEARANCES FIRST, OR WOULD YOU LIKE ME TO PROCEED INTO A
17 COUPLE OF PRELIMINARY MATTERS FOR THE PLAINTIFFS?

18 THE COURT: I'D LIKE YOU TO MAKE APPEARANCES, AND
19 THEN WE WILL DEAL WITH PRELIMINARIES.

20 MS. KEENAN: THANK YOU.

21 MS. WENGER: VICTORIA WENGER FROM THE LEGAL DEFENSE
22 FUND FOR PLAINTIFFS.

23 THE COURT: WINTER?

24 MS. WENGER: WENGER.

25 THE COURT: WENGER.

09:07 1

MS. WENGER: W-E-N-G-E-R. THANK YOU.

2

MS. BRANNON: SARAH BRANNON FOR PLAINTIFFS FROM THE

3

ACLU.

4

MR. NAIFEH: STUART NAIFEH FROM THE LEGAL DEFENSE

5

FUND FOR THE PLAINTIFFS.

6

MS. BAHN: JOSEPHINE BAHN FROM COZEN O'CONNOR ON

7

BEHALF OF THE PLAINTIFFS.

8

MR. CLARK: ROBERT CLARK OF COZEN O'CONNOR FOR THE

9

PLAINTIFFS.

10

MS. THOMAS: ALORA THOMAS ON BEHALF OF THE HARVARD

11

ELECTION LAW CLINIC ON BEHALF OF PLAINTIFFS.

12

MS. GIGLIO: AMANDA GIGLIO, G-I-G-L-I-O, FROM

13

COZEN O'CONNOR ON BEHALF OF PLAINTIFFS.

14

GOOD MORNING, YOUR HONOR.

15

THE COURT: GOOD MORNING.

16

MR. ADCOCK: GOOD MORNING.

17

JOHN ADCOCK FROM ADCOCK LAW -- A-D-C-O-C-K --

18

FOR PLAINTIFFS.

19

MS. ROHANI: GOOD MORNING.

20

SARA ROHANI FROM THE LEGAL DEFENSE FUND ON

21

BEHALF OF THE PLAINTIFFS.

22

MR. CAMPBELL-HARRIS: GOOD MORNING.

23

DAYTON CAMPBELL-HARRIS WITH THE ACLU ON BEHALF

24

OF THE PLAINTIFFS.

25

THE COURT: OKAY. BEGINNING WITH THE DEFENDANTS,

09:09 1 WOULD YOU PLEASE MAKE YOUR APPEARANCES?

2 **MR. STRACH:** GOOD MORNING, YOUR HONOR.

3 PHIL STRACH, NELSON MULLINS, HERE FOR THE
4 SECRETARY OF STATE.

5 **THE COURT:** GOOD MORNING.

6 **MR. TUCKER:** GOOD MORNING, YOUR HONOR.

7 ROBERT TUCKER, WITH BAKER & HOSTETLER ON BEHALF
8 OF THE LEGISLATIVE DEFENDANTS.

9 **THE COURT:** GOOD MORNING, MR. TUCKER.

10 **MR. CONINE:** GOOD MORNING, JUDGE.

11 JOHN CONINE ON BEHALF OF THE DEFENDANTS
12 SECRETARY OF STATE.

13 **THE COURT:** GOOD MORNING, MR. CONINE.

14 **MR. BOWEN:** GOOD MORNING, YOUR HONOR.

15 BRENNAN BOWEN, OF HOLTZMAN VOGEL ON BEHALF OF
16 THE STATE.

17 **MS. HOLT:** GOOD MORNING, YOUR HONOR.

18 CASSIE HOLT, H-O-L-T, WITH NELSON MULLINS ON
19 BEHALF OF DEFENDANT ARDOIN.

20 **MR. LEWIS:** YOUR HONOR, GOOD MORNING.

21 PATRICK LEWIS, BAKER HOSTETLER ON BEHALF OF THE
22 LEGISLATIVE DEFENDANTS.

23 **MS. MCKNIGHT:** GOOD MORNING, YOUR HONOR.

24 KATE MCKNIGHT, BAKER HOSTETLER, ON BEHALF OF THE
25 LEGISLATIVE DEFENDANTS.

09:10 1

THE COURT: GOOD MORNING, MS. MCKNIGHT.

2

MR. MENGIS: GOOD MORNING, YOUR HONOR.

3

4

MICHAEL MENGIS, ALSO WITH BAKER HOSTETLER FOR
THE LEGISLATIVE INTERVENORS.

5

THE COURT: GOOD MORNING, MR. MENGIS.

6

MS. RIGGINS: GOOD MORNING, YOUR HONOR.

7

8

ALYSSA RIGGINS, R-I-G-G-I-N-S, FROM NELSON
MULLINS ON BEHALF OF THE SECRETARY OF STATE.

9

THE COURT: WAS IT MELISSA OR ALYSSA?

10

MS. RIGGINS: ALYSSA WITH AN "A," YOUR HONOR.

11

THE COURT: OKAY.

12

MR. WALSH: GOOD MORNING, YOUR HONOR.

13

JOHN WALSH ON BEHALF OF SECRETARY ARDOIN.

14

MR. WALES: GOOD MORNING, YOUR HONOR.

15

16

JEFFREY WALES FROM THE STATE ATTORNEY GENERAL'S
OFFICE ON BEHALF OF THE STATE OF LOUISIANA.

17

MR. MEGINLEY: GOOD MORNING, MA'AM.

18

19

CHARLTON MCGINNLEY, COUNSEL FOR THE SECRETARY OF
STATE, ON BEHALF KYLE ARDOIN, SECRETARY OF STATE.

20

MS. FREEL: GOOD MORNING, YOUR HONOR.

21

22

ANGELIQUE FREEL ON BEHALF OF THE STATE OF
LOUISIANA.

23

THE COURT: GOOD MORNING.

24

MR. GORDON: GOOD MORNING, YOUR HONOR.

25

PHILLIP GORDON ON BEHALF OF THE STATE OF

09:10 1 LOUISIANA FROM HOLTZMAN VOGEL. THANK YOU.

2 **MS. LAGROUE:** GOOD MORNING, YOUR HONOR.

3 AMANDA LAGROUE, L-A-G-R-O-U-E, ON BEHALF OF THE
4 STATE OF LOUISIANA WITH THE ATTORNEY GENERAL'S OFFICE.

5 **MR. FARR:** GOOD MORNING, YOUR HONOR.

6 TOM FARR FROM NELSON MULLINS, AND I'M HERE
7 HELPING THE SECRETARY OF STATE TODAY. THANK YOU.

8 **THE COURT:** YES, SIR.

9 OKAY. COUNSEL HAVE ALL MADE THEIR APPEARANCES.

10 THERE ARE SOME PRELIMINARY MATTERS. BEFORE I
11 TAKE UP THE PARTIES PRELIMINARY MATTERS, THE COURT HAS A MOTION
12 THAT IT NEEDS TO RULE ON.

13 BEFORE THE COURT IS THE DEFENDANTS' JOINT MOTION
14 TO STAY THE PROCEEDINGS, RECORD DOCUMENT 184. THE PLAINTIFFS
15 FILED AN OPPOSITION TO THAT MOTION AT RECORD DOCUMENT 185. THE
16 MOTION WAS FILED ON THE EVENING OF THE LAST BUSINESS DAY BEFORE
17 TRIAL WAS SET TO BEGIN. THE DEFENDANTS ASKED THE COURT TO STAY
18 THESE PROCEEDINGS IN LIGHT OF THE EIGHTH CIRCUIT CASE RECENT
19 RULING *ARKANSAS STATE CONFERENCE NAACP VERSUS ARKANSAS BOARD OF*
20 *APPORTIONMENT*. THE COURT WILL DISPENSE WITH THE CITATION,
21 WHICH HELD THE EIGHTH CIRCUIT -- A THREE-JUDGE PANEL OF THE
22 EIGHT CIRCUIT -- MAJORITY HELD THAT SECTION 2 OF THE VOTING
23 RIGHTS ACT DOES NOT CONFER A PRIVATE RIGHT OF ACTION.

24 THE DEFENDANTS ALSO ARGUE THAT A STAY IS
25 WARRANTED IN LIGHT OF THE STATE'S REQUEST TO FILE ITS PETITION

09:12 1 FOR EN BANC REHEARING OF THE FIFTH CIRCUIT'S DECISION IN THE
2 CONGRESSIONAL REDISTRICTING CASE THAT WAS BEFORE THIS COURT,
3 *ROBINSON VERSUS ARDOIN*.

4 AFTER REVIEWING THE PARTIES' BRIEFS, THE
5 ARGUMENTS AND THE APPLICABLE LAW, THE COURT WILL DENY THE
6 MOTION TO STAY.

7 THE DECISION TO GRANT A STAY IS A MATTER OF THE
8 COURT'S DISCRETION. WHEN DETERMINING WHETHER TO EXERCISE ITS
9 DISCRETION, THE RELEVANT FACTORS FOR THE COURT'S CONSIDERATION
10 ARE, NO. 1, THE POTENTIAL PREJUDICE TO THE NONMOVING PARTY;
11 NO. 2, THE HARDSHIP AND INEQUITY TO THE MOVING PARTY IF THE
12 ACTION IS NOT STAYED; AND, NO. 3, JUDICIAL ECONOMY. NOTABLY, A
13 COURT IS WITHIN ITS DISCRETION TO GRANT A STAY WHEN A RELATED
14 CASE WITH SUBSTANTIALLY SIMILAR ISSUES IS PENDING BEFORE A
15 COURT OF APPEALS.

16 HERE, HOWEVER, THE COURT IS NOT PERSUADED THAT
17 WAITING TO SEE WHETHER THE SUPREME COURT WILL DEFINITELY
18 RULE -- OR EVEN BE ASKED TO RULE -- ON WHETHER CONGRESS GRANTED
19 A PRIVATE PLAINTIFF THE ABILITY TO SUE UNDER SECTION 2 OF THE
20 VOTING RIGHTS IS A SUFFICIENT REASON TO STAY THESE PROCEEDINGS.
21 THE BLOW TO JUDICIAL ECONOMY AND THE PREJUDICE TO THE
22 PLAINTIFFS THAT WOULD RESULT FROM GRANTING A STAY CANNOT BE
23 JUSTIFIED BY SPECULATION OVER POSSIBLE SUPREME COURT FUTURE
24 DELIBERATIONS.

25 THE COURT IS ALSO BOUND BY THE FIFTH CIRCUIT'S

09:13 1 MOST RECENT DECISION IN THE *ROBINSON* CASE MENTIONED EARLIER,
2 WHICH ACKNOWLEDGED THAT PRIVATE PLAINTIFFS, BOTH INDIVIDUAL
3 VOTERS AND CIVIL RIGHTS ORGANIZATIONS, ARE "AGGRIEVED PERSONS"
4 WHO MAY SEEK TO ENFORCE SECTION 2 OF THE VOTING RIGHTS ACT.
5 SOME OF THOSE PARTIES, THE PARTIES IN THE *ROBINSON* CASE, ARE
6 THE VERY SAME PARTIES AS -- SOME OF THEM ARE THE SAME PARTIES
7 AS BEFORE THE COURT.

8 THE DEFENDANTS HAVE ARGUED THAT IN -- AND I
9 QUOTE, "THE FIFTH CIRCUIT WILL SOON RECEIVE THE CHANCE," CLOSE
10 QUOTES, TO ENGAGE IN AN-DEPTH ANALYSIS, LIKE THE EIGHTH CIRCUIT
11 HAS, ON THE QUESTION OF WHETHER SECTION 2 OF THE VOTING RIGHTS
12 ACT GRANTS A PRIVATE RIGHT OF ACTION. THE COURT NOTES THAT
13 THIS CHANCE TO ENGAGE DEPENDS ON WHETHER THIS CIRCUIT GRANTS
14 THE STATE'S REQUEST FOR A 60-DAY EXTENSION TO FILE ITS PETITION
15 FOR EN BANC REHEARING.

16 AS THE PLAINTIFFS NOTED, THE DEFENDANTS ARE
17 SEEKING A STAY BASED ON A PETITION FOR REHEARING THAT MIGHT BE
18 FILED AND, IF IT IS FILED, IT MIGHT BE GRANTED AND IF IT IS
19 GRANTED, IT MIGHT RESULT IN AN EN BANC OVERTURNING MULTIPLE
20 PRECEDENTS TO ALIGN ITSELF WITH A PANEL OF THE EIGHTH CIRCUIT.
21 THIS TYPE OF SPECULATIVE REASONING IS INSUFFICIENT TO WARRANT
22 THE POTENTIAL PREJUDICE TO THE NONMOVING PARTY AND A WASTE OF
23 JUDICIAL RESOURCES THAT HAVE ALREADY BEEN EXPENDED IN PREPARING
24 THIS MATTER FOR TRIAL.

25 ACCORDINGLY, THE MOTION TO STAY IS DENIED.

09:15 1 OKAY. NOW, THERE ARE OTHER MATTERS THAT THE
2 PARTIES WANT TO BRING BEFORE THE COURT IN THE WAY OF
3 HOUSEKEEPING OR PRELIMINARY MATTERS, BEGINNING WITH THE
4 PLAINTIFFS.

5 MS. KEENAN: YES, YOUR HONOR. WOULD YOU LIKE ME TO
6 APPROACH THE PODIUM?

7 THE COURT: YES, PLEASE.

8 MS. KEENAN: SO, YOUR HONOR, TWO PRELIMINARY MATTERS
9 FOR THE PLAINTIFFS.

10 MEGAN KEENAN, AGAIN, FROM THE ACLU SPEAKING.

11 FIRST, WE WANTED TO MAKE THE COURT AWARE THAT WE
12 INTEND TO CALL PRESIDENT MCCLANAHAN FROM THE NAACP TODAY AND
13 THAT WE INTEND TO MOVE FOR A LIMITED PORTION OF HIS TESTIMONY
14 TO BE UNDER SEAL AS WE PREVIEWED AT THE PRETRIAL CONFERENCE.
15 WE'LL RAISE THAT AT THE APPROPRIATE TIME IN THE EXAMINATION TO
16 GIVE THIS COURT NOTICE OF WHEN WE INTEND FOR THE TESTIMONY TO
17 BE UNDER SEAL.

18 BUT FOR NOW, WE WANTED TO RAISE THAT WE
19 INTRODUCED REDACTED COPIES OF A COUPLE OF EXHIBITS INTO JERS.
20 WE DIDN'T WANT TO PRESUME BASED ON THE COURT'S INSTRUCTIONS AT
21 THE PRETRIAL CONFERENCE THAT WE SHOULD PUT THE UNREDACTED
22 VERSIONS INTO JERS WITHOUT THIS COURT'S APPROVAL. SO WE CAN
23 HANDLE THAT UPLOAD AT LUNCH IF YOUR HONOR WOULD LIKE OR WE CAN
24 HANDLE IT WHEN THE APPROPRIATE TIME FOR THE TESTIMONY COMES.

25 THE COURT: THE REDACTIONS ANTICIPATE THE SEALED

09:16 1 INFORMATION?

2 MS. KEENAN: YES. THAT'S RIGHT, YOUR HONOR.

3 THE COURT: AND THE REDACTIONS ARE PERSONAL
4 IDENTIFYING INFORMATION?

5 MS. KEENAN: THAT'S RIGHT, YOUR HONOR.

6 THE COURT: OKAY. YOU CAN UPLOAD THEM REDACTED TO
7 JERS. AND I APPRECIATE YOU NOT TAKING -- MAKING ASSUMPTIONS.
8 NEXT.

9 MS. KEENAN: OKAY. JUST TO CONFIRM: WE SHOULD NOT
10 UPLOAD THE UNREDACTED VERSION TO JERS. CORRECT?

11 THE COURT: NO, YOU SHOULD NOT UPLOAD THE UNREDACTED
12 VERSION.

13 MS. KEENAN: OKAY. THANK YOU.

14 THE ONLY OTHER THING IS WE NOTED THAT THERE ARE
15 A COUPLE OF ADDITIONAL CHAIRS BEHIND THE DEFENSE COUNSEL'S
16 TABLE. WE DIDN'T KNOW IF WE COULD MAKE USE OF THE SAME SPACE
17 ON THIS SIDE FOR SOME OF THE COUNSEL FOR THE PLAINTIFFS, BUT WE
18 DIDN'T WANT TO MOVE ANYTHING IN YOUR HONOR'S COURTROOM WITHOUT
19 ASKING.

20 THE COURT: IF THERE IS AN EXTRA CHAIR AT THE BREAK,
21 YOU CAN USE ANOTHER CHAIR.

22 MS. KEENAN: THANK YOU SO MUCH. THAT'S ALL WE HAVE
23 FROM THE PLAINTIFFS.

24 THE COURT: OKAY. DO THE DEFENDANTS HAVE ANY
25 PRELIMINARY MATTERS?

09:17 1

MR. TUCKER: GOOD MORNING, YOUR HONOR.

2

ROB TUCKER AGAIN.

3

WE JUST WANTED TO KNOW IF THE COURT WAS

4

ANTICIPATING WANTING ANY POST-TRIAL BRIEFINGS OR POST-TRIAL

5

FINDINGS OF FACT AND CONCLUSIONS OF LAW OR UPDATED FINDINGS OF

6

FACT, CONCLUSIONS OF LAW FOR PLANNING PURPOSES; AND WHAT THE

7

DEADLINE MIGHT BE FOR SUCH POST-TRIAL BRIEFING.

8

THE COURT: THE COURT DOES NOT ANTICIPATE THE NEED

9

FOR POST-TRIAL BRIEFING. I GAVE THAT SOME THOUGHT OVER THE

10

WEEKEND. PROBABLY THE MOST USEFUL THING TO THE COURT WOULD BE

11

FOR YOU TO TAKE YOUR PROPOSED CONCLUSIONS OF LAW AND FINDINGS

12

OF FACT, AND AFTER THE TRIAL TAKE THOSE SAME DOCUMENTS AND TELL

13

ME WHERE YOU BELIEVE THAT YOU'VE PROVEN THAT OR WHERE YOU

14

BELIEVE THAT THE PLAINTIFF HAS FAILED TO PROVE THAT CITING TO A

15

TESTIMONY OR AN EXPERT REPORT, TO THE EXTENT THAT THE REPORTS

16

ARE ADMITTED INTO EVIDENCE. THAT WOULD BE THE MOST HELPFUL

17

THING, RATHER THAN A WHOLE NEW SET OF DOCUMENTS.

18

AND THE COURT -- WE CAN TALK ABOUT IT MORE. I

19

REALIZE THAT THAT'S -- THAT YOU WANT TO KNOW WHAT TO EXPECT.

20

YOU SHOULD BE MAKING NOTES. I'M GOING TO BE MAKING NOTES ON

21

YOUR PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW WHERE I

22

THINK THERE IS EITHER SUFFICIENT OR DEFICIT EVIDENCE, SO YOU

23

SHOULD DO THE SAME. AND THAT WILL BE THE MOST HELPFUL TO THE

24

COURT. AND I WOULD ANTICIPATE A SHORT PERIOD OF TIME

25

AFTERWARDS.

09:18 1

MR. TUCKER: OKAY. THANK YOU, YOUR HONOR.

2

THE COURT: YOU'RE WELCOME.

3

IS THERE ANYTHING FURTHER?

4

OKAY. CAN THERE BE -- ARE THERE -- MY

5

UNDERSTANDING FROM THE PRETRIAL CONFERENCE, AND I HAVE MY

6

NOTES, THERE ARE SOME STIPULATIONS. LET'S GO AHEAD AND DO

7

THOSE ON THE RECORD THIS MORNING. IT'S THE COURT'S

8

UNDERSTANDING THAT THE AUTHENTICITY AND ADMISSIBILITY OF EXPERT

9

REPORTS, IF THE EXPERT TESTIFIES, IS A POINT OF STIPULATION.

10

IS THAT CORRECT?

11

MS. KEENAN: YES, YOUR HONOR.

12

MR. TUCKER: YES.

13

THE COURT: ALL RIGHT. AND MATERIALS FROM THE

14

LEGISLATIVE RECORD MAY BE ADMITTED WITHOUT RELEVANCE OR

15

AUTHENTICITY OBJECTIONS. IS THAT CORRECT?

16

MS. KEENAN: YES.

17

MR. TUCKER: YES, YOUR HONOR.

18

THE COURT: OKAY. ARE THERE ANY JOINT ADMISSIONS?

19

DO YOU WANT TO MOVE ANY OF YOUR STUFF INTO EVIDENCE RIGHT NOW?

20

LET'S GO AHEAD AND DO THAT.

21

MS. KEENAN: MY UNDERSTANDING IS THE PARTIES HAVE

22

AGREED THAT THE JOINT EXHIBITS THAT WERE UPLOADED INTO JERS CAN

23

ALL BE PREADMITTED WITHOUT ANY OBJECTION FROM EITHER PARTY.

24

THE COURT: OKAY. LET ME LOOK AND SEE. I'M LOOKING

25

AT THE EXHIBIT LIST. SO I HAVE PLAINTIFFS 1 THROUGH -- 1

09:19 1 THROUGH 256. I HAVE DEFENDANTS 1 -- WELL, I HAVE -- SO
2 SECRETARY OF STATE DEFENDANT 1 THROUGH 39, INTERVENOR SEVERAL
3 EXHIBITS. THEY LOOK LIKE THEY'VE BEEN UPLOADED TWICE. SO --
4 WHICH IS OKAY. BUT IT LOOKS LIKE THERE'S 45 OF THOSE. THERE
5 IS -- THEN WE HAVE A JOINT 45. SO THERE'S AN INTERVENOR 45 AND
6 THERE'S A JOINT 45, AND THEY ARE TWO DIFFERENT THINGS. JOINT
7 45 IS THE ORIGINAL BILL, HOUSE BILL 23. SO YOU HAVE A NAMING
8 CONVENTION ISSUE.

9 **MS. KEENAN:** SO THE WAY WE'VE -- THE WAY WE'VE
10 STRUCTURED IT IS THE JOINT EXHIBITS ARE THE ONES FROM BOTH THE
11 LEGISLATIVE INTERVENORS' LIST AND THE PLAINTIFFS' LIST THAT WE
12 WERE ABLE TO AGREE UPON, THOSE HAVE BEEN RENUMBERED SEPARATELY
13 SO THE JOINT EXHIBITS HAVE THEIR OWN NUMBERING CONVENTION.

14 THE PLAINTIFFS' EXHIBITS THAT WERE FORMALLY --
15 WE DID NOT RENUMBER THE PLAINTIFFS' EXHIBITS. WE JUST INSERTED
16 SLIPSHEETS THAT SAID WHICH JOINT EXHIBIT THOSE EXHIBITS
17 CORRESPOND TO.

18 SO WE WERE HOPING TO JUST PREADMIT THE JOINT
19 EXHIBITS FROM 1 THROUGH -- I'M NOT SURE WHAT THE FINAL NUMBER
20 IS. I'M NOT SURE IF YOU KNOW OFFHAND.

21 **THE DEPUTY CLERK:** FIFTY-FOUR.

22 **MS. KEENAN:** YEAH. ONE THROUGH 54, IF WE COULD ADMIT
23 ALL OF THOSE. AND I THINK BOTH PARTIES WILL BE USING THE JOINT
24 EXHIBIT CONVENTION TO REFER TO THESE EXHIBITS THROUGHOUT THE
25 TRIAL.

09:21 1

THE COURT: OKAY.

2

MR. TUCKER: CORRECT. AND THE LEGISLATIVE DEFENDANTS DID THE SAME THING WHERE OUR EXHIBITS WERE THE SAME, WE JUST PUT A SLIPSHEET IN THERE INDICATING IT IS NOW JOINT EXHIBIT 1 OR JOINT EXHIBIT 2, ET CETERA.

6

THE COURT: I SEE IT. IT'S A JOINT EXHIBIT. OKAY. SO JOINT EXHIBITS 1 THROUGH 54 ARE ADMITTED.

8

IS THERE ANYTHING ELSE? ARE THERE ANY FACTUAL STIPULATIONS?

10

MR. STRACH: I DON'T THINK SO.

11

MS. KEENAN: I DON'T THINK SO.

12

MR. STRACH: YOUR HONOR, I JUST WANTED TO -- I BELIEVE THE COURT KNOWS THIS, BUT WE'VE AGREED AMONG THE PARTIES THAT THE TRIAL WOULD BE EIGHT DAYS THROUGH DECEMBER 6TH. AND WE'VE AGREED TO KEEP THE TIME OURSELVES, AND WE'VE ALL DONE THIS A LOT, SO I THINK THAT IT WILL MOVE SMOOTHLY.

18

THE COURT: THAT'S FINE.

19

MR. STRACH: I JUST WANTED TO --

20

THE COURT: I DID GET THE MESSAGE THAT YOU-ALL HAD DECIDED THAT YOU DIDN'T NEED QUITE AS MUCH TIME AS THE COURT ALLOTTED FOR YOU, WHICH IS FINE. THANK YOU VERY MUCH. AND Y'ALL KEEP THE TIME, AND WE WILL GO ON FROM THERE.

24

MR. STRACH: ALL RIGHT. THANK YOU.

25

THE COURT: I APPRECIATE THAT.

DOROTHY NAIRNE, PH.D.

09:22 1 **MR. STRACH:** AND THANK YOU FOR YOUR CONSIDERATION OF
2 THE MOTION TO STAY. WE APPRECIATE THAT.

3 **THE COURT:** THANK YOU.

4 ALL RIGHT. IS THERE ANYTHING ELSE THAT WE NEED
5 TO TAKE UP BEFORE THE FIRST WITNESS IS CALLED?

6 ALL RIGHT. THE PLAINTIFFS MAY CALL THEIR FIRST
7 WITNESS.

8 **MS. WENGER:** GOOD MORNING, AGAIN, YOUR HONOR.

9 VICTORIA WENGER FROM THE LEGAL DEFENSE FUND.

10 PLAINTIFFS WOULD LIKE TO CALL DR. DOROTHY
11 NAIRNE.

12 **DOROTHY NAIRNE, PH.D.,**
13 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

14 **MS. WENGER:** YOUR HONOR, MAY I APPROACH THE WITNESS
15 TO PROVIDE HER SOME WATER?

16 **THE COURT:** YES, YOU MAY.

17 YOU MAY PROCEED.

18 **DIRECT EXAMINATION**

19 **BY MS. WENGER:**

20 **Q.** GOOD MORNING, DR. NAIRNE.

21 **A.** GOOD MORNING.

22 **Q.** CAN YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD.

23 **A.** MY NAME IS DOROTHY NAIRNE.

24 **Q.** AND WHAT RACE DO YOU IDENTIFY AS, DR. NAIRNE?

25 **A.** I AM BLACK; I AM AFRICAN AMERICAN.

DOROTHY NAIRNE, PH.D.

09:23 1 Q. COULD YOU PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL
2 BACKGROUND?

3 A. I HAVE A BACHELOR'S DEGREE IN AFRICAN-AMERICAN STUDIES IN
4 JOURNALISM; A MASTER'S DEGREE IN AFRICAN-AMERICAN STUDIES; AND
5 A PH.D. IN INTERNATIONAL AFFAIRS IN ECONOMIC DEVELOPMENT.

6 Q. CAN YOU PLEASE WALK ME THROUGH YOUR PROFESSIONAL
7 BACKGROUND FOLLOWING GETTING YOUR PH.D.?

8 A. I LIVED IN ATLANTA, AND I WORKED IN PUBLIC HEALTH,
9 ESPECIALLY WITH BEHAVIOR CHANGE. SO MY AREA OF SPECIALIZATION
10 WAS HIV PREVENTION OF GENDER-BASED VIOLENCE AND POVERTY
11 ALLEVIATION.

12 Q. AND CURRENTLY WHAT DO YOU DO FOR A LIVING?

13 A. I HAVE A SMALL BUSINESS IN NAPOLEONVILLE, WHERE I RESIDE,
14 THAT IS LOOKING TO TAKE THE SUGARCANE WASTE, WHICH WE HAVE IN
15 ABUNDANCE, AND PRESS IT INTO TABLEWARE, BIODEGRADABLE STRAWS.
16 SOME OF THE BOTTLES YOU'RE DRINKING FROM, WE CAN MAKE THAT
17 RIGHT HERE IN LOUISIANA.

18 Q. AND WHAT PARISH IS YOUR TOWN OF NAPOLEONVILLE IN?

19 A. I LIVE IN ASSUMPTION PARISH.

20 Q. HOW LONG HAVE YOU LIVED AT YOUR CURRENT HOME?

21 A. I MOVED THERE IN 2016.

22 Q. AND DID YOU HAVE ANY FAMILIARITY WITH NAPOLEONVILLE PRIOR
23 TO MOVING TO YOUR CURRENT HOME?

24 A. I SURE DID. MY MOTHER'S FAMILY GOES BACK AS FAR AS
25 ENSLAVEMENT THERE IN ASSUMPTION PARISH. I WENT EVERY YEAR FROM

DOROTHY NAIRNE, PH.D.

09:24 1 THE TIME I WAS BORN UNTIL MOVING THERE EVERY YEAR, SPENDING
2 WEEKS AND WEEKS AT A TIME IN NAPOLEONVILLE.

3 Q. ARE YOU A REGISTERED VOTER?

4 A. YES, I AM.

5 Q. AT YOUR CURRENT ADDRESS?

6 A. YES. IN NAPOLEONVILLE.

7 Q. DO YOU REGULARLY VOTE IN STATE ELECTIONS?

8 A. YES, I DO.

9 Q. AND DO YOU PLAN TO VOTE IN FUTURE STATE ELECTIONS?

10 A. TRY AND STOP ME. YES, I'M GONNA VOTE.

11 Q. WHAT IS YOUR ROLE IN THIS CASE?

12 A. I AM A PLAINTIFF IN THIS CASE.

13 Q. AND WHAT MOTIVATED YOU TO BECOME A PLAINTIFF IN THIS CASE?

14 A. I WAS RAISED KNOWING THAT WHERE MUCH IS GIVEN, MORE IS
15 EXPECTED. SO IT IS MY MORAL IMPERATIVE TO DO ALL THAT I CAN TO
16 TRANSFORM MY COMMUNITY IN ASSUMPTION PARISH.

17 Q. I'D LIKE TO TALK ABOUT YOUR COMMUNITY. TO BEGIN, WHAT
18 DOES "COMMUNITY" MEAN TO YOU?

19 A. COMMUNITY MEANS MANY DIFFERENT THINGS. IT'S THE PEOPLE
20 WHO LIVE AROUND ME. SO IT'S MY NEIGHBORS, MY NEIGHBORHOOD.
21 IT'S MY PARISH. IT'S MY STATE. IT'S THE PEOPLE WHO I IDENTIFY
22 WITH. IT'S THE BLACK COMMUNITY, THE AFRICAN-AMERICAN
23 COMMUNITY. IT'S THE PEOPLE WHO ARE IN MY CREW, THE PEOPLE WHO
24 ARE IN ALIGNMENT WITH WHAT I SEEK IN MY COMMUNITY.

25 Q. AND DO YOU CONSIDER YOURSELF AN ACTIVE MEMBER OF YOUR

DOROTHY NAIRNE, PH.D.

09:25 1 COMMUNITY?

2 A. I AM VERY ACTIVE ON MANY DIFFERENT LEVELS.

3 Q. IS IT IMPORTANT TO YOU TO BE ACTIVE IN YOUR COMMUNITY?

4 A. IT'S MY PURPOSE AND IT'S WHAT GETS ME UP IN THE MORNING.

5 Q. DO YOU ENGAGE WITH ANY CIVIC ORGANIZATIONS OR OTHER GROUPS
6 IN YOUR COMMUNITY?

7 A. YES, I DO.

8 Q. AND WHAT ARE THEY?

9 A. I AM A CARD CARRYING, DUES PAYING MEMBER OF THE NAACP IN
10 ASSUMPTION PARISH, AND I AM A MEMBER OF TOGETHER LOUISIANA,
11 TOGETHER NEW ORLEANS, THE URBAN LEAGUE, AND A NUMBER OF OTHER
12 ORGANIZATIONS THAT WORK WITH SMALL BUSINESSES.

13 Q. DO YOU HAVE ANY FAMILY ALSO RESIDING IN NAPOLEONVILLE?

14 A. I HAVE A SON, A DAUGHTER, MANY COUSINS, AND OTHER PEOPLE
15 THAT I LOVE THERE IN NAPOLEONVILLE.

16 Q. AND HOW WOULD YOU DESCRIBE THE HISTORY OF YOUR FAMILY IN
17 THE AREA?

18 A. MY LINEAGE GOES DEEP, DEEP, DEEP FROM ENSLAVEMENT WHERE I
19 CAN TRACE MY GREAT, GREAT, GREAT GRANDPARENTS. AND ACTUALLY I
20 HAVE A PLOT OF LAND THAT THEY OWNED, AND I TAKE CARE OF THAT.
21 SO I GO BACK TO MY GRANDMOTHER WHO WAS A MIDWIFE, AND I SEE
22 PEOPLE WHO SAY, "WOW, YOUR GRANDMOTHER BIRTHED MY GRANDMOTHER."
23 SO I HAVE A LONG HISTORY THERE.

24 AND MY MOTHER WAS A FIRST GRADE TEACHER. SO I OFTEN
25 ENCOUNTER PEOPLE WHO -- "YOUR MOTHER TAUGHT ME HOW TO READ.

DOROTHY NAIRNE, PH.D.

09:27 1 YOUR MOTHER TAUGHT ME HOW TO LOVE LEARNING." SO IT'S VERY
2 REWARDING, AND I STAND ON THEIR SHOULDERS TO CONTINUE THIS
3 WORK.

4 Q. HOW, IF AT ALL, HAS RACE PLAYED A ROLE IN YOUR FAMILY
5 HISTORY IN THE AREA WHERE YOU LIVE?

6 A. RACE HAS DEFINED EVERYTHING THAT WE HAVE DONE. IT'S
7 DEFINED THE LIMITATIONS. FOR EXAMPLE, MY MOTHER HAD NO SCHOOL
8 TO GO TO BEYOND THE SIXTH GRADE IN ASSUMPTION PARISH AT THAT
9 TIME, SO SHE HAD TO GO TO A BOARDING SCHOOL. NONE OF HER
10 SISTERS AND BROTHERS WERE ABLE TO CONTINUE THEIR SCHOOLING.
11 THEY POURED INTO HER AND SHE WENT TO A BOARDING SCHOOL THAT WAS
12 THERE IN NEW ORLEANS FOR THE CHILDREN OF THE FORMALLY ENSLAVED
13 TO BE ABLE TO GO TO SCHOOL.

14 SO SHE -- IF SHE HAD BEEN ABLE TO GO TO SCHOOL THERE,
15 WHAT A COMMUNITY IT WOULD HAVE BEEN, BUT SHE WASN'T. SO SHE
16 HAD TO GO ELSEWHERE. AND SO LIKE HER, THE FEW THAT DID GET TO
17 GO TO SCHOOL, HAD TO LEAVE, AND SOME OF THEM DIDN'T COME BACK.
18 SO IT'S -- REALLY RACE HAS BEEN A MAJOR FACTOR IN THE LIVES --
19 IN MY FAMILY AND OTHER PEOPLE'S FAMILIES AS WELL.

20 Q. DID WHITE STUDENTS IN NAPOLEONVILLE HAVE A SCHOOL TO
21 ATTEND AFTER SIXTH GRADE?

22 A. THEY DID. THEY HAD A SCHOOL. AND MY MOTHER USED TO TELL
23 THE STORIES OF HOW -- EVEN WHEN THEY WERE WALKING TO SCHOOL UP
24 AND DOWN HIGHWAY 1, WHERE THE WHITE KIDS WERE DRIVING BY ON THE
25 BUS AND THEY'RE JUST KIND OF LIKE -- OR THEY WOULD GET THE OLD

DOROTHY NAIRNE, PH.D.

09:28 1 BOOKS THAT THE WHITE KIDS NO LONGER USED, THEY DISCARDED. AND
2 SO THE BLACK KIDS WOULD GET THE OLD BOOKS.

3 SO JUST ALL OF THE DISPARITIES ALONG THE WAY UP UNTIL
4 TODAY, WHERE IF YOU LOOK AT THE SCHOOLS ALONG HIGHWAY 1 WHERE I
5 DRIVE UP AND DOWN, YOU CAN SEE THAT -- WHO'S HERE PICKING UP
6 YOUR CHILD AFTER SCHOOL. AND IT'S THE WHITE FAMILIES WHO ARE
7 ABLE TO GO AND PICK UP THEIR CHILDREN. AND THOSE KIDS AFTER
8 SCHOOL THEN GET TO GO TO AFTER-SCHOOL PROGRAMS, AFTER-CARE
9 PROGRAMS, CHESS LESSONS, SWIMMING LESSONS. AND THE BLACK KIDS
10 ARE THERE WAITING FOR THEIR BUSES.

11 SO I CAN STILL SEE THOSE DISPARITIES THAT ARE BASED
12 UPON RACE IN MY COMMUNITY.

13 Q. DO YOU HAVE ANY OTHER PERSONAL CONNECTIONS IN YOUR LOCAL
14 COMMUNITY?

15 A. I HAVE MANY PEOPLE THAT I LOVE AND THE BUSINESS THAT I'M
16 TRYING TO GET STARTED THERE. AND MANY NEIGHBORS AND OTHER
17 PEOPLE, THE CHURCH NEXT DOOR TO MY HOUSE, WHICH WAS STARTED I
18 THINK 125 YEARS AGO, AND LOTS OF NEIGHBORS WHO SEEK TO ME FOR
19 GUIDANCE AND HOPE, A LEVEL OF HOPE.

20 Q. IN YOUR PERCEPTION DOES YOUR COMMUNITY SHARE COMMON
21 HISTORIES IN NAPOLEONVILLE?

22 A. WE SHARE A HISTORY OF STRUGGLE, REALLY, AND A HISTORY OF
23 LOVE, A HISTORY OF FIGHTING FOR WHAT WE CAN SEE SO THAT OUR
24 COMMUNITY GROWS AND THRIVES AND PROSPERS.

25 Q. HOW ABOUT SHARED INDUSTRIES?

DOROTHY NAIRNE, PH.D.

09:30 1 A. THE SUGARCANE INDUSTRY WAS KING AND QUEEN AT SOME POINT IN
2 ASSUMPTION PARISH, WHICH IS THE SUGAR BOWL OF LOUISIANA. SO IF
3 YOU LOOK, YOU CAN SEE SUGARCANE AS FAR AS THE EYE CAN SEE, BUT
4 THAT INDUSTRY THEN TOOK A DIVE WHEN IT BECAME AUTOMATED. SO
5 ALL THE PEOPLE WHO USED TO CUT SUGARCANE NOW AND THE GRINDING
6 SEASON, WHICH WE'RE IN, ARE PEOPLE LIKE MY GRANDMOTHER, WHO
7 USED TO SELL FOOD TO THE WORKERS IN THE CANE FIELDS, WHO ARE NO
8 LONGER ABLE TO WORK. SO THEN WE LACK AN INDUSTRY.

9 SO IN ASSUMPTION PARISH, I'D SAY THE INDUSTRY
10 NOW IS THE DOLLAR GENERAL.

11 Q. DO YOU SHARE ANY COMMON TRADITIONS IN YOUR COMMUNITY?

12 A. IF YOU GO ON A SUNDAY, I GUARANTEE YOU WILL SEE THE
13 TRADITION OF PEOPLE GOING TO CHURCH PROUDLY REPRESENTING,
14 PRAYING FOR BETTER IN THEIR COMMUNITIES. AND THEN AFTER CHURCH
15 PEOPLE ARE TOGETHER EATING AND SHARING, AND JUST THE LOVE IN
16 THE COMMUNITY ON ANY AND EVERY GIVEN SUNDAY, IN ADDITION TO
17 WATCHING SOME FOOTBALL.

18 SO WE'VE GOT THOSE TRADITIONS. AND THEN AS WE COME
19 UP ON NEXT YEAR, WE'VE GOT CARNIVAL SEASON. SO YOU CAN SEE
20 EVEN IN NAPOLEONVILLE WE'VE GOT CREWS THAT WILL DO THE BLOCK
21 WITH THEIR CARNIVAL PARADES. SO WE'VE GOT A TOGETHERNESS THAT
22 IS REALLY, I THINK, THE STRONG POINT IN NAPOLEONVILLE AND IN
23 THAT AREA.

24 Q. BASED OFF YOUR OBSERVATIONS, DOES RACE PLAY ANY ROLE IN
25 THE COMPOSITION OF THE CONGREGATIONS THAT YOU WITNESS?

DOROTHY NAIRNE, PH.D.

09:31 1 A. SUNDAY IS STILL THE MOST SEGREGATED DAY OF THE WEEK WHERE
2 THERE PROBABLY ISN'T -- IN FACT, I HAD A FRIEND WHO'S WHITE WHO
3 WAS LOOKING FOR ME, AND SHE WALKED INTO THE CHURCH, ST. JOHN
4 THE BAPTIST CHURCH, AND THEY WERE LIKE, "THERE'S A WHITE PERSON
5 IN THE CHURCH." SO, YES, RACE PLAYS A BIG FACTOR ON THOSE
6 SUNDAYS AND EVERY OTHER DAY.

7 SO YOU CAN LOOK ON FACEBOOK. LOOK, I MEAN, DO PEOPLE
8 HAVE BLACK FRIENDS? DO PEOPLE HAVE WHITE FRIENDS? YOU KNOW,
9 IF YOU'RE WHITE, YOUR PEOPLE ARE PROBABLY MOSTLY WHITE, AND IF
10 YOU'RE BLACK, YOUR PEOPLE ARE MOSTLY BLACK.

11 Q. BASED ON YOUR EXPERIENCES LIVING IN THE AREA, WHAT DO YOU
12 PERCEIVE AS SOME OF THE COMMON NEEDS SHARED AMONG YOUR
13 COMMUNITY?

14 A. IF YOU DRIVE THROUGH RIGHT NOW, YOU'LL SEE NEEDS THAT ARE
15 STARK. PEOPLE STILL FROM HURRICANE IDA -- OR EVEN THE HAIL
16 STORM WE HAD IN JUNE -- HAVE TARPS ON THE TOPS OF THEIR ROOFS.

17 SO WE'VE GOT A HOUSING ISSUE, ESPECIALLY IF YOU LIVE
18 IN A TRAILER AND YOUR HOUSE IS NOT AS STABLE. SO WE'VE GOT
19 ISSUES RELATED TO HOUSING AND WEATHERIZATION OF OUR HOMES, AND
20 THAT LEADS TO THEN GOOD JOBS, YOU KNOW, SO THAT PEOPLE CAN
21 AFFORD TO HAVE INSURANCE ON THEIR HOMES.

22 AND WE'VE GOT ISSUES RELATED TO EMPLOYMENT AND HAVING
23 JOBS SO THAT PEOPLE CAN WORK CLOSE TO WHERE THEY LIVE INSTEAD
24 OF HAVING TO GO OFFSHORE, WHICH OBVIOUSLY DOESN'T WORK FOR MANY
25 WOMEN BECAUSE WHO'S GOING TO TAKE CARE OF THE CHILDREN IF

DOROTHY NAIRNE, PH.D.

09:33 1 YOU'RE WORKING OFFSHORE.

2 SO WE'VE GOT NEEDS RELATED TO, YOU KNOW, JUST BARE
3 MINIMUM MATERIAL NEEDS WITHIN OUR COMMUNITY.

4 Q. DO YOU HAVE AN OPINION ABOUT HOW THESE NEEDS TRANSLATE TO
5 STATE POLICY ISSUES?

6 A. I CAN SEE HOW THE STATE COULD PLAY A ROLE, IN MY OPINION,
7 IN HELPING TO GET MORE GOING AND TO HELPING OUR ECONOMY SO THAT
8 IT'S THRIVING INSTEAD OF SUFFERING AND INSTEAD OF JUST LAGGING.

9 Q. DO YOU HAVE AN OPINION AS TO HOW, IF AT ALL, RACE HAS
10 PLAYED A ROLE IN THESE POLICY CONCERNS SHARED AMONG YOUR
11 COMMUNITY?

12 A. ONE THING THAT'S VERY KEY IS MASS INCARCERATION HERE IN
13 LOUISIANA, WHICH IS NO SECRET. SO I HAVE A NEIGHBOR WHO WANTED
14 ME TO GO TO MEET HER HUSBAND WHO HAS BEEN IN PRISON FOR THE
15 PAST 20 YEARS. SO I WAS ABLE TO GO TO HUNTSVILLE PRISON MAYBE
16 TWO MONTHS AGO AND I THOUGHT, "WOW, THAT'S WHERE THE BLACK MEN
17 ARE. THEY ARE IN PRISON."

18 SO WE HAVE TO DO SOMETHING RELATED TO HOW WE ARE OVER
19 POLICING AND NOT HAVING PROGRAMS, BUT WE'RE BUILDING PRISONS
20 AND KEEPING PEOPLE IN PRISON. SO THAT WOULD BE ON THE TOP OF
21 MY LIST.

22 Q. LET'S TALK ABOUT POLITICAL REPRESENTATION IN YOUR
23 COMMUNITY. WHICH DISTRICT DO YOU LIVE IN UNDER THE CURRENT
24 STATE HOUSE MAP?

25 A. I AM IN DISTRICT 60.

DOROTHY NAIRNE, PH.D.

09:34 1 Q. AND BASED ON YOUR EXPERIENCE LIVING IN DISTRICT 60, DO YOU
2 FEEL LIKE THE CURRENT CONFIGURATION OF THE DISTRICT REFLECTS
3 COMMUNITIES WITH SHARED INTERESTS?

4 A. NO, I DO NOT.

5 Q. AND WHY NOT?

6 A. I AM VOTING IN A VACUUM WHERE HALF THE TIME I DON'T KNOW
7 WHERE TO GO TO VOTE. MY NEIGHBORS CAN'T ADVISE ME WHERE TO GO
8 TO VOTE. SO I FEEL LIKE WE'RE JUST KIND OF FLOUNDERING AND
9 LANGUISHING INSTEAD OF THRIVING AND ABLE TO ORGANIZE OURSELVES.

10 Q. DO YOU KNOW WHO YOUR REPRESENTATIVE IS IN DISTRICT 60?

11 A. MY REPRESENTATIVE IS CHAD BROWN.

12 Q. AND WHAT RACE IS YOUR CURRENT REPRESENTATIVE?

13 A. HE IS A WHITE MAN.

14 Q. DID REPRESENTATIVE BROWN HAVE AN ELECTION THIS 2023 CYCLE?

15 A. NO, HE DID NOT.

16 Q. AND DID HE HAVE AN ELECTION DURING THE 2019 CYCLE?

17 A. NO, HE DID NOT.

18 Q. AND WHY NOT?

19 A. HE RAN UNOPPOSED. I MEAN, NOBODY ELSE THREW THEIR HAT
20 INTO THE -- THEIR NAME INTO THE HAT TO RUN AGAINST HIM.

21 Q. FOR BOTH ELECTIONS?

22 A. YES.

23 Q. AND DID YOU PARTICIPATE IN THOSE ELECTIONS?

24 A. I DID.

25 Q. DO YOU UNDERSTAND YOUR HOUSE DISTRICT, DISTRICT 60, TO BE

DOROTHY NAIRNE, PH.D.

09:35 1 MAJORITY BLACK OR MAJORITY WHITE?

2 A. IT'S MAJORITY WHITE.

3 Q. TO YOUR KNOWLEDGE, HAS REPRESENTATIVE BROWN EVER
4 CAMPAIGNED IN YOUR IMMEDIATE COMMUNITY?

5 A. I DON'T KNOW WHAT HE LOOKS LIKE.

6 Q. TO YOUR KNOWLEDGE, HAS HE EVER ATTENDED ANY EVENTS WITH
7 THE COMMUNITY ORGANIZATIONS YOU ENGAGE WITH IN YOUR LOCAL
8 COMMUNITY?

9 A. I HAVEN'T SEEN HIM, AND I TRY TO -- I TRY TO TAKE A LOOK
10 AT EVERY ONE I'M IN THE ROOM WITH TO AT LEAST KNOW LIKE, OKAY,
11 WHO'S WHO, WHO'S IN HERE, AND I HAVEN'T SEEN HIM.

12 Q. DO YOU RECALL HEARING ANY CAMPAIGN ADS FOR HIM?

13 A. NO. IN FACT, I DIDN'T KNOW HIS NAME. IT WAS LIKE WHO?
14 SO, NO.

15 Q. ANY KNOCKS ON YOUR DOOR FROM HIM OR CAMPAIGN STAFF?

16 A. NO. NOT -- NO, NO.

17 Q. SIGNS ON YOUR STREET?

18 A. NONE.

19 Q. MAILERS IN YOUR MAILBOX?

20 A. NOT THAT I SAW.

21 Q. OKAY. DO YOU BELIEVE REPRESENTATIVE BROWN ADVOCATES FOR
22 YOUR COMMUNITY'S NEEDS?

23 A. I DON'T BELIEVE THAT HE DOES.

24 Q. AND WHY NOT?

25 A. HE'S NOT AROUND. I HAVEN'T SEEN HIM. I HAVEN'T HEARD

DOROTHY NAIRNE, PH.D.

09:36 1 ANYBODY EVEN MENTIONING LIKE, "OH, THIS IS WHAT OUR
2 REPRESENTATIVE HAS IN MIND FOR US." AND PEOPLE TALK ABOUT
3 THOSE KINDS OF THINGS.

4 Q. DO YOU FIND REPRESENTATIVE BROWN TO BE RESPONSIVE TO THE
5 BLACK COMMUNITY'S NEEDS SPECIFICALLY?

6 A. NO, I DON'T. AND IT WOULD BE EASY TO BE RESPONSIVE TO OUR
7 NEEDS. I MEAN, THERE ARE MANY, MANY DIFFERENT WORKSHOPS AND
8 WEBINARS AND OPPORTUNITIES TO GET INVOLVED IN, AND I HAVEN'T
9 SEEN HIM.

10 Q. DO YOU KNOW WHAT SENATE DISTRICT YOU LIVE IN UNDER THE
11 ENACTED MAP?

12 A. I AM IN SENATE DISTRICT 2.

13 Q. AND WHO IS YOUR STATE SENATOR?

14 A. ED PRICE.

15 Q. AND WHAT RACE IS SENATOR PRICE?

16 A. ED PRICE IS A BLACK MAN.

17 Q. DO YOU THINK THAT SENATOR PRICE DOES A BETTER OR A WORSE
18 JOB OF REPRESENTING THE INTEREST OF YOUR COMMUNITY COMPARED TO
19 REPRESENTATIVE BROWN?

20 A. ED PRICE IS -- HE DOES A REALLY GOOD JOB. HE'S AVAILABLE.
21 HE'S ACCESSIBLE. I CAN COUNT ON -- I'D HAVE TO EVEN GO TO MY
22 TOES TO COUNT HOW MANY TIMES I HAVE SEEN HIM JUST THIS YEAR AT
23 DIFFERENT EVENTS IN THE COMMUNITY IN NAPOLEONVILLE. HE IS
24 AVAILABLE, AND WE CAN GO KNOCK ON HIS DOOR RIGHT NOW.

25 Q. DO YOU UNDERSTAND YOUR SENATE DISTRICT TO BE MAJORITY

DOROTHY NAIRNE, PH.D.

09:37 1 BLACK OR MAJORITY WHITE?

2 A. IT IS BLACK.

3 Q. SHIFTING BACK TO REPRESENTATIVE BROWN, ARE THERE ANY VOTES
4 THAT HE'S TAKEN THAT HAVE STOOD OUT TO YOU?

5 A. HE VOTED FOR THE MAP THAT DOESN'T SERVE MY COMMUNITY.

6 Q. AND IS THAT THE HOUSE MAP THAT YOU DISCUSSED HE IS
7 REPRESENTING IN?

8 A. YES.

9 Q. DR. NAIRNE, ARE YOU FAMILIAR WITH THE MAP THAT PLAINTIFFS
10 HAVE INTRODUCED IN THIS MATTER?

11 A. YES, I AM.

12 Q. UNDER THAT ILLUSTRATIVE MAP, ARE YOU AWARE OF WHICH HOUSE
13 DISTRICT YOU WOULD RESIDE IN?

14 A. I WOULD THEN RESIDE IN HOUSE DISTRICT 58.

15 Q. IS IT YOUR UNDERSTANDING THAT DISTRICT 58 WOULD REMAIN A
16 MAJORITY-BLACK DISTRICT AS IT IS NOW?

17 A. YES.

18 Q. DO YOU THINK DISTRICT 58 IN THE ILLUSTRATIVE MAP WOULD DO
19 A BETTER OR A WORSE JOB OF KEEPING YOUR COMMUNITY TOGETHER THAN
20 DISTRICT 60 IN THE ENACTED MAP?

21 A. IT WOULD BE SO MUCH BETTER.

22 Q. AND WHY IS THAT?

23 A. I WANT TO SEE SOME WINS HERE WHERE WE HAVE SOME LEVEL OF
24 REPRESENTATION AND ARE ABLE TO FEEL LIKE, OKAY, YOU KNOW, I
25 HAVE A VOICE HERE IN LOUISIANA. I DON'T FEEL LIKE THAT RIGHT

DOROTHY NAIRNE, PH.D.

09:38 1 NOW.

2 Q. WHAT WOULD IT MEAN TO YOU TO BE IN A HOUSE DISTRICT WITH
3 MORE MEMBERS OF THE BLACK COMMUNITY?

4 A. OH, I WOULD BE -- I WOULD BE EXCITED FOR THAT BECAUSE I
5 CANNOT SAY LIVING IN EVEN A STATE WHERE IT'S A THIRD BLACK THAT
6 I FEEL LIKE I'VE GOT ANY KIND OF -- LIKE MY VOTE REALLY IS --
7 HAS WEIGHT. SO IT WOULD HELP ME TO KNOW WHERE TO ORGANIZE AND
8 HOW TO ORGANIZE MORE EFFECTIVELY IN OUR LITTLE RURAL AREA.

9 Q. BASED ON YOUR OWN PERCEPTIONS AND EXPERIENCE, WOULD YOU
10 SAY PEOPLE VOTE ALONG RACIAL LINES IN YOUR AREA?

11 A. YES, THEY DO. YES, WE DO.

12 Q. CAN YOU WALK ME THROUGH YOUR TYPICAL EXPERIENCE GOING TO
13 VOTE?

14 A. IT'S HARD. EVEN TWO SATURDAYS AGO I HAVE BEEN TURNED AWAY
15 FROM VOTING BECAUSE, "OH, BABY, YOU DON'T VOTE HERE. YOU GO TO
16 ANOTHER PLACE TO VOTE." SO IT'S REALLY CONFUSING BECAUSE MY
17 VOTING LOCATION HAS CHANGED -- CHANGES. WHETHER IT'S EARLY
18 VOTING OR VOTING ON THE DAY OF THE ELECTION, IT'S CHAOTIC TO
19 ME.

20 Q. AT THE SITES WHERE YOU'VE ATTEMPTED TO VOTE, HAS IT BEEN
21 CROWDED OR EMPTY, SOMEWHERE IN BETWEEN?

22 A. VERY EMPTY.

23 Q. WHAT DO YOU PERCEIVE AS THE COMMUNITY SENTIMENTS AROUND
24 ACCESS TO VOTING IN YOUR AREA?

25 A. IT'S DIFFICULT FOR A LOT OF PEOPLE. FOR, ONE, PEOPLE WITH

DOROTHY NAIRNE, PH.D.

09:40 1 FELONY CONVICTIONS. AND THERE ARE MANY MEN, ESPECIALLY WITH
2 FELONY CONVICTIONS WHO FEEL LIKE, "OKAY, I CAN PROBABLY NEVER
3 VOTE AGAIN, EVEN THOUGH I'VE SERVED MY TIME. I'VE PAID MY
4 PRICE." SO THERE'S SOME MISINFORMATION OUT THERE FOR PEOPLE
5 WHO HAVE FELONY CONVICTIONS, WHICH IS SOMETHING TO BE
6 ADDRESSED.

7 AND THEN JUST TO KNOW WHERE TO VOTE AND ON WHAT DAY
8 TO GO TO VOTE. I MEAN, HOW DO WE VOTE IN OCTOBER? WHO PICKED
9 THAT DATE ON A SATURDAY? WASN'T THAT GRAMBLING'S HOMECOMING
10 AND SOUTHERN'S HOMECOMING THAT SATURDAY? SO TO HAVE THIS
11 RANDOM DAY IN OCTOBER FOR THE ELECTION -- THEY ARE MANY PEOPLE
12 THAT I KNOW WHO ARE LIKE, "I MISSED IT? HUH." SO IF IT'S JUST
13 SOME, LIKE, RANDOMLY PLUCKED DATE, THEN IT'S CONFUSING.

14 Q. HAVE YOU OBSERVED ANY OTHER BARRIERS TO HOW PEOPLE IN YOUR
15 COMMUNITY ARE ABLE TO GO AND VOTE?

16 A. TRANSPORTATION IS AN ISSUE, FOR SURE, FOR PEOPLE,
17 ESPECIALLY PEOPLE WHO MAY BE LOW RESOURCES. THERE'S NO PUBLIC
18 TRANSPORTATION IN THAT AREA. SO HOW DO PEOPLE GO TO VOTE,
19 UNLESS THEY ABSOLUTELY KNOW SOMEBODY WHO, YOU KNOW, "CAN I RIDE
20 WITH YOU?" BUT THEN IF WE GO TO THE WRONG PLACE -- SO IT'S HARD
21 TO GO TO VOTE FOR A LOT OF PEOPLE, AND I THINK THAT MAY EXPLAIN
22 SOME OF THE UNDER VOTING, THE NUMBERS.

23 Q. IN YOUR OBSERVATIONS, HAVE THESE BARRIERS CREATED ANY
24 PARTICULARIZED LIMITATIONS FOR BLACK PEOPLE IN YOUR COMMUNITY?

25 A. ABSOLUTELY. BECAUSE IF PEOPLE HAVE TO GO TO WORK AT THE

DOROTHY NAIRNE, PH.D.

09:41 1 BIG BOX STORE, THEY DON'T KNOW WHERE THEY'RE GOING TO VOTE.

2 THEN IF YOU HAVE ISSUES RELATED TO, YOU KNOW, IF IT'S
3 RAINING AND YOU'VE GOT TO WORRY ABOUT YOUR HOUSE AND IT'S
4 RAINING INSIDE YOUR HOUSE, THEN YOU'RE NOT TO GOING VOTE ON
5 THAT DAY. SO IT'S ALL THE LEVELS AND THE ISSUES THAT THEN
6 WOULD TAKE PRECEDENCE OVER GOING TO VOTE OR REMEMBERING TO GO
7 TO VOTE.

8 Q. I'D LIKE TO TURN TO SPEAKING TO SOME OF OUR PERCEPTIONS ON
9 RACIAL DYNAMICS AND OTHER RELATED ELEMENTS OF LIFE. FROM YOUR
10 PERSONAL KNOWLEDGE, WHAT, IF ANY, HAVE BEEN YOUR EXPERIENCES OR
11 OBSERVATIONS OF RACIAL INEQUITY IN EDUCATIONAL OPPORTUNITIES IN
12 YOUR COMMUNITY?

13 A. SO AS FAR AS EDUCATION WHERE WE LACK INFORMATION ABOUT HOW
14 TO JUST -- WHETHER THERE'S AN AFTER-CARE PROGRAM FOR KIDS OR
15 WHETHER THERE ARE OPPORTUNITIES FOR, YOU KNOW, WHERE TO GO TO
16 SCHOOL. SO UNLESS YOUR PARENTS WENT TO UNIVERSITY, CHANCES ARE
17 YOU PROBABLY WON'T HAVE THAT INFORMATION YOURSELF. SO I SEE
18 THAT VERY CLEARLY ON THE LINES OF RACE WHERE WHAT IS OUR
19 OPPORTUNITY THEN TO ADVANCE OURSELVES.

20 Q. SPEAKING FROM YOUR PERSONAL KNOWLEDGE, WHAT, IF ANY, HAVE
21 BEEN YOUR EXPERIENCES OR OBSERVATIONS OF RACIAL INEQUITY IN
22 EMPLOYMENT OPPORTUNITIES IN YOUR COMMUNITY?

23 A. WE DON'T HAVE A LOT OF JOBS IN OUR COMMUNITY. SO EITHER
24 YOU -- IF YOU HAVE AN EDUCATION, YOU'RE EITHER GOING TO BE A
25 TEACHER PROBABLY WORKING AT ONE OF THE LOCAL SCHOOLS, WORK IN

DOROTHY NAIRNE, PH.D.

09:43 1 LOCAL GOVERNMENT, OR POSSIBLY AT A BIG BOX STORE, OR YOU'VE GOT
2 TO GO ELSEWHERE TO FIND WORK.

3 SO EVEN ME MOVING BACK TO NAPOLEONVILLE, IT WAS LIKE,
4 "WELL, WHAT AM I GOING TO DO WITH MYSELF? HOW CAN I FIND A JOB
5 HERE?" AND THE BEST THING THAT I COULD DO WAS FIGURE OUT,
6 OKAY, LET ME START A BUSINESS SO THAT I CAN CREATE JOBS FOR
7 OTHERS, ESPECIALLY PEOPLE WHO HAVE FELONY CONVICTIONS AND DON'T
8 HAVE A LOT OF EDUCATION. AND I'VE SEEN HOW DIFFICULT THAT'S
9 BEEN FOR ME.

10 AND I CAN TELL YOU THAT BASED UPON MY RACE, GOING TO
11 DIFFERENT SECTORS TO TRY TO GET FUNDING, TO TRY TO GET GOING,
12 I'VE HAD PEOPLE TELL ME EVERYTHING BUT YES. "OH, BUT YOU'RE
13 NOT AN ENGINEER. OH, BUT YOU DON'T HAVE EXPERIENCE DOING
14 THAT." BUT THEN I'VE SEEN YOUNG, WHITE KIDS DOING THE SAME
15 THING, SAME THING, WITH MUCH LESS EXPERIENCE OR EDUCATION THAN
16 I HAVE AND SOMEHOW THEY GOT IT DONE.

17 SO WHAT CAN I BLAME THAT ON? AM I BROKEN? AND, YOU
18 KNOW, PEOPLE EVEN ASKING ME A QUESTION LIKE THAT, "WELL, WHAT'S
19 WRONG WITH YOU? THEY GOT IT DONE. WHAT'S WRONG WITH YOU?" IS
20 SOMETHING WRONG WITH ME? NO.

21 Q. WHAT, IF ANY, HAS BEEN YOUR EXPERIENCES OR OBSERVATIONS OF
22 RACIAL INEQUITY IN HOUSING ACCESS IN YOUR COMMUNITY?

23 A. SO IT'S VERY RELATED. SO IF YOU HAVE -- IF YOU'RE
24 UNEMPLOYED OR INFORMALLY EMPLOYED, HOW ARE YOU GOING TO GET A
25 LOAN SO THAT YOU CAN FIX UP YOUR HOME, SO THAT YOU CAN BUY A

DOROTHY NAIRNE, PH.D.

09:44 1 NEW TRAILER, OR PUT A DIFFERENT KIND OF STRUCTURE ON THE
2 PROPERTY THAT MAYBE YOU OWN.

3 SO EVEN IN MY OWN SITUATION, WE'VE GOT WHAT'S CALLED
4 AN "HEIR'S PROPERTY." AND I KNOW A NUMBER OF AFRICAN
5 AMERICANS HAVE THAT WHERE THE PROPERTY WAS PASSED DOWN TO YOU,
6 BUT IT'S NOT IN YOUR NAME, IT'S IN THE NAME OF SOMEBODY WHO'S
7 DECEASED. THERE'S NO -- YOU CAN'T GET ANY FUNDING FOR THAT.
8 YOU CAN'T GET HELP TO REPAIR YOUR ROOF FOR THAT.

9 I SAT ON THE PHONE FOR, I DON'T KNOW, TWO HOURS
10 TRYING TO GET ONTO THE RESTORE LOUISIANA LIST SO THAT I COULD
11 GET A GRANT TO FIX MY ROOF. BUT I LIVE IN AN HEIR PROPERTY,
12 SO THAT MEANS THERE'S NO HELP FOR MY HOME. AND SO IF THAT'S MY
13 SITUATION, I SEE ALL OF THOSE PEOPLE WHO STILL HAVE TARPS ON
14 THEIR HOMES, THEY ALSO LIVE IN HEIR PROPERTIES. SO IT'S TOUGH.
15 IT'S REALLY TOUGH.

16 Q. WHAT HAPPENED TO YOUR ROOF?

17 A. THAT OLD IDA THAT CAME THROUGH LEFT A NUMBER OF HOLES IN
18 MY ROOF. AND SO WE JUST -- YOU KNOW, WE JUST ENDURE. SO I'VE
19 GOT HOLES IN MY ROOF IN THREE PLACES, AND WHEN IT RAINS, IT
20 RAINS INSIDE. SO UNTIL I'VE GOT THE MONEY TO FIX THAT ROOF,
21 IT'S ON ME. AND IT'S ME AND THE ELEMENTS LIVING TOGETHER SIDE
22 BY SIDE.

23 Q. WHAT, IF ANY, HAVE BEEN YOUR EXPERIENCES OR OBSERVATIONS
24 OF RACIAL INEQUITY IN HEALTHCARE ACCESS IN YOUR COMMUNITY?

25 A. HEALTHCARE IS ALSO A STICKY SITUATION BECAUSE WE LIVE AT

DOROTHY NAIRNE, PH.D.

09:46 1 THE MOUTH OF CANCER ALLEY. SO THE NUMBER OF PEOPLE THAT I KNOW
2 SINCE I'VE LIVED IN LOUISIANA, FOR THIS VERY SHORT TIME, WHO'VE
3 EITHER BEEN SICK AND DIED, INCLUDING ONE OF MY DEAREST FRIENDS
4 WHO LIVED ACROSS THE STREET. SHE DIDN'T HAVE HEALTHCARE OR
5 INSURANCE. SO SHE HAD A PAIN IN HER SIDE. SHE ENDURED. SHE
6 ENDURED. SHE ENDURED. SHE FINALLY WENT TO GET A MAMMOGRAM,
7 SHE HAD STAGE 4 CANCER. I DON'T THINK SHE LIVED FOR SIX MONTHS
8 AFTER THAT.

9 SO THOSE STORIES HAPPEN SO OFTEN. I CAN'T TELL YOU
10 HOW MANY FUNERALS I'VE BEEN TO, ALMOST EVERY SATURDAY. NOT
11 WEDDINGS, BUT FUNERALS.

12 Q. WHAT, IF ANY, HAVE BEEN YOUR EXPERIENCES OF RACIAL
13 INEQUITY OR OBSERVATIONS IN CRIMINAL LAW ENFORCEMENT IN YOUR
14 COMMUNITY?

15 A. SAME THING THERE WITH HOW WE ARE OVER POLICED. I LIVE IN
16 A RURAL AREA. YET, I CAN PROBABLY GIVE YOU THREE EXAMPLES
17 OF -- IN MY LITTLE AREA OR EVEN ON MY PROPERTY WHEN SOMEBODY
18 DRIVES UP AND THEN YOU SEE THE FLASHING LIGHTS BEHIND THEM.
19 TWO OR THREE POLICE CARS FROM ASSUMPTION PARISH PULLING UP
20 BEHIND THEM AND MAKING -- THERE WAS A NEIGHBOR THAT I HAD WHO
21 PULLED UP INTO MY DRIVEWAY, AND THEY MADE THIS MAN WALK. THE
22 POLICE MADE THIS MAN WALK UP AND DOWN HOW MANY TIMES TO GET HIM
23 ON A DUI, WHICH THEY FINALLY DID. AND SO HIS CAR STAYED THERE
24 FOR A COUPLE OF DAYS, AND I NEVER SAW HIM AGAIN.

25 Q. I'D LIKE TO PIVOT TO TALKING ABOUT YOUR OBSERVATIONS OF

DOROTHY NAIRNE, PH.D.

09:47 1 POLITICAL CAMPAIGNS AND RHETORIC. HAVE YOU OBSERVED ANY RACIAL
2 UNDERTONES IN POLITICAL CAMPAIGN ADVERTISEMENTS WHILE LIVING IN
3 YOUR COMMUNITY?

4 A. YES, I HAVE.

5 Q. AND CAN YOU PLEASE DESCRIBE THOSE?

6 A. I CAN GIVE YOU THE EXAMPLE OF SENATOR KENNEDY, WHO WON,
7 AND IF YOU WATCHED HIS TELEVISION AD, IN THE BACKGROUND HE HAD
8 BLACK LIVES MATTER PROTESTS AND TALKING ABOUT, YOU KNOW, WOKE
9 POLITICS AND, YOU KNOW, "NEXT TIME YOU CALL THE POLICE, CALL A
10 CRACKHEAD."

11 AND, YOU KNOW, I GREW UP IN THE 80S AND "CRACKHEAD"
12 WAS DEFINITELY CODE FOR BLACK PERSON. SO THAT TO ME WAS
13 ALARMING, AND IT MADE ME FEEL BELITTLED.

14 Q. ANY EXAMPLES FROM RECENT CAMPAIGNS THIS YEAR?

15 A. AND, IN ADDITION, I DO REMEMBER HEARING THE WOKE. YOU
16 KNOW, AND BLACK PEOPLE USE TO SAY IT, "ALL RIGHT. STAY WOKE.
17 STAY WOKE." AND SO NOW IT'S BEEN TURNED AROUND WHERE WOKE IS
18 DEFINITELY SOMETHING LIKE WOKE POLITICS. YOU KNOW, WE DON'T
19 WANT THAT.

20 SO I HEARD THAT QUITE A BIT DURING THIS ELECTION
21 SEASON, AND IT STINGS. IT STINGS BECAUSE IF WE ARE HERE
22 FIGHTING FOR OUR RIGHTS AND THEN SOMEBODY IS MOCKING THAT AND
23 MIMICKING THAT, THEN HOW ARE WE SUPPOSED TO FEEL ABOUT THAT.

24 Q. AND TO CONFIRM: WHAT -- WHO ARE YOU HEARING THESE THINGS
25 FROM?

DOROTHY NAIRNE, PH.D.

09:49 1 A. I THINK THAT WAS THE GOVERNOR ELECT'S CAMPAIGN, IF I
2 REMEMBER.

3 Q. AND WHAT RACE IS SENATOR KENNEDY?

4 A. WHITE.

5 Q. AND WHAT RACE IS THE GOVERNOR ELECT?

6 A. WHITE.

7 Q. HAVE YOU OBSERVED TROPES OR STEREOTYPES IN THE DEPICTION
8 OF BLACK CANDIDATES IN POLITICAL ADVERTISING?

9 A. I HAVE. I AM -- I CAN RECALL DEVANTE LEWIS, AND THEY HAD
10 A LITTLE ANIMATION OF HIM. HE RAN FOR THE PUBLIC SERVICE
11 COMMISSIONER SEAT. AND THEY HAD A LITTLE ANIMATION OF HIM WITH
12 PUPPET STRINGS. AND HE WAS -- YOU KNOW, HE'S THE PUPPET FOR
13 BIG, LIBERAL BUSINESS. YOU KNOW, SO IT'S LIKE HE CAN THINK ON
14 HIS OWN. THIS IS AN INTELLIGENT MAN.

15 SO IT JUST RINGS, AND IT RESONATES DEEPLY FOR ME TO
16 HEAR THOSE KIND OF TROPES THAT, YOU KNOW, WE CAN'T THINK FOR
17 OURSELVES HERE IN LOUISIANA, WE, BLACK PEOPLE. SO -- BUT, YES,
18 WE CAN. WE HAVE SOLUTIONS, AND WE KNOW WHAT WE WANT, AND WE
19 WANT TO THRIVE, JUST LIKE EVERYBODY ELSE HERE IN LOUISIANA. WE
20 WANT OUR FAIR SHOT.

21 Q. HAVE YOU SEEN SIMILAR DEPICTIONS AGAINST ANY OTHER BLACK
22 CANDIDATES?

23 A. I REMEMBER SOME AGAINST SHAWN WILSON ALSO DURING THE PAST
24 ELECTION SEASON.

25 Q. AND WHAT WAS HE RUNNING FOR?

DOROTHY NAIRNE, PH.D.

09:50 1 A. HE WAS RUNNING FOR GOVERNOR.

2 Q. AND WHAT RACE IS HE?

3 A. BLACK.

4 Q. HOW DID THESE SORTS OF DEPICTIONS OF BLACK CANDIDATES MAKE
5 YOU FEEL AS A BLACK WOMAN IN LOUISIANA?

6 A. IT MAKES ME FEEL LIKE I NEED TO GET ON THE NEXT BUS --
7 ONE-WAY TICKET OUT BECAUSE I JUST DON'T SEE THE TRANSFORMATION
8 OR THE CHANGE, AND IT FEELS LIKE IT'S NEVER, EVER GOING TO
9 HAPPEN.

10 SO I HAVE JOINED THE MASSES OF BLACK PEOPLE FEELING
11 LIKE, YOU KNOW, I'M IN DESPAIR. I'VE HAD A YEAR OF A LOT OF
12 DEPRESSION ACTUALLY, BECAUSE IT'S JUST SO HARD LIVING HERE AND
13 BEING BLACK, AND THEN HAVING CONVERSATIONS WITH PEOPLE, THE
14 NEIGHBORS AND FRIENDS AND FAMILY EVEN -- WHO ARE JUST LIKE,
15 "YOU KNOW, WELL, THAT'S HOW IT IS. THAT'S HOW IT'S GONNA BE.
16 AIN'T NEVER GONNA CHANGE." I DON'T WANT TO LIVE IN A PLACE
17 WHERE IT'S NEVER GOING TO CHANGE OR, YOU KNOW, WHERE BLACK
18 PEOPLE ARE JUST POOR, AND THAT'S JUST THE WAY IT IS. I DON'T
19 WANT TO LIVE HERE LIKE THAT.

20 Q. BUT HAVE YOU BOUGHT THAT BUS TICKET?

21 A. IT'S ON LAYAWAY.

22 Q. AND WHY HAVEN'T YOU BOUGHT IT YET?

23 A. NO, I HAVEN'T. I SEE HOPE. I MEAN, LOOK AT THIS ROOM
24 HERE, THIS OPPORTUNITY TO TRANSFORM OUR COMMUNITY, AND THAT'S
25 SOMETHING THAT EVERYBODY SHOULD WANT.

DOROTHY NAIRNE, PH.D.

09:51 1 IF WE'RE A THIRD OF THE POPULATION, WHEN BLACK PEOPLE
2 ARE DOING BETTER, EVERYBODY'S GONNA DO BETTER. SO I JUST WANT
3 TO UNDERSTAND HOW WE CAN BE TOGETHER ON, YOU KNOW, WATCHING THE
4 SAINTS. WE'RE TOGETHER DURING PARADES, BUT WE'RE NOT TOGETHER
5 WITH WANTING BLACK PEOPLE TO HAVE FULL -- A FULL LIFE HERE IN
6 LOUISIANA.

7 Q. HOW DO NEGATIVE CAMPAIGN DEPICTIONS ABOUT BLACK CANDIDATES
8 MAKE YOU FEEL ABOUT BLACK PEOPLES' ACCESS TO POLITICAL POWER IN
9 THIS STATE?

10 A. IT MAKES ME FEEL LIKE, YOU KNOW, JUST A LAUGHING MATTER,
11 LIKE IT'S NOT REALLY TAKEN SERIOUSLY.

12 Q. BEYOND THESE ADS IN YOUR COMMUNITY, HAVE YOU OBSERVED ANY
13 CHALLENGES THAT BLACK CANDIDATES FACE IN GETTING ELECTED?

14 A. WE SURE HAVE A HARD TIME RAISING THE FUNDING, AND THEN
15 JUST EVEN GETTING PEOPLE TO BELIEVE THAT CHANGE IS POSSIBLE.
16 SO PEOPLE DON'T TAKE THE ELECTION PROCESS SERIOUSLY BECAUSE
17 IT'S LIKE, "WELL, THINGS AREN'T GOING TO CHANGE." YOU KNOW,
18 AND IF WE BELIEVE THAT THINGS AREN'T GOING TO CHANGE BECAUSE
19 THEY HAVEN'T CHANGED, THEN THEY WON'T CHANGE.

20 SO SOMEHOW SOMETHING HAS TO HAPPEN WHERE THAT GLIMMER
21 OF HOPE IS THERE, BUT IT'S NOT HERE RIGHT NOW. AND I'M EVEN
22 FEELING IT. I DIDN'T COME HERE TO FEEL LIKE -- YOU KNOW, I
23 DIDN'T WANT TO JOIN THE MASSES OF, YOU KNOW, FRUSTRATED PEOPLE
24 IN DESPAIR. THAT'S NOT WHY I MOVED HERE. YOU KNOW, I WANT
25 SUNSHINE IN MY LIFE. I WANT PROSPERITY IN MY LIFE AND THE

DOROTHY NAIRNE, PH.D.

09:53 1 LIVES OF OTHERS, BECAUSE THEN WE WON'T HAVE SO MUCH CRIME. WE
2 WON'T HAVE PEOPLE WHO ARE, YOU KNOW, ACTING OUT OR PEOPLE WHO
3 ARE JUST ANGRY AND, YOU KNOW, FEELING BITTER.

4 Q. AND DO YOU SEE MANY OF YOUR BLACK NEIGHBORS SIGNING UP TO
5 RUN FOR OFFICE?

6 A. NO. PEOPLE FEEL LIKE IT'S TOO MUCH OF AN UPHILL BATTLE,
7 AND, YOU KNOW, WE DON'T DO HILLS IN SOUTHERN LOUISIANA. SO
8 IT'S REALLY, REALLY DIFFICULT TO NAVIGATE BECAUSE, YOU KNOW,
9 PEOPLE JUST THINK THAT'S THE WAY IS. YOU KNOW, YOU FIND YOUR
10 JOY ON SUNDAY, AND THAT'S IT. BUT I WANT SOME JOY HERE AND
11 NOW. MY MOTHER USED TO SAY NO CROSS, NO CROWN. SO I DON'T
12 WANT TO WAIT TO GET TO HEAVEN FOR SOME JUSTICE.

13 Q. OTHER THAN SENATOR ED PRICE WHO YOU MENTIONED BEFORE, ARE
14 YOU REPRESENTED BY ANY BLACK ELECTED OFFICIAL COMING FROM
15 LOUISIANA CURRENTLY?

16 A. NOT ONE.

17 Q. NOT IN LOCAL OFFICES LIKE YOUR POLICE JURY?

18 A. EVEN MY POLICE JUROR WHO IS WHITE.

19 Q. HOW ABOUT STATE LEVEL OFFICES YOU VOTE FOR?

20 A. ALL WHITE.

21 Q. AND FEDERAL SEATS ELECTED FROM LOUISIANA?

22 A. WELL, WE DO HAVE KAMALA HARRIS.

23 Q. THERE YOU GO.

24 DR. NAIRNE, FROM YOUR EXPERIENCE WHAT IMPACT, IN YOUR
25 PERCEPTION, WOULD A NEW LEGISLATIVE MAP HAVE ON YOUR BROADER

DOROTHY NAIRNE, PH.D.

09:54 1 COMMUNITY?

2 A. A NEW MAP WOULD GIVE US THAT LEVEL OF HOPE THAT ALL OF
3 THIS WORK THAT WE'RE DOING, ALL OF THE LITTLE SIDEBARS THAT
4 PEOPLE ARE HAVING, WOULD ABSOLUTELY BE WORTH IT AND THAT WE
5 WOULD HAVE SOME JUSTICE AND SOME PROSPERITY IN LOUISIANA, EVEN
6 IN THE BLACK COMMUNITY, EVEN THESE RURAL AREAS.

7 Q. AND FINALLY, DR. NAIRNE, ON A PERSONAL LEVEL, WHAT WOULD
8 "RELIEF" MEAN TO YOU IN THIS CASE?

9 A. IT WOULD MEAN I'M STAYING HERE AND WORKING TO BRING
10 PROSPERITY, TO BRING A SENSE OF PEACE, AND JUST A SENSE OF THE
11 ABILITY TO MAKE CHANGE THAT IS GOOD FOR EVERYBODY. SO I JUST
12 WANT PEOPLE TO SEE THAT, AND I WANT TO SEE IT, TOO.

13 Q. THANK YOU, DR. NAIRNE. NO FURTHER QUESTIONS.

14 A. THANK YOU.

15 THE COURT: CROSS.

16 MR. CONINE: JOHN CONINE ON BEHALF OF THE SECRETARY
17 OF STATE.

18 CROSS-EXAMINATION

19 BY MR. CONINE:

20 Q. GOOD MORNING, DR. NAIRNE.

21 A. GOOD MORNING.

22 Q. IS IT NAIRNE OR NAIRNE?

23 A. NAIRNE.

24 Q. NAIRNE.

25 A. BUT, YOU KNOW, JUST DON'T CALL ME LATE FOR DINNER.

DOROTHY NAIRNE, PH.D.

09:56 1 Q. I'VE GOT A HARD LAST NAME TO PRONOUNCE, TOO. I KNOW YOUR
2 PAIN.

3 YOU SAID -- WHAT IS YOUR CURRENT ADDRESS?

4 A. 3651 --

5 THE COURT REPORTER: NO ADDRESSES.

6 MR. CONINE: OH. I'M SORRY. I DIDN'T KNOW.

7 THE COURT: NO PERSONALLY IDENTIFYING INFORMATION.

8 MR. CONINE: OKAY.

9 THE COURT: NAPOLEONVILLE IS ENOUGH.

10 MR. CONINE: ALL RIGHT.

11 BY MR. CONINE:

12 Q. AND HOW LONG HAVE YOU LIVED IN NAPOLEONVILLE?

13 A. I HAVE LIVED THERE SINCE 2016, SO WE CAN DO THE MATH
14 TOGETHER.

15 Q. AND WHAT IS THAT? I'LL PUT YOU TO THE TEST.

16 A. OH, IS IT NINE YEARS?

17 Q. AND SO YOU REGISTERED TO VOTE IN SEPTEMBER OF 2018. ISN'T
18 THAT RIGHT?

19 A. 2017.

20 Q. YOU REGISTERED TO VOTE IN 2017?

21 A. I THINK SO.

22 Q. OKAY. I'M GOING TO SHOW YOU YOUR -- THESE ARE YOUR
23 DISCOVERY RESPONSES.

24 IS THE ELMO ON?

25 IT TAKES A LITTLE WHILE TO HEAT UP, I BELIEVE.

DOROTHY NAIRNE, PH.D.

09:57 1

A. OKAY.

2

Q. DO YOU RECOGNIZE THIS DOCUMENT, DR. NAIRNE?

3

A. YES. YES.

4

Q. OKAY. DO YOU RECOGNIZE THIS TO BE YOUR DISCOVERY
5 RESPONSES IN THIS MATTER?

6

A. CAN YOU SCROLL A LITTLE, PLEASE? IT LOOKS FAMILIAR.

7

Q. AND THIS FIRST INTERROGATORY RIGHT HERE, CAN YOU READ THAT
8 WHERE IT SAYS "INTERROGATORY NO. 1"?

9

A. "FOR EACH OF THE INDIVIDUAL PLAINTIFFS, PLEASE STATE OR
10 IDENTIFY."

11

Q. AND THEN JUST "B" FOR ME.

12

A. "THE DATE YOU BECAME REGISTERED TO VOTE IN LOUISIANA."

13

Q. ALL RIGHT. AND THEN DO YOU SEE WHERE IT SAYS "RESPONSE"?

14

MS. WENGER: OBJECTION TO THE EXTENT THAT THIS IS NOT
15 REDACTED AND HAS HER ADDRESS ON IT.

16

MR. CONINE: OH. SORRY. CAN WE TURN IT OFF?

17

BY THE WITNESS:

18

A. AND MY YEAR OF BIRTH.

19

Q. AND THE --

20

THE COURT: JUST A MINUTE, MA'AM. WHEN THERE'S AN
21 OBJECTION ON THE TABLE, THE COURT HAS TO RULE ON THE OBJECTION.

22

IT'S AN UNREDACTED COPY. DON'T REFER -- IS THAT
23 -- YOU'RE GOING TO -- IF YOU OFFER IT INTO EVIDENCE, IT NEEDS
24 TO BE REDACTED.

25

MR. CONINE: I'M NOT GOING TO OFFER IT HERE, JUDGE.

DOROTHY NAIRNE, PH.D.

09:58 1 I WAS JUST GOING TO SHOW IT TO HER TO REFLECT HER -- TO RECALL

2 --

3 THE COURT: THE PROBLEM IS I HAVE A PACKED COURTROOM.

4 MR. CONINE: CAN WE NOT -- JUST SHOW IT ON THE

5 MONITORS AND JUST --

6 THE COURT: YES.

7 MR. CONINE: -- SHOW ON HER MONITOR.

8 THE COURT: PUT IT JUST TO THE WITNESS AND COUNSEL,

9 PLEASE.

10 MR. CONINE: THANK YOU.

11 BY MR. CONINE:

12 Q. CAN YOU SEE IT, DOCTOR?

13 A. NO.

14 Q. OKAY.

15 THE COURT: JUST A SECOND. YOU SHOULD HAVE IT NOW.

16 THE WITNESS: NOT YET.

17 THE COURT: YOU DON'T HAVE IT, MA'AM?

18 THE WITNESS: YES, IT'S HERE.

19 THE COURT: OKAY.

20 BY MR. CONINE:

21 Q. AND, DOCTOR, DO YOU SEE WHERE IT SAYS "RESPONSE" THERE?

22 A. (NODDED HEAD.)

23 Q. AND DO YOU SEE "B," THE RESPONSE THAT I'VE CIRCLED THERE?

24 A. I SEE IT.

25 Q. CAN YOU READ THAT SENTENCE FOR ME?

DOROTHY NAIRNE, PH.D.

09:59 1 A. "TO THE BEST OF THE PLAINTIFF'S RECOLLECTION, PLAINTIFF
2 REGISTERED TO VOTE ON 9/28/2018."

3 Q. OKAY. SO YOU MOVED INTO LOUISIANA IN 2016. CORRECT?

4 A. YES.

5 Q. AND YOU REGISTERED TO VOTE IN SEPTEMBER OF 2018. ISN'T
6 THAT RIGHT?

7 A. POSSIBLY.

8 Q. OKAY. HOW OLD WOULD YOU HAVE BEEN IN 2018?

9 MS. WENGER: OBJECTION TO THE EXTENT THAT THAT
10 REVEALS PERSONALLY IDENTIFYING INFORMATION.

11 THE COURT: YOU'RE GOING TO HAVE TO SPEAK UP.
12 OBJECTION, BECAUSE IT CALLS FOR PERSONALLY IDENTIFYING
13 INFORMATION?

14 MS. WENGER: CORRECT. YES, YOUR HONOR. APOLOGIES.

15 THE COURT: I DON'T THINK ANYBODY'S GOING TO BE ABLE
16 TO IDENTIFY HER FROM HER AGE. OBJECTION OVERRULED.

17 HOW OLD WERE YOU IN WHAT YEAR?

18 MR. CONINE: 2018.

19 THE COURT: APPROXIMATELY.

20 THE WITNESS: SOMEWHERE IN THE 50S.

21 BY MR. CONINE:

22 Q. OKAY. AND, DR. NAIRNE, DO YOU RECALL TESTIFYING IN THE
23 *ROBINSON* PRELIMINARY INJUNCTION HEARING?

24 A. YES.

25 Q. AND YOU'RE A PLAINTIFF IN THAT CASE AS WELL?

DOROTHY NAIRNE, PH.D.

10:00 1

A. YES.

2

Q. OKAY. AND DO YOU RECALL TESTIFYING THAT YOU DIDN'T VOTE
THREE TIMES SINCE 2018?

4

A. YES.

5

Q. OKAY. AND YOU TESTIFIED EARLIER THAT YOU'RE A REGULAR
VOTER. ISN'T THAT RIGHT?

7

A. YES.

8

Q. OKAY.

9

A. CAN I SAY SOMETHING?

10

THE COURT: NO, MA'AM. YOU HAVE TO WAIT UNTIL
THERE'S A QUESTION.

12

THE WITNESS: OH, OKAY.

13

THE COURT: YOUR LAWYER WILL HAVE ANOTHER CHANCE.

14

BY MR. CONINE:

15

Q. AND I BELIEVE EARLIER YOU TESTIFIED THAT YOU DIDN'T KNOW
WHERE TO VOTE. ISN'T THAT RIGHT?

17

A. YES.

18

Q. OKAY. ARE YOU AWARE OF THE SECRETARY OF STATE'S APP
GEAUXVOTE?

20

A. YES, I AM.

21

Q. OKAY. AND YOU'RE AWARE THAT THAT SHOWS YOUR VOTING
LOCATION?

23

A. (NODDED HEAD.)

24

Q. IS THAT A YES?

25

THE COURT: YOU HAVE TO ANSWER EITHER "YES" OR "NO."

DOROTHY NAIRNE, PH.D.

10:01 1 BY THE WITNESS:

2 A. OH, YES. YES.

3 Q. OKAY.

4 THE COURT: OKAY.

5 BY MR. CONINE:

6 Q. AND --

7 THE COURT: WE ARE TAKING A RECORD. AND SO WHILE
8 THIS MAY SEEM -- AND NOT FOR THE BENEFIT OF EVERYBODY, THIS MAY
9 SEEM SAY LIKE DIALOGUE. BUT YOU HAVE TO SAY EITHER "YES" OR
10 "NO" SO THAT THESE NICE PEOPLE OUT HERE DON'T HAVE TO FIGHT
11 OVER WHAT YOU SAID LATER.

12 THE WITNESS: OH, THANK YOU.

13 MR. CONINE: WELL SAID.

14 BY MR. CONINE:

15 Q. AND DO YOU RECALL TESTIFYING THAT SAME -- ABOUT THE SAME
16 THING IN THAT CASE, THAT YOU DIDN'T KNOW WHERE TO VOTE?

17 A. YES.

18 Q. AND DO YOU RECALL WHEN THAT TESTIMONY WAS?

19 A. NO.

20 Q. AND IF I WERE TO REPRESENT TO YOU THAT IT WAS OVER A YEAR
21 AGO, WOULD YOU HAVE ANY REASON TO DISPUTE THAT?

22 A. NO, I WOULDN'T.

23 Q. OKAY. AND THEN YOU TESTIFIED EARLIER ABOUT DEVANTE LEWIS.
24 RIGHT?

25 A. YES.

DOROTHY NAIRNE, PH.D.

10:02 1 Q. AND HE WAS RUNNING FOR THE PUBLIC SERVICE COMMISSION?

2 A. YES.

3 Q. OKAY. AND HE RAN AGAINST AN AFRICAN AMERICAN. ISN'T THAT
4 RIGHT?

5 A. YES.

6 Q. OKAY. AND WHAT WAS THAT MAN'S NAME?

7 A. LAMBERT?

8 Q. THAT'S CORRECT, YES.

9 OKAY. AND WERE YOU AWARE THAT LEWIS BEAT THE
10 INCUMBENT, WHO'S ALSO AFRICAN AMERICAN. RIGHT?

11 A. YES.

12 Q. OKAY. LET' SEE. AND YOU'RE A REGISTERED DEMOCRAT.
13 RIGHT, DOCTOR?

14 A. YES.

15 Q. OKAY. AND YOUR CURRENT REPRESENTATIVE IS ALSO A DEMOCRAT.
16 RIGHT?

17 A. YES.

18 MR. CONINE: MAY I HAVE A MOMENT, JUDGE?

19 THE COURT: YOU MAY.

20 MR. CONINE: NO FURTHER QUESTIONS.

21 THE COURT: ANY REDIRECT?

22 MS. WENGER: NO REDIRECT, YOUR HONOR.

23 THE COURT: OKAY, MA'AM, THANK YOU. YOU MAY STEP
24 DOWN.

25 THE WITNESS: THANK YOU.

CLEE EARNEST LOWE

10:03 1 **THE COURT:** I'M GOING TO HAVE THE CLOCK RESET AT THE
2 BREAK. IT'S FIVE MINUTES AFTER 10:00.

3 CALL YOUR NEXT WITNESS.

4 WE'LL TAKE A BREAK AT 10:30.

5 **THE DEPUTY CLERK:** WHO IS THE NEXT WITNESS?

6 **MR. CAMPBELL-HARRIS:** GOOD MORNING, YOUR HONOR.

7 MY NAME IS DAYTON CAMPBELL-HARRIS.

8 PLAINTIFFS ARE GOING TO BE CALLING REVEREND LOWE
9 TO THE STAND.

10 **CLEE EARNEST LOWE,**
11 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

12 **THE COURT:** GO AHEAD.

13 **DIRECT EXAMINATION**

14 **BY MR. CAMPBELL-HARRIS:**

15 **Q.** GOOD MORNING.

16 CAN YOU PLEASE STATE YOUR NAME FOR THE RECORD.

17 **A.** CLEE EARNEST LOWE.

18 **Q.** THANK YOU.

19 ARE YOU A NAMED PLAINTIFF IN THIS CASE?

20 **A.** YES, I AM.

21 **Q.** AND WHERE DID YOU GROW UP?

22 **A.** I GREW UP IN NORTH LOUISIANA, NORTH CENTRAL UNION PARISH,
23 A LITTLE SMALL RURAL TOWN CALLED SPEARVILLE, LOUISIANA.

24 **Q.** AND DID YOU GO TO COLLEGE?

25 **A.** YES, I DID.

CLEE EARNEST LOWE

10:05 1 Q. AND WHERE DID YOU GO TO COLLEGE?

2 A. LOUISIANA TECH UNIVERSITY.

3 Q. DID YOU PARTICIPATE IN ANY SPORTS OR STUDENT ORGANIZATIONS
4 IN COLLEGE?

5 A. YES, I DID.

6 Q. AND WHAT WERE THEY?

7 A. FOOTBALL AND SOUL TECH.

8 THE COURT: I DIDN'T HEAR THE LAST PART. FOOTBALL
9 AND WHAT?

10 THE WITNESS: FOOTBALL AND SOUL TECH.

11 THE COURT: OKAY.

12 THE WITNESS: THERE WAS A STUDENT ORGANIZATION FOR
13 BLACK STUDENTS IN THE LATE 60S.

14 BY MR. CAMPBELL-HARRIS:

15 Q. OKAY. AND WHAT DO YOU DO FOR WORK TODAY?

16 A. I AM A PASTOR OF A LOCAL CONGREGATION.

17 Q. CAN YOU WALK US THROUGH SOME OF YOUR DUTIES AS A PASTOR?

18 A. WELL, SOME OF MY SASA DOULA DUTIES ARE TO ACTUALLY DO
19 THE -- BE THE WORSHIP LEADER. I PREACH SERMONS. I TEACH BIBLE
20 STUDY. I PERFORM MARRIAGES. I CONDUCT FUNERAL SERVICES, BABY
21 DEDICATIONS. I VISIT THE SICK. I VISIT INDIVIDUALS THAT ARE
22 INCARCERATED. I PERFORM SPIRITUAL COUNSELING, MARITAL
23 COUNSELING, AND THAT'S JUST A SHORT LIST.

24 Q. AND DO YOU HAVE A CHURCH?

25 A. YES, I DO.

CLEE EARNEST LOWE

10:06 1 Q. AND WHERE IS YOUR CHURCH LOCATED?

2 A. THE CHURCH IS LOCATED IN THE COMMUNITY OF SCOTLANDVILLE,
3 WHICH IS IN NORTH BATON ROUGE.

4 Q. IS THAT WHERE YOU LIVE AS WELL?

5 A. NO, I DO NOT.

6 Q. AND WHERE DO YOU LIVE?

7 A. I LIVE IN SOUTHEAST BATON ROUGE.

8 Q. ARE YOU GENERALLY AWARE OF THE DEMOGRAPHICS OF
9 SCOTLANDVILLE?

10 A. YES, I AM.

11 Q. AND WHAT ARE THEY?

12 A. IT IS PREDOMINATELY AFRICAN AMERICAN.

13 Q. LET'S CIRCLE BACK TO YOUR CHURCH A LITTLE BIT. DO YOU
14 KNOW HOW MANY MEMBERS OF YOUR CHURCH THERE ARE?

15 A. YES. WE HAVE APPROXIMATELY 325 MEMBERS.

16 Q. AND HOW DO MOST OF YOUR CHURCH MEMBERS IDENTIFY RACIALLY?

17 A. AS AFRICAN AMERICAN.

18 Q. AND ARE YOU AWARE OF WHERE MOST OF YOUR CONGREGATION
19 GENERALLY RESIDES?

20 A. YES, I DO.

21 Q. AND WHERE WOULD THEY BE?

22 A. THEY RESIDE IN SCOTLANDVILLE AND IN THE SUBURB AREA OF
23 BAKER AND IN ZACHARY, LOUISIANA, MAJORITY.

24 Q. THANK YOU.

25 DOES YOUR CHURCH DO COMMUNITY WORK?

CLEE EARNEST LOWE

10:07 1 A. YES, WE DO.

2 Q. CAN YOU EXPLAIN TO THE COURT WHAT TYPES OF COMMUNITY WORK
3 YOUR CHURCH DOES?

4 A. WE DO OUTREACH, HOPEFULLY TO FEED THE HOMELESS, AND ALSO
5 WE CLOTHE THOSE THAT NEED CLOTHING, AND WE PROVIDE SOME
6 AFTER-CARE EDUCATION FOR STUDENTS TO HELP THEM WITH THEIR
7 REMEDIAL EDUCATION.

8 Q. DOES YOUR CHURCH ENGAGE IN ELECTION WORK AS WELL?

9 A. YES. IT IS VERY LIMITED, THOUGH.

10 Q. AND WHAT TYPE OF ELECTION WORK DOES YOUR CHURCH ENGAGE IN?

11 A. WELL, WE WILL HOST CANDIDATE FORUMS. WE WILL TRY TO
12 EDUCATE OUR COMMUNITY AND THE CONGREGATION ABOUT -- THROUGH
13 VOTER EDUCATION, TO LOOK AT THE ISSUES, OKAY, LOOK AT THE
14 CANDIDATES THAT ARE RUNNING FOR ELECTED OFFICE.

15 Q. WHAT ARE THE ELECTION ISSUES THAT YOU SPEAK ABOUT WITH
16 YOUR CONGREGATION?

17 A. BASICALLY IT'S GOING TO BE FOR AFFORDABLE HOUSING. IT'S
18 GOING TO BE INCREASED PAY FOR LIVING WAGES, HOPEFUL TO GET OUR
19 TEACHERS A PAY INCREASE OR A SALARY INCREASE. WE ALSO TALK
20 ABOUT ACCESS TO BETTER HEALTH, ET CETERA.

21 Q. YOU MENTIONED SOME SOCIAL ISSUES. ARE THERE OTHER SOCIAL
22 ISSUES THAT YOU SPEAK ABOUT WITH YOUR CONGREGATION?

23 A. WELL, SOCIOECONOMIC OPPORTUNITY, JOB RELATED, GETTING MORE
24 JOBS INTO THE SCOTLANDVILLE AREA, GETTING VIABLE BUSINESSES
25 THERE.

CLEE EARNEST LOWE

10:08 1 IF I COULD GIVE YOU AN EXAMPLE, SOME OF THE THINGS
2 THAT WE LOOK AT IN THE SCOTLANDVILLE AREA IS TRYING TO GET A
3 SUPERMARKET THERE. THERE IS A FOOD DESERT THERE THAT'S LOCATED
4 IN SCOTLANDVILLE AND IN NORTH BATON ROUGE, AND THEN THERE ARE
5 OTHER THINGS THAT WE ARE TRYING TO GET.

6 WE ARE AN EMPOWERMENT ZONE, BUT WE FIND OUT THAT THE
7 EMPOWERMENT DOLLARS THAT HAVE BEEN EARMARKED FOR NORTH BATON
8 ROUGE/SCOTLANDVILLE COMMUNITY, FOR SOME REASON OR ANOTHER, THEY
9 MAKE THEIR WAY TO SOUTHEAST BATON ROUGE AND THE SOUTHEAST
10 BORDER OF THE PARISH.

11 Q. THANK YOU.

12 DO YOU INCORPORATE THESE ISSUES AND OTHERS IMPACTING
13 THE COMMUNITY INTO YOUR SERMONS?

14 A. I HAVE, YES. WHEN IT COMES TO -- TO ANSWER THAT QUESTION,
15 YES, I DO.

16 Q. AND WHAT ISSUES DO YOU INCORPORATE INTO YOUR SERMONS?

17 A. BASICALLY HOW TO BECOME SELF-SUFFICIENT; HOW TO BECOME
18 ENTREPRENEURS, BECAUSE HAVING FAITH IN GOD MEANS THAT YOU CAN
19 TRUST AND RELY ON GOD, AND YOU CAN DO THINGS FOR YOURSELF.

20 Q. WHAT INSPIRED YOU TO ENGAGE IN CHURCH WORK INITIALLY?

21 A. I COME FROM A LONG LINE OF PREACHERS AND EDUCATORS. I AM
22 AN ONLY CHILD. MY PARENTS WERE BOTH EDUCATORS, AND THIS IS A
23 SPIRITUAL CALLING. I'VE BEEN IN THIS NOW FOR 54 YEARS THIS
24 PAST MAY. I'M 72 YEARS OF AGE NOW, AND I'VE SEEN A LOT OF
25 THINGS THAT GO ON IN THIS STATE THAT HAVE DISPLEASED ME.

CLEE EARNEST LOWE

10:10 1 BUT I'VE BEEN IN THIS BECAUSE, AS I JUST STATED, AS A
2 SPIRITUAL CALLING, AND I BELIEVE THAT WE, AS HUMANS, WE ARE OUR
3 BROTHER'S KEEPERS. AND I TRULY BELIEVE THAT ALL OF US ARE
4 CREATED TO HELP ONE ANOTHER, AND IT MAY BE THROUGH THE --
5 SOCIALLY, EDUCATIONALLY, ECONOMICALLY, POLITICALLY. WE MUST
6 ALL HELP ONE ANOTHER BECAUSE WE ARE IN THIS TOGETHER. AND I
7 FIND THAT I SERVE IN A UNIQUE POSITION. MY JOB, MY SOLE JOB
8 PRIMARILY IS TO HELP GET SOULS TO REACH HEAVEN.

9 Q. WHAT ARE SOME OF THE ISSUES THAT YOU'RE DISPLEASED WITH
10 THAT YOU'VE SEEN?

11 A. I'M DISPLEASED WITH -- PARTICULARLY, IN OUR COMMUNITY AND
12 THROUGHOUT THE STATE OF LOUISIANA IN THE AFRICAN-AMERICAN
13 COMMUNITY, IT'S A LACK OF AFFORDABLE HOUSING, A LACK OF JUST
14 AND FAIR REPRESENTATION IN THE POLITICAL PROCESS. ALSO, THE
15 HIGH-CRIME RATE, HIGH -- WHERE A HIGH NUMBER OF AFRICAN
16 AMERICANS ARE BEING INCARCERATED DUE TO BAD LAWS THAT WE HAVE,
17 AND ALSO TO GET GOOD ECONOMIC OPPORTUNITIES IN OUR
18 AFRICAN-AMERICAN COMMUNITIES.

19 Q. WERE THERE OTHER EXPERIENCES GROWING UP IN LOUISIANA THAT
20 MOTIVATED YOU TO BECOME MORE ENGAGED IN THE COMMUNITY?

21 A. IF I REFLECT BACK ON THAT, GROWING UP IN NORTH
22 LOUISIANA -- LOUISIANA IS A POOR, RURAL AGRICULTURAL STATE.
23 GROWING UP IN RURAL AREAS, WE WERE ALWAYS THE LAST TO GET
24 ANYTHING IN OUR COMMUNITY: PAVED ROADS, NATURAL GAS, RUNNING
25 WATER.

CLEE EARNEST LOWE

10:11 1 EVEN ON THE EDUCATIONAL SIDE, WE -- I AM A PRODUCT OF
2 USED SCHOOL TEXTBOOKS, USED BAND UNIFORMS, A LESS THAN IDEAL
3 ACADEMIC CURRICULUM.

4 FOR INSTANCE, IN MY HIGH SCHOOL WE HAD MORE THINGS --
5 LESSONS ABOUT AGRICULTURE, AS OPPOSED TO THE INDUSTRIAL ARTS.
6 WE CRAVED FOR THOSE TYPES OF SUBJECTS: PLUMBING, ELECTRICITY,
7 CARPENTRY, DEALING WITH THE TRADES. BUT I COULD TELL YOU HOW
8 TO CASTRATE MANY FARM ANIMALS. I CAN TELL YOU A WHOLE LOT
9 ABOUT CROP ROTATIONS. BUT WE NEVER HAD ONE SINGLE LESSON ON
10 HOW TO DO CARPENTRY, HOW TO DO ELECTRICAL WORK, HOW TO DO
11 MASONRY WORK, ET CETERA. AND SO THOSE CURRICULUMS WERE LESS
12 THAN WHAT OUR COUNTERPARTS WOULD HAVE.

13 Q. THANK YOU FOR SHARING YOUR EXPERIENCE, REVEREND.

14 I'D LIKE TO TALK TO YOU A LITTLE BIT ABOUT YOUR
15 EXPERIENCE VOTING. DO YOU VOTE?

16 A. YES, I DO.

17 Q. AND HOW LONG HAVE YOU BEEN A REGISTERED VOTER?

18 A. IN THE STATE OF LOUISIANA -- I RELOCATED HERE IN 2005,
19 FROM THE CITY OF CHICAGO, BECAME A REGISTERED VOTER, THEN I
20 ACCEPTED A CALL TO PASTOR A CONGREGATION IN NORTH LOUISIANA AND
21 RETURNED IN 2007, AND I REREGISTERED IN THIS PARISH. SO SINCE
22 JULY OF 2007, I'VE BEEN A REGISTERED VOTER.

23 Q. AND DO YOU GENERALLY VOTE REGULARLY?

24 A. YES, I DO.

25 Q. DO YOU KNOW WHAT YOUR CURRENT HOUSE DISTRICT IS?

CLEE EARNEST LOWE

10:13 1 A. YES, I DO.

2 Q. IN THE STATE LEGISLATURE, WHAT IS YOUR CURRENT HOUSE
3 DISTRICT?

4 A. HOUSE DISTRICT NO. 66.

5 Q. AND DO YOU KNOW WHO YOUR CURRENT REPRESENTATIVE IS FOR
6 THAT HOUSE DISTRICT?

7 A. AT THIS TIME IT IS RICK EDMONDS. HE LOST HIS ELECTION,
8 THANK GOD. AND WE NOW HAVE EMILY CHENEVERT.

9 Q. THANK YOU.

10 CAN YOU EXPLAIN TO THE COURT WHY VOTING MATTERS TO
11 YOU?

12 A. VOTING MATTERS TO ME BECAUSE IT IS THE LAW. I HAVE A DEEP
13 APPRECIATION FOR LAW. LAW IS WHAT GOVERNS US. LAW IS WHAT
14 WILL PROTECT US. GOOD POLICY, GOOD LAWS EMANATING FROM OUR
15 LEGISLATURE AND FROM CONGRESS AND FROM OUR LOCAL MUNICIPALITIES
16 AFFECT ALL OF OUR LIVES. SO IT'S IMPORTANT THAT WE HAVE PEOPLE
17 THAT ARE GOING TO BE ELECTED THAT IS GOING TO REPRESENT MY
18 INTERESTS, THE INTERESTS OF MY COMMUNITY, AND THE PEOPLE THAT
19 LIVE THEREIN. AND IT SEEMS AS THOUGH THAT'S NOT WORKING OUT
20 RIGHT NOW.

21 Q. YOU MENTIONED THIS A LITTLE BIT ALREADY, BUT WHAT ARE THE
22 SPECIFIC ISSUES IN YOUR COMMUNITY THAT MOTIVATE YOU TO VOTE?

23 A. WELL, IN MY COMMUNITY IT'S GOING TO BE SOMEONE THAT REALLY
24 TRULY CARES ABOUT MY ISSUES. MY ISSUES ARE DEFINITELY GOING TO
25 BE PUBLIC EDUCATION. IT'S GOING TO BE PUBLIC SAFETY. IT'S

CLEE EARNEST LOWE

10:15 1 GOING TO ALSO BE ECONOMIC OPPORTUNITY, AND ALL OF THE OTHER
2 SOCIOECONOMIC THINGS THAT TIE INTO IMPROVING MY COMMUNITY TO
3 MAKE MY COMMUNITY A GOOD PLACE TO LIVE.

4 Q. LET'S TALK ABOUT YOUR LEGISLATIVE DISTRICT A LITTLE BIT
5 MORE. HOW LONG HAVE YOU RESIDED IN HOUSE DISTRICT 66?

6 A. I'VE BEEN THERE, WHAT, 16, 15 YEARS NOW, I BELIEVE, 15
7 YEARS.

8 Q. AND ARE YOU AWARE WHETHER AN AFRICAN-AMERICAN
9 REPRESENTATIVE HAS EVER BEEN ELECTED TO THAT SEAT?

10 A. NONE. NONE.

11 Q. YOU ALSO MENTIONED SOME ISSUES THAT MOTIVATE YOU TO VOTE.
12 HAVE YOU OBSERVED ANY BARRIERS TO POLITICAL PARTICIPATION IN
13 YOUR COMMUNITY?

14 A. THERE HAVE BEEN A FEW IN TERMS OF TRYING TO MAKE SURE THAT
15 INDIVIDUALS KNOW WHERE TO VOTE, GETTING THAT INFORMATION OUT,
16 AND PARTICULARLY IN MY COMMUNITY WHERE I LIVE -- IS THAT YOUR
17 QUESTION WHERE I LIVE?

18 Q. YES.

19 A. IN MY COMMUNITY WE HAVE A DIVERSE COMMUNITY. IT IS
20 GROWING. WE ARE HAVING AN INCREASE IN MINORITIES, AFRICAN
21 AMERICANS, AND HISPANICS IN THIS AREA. AND THERE HAS BEEN VERY
22 LITTLE, I THINK, WORK DONE FROM THE STATUS QUO. WHEN I SAY
23 "THE STATUS QUO," ELECTED OFFICIALS, TO REACH OUT TO THE
24 AFRICAN AMERICANS AND THE BROWN PEOPLE, HISPANICS, THAT ARE IN
25 THOSE DISTRICTS RIGHT THERE.

CLEE EARNEST LOWE

10:16 1 Q. WE'LL TALK ABOUT OUTREACH IN A MOMENT.

2 DO YOU PERCEIVE -- OR WHAT DO YOU PERCEIVE THE
3 SENTIMENTS TO BE ABOUT VOTING IN YOUR COMMUNITY?

4 A. THERE'S A GREAT DEAL OF APATHY BECAUSE PEOPLE VOTE -- ARE
5 NOT VOTING BECAUSE THEY FEEL AS THOUGH THEIR VOTE IS NOT GOING
6 TO COUNT. WE DON'T SEE THESE ELECTED OFFICIALS IN THAT
7 COMMUNITY, ALL RIGHT, AND IT PAINS MY HEART TO SAY THIS BUT I
8 HAVE TO SAY IT, THEY BELIEVE THAT WE DON'T EVEN EXIST. BUT WE
9 ARE HERE. WE ARE NOT GOING ANYWHERE.

10 I JUST BELIEVE IN MY HEART THAT OUR ELECTED OFFICIALS
11 OUGHT TO SEE US AS HUMAN BEINGS. WE BREATHE, WE LIVE, WE HAVE
12 CHILDREN, WE HAVE FAMILIES. WHO DOES NOT WANT THEIR CHILDREN
13 TO RECEIVE A GOOD EDUCATION? WHO DOES NOT WANT THEIR CHILDREN
14 TO GO TO A SECONDARY UNIVERSITY OR COLLEGE? WHO DOES NOT WANT
15 TO EARN A DECENT LIVING?

16 THE OTHER THING THAT PAINS MY HEART IS THAT WE HAVE
17 ELECTED FOLKS THAT DO NOT WANT TO GIVE EDUCATORS A RAISE, NOR
18 DO THEY WANT TO GIVE WORKING PEOPLE OF THIS STATE A LIVING
19 WAGE. WHO CAN LIVE ON \$7.25 AN HOUR? EVEN WHEN WE'VE GOT
20 INFLATION AS HIGH AS IT IS -- IT PAINS MY HEART. WHAT MAKES
21 OTHER FOLKS THINK THAT PEOPLE OF COLOR DON'T WANT TO LIVE, HAVE
22 A GOOD DECENT LIFE? BUT UNTIL WE CAN CHANGE THAT DYNAMIC,
23 CHANGE THAT SCENARIO, WE WILL ALWAYS BE IN THE SAME BOAT THAT
24 WE ARE IN RIGHT NOW. IT PAINS MY HEART.

25 IT PAINS MY HEART TO SEE THAT I'VE GOT YOUNG MOTHERS

CLEE EARNEST LOWE

10:18 1 HAVING TO COME TO MY CHURCH SEEKING BENEVOLENCE OR FINANCIAL
2 AID TO HELP MEET RENT, HELP PAY UTILITIES, HELP TO PAY FOR SOME
3 PRESCRIPTIONS. IT PAINS MY HEART. BUT IF WE HAD ELECTED
4 OFFICIALS WHO WOULD COME TO US, TALK TO US. DON'T BE AFRAID OF
5 US.

6 EVEN WHEN YOU -- WHEN THEY CAMPAIGN, THE ONLY TIME
7 YOU WILL SEE THEM IS DURING A CAMPAIGN, BUT ONCE THEY GET
8 ELECTED, YOU DON'T SEE THEM ANYMORE. THAT HAS BEEN AGE OLD,
9 AND IT HASN'T CHANGED AND IT WILL NOT CHANGE UNTIL WE ELECT
10 PEOPLE OF OUR CHOICE, MAYBE EVEN PEOPLE THAT LOOK LIKE ME AND
11 OTHERS, FEMALES.

12 AS LONG AS WE CONTINUE TO HAVE MALE-DOMINATED
13 CAUCASIANS MAKING ALL THE RULES, MAKING ALL OF THE POLICIES,
14 NOTHING WILL CHANGE. WE WILL FOREVER BE A POOR, RURAL
15 AGRICULTURAL STATE, STANDING STILL WITH TIME GOING BACK TO
16 RECONSTRUCTION, GOING BACK TO PRE-CIVIL WAR TIMES. LOUISIANA
17 HAS STOOD STILL WITH THE TIMES. WE HAVE MADE SOME PROGRESS,
18 BUT WE HAVE STOOD STILL WITH TIME.

19 I DON'T KNOW -- I DON'T WANT TO GET ON A SOAPBOX
20 HERE. BUT I HAVE DISCOVERED AND FOUND WHEN YOU'VE GOT A MOTHER
21 OR A SINGLE PARENT HOUSEHOLD WITH THREE OR FOUR CHILDREN MAKING
22 \$7.25 AN HOUR, WHAT KIND OF LIFE DOES HER CHILDREN EXPECT TO
23 HAVE?

24 Q. IS THIS STAGNATION PART OF THE SOURCE OF VOTER APATHY?

25 A. IT IS.

CLEE EARNEST LOWE

10:20 1 Q. ARE THERE OTHER SOURCES OF VOTER APATHY?

2 A. YES, IT IS.

3 Q. WHAT ARE THOSE SOURCES OF VOTER APATHY?

4 A. WELL, WHEN I SEE AND HEAR OUR ELECTED OFFICIALS
5 CAMPAIGNING AND SAYING "I'M TOUGH ON CRIME," WE ALL KNOW WHAT
6 THAT MEANS. IT'S TOUGH ON AFRICAN-AMERICAN MALES, AND THAT
7 AFRICAN-AMERICAN MALE MANY TIMES IS INCARCERATED.

8 WHEN WE LOOK AT OUR STATE PRISON POPULATION, OVER 85,
9 90 PERCENT OF THEM ARE AFRICAN-AMERICAN MALES AND BROWN PEOPLE
10 IN OUR STATE PENITENTIARY SYSTEM. YOU HAVE ABSENTEE FATHERS,
11 AND THESE FATHERS ARE NOT THERE TO REAR THEIR CHILDREN. AND
12 THAT IS A SAD COMMENTARY TO MAKE HERE. WE NEED TO CHANGE THOSE
13 LAWS. EVERYBODY THAT COMMITS A CRIME, DEPENDING ON THE CRIME,
14 DOES NOT NECESSARILY MEAN THEY HAVE TO BE INCARCERATED FOR LONG
15 PERIODS OF TIME.

16 Q. YOU MENTIONED RACIAL UNDERTONES AND MESSAGING. HAVE YOU
17 OBSERVED THAT IN LOUISIANA?

18 A. I HAVE. AND MOST RECENTLY DURING THIS LAST ELECTION CYCLE
19 IN SOME OF THE ADVERTISEMENTS, PUSH CARDS THAT COME OUT -- AND
20 I RECEIVE THEM ALL THE TIME. AND WHEN YOU HEAR THINGS LIKE,
21 "PRO-LIFE," WHEN YOU HEAR THINGS LIKE "PRO-SECOND AMENDMENT,
22 REDUCING GOVERNMENT SPENDING," FOR ME, THOSE ARE ALL DOG
23 WHISTLES, ALL RIGHT. WE ALL KNOW WHAT THOSE MEAN IN OUR
24 COMMUNITY.

25 Q. AND WHY IS REDUCING GOVERNMENT FUNDING OR SPENDING A DOG

CLEE EARNEST LOWE

10:21 1 WHISTLE?

2 A. BECAUSE WE LOOK AT SOCIAL PROGRAMS THAT ARE DESIGNED TO
3 HELP PEOPLE TO COME UP. BECAUSE WHEN YOU ARE MAKING, LIKE I
4 SAY, \$7.25 AN HOUR, THERE'S VERY LITTLE THAT YOU CAN AFFORD.
5 BUT THERE ARE SOCIAL PROGRAMS THAT ARE THERE TO HELP FAMILIES
6 AND INDIVIDUALS, TO HELP THE ELDERLY.

7 AND SO WHEN YOU START TALKING ABOUT CUTTING
8 GOVERNMENT SPENDING, ONE OF THE BIG THINGS IS, BUZZ WORDS HAS
9 BEEN -- NOT ON THIS, ALSO ON THE NATIONAL LEVEL IS TO CUT
10 MEDICARE, CUT SOCIAL SECURITY. WHO CAN AFFORD TO HAVE THAT
11 CUT? THERE ARE GROUPS THAT ARE TRYING TO DO THAT, TO CUT BACK
12 ON ALL OF THOSE THINGS THAT WE NEED ON SOCIAL PROGRAMS.

13 Q. HAVE YOU HEARD THIS RACIAL UNDERTONE MESSAGING FROM YOUR
14 CURRENT REPRESENTATIVES?

15 A. YES, I HAVE. JUST THIS LAST ELECTION CYCLE, ALL RIGHT.
16 AS I JUST AFORESTATED, THOSE LITTLE DOG WHISTLES THAT ARE OUT
17 THERE, THAT LET'S US KNOW WHAT RACE THEY ARE TALKING ABOUT, WHO
18 THEY ARE.

19 Q. AND HOW DO THOSE MESSAGES MAKE YOU FEEL?

20 A. WELL, IT MAKES ME WANT TO DIG MY HEELS IN AND NOT VOTE FOR
21 THAT PERSON, NO. 1. IT HELPS ME TO -- WANTS ME TO GET THE
22 MESSAGE OUT TO THOSE THAT I CAN REACH, SAY THIS PERSON IS NOT
23 GOING TO REPRESENT OUR INTERESTS AND WHAT WE LOOK FOR IN AN
24 ELECTED OFFICIAL.

25 AND THE OTHER PART ABOUT THIS, AS I JUST AFORESTATED,

CLEE EARNEST LOWE

10:23 1 THE ONLY TIME YOU WILL SEE THEM IS IF THEY COME TO YOUR DOOR
2 RINGING YOUR DOORBELL, PUTTING PUSH CARDS OUT THERE IS ABOUT
3 THE ONLY TIME THAT YOU WILL SEE THEM.

4 AND YOU TAKE LIKE WHERE MY CHURCH IS LOCATED,
5 PREDOMINATELY IN THE AFRICAN-AMERICAN COMMUNITY, THEY MAY
6 CAMPAIGN THERE A LITTLE BIT. AFTER THE ELECTION IS OVER, AFTER
7 THEY HAVE BEEN ELECTED, YOU DON'T SEE THEM ANYMORE.

8 Q. DO YOU FEEL REPRESENTED BY YOUR CURRENT REPRESENTATIVE IN
9 THE HOUSE DISTRICT?

10 A. NO, I DO NOT.

11 Q. AND WHY NOT?

12 A. BECAUSE HE ESPOUSES ALL OF THE ISSUES THAT I HAVE TO WORK
13 AGAINST. THE THINGS THAT I SUPPORT COMMUNITY-WISE FOR PEOPLE
14 OF COLOR, HE IS AGAINST THAT.

15 Q. TO THE BEST OF YOUR RECOLLECTION, DO YOU KNOW WHETHER THE
16 CURRENT REPRESENTATIVE IN YOUR HOUSE DISTRICT SUPPORTS MEDICARE
17 EXPANSION IN LOUISIANA?

18 A. HE DID NOT.

19 Q. WHAT ABOUT INCREASING EDUCATION FUNDING?

20 A. DID NOT.

21 Q. HOW ABOUT BUILDING MORE AFFORDABLE HOUSING?

22 A. DID NOT.

23 Q. THANK YOU.

24 DO YOU RECALL TESTIFYING A LITTLE BIT EARLIER ABOUT
25 CANDIDATE FORUMS AND CANDIDATES COMING TO YOUR CHURCH?

CLEE EARNEST LOWE

10:24 1 A. REPEAT THAT AGAIN.

2 Q. DO YOU RECALL TESTIFYING EARLIER TODAY ABOUT CANDIDATE
3 FORUMS AND CANDIDATES COMING TO SPEAK AT YOUR CHURCH?

4 A. YES.

5 Q. CAN YOU RECALL A TIME WHEN ONE OF YOUR REPRESENTATIVES IN
6 THE STATE LEGISLATIVE IN YOUR HOUSE DISTRICT CAME TO SPEAK TO
7 YOUR CONGREGANTS?

8 A. NOT AT MY CONGREGATION, NO, NOT IN MINE.

9 Q. AND WHAT ABOUT AT THE CANDIDATE FORUMS?

10 A. CANDIDATE FORUMS? YES. THAT WAS A STATEWIDE FORUM THAT
11 WAS HELD IN THE COMMUNITY ON THE CAMPUS OF SOUTHERN UNIVERSITY.
12 ALL OF THE GUBINATORIAL CANDIDATES WERE INVITED. MANY OF THE
13 OTHER STATE CONSTITUTIONAL OFFICES, THEY WERE INVITED, AND SOME
14 DID NOT SHOW UP AT ALL.

15 Q. AND CAN YOU, JUST FOR THE RECORD, EXPLAIN WHAT A CANDIDATE
16 FORUM IS?

17 A. A CANDIDATE FORUM IS -- WHEREBY THE CANDIDATES RUNNING FOR
18 AN ELECTED OFFICE CAN COME MEET THE PERSONS OR PEOPLE IN THE
19 COMMUNITY, AND THEY CAN STATE THEIR PLATFORMS. AND THEY -- WE
20 HAVE A PRESET OF QUESTIONS COMING FROM THE COMMUNITY THAT IS
21 PRESENTED TO EACH CANDIDATE AND THEY ARE ALLOWED TO RESPOND OR
22 ANSWER THE QUESTIONS.

23 Q. AND WHEN YOU SAY "WE," WHO DO YOU MEAN?

24 A. A FAITH-BASED COMMUNITY, PEOPLE, PEOPLE THAT LIVE -- A
25 FAITH-BASED LEADER, SHOULD I SAY, AND PEOPLE THAT ARE IN THE --

CLEE EARNEST LOWE

10:25 1 MEMBERS OF THE CONGREGANT'S CHURCHES AND EVERYDAY LAY PEOPLE
2 THAT LIVE IN THOSE DISTRICTS THERE.

3 Q. HAVE ANY OF THE CANDIDATES WHO SPOKE AT THESE CANDIDATE
4 FORUMS EVER BEEN WHITE?

5 A. YES.

6 Q. AT THE CANDIDATE FORUMS THAT YOU HELPED ORGANIZE, WERE ANY
7 ONE OF THOSE CANDIDATES WHITE?

8 A. YES, JUST A HANDFUL.

9 Q. OKAY. ONE MORE QUESTION, REVEREND LOWE.

10 WHY DOES -- WELL, WHAT DO YOU HOPE TO ACHIEVE WITH
11 THIS LAWSUIT?

12 A. THAT THIS HONORABLE COURT WILL RULE IN OUR FAVOR TO
13 UNDERSTAND THE NECESSITY, THE NEED, AND THE IMPORTANCE, HOW
14 CRITICAL IT IS TO HAVE PEOPLE LIKE ME ELECTED TO OFFICE. IT IS
15 IMPORTANT THAT WE WILL HAVE PEOPLE THERE WHO WILL BE ABLE TO
16 CHAMPION THE ISSUES AND THE CAUSES THAT ARE DEAR TO US. AND
17 WHEN WE HAVE PEOPLE THAT ARE ELECTED -- IT IS IN MY HEART -- IT
18 IS MY HEARTFELT BELIEF THAT WHEN WE HAVE PEOPLE THAT ARE
19 ELECTED LIKE THAT, THEY WILL BE CONCERNED ABOUT EVERYBODY.
20 THEY WILL NOT LEAVE ANYBODY BEHIND. WHAT'S GOOD FOR ME IS
21 GOING TO BE GOOD FOR EVERYBODY, IT REALLY WILL BE.

22 Q. THANK YOU, REVEREND.

23 MR. CAMPBELL-HARRIS: ONE MOMENT, YOUR HONOR, WHILE I
24 CONFER WITH COUNSEL.

25 THE COURT: YOU MAY.

CLEE EARNEST LOWE

10:27 1

BY MR. CAMPBELL-HARRIS:

2

Q. JUST ONE MORE CLARIFYING QUESTION, REVEREND LOWE. YOUR CURRENT REPRESENTATIVE, ARE YOU AWARE OF HOW THEY IDENTIFY RACIALLY?

3

4

A. YES, I DO.

5

Q. AND HOW DO THEY IDENTIFY?

6

A. WHITE.

7

Q. OKAY. THANK YOU.

8

MR. CAMPBELL-HARRIS: NO MORE QUESTIONS, YOUR HONOR. I PASS THE WITNESS.

9

10

THE COURT: CROSS?

11

MR. CONINE: NO QUESTIONS, YOUR HONOR.

12

THE COURT: ALL RIGHT. YOU MAY STEP DOWN. THANK YOU, SIR.

13

14

THE WITNESS: REALLY?

15

THE COURT: YES, SIR.

16

THE WITNESS: THAT'S ALL?

17

THE COURT: THAT'S ALL. SORRY TO DISAPPOINT.

18

OKAY. IT'S 10:28, LET'S TAKE A 15-MINUTE RECESS.

19

20

THE LAW CLERK: ALL RISE.

21

COURT IS IN RECESS.

22

(WHEREUPON, THE COURT WAS IN RECESS.)

23

THE COURT: OKAY. SORRY FOR THE FALSE ALARM.

24

BE SEATED.

25

STEVEN R. HARRIS, SR.

10:44 1

NEXT WITNESS, PLEASE.

2

MS. BAHN: GOOD MORNING, YOUR HONOR.

3

THE PLAINTIFFS CALL PASTOR STEVEN HARRIS.

4

THE COURT REPORTER: WHAT IS YOUR NAME?

5

MS. BAHN: APOLOGIES. JOSEPHINE BAHN ON BEHALF OF

6

PLAINTIFFS.

7

THE COURT REPORTER: JOSEPHINE WHAT?

8

MS. BAHN: BAHN. B-A-H-N.

9

STEVEN R. HARRIS, SR.,

10

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

11

DIRECT EXAMINATION

12

BY MS. BAHN:

13

Q. GOOD MORNING, PASTOR HARRIS.

14

A. GOOD MORNING.

15

Q. CAN YOU PLEASE STATE YOUR NAME FOR THE RECORD.

16

A. STEVEN R., INITIAL, HARRIS, SENIOR.

17

Q. THANK YOU, PASTOR HARRIS.

18

ARE YOU A NAMED PLAINTIFF IN THIS CASE?

19

A. I AM.

20

Q. AND JUST SO THE RECORD'S CLEAR, WHAT RACE DO YOU IDENTIFY

21

AS?

22

A. BLACK.

23

Q. I'M GOING TO START BY ASKING YOU A COUPLE OF BACKGROUND

24

QUESTIONS.

25

WHERE DID YOU GROW UP?

STEVEN R. HARRIS, SR.

10:46 1 A. NATCHITOCHEs, LOUISIANA, NATCHITOCHEs PARISH IN A LITTLE
2 PLACE CALLED READHIMER, LOUISIANA, BY WAY OF STRANGE ROAD IN A
3 PLACE CALLED GREEN GROVE. THAT'S ALL OBSCURE, BUT THAT'S WHERE
4 I GREW UP AT AND WENT TO SCHOOL IN A LITTLE PLACE CALLED
5 GOLDONNA, WHICH IS A -- PROBABLY 99.9 PERCENT WHITE AREA.

6 Q. AND DID YOU GRADUATE FROM HIGH SCHOOL THERE?

7 A. I DIDN'T. WE HAD INTEGRATION AND WE MERGED THE SCHOOLS
8 TOGETHER. AND SO I GRADUATED FROM A PLACE CALLED CAMTI.

9 Q. AND THEN AFTER HIGH SCHOOL, WHERE DID YOU GO?

10 A. GRAMBLING STATE UNIVERSITY, AND FROM GRAMBLING STATE
11 UNIVERSITY, I WAS CALLED INTO THE MINISTRY AND WENT TO SCHOOL
12 AT VICTORY FELLOWSHIP.

13 THE COURT: YOU HAD A BAD WEEKEND. HUH? SORRY.

14 MS. BAHN: WELL, YOUR HONOR, YOU JUST TOOK MY JOKE
15 OUT OF MY OUTLINE. SO I GUESS I'LL MOVE ON.

16 BY MS. BAHN:

17 Q. BUT, PASTOR HARRIS, DID YOU PARTICIPATE IN ANY SPORTS OR
18 STUDENT ORGANIZATIONS WHILE YOU WERE AT GRAMBLING?

19 A. IN BSU, BAPTIST STUDENT UNION, WHICH IS A CHOIR. AND SO
20 WE -- I PARTICIPATED IN THAT GROUP.

21 Q. AND WHAT DID YOU DO AFTER COLLEGE?

22 A. WENT INTO THE MINISTRY AND TRAVELED INTO NEW ORLEANS. AND
23 FROM NEW ORLEANS BACK TO NATCHITOCHEs, LOUISIANA, WHERE MY
24 BROTHER AND I BEGAN PASTORING, WHICH I'VE BEEN PREACHING NOW
25 FOR 35 YEARS. WE BEGAN -- A LITTLE BLACK AREA BY THE NAME OF

STEVEN R. HARRIS, SR.

10:48 1 SHADY GROVE, AND I BECAME THE ASSISTANT PASTOR AND HE WAS THE
2 SENIOR PASTOR THERE.

3 Q. PASTOR, AS YOU SAID YOU'VE BEEN PASTORING FOR ABOUT 35
4 YEARS; IS THAT WHAT YOU DO FOR WORK TODAY?

5 A. FULL-TIME PASTOR.

6 Q. DO YOU DO ANYTHING ELSE FOR WORK?

7 A. NO.

8 Q. DO YOU WEAR ANY OTHER HATS IN YOUR COMMUNITY?

9 A. I'M A SCHOOL BOARD MEMBER FOR THE NATCHITOCHE PARISH
10 SCHOOL BOARD. I SERVE ON A LOT OF BOARDS AND THINGS. ONE IS A
11 JURY BOARD COMMISSION. I'M A MEMBER OF THE NAACP, I'M A MEMBER
12 OF VOTERS & CIVIC LEAGUE. I SERVE IN A LOT OF CAPACITIES.

13 Q. CAN YOU WALK ME THROUGH SOME OF YOUR DUTIES AS A PASTOR?

14 A. FIRST OF ALL, FIRST AND FOREMOST, PREACHING THE GOSPEL,
15 SERVING THE PEOPLE IN GOING TO COURT WITH MEMBERS, GOING TO
16 HOSPITALS, SERVING IN PERFORMING MARRIAGES, BABY DEDICATIONS,
17 JUST A PLETHORA OF THINGS THAT WE DO. AND THEN SOME THINGS
18 THAT WE'RE DEFINITELY NOT PROBABLY QUALIFIED TO DO, BUT THEY
19 THINK WE ARE.

20 Q. PASTOR HARRIS, YOU HAVE A CONGREGATION THAT YOU OVERSEE?

21 A. I DO. ABUNDANT LIFE INTERNATIONAL, WHICH IS RIGHT IN THE
22 COMMUNITY IN WHICH I LIVE. AND THE OTHER ONE IS ST. MATTHEWS,
23 WHICH IS A HISTORICAL BLACK COMMUNITY JUST EAST OF NATCHITOCHE
24 PARISH. BUT IT'S STILL IN NATCHITOCHE PARISH, BOTH OF THEM.
25 AND WE'VE MERGED SINCE COVID.

STEVEN R. HARRIS, SR.

10:50 1 SO POST-COVID WE MERGED TOGETHER, AND WE'RE
2 REBUILDING ONE OF THE MINISTRIES, THE ONE THAT'S RIGHT IN TOWN.

3 Q. JUST SO I HAVE IT, YOU WORK AND LIVE IN NATCHITOCHE
4 PARISH?

5 A. I DO.

6 Q. AND YOU'LL FORGIVE MY NORTHERN ACCENT ON SOME OF THESE
7 WORDS, PASTOR HARRIS, BUT I JUST -- WOULD YOU SAY THAT YOU'RE
8 GENERALLY AWARE OF YOUR COMMUNITY'S DEMOGRAPHICS IN
9 NATCHITOCHE?

10 A. YES, MA'AM.

11 Q. CAN YOU DESCRIBE THEM FOR ME?

12 A. THE AREA THAT I LIVE IN IS PROBABLY 95 PERCENT BLACK. THE
13 OTHER -- WE JUST HAD TO -- SOME -- I'M NOT SURE WHETHER THEY
14 ARE FROM ISRAEL OR FROM PAKISTAN. BUT THEY'VE MOVED INTO OUR
15 COMMUNITY.

16 IN THE ST. MATTHEWS AREA, IT'S PREDOMINANTLY BLACK,
17 PROBABLY ANOTHER 95 PERCENT BLACK. AND IT'S AN AREA THAT'S
18 VERY CHALLENGING BECAUSE OF THE ECONOMIC AND THE EDUCATIONAL
19 SITUATIONS THAT WE DEAL WITH.

20 Q. AND JUST SO I KNOW, CIRCLING BACK TO YOUR CONGREGATIONS,
21 WHAT'S THE RACIAL MAKEUP OF YOUR CONGREGATION?

22 A. PROBABLY 99 PERCENT BLACK.

23 Q. AND WHERE DO MOST OF YOUR CONGREGANTS RESIDE?

24 A. AROUND -- IN THAT AREA FROM THE GRAND Ecore, WHICH IS IN
25 THE PAYNE SUBDIVISION AREA, WHICH MANY PROBABLY DON'T KNOW, TO

STEVEN R. HARRIS, SR.

10:52 1 CROSSING OVER BLACK LAKE INTO THE ST. MATTHEWS COMMUNITY.

2 Q. A MOMENT AGO YOU TESTIFIED THAT IT WAS CHALLENGING BECAUSE
3 OF ECONOMIC AND SOCIAL ACTIVITIES. CAN YOU WALK ME THROUGH
4 WHAT THAT MEANT?

5 A. YEAH. MOST OF THE PEOPLE -- THERE'S NO REAL JOBS FOR
6 THEM, SO WE HAVE A LOW POVERTY -- I MEAN, A HIGH-POVERTY AREA,
7 A LOT OF PEOPLE NEEDING GOVERNMENTAL ASSISTANCE.

8 THE EDUCATIONAL SYSTEM FOR OUR BLACKS, BECAUSE DURING
9 THE AREA -- DURING THE ERA WHERE THEY CONSOLIDATED THE SCHOOLS,
10 EVERY BLACK SCHOOL WAS CLOSED, EVERY LAST ONE OF THEM, WHICH IS
11 PRETTY SAD. BUT EVERY LAST ONE OF THEM WAS CLOSED. AND THE
12 KIDS HAD TO BE BUSSED INTO THE DIFFERENT AREAS.

13 SO ECONOMICALLY WE ARE CHALLENGED IN THE FACT THAT
14 THEY CAN'T REALLY FIND JOBS, AND THEN MANY OF THEM HAVE TO
15 LEAVE OUR AREAS TO FIND JOBS.

16 AND AS I COME BACK TO THE EDUCATIONAL PART, THAT A
17 LOT OF THEM ARE DROPPING OUT OF SCHOOL.

18 Q. IN YOUR LAST ANSWER YOU SAID MOST OF THE PEOPLE IN "OUR,"
19 WHO DID YOU MEAN BY THAT?

20 A. THE PEOPLE I SERVE IN THE COMMUNITY, WHICH IS, AGAIN,
21 90-SOME PERCENT BLACK.

22 Q. EARLIER YOU TESTIFIED THAT YOUR CHURCH DOES SOME COMMUNITY
23 WORK. CAN YOU WALK ME THROUGH WHAT THAT IS?

24 A. YES. WE HAVE A SOCIAL SERVICE MINISTRY WITHIN OUR CHURCH
25 WHERE WE PARTNER WITH PEOPLE LIKE THE WOMEN'S RESOURCE CENTER,

STEVEN R. HARRIS, SR.

10:54 1 THE HOMELESS COALITION, AND OTHER DIFFERENT SOCIAL SERVICE
2 MINISTRIES WITHIN OUR CHURCH. WE EDUCATE OUR PEOPLE IN THINGS
3 LIKE VOTING, EDUCATION, JUST A PLETHORA OF SOCIAL MINISTRIES
4 WITHIN OUR CHURCH.

5 Q. DO YOU SPEAK WITH YOUR CONGREGANTS ABOUT SOCIAL ISSUES?

6 A. ALL THE TIME.

7 Q. CAN YOU WALK ME THROUGH WHAT THAT LOOKS LIKE?

8 A. DEALING WITH THE LACK OF EDUCATION, WHICH ULTIMATELY
9 CAUSES OUR CONGREGANTS NOT TO BE ABLE TO FIND JOBS. SO WE KIND
10 OF STEER THEM IN THE DIRECTIONS OF PLACES THAT ARE HIRING AND
11 THINGS LIKE THAT.

12 SOCIAL SERVICES WITH OUR WOMEN, GETTING ADEQUATE CARE
13 AS FAR AS IF THERE IS PREGNANCY OR SOMETHING LIKE THAT. JUST A
14 NUMBER OF SOCIAL ISSUES THAT WE DEAL WITH.

15 VOTING, IF WE HAVE -- THROUGH THE VOTER'S CIVIC
16 LEAGUE, WE DO VOTER'S EDUCATION AS WELL AS FORUMS, AS WELL.

17 Q. DO YOU EVER SPEAK WITH YOUR CONGREGANTS ABOUT ELECTION
18 ISSUES?

19 A. YES.

20 Q. EARLIER I ASKED YOU WHAT SOME OF THE JOBS ARE AS A PASTOR,
21 AND THE FIRST ONE THAT YOU SAID WAS TO PREACH THE GOSPEL. DO
22 YOU DO THAT THROUGH -- HOW DO YOU KNOW THAT?

23 A. THROUGH TALKING ABOUT JESUS DEALING WITH SOCIAL INJUSTICES
24 AND ALLOWING -- LETTING THEM KNOW IT'S ALL RIGHT TO GET
25 INVOLVED WITH SOCIAL ILLS THAT WE DEAL WITH IN OUR COMMUNITIES.

STEVEN R. HARRIS, SR.

10:57 1 Q. AS --

2 A. AND THAT IT IS IMPORTANT, TOO, THAT THEY GO OUT AND VOTE,
3 THEY GO OUT AND EXERCISE THEIR RIGHT TO VOTE, WHICH HAS BEEN
4 CHALLENGING LATELY.

5 Q. CAN YOU TELL ME WHY IT'S BEEN CHALLENGING, PASTOR HARRIS?

6 A. PEOPLE FEEL HOPELESS BECAUSE IT SEEMS LIKE EVERY TIME WE
7 GET AHEAD, WE ARE KNOCKED BACK BY THE DIFFERENT THINGS THAT
8 TAKES PLACE THROUGH VOTING.

9 EVEN HAVING MY OWN CHILDREN QUESTION THE SYSTEM,
10 WHETHER IT'S WORKING FOR THEM. AND I THINK THAT I HAVE DONE A
11 GREAT JOB IN REARING MY CHILDREN, BUT YET THEY ARE QUESTIONING,
12 "IT WORKED FOR YOU, MAYBE, BUT IT'S NOT WORKING FOR US." AND
13 MANY LIKE THEM FROM AGE 20. I GOT FROM AGE 21 TO AGE 38 YEARS
14 OLD, AND I HAVE TO LITERALLY BEG THEM TO GO OUT AND VOTE.

15 Q. YOU JUST SAID THAT PEOPLE FEEL HOPELESS. WHO ARE THE
16 PEOPLE YOU ARE REFERRING TO?

17 A. AGAIN, THE PEOPLE THAT I'M SERVING IN THE BLACK COMMUNITY.

18 Q. THANK YOU FOR SHARING, PASTOR HARRIS.

19 CAN YOU TELL ME WHAT INITIALLY INSPIRED YOU TO WORK
20 IN THE CHURCH?

21 A. MY CALLING, A DIVINE CALLING FROM GOD, 'CAUSE I'VE BEEN IN
22 CHURCH ALL MY LIFE. MY DAD'S THE OLDEST ACTIVE PASTOR IN THE
23 STATE OF LOUISIANA. HE'S BEEN PREACHING FOR 87 YEARS, EVER
24 SINCE HE WAS SEVEN YEARS OLD. HE'S 90 YEARS OLD NOW. WE HAVE
25 A -- JUST A PLETHORA OF -- MY BROTHERS, ALL MY BROTHERS ARE

STEVEN R. HARRIS, SR.

10:59 1 PREACHERS. AND MOST OF ALL, THE DIVINE CALL TO SERVE, AND
2 THAT'S WHAT LEAD ME TO JUST BE A SERVANT.

3 Q. AND THINKING ABOUT YOUR FAMILIAL HISTORY AND YOUR
4 COMMUNITY, DO PASTORS RELY ON ONE ANOTHER AT ANY POINT IN YOUR
5 COMMUNITY?

6 A. FROM ALL ACROSS THE STATE, YOU KNOW, BUT ESPECIALLY IN THE
7 AREAS THAT WE SERVE. I'VE PASTORED IN THE NATCHITOCHEs AREA,
8 I'VE PASTORED IN THE RED RIVER AREA. MY DAD'S STILL PASTORING,
9 WHEN I SOMETIMES GO AND HELP HIM IN THE MANSFIELD AREA. SO WE
10 ALL HAVE THAT CONNECTION, ONE WITH ANOTHER. SO WE SERVE
11 WHETHER IT'S A FUNERAL THAT WE ALL MEET UP AT, ALL THE OTHER
12 DIFFERENT THINGS THAT MAY TAKE PLACE, AN ANNIVERSARY, A CHURCH
13 ANNIVERSARY, A PASTOR'S ANNIVERSARY. WE ALL SEE ONE ANOTHER IN
14 PASSING. SO, YEAH, WE SERVE WITH ONE ANOTHER.

15 Q. YOU MENTIONED IN YOUR LAST ANSWER RED RIVER. IS IT SAFE
16 TO SAY THAT RED RIVER AND NATCHITOCHEs ARE CLOSE COMMUNITIES?

17 A. VERY MUCH CLOSE, LIKE FAMILY.

18 Q. GROWING UP IN LOUISIANA, WERE THERE ANY OTHER EXPERIENCES
19 THAT MOTIVATED YOU TO BECOME ACTIVE IN YOUR COMMUNITY?

20 A. IN 2010 I WAS STILL -- I JUST MOVED INTO THE AREA THAT I
21 CURRENTLY RESIDE. AND THERE WAS A BIG ISSUE IN THAT BLACK
22 COMMUNITY DEALING WITH OUR INFRASTRUCTURE, OUR SEWAGE, AND OUR
23 WATER. I DIDN'T KNOW THAT THE SITUATION WAS AS BAD AS IT WAS.
24 I HEARD FOR YEARS THAT IT WAS A BAD SITUATION, AND NO ONE
25 SEEMED TO CARE ABOUT THE SITUATION. BUT THE ROADS WERE IN

STEVEN R. HARRIS, SR.

11:01 1 DISARRAY, NOT BEING TENDED TO.

2 BUT IN 2010 WHEN I GOT THERE, FOR THE LAST MAYBE TWO
3 OR THREE YEARS, WE HAD BEEN TRYING TO GET HELP IN GETTING THOSE
4 ROADS FIXED. AND SO THAT'S ONE OF THE THINGS THAT INSPIRED ME
5 TO GET INVOLVED, BECAUSE A LOT OF PEOPLE, BECAUSE THEY KNEW ME
6 FROM -- I HAD A RADIO SHOW THAT I DID CALLED NATCHITOCHE
7 BLESSING, AND -- FOR EIGHT -- ABOUT EIGHT YEARS I WAS ON THAT
8 RADIO SHOW, AND THE PEOPLE TRUSTED THAT I WOULD TRY AND HELP
9 AND I DID.

10 AND WE GOT TOGETHER AND WE -- AT THAT PARTICULAR
11 TIME, THE 23RD DISTRICT -- I THINK THEY MADE THAT DISTRICT INTO
12 AN ALL BLACK DISTRICT. AND THE YOUNG MAN WHO I KNEW FROM IN
13 THAT AREA RAN FOR THAT POSITION AND HE WON. AND I ASKED HIM IF
14 WE ELECTED HIM, CAN HE PROMISE TO GET PAYNE SUBDIVISION FIXED,
15 BECAUSE THE PEOPLE FOR 30 YEARS HADN'T HAD ANYONE TO EVEN COME
16 OUT AND LOOK AT THEIR ROAD AND THEY DID. THEY CAME AND THEY
17 FIXED THE ROAD.

18 Q. YOU JUST TESTIFIED THAT IN 2010, IT SEEMED THAT NO ONE
19 CARED ABOUT THE SITUATION IN PAYNE SUBDIVISION. WHAT DID YOU
20 MEAN BY THAT?

21 A. THE POLITICIANS THAT HAD BEEN THERE BEFORE, I KNEW OF
22 THEM. BUT ELECTION TIME THEY WOULD COME AND MAKE A WHOLE LOT
23 OF PROMISES, BUT IT'D NEVER GET DONE. BUT WHEN OUR CURRENT
24 REPRESENTATIVE, WHO AGAIN OUR FAMILY KNOWS THEM. WE KNOW ONE
25 ANOTHER IN PASSING, DIFFERENT CHURCHES, DIFFERENT EVENTS THAT

STEVEN R. HARRIS, SR.

11:04 1 GO ON, WE -- AS A MATTER OF FACT, I CAME DOWN HERE MANY TIMES
2 TO MAKE SURE THAT WE GET THOSE ROADS AND THE PEOPLE -- I'VE
3 REALLY -- I REALLY LOST A LOT -- I LOST A LOT OF FRIENDS
4 BECAUSE THEY DIDN'T BELIEVE THAT THAT ROAD WAS GONNA GET FIXED.
5 BUT THROUGH PRAYER AND THROUGH WORKING WITH OUR LEGISLATURE --
6 I'M NOT SURE EXACTLY WHEN IT WAS THEY BROKE GROUND, BUT WHEN
7 THEY BROKE GROUND, EVERYBODY BEGAN TO BELIEVE AGAIN THAT THE
8 PROCESS WORKS.

9 Q. AND WE'LL COME BACK TO THE PAYNE SUBDIVISION EXAMPLE IN A
10 MINUTE HERE. AND I WANT TO THANK YOU, PASTOR HARRIS, FOR
11 SHARING YOUR EXPERIENCES.

12 I WANT TO PIVOT A LITTLE BIT TO TALKING ABOUT YOUR
13 PERSONAL VOTING HISTORY. DO YOU VOTE?

14 A. EVERY ELECTION THAT I CAN.

15 Q. HOW LONG HAVE YOU BEEN A REGISTERED VOTER?

16 A. I THINK MAYBE ABOUT 28 YEARS.

17 Q. ARE YOU CURRENTLY REGISTERED TO VOTE?

18 A. I AM.

19 Q. AND DO YOU KNOW WHAT YOUR CURRENT HOUSE DISTRICT IS?

20 A. TWENTY-THREE.

21 Q. I THINK WE'VE TALKED A LITTLE BIT ABOUT IT SO FAR.

22 DO YOU KNOW WHO YOUR REPRESENTATIVE IS RIGHT NOW?

23 A. KENNY COX.

24 Q. AND CAN YOU WALK ME THROUGH, IF YOU KNOW, WHEN MR. COX
25 BECAME YOUR REPRESENTATIVE?

STEVEN R. HARRIS, SR.

11:05 1 A. MUST HAVE BEEN AROUND '12 OR '14, ONE OF THEM.

2 Q. YOU MEAN 2012 OR 2014?

3 A. '12 OR '14, YES.

4 Q. SO ABOUT A DECADE. IS THAT SAFE TO SAY?

5 A. RIGHT, ABOUT THE TIME THAT WE REALLY GOT INVOLVED IN
6 TALKING ABOUT GETTING THINGS DONE IN OUR COMMUNITY.

7 Q. AND IS MR. COX THE REPRESENTATIVE YOU WERE TALKING ABOUT
8 IN YOUR PAYNE SUBDIVISION EXAMPLE?

9 A. HE IS.

10 Q. CAN YOU WALK ME THROUGH WHAT MR. COX DID IN THAT SCENARIO?

11 A. WELL, FIRST OF ALL, HE KEPT IT IN FRONT OF THE OTHER
12 LEGISLATORS, LETTING THEM KNOW HOW IMPORTANT IT WAS. WE ALSO
13 WORKED WITH ANOTHER YOUNG MAN THAT WAS ON THE COUNCIL IN
14 NATCHITOCHE PARISH, MR. PAGE, WHICH IS A BLACK YOUNG MAN IN
15 OUR COMMUNITY THAT ALSO WORKED HARD AND TIRELESSLY AND
16 TENACIOUSLY TO MAKE SURE THAT IT STAYED IN FRONT OF OUR
17 LEGISLATORS.

18 SO WITH ALL OF THEIR HELP IN MAKING SURE THAT IT WAS
19 IMPORTANT TO US, THAT IT PAINED US TO SEE WHAT WAS GOING ON
20 WITH ONE OF THE FEW BLACK COMMUNITIES. AND I SERVED IN BOTH OF
21 THOSE BLACK COMMUNITIES, BOTH IN SHADY GROVE AS WELL AS IN
22 PAYNE SUBDIVISION.

23 Q. ARE THERE ANY SPECIFIC ISSUES IN YOUR COMMUNITY THAT
24 MOTIVATE YOU TO VOTE?

25 A. YES.

STEVEN R. HARRIS, SR.

11:07 1 Q. WHAT ARE THEY?

2 A. EDUCATION, ECONOMIC DISADVANTAGES, A LOT OF SOCIAL
3 ABNORMALITIES THAT TRULY WAKES ME UP AT NIGHT EVEN. SO WHEN
4 IT'S TIME FOR ME TO TRY TO MAKE A DIFFERENCE, I STILL BELIEVE
5 THAT GOING TO THE POLLS CAN MAKE A DIFFERENCE.

6 Q. SO I WANT TO TAKE EACH OF THEM IN TURN, STARTING WITH
7 EDUCATION. HOW DOES EDUCATION IN YOUR COMMUNITY MOTIVATE YOU
8 TO VOTE?

9 A. WHEN I ULTIMATELY DECIDED TO RUN FOR SCHOOL BOARD, MY
10 WIFE -- I WAS COMPLAINING ABOUT THE FACT THAT I HAVE -- THREE
11 OF MY YOUNGER CHILDREN, FIVE ALTOGETHER, BUT THREE OF MY
12 YOUNGER CHILDREN WERE AFFORDED SOME OF THE BEST EDUCATION IN
13 THAT THEY GO TO ONE OF THE BETTER SCHOOLS IN THE PARISH. AND I
14 SAW THAT, AND I SAW HOW IT GAVE MY CHILDREN AN ADVANTAGE OVER
15 SOME OF THE OTHER CHILDREN WHO DID NOT HAVE THAT TYPE OF
16 OPPORTUNITY TO GO TO A BETTER SCHOOL. AND I WAS JUST
17 COMPLAINING ABOUT IT AND MY WIFE SAYS TO ME, SHE SAID, "RATHER
18 THAN COMPLAINING ABOUT IT, WHY DON'T YOU DO SOMETHING ABOUT
19 IT."

20 AND I KIND OF TOLD HER, "I WILL. I'M GONNA CONTINUE
21 TO FUSS."

22 SHE SAYS, "NO. WHY DON'T YOU GO WHERE YOU CAN MAKE A
23 DIFFERENCE," AND SO I DID. I RAN AND WON AGAINST ANOTHER BLACK
24 GUY, WHO I THOUGHT WAS NOT DOING ALL THAT HE COULD DO FOR OUR
25 COMMUNITY.

STEVEN R. HARRIS, SR.

11:10 1 AND SINCE THAT TIME, I'VE BEEN PUSHING, TRYING TO
2 MAKE SURE THAT ALL OF OUR SCHOOLS CAN AFFORD OUR STUDENTS A
3 BETTER OPPORTUNITY TO BE SUCCESSFUL IN LIFE, BECAUSE IF THEY
4 ARE NOT ALL GIVEN THE SAME OPPORTUNITY, I CAN'T SAY THAT ONE IS
5 SMARTER THAN THE OTHER, IF ECONOMICS OR THEM BEING IN A
6 GEOGRAPHICAL SETTING, A GEOGRAPHICAL AREA, PREVENTED THEM FROM
7 GOING TO A BETTER SCHOOL.

8 Q. YOU ALSO MENTIONED THAT ECONOMIC DISADVANTAGE IN YOUR
9 COMMUNITY MOTIVATES YOU TO VOTE. WHAT DID YOU MEAN BY THAT?

10 A. IT GOES BACK TO EDUCATION AGAIN. THE KIDS THAT I SERVE
11 ARE NOT ABLE TO GET UP AND DRIVE AND GO OUT OF STATE AND GO TO
12 SOMEWHERE ELSE AND TAKE UP ROOTS THERE FOR A BETTER SITUATION.
13 THEY ARE STUCK WHERE THEY ARE AT. AND SO FINANCIALLY THEY
14 CAN'T AFFORD TO LEAVE IN MY AREA. SO THAT'S THE ECONOMIC
15 PROBLEM THAT WE HAVE WITH IT.

16 Q. AND YOU ALSO MENTIONED THAT THERE ARE SOCIAL ABNORMALITIES
17 THAT WAKE YOU UP AT NIGHT. WHAT DID YOU MEAN BY THAT?

18 A. DURING COVID-TIME MY SISTER WHO WAS NOT ABLE TO BE -- I
19 GUESS TO AFFORD THE INSURANCE THAT SHE NEEDED TO GET THE TYPE
20 OF HEALTHCARE THAT SHE NEEDED, SHE WIND UP HAVING TO LEAVE
21 NATCHITOCHESS AND GO TO A PLACE CALLED LEESVILLE AND GET TREATED
22 BECAUSE OF, I GUESS, THEY WOULD TAKE WHATEVER TYPE OF INSURANCE
23 THAT SHE DID HAVE. AND ULTIMATELY SHE WIND UP IN TULANE
24 WHERE SHE HAD A PROCEDURE DONE.

25 AND AT THAT PARTICULAR TIME, THEY WERE NOT COGNIZANT

STEVEN R. HARRIS, SR.

11:12 1 OF COVID. AND IT HIT AND NOBODY EVEN KNEW WHAT IT WAS THAT SHE
2 HAD, AND I LOST MY OLDEST SISTER BECAUSE I DON'T THINK SHE WAS
3 ABLE TO GET THE TYPE OF HEALTHCARE THAT SHE COULD HAVE BEEN
4 ABLE TO GET IF WE HAD PASSED OR EXTENDED THE AFFORDABLE CARE
5 ACT EVEN.

6 Q. THANKS, PASTOR HARRIS.

7 I WANT TO CIRCLE BACK TO ASKING A COUPLE OF QUESTIONS
8 ABOUT YOUR STATE HOUSE REPRESENTATIVE THAT YOU'VE MENTIONED UP
9 UNTIL NOW AS REPRESENTATIVE COX. CAN YOU TELL ME IF YOU FEEL
10 REPRESENTED BY HIM?

11 A. I DO.

12 Q. AND CAN YOU TELL ME WHAT HIS RACE IS?

13 A. HE'S BLACK.

14 Q. CAN YOU DESCRIBE FOR ME THE SIGNIFICANCE OF HAVING A BLACK
15 MAN AS YOUR REPRESENTATIVE?

16 A. I GUESS IT'S LIKE A MOTHER THAT IS TIED TO AN UMBILICAL
17 CORD TO THE CHILD AND YOU TELL THE MOTHER THAT JUNIOR IS BAD
18 AND JUNIOR IS THIS, THAT, AND THE OTHER. BUT TO MAMA, BECAUSE
19 SHE DEALT WITH THE PERILS AND THE PAIN AND THE PROBLEMS THAT
20 PUSHED TO GET HIM THERE, SHE COULD IDENTIFY WITH IT, IS THE
21 REASON SHE HOLDS ON TO JUNIOR NO MATTER WHAT.

22 I THINK THAT'S THE SITUATION WITH HAVING COX OR
23 SOMEONE WHO CAN IDENTIFY WITH MY PERILS AND PAIN AND PROBLEMS
24 THAT WE ACTUALLY GO THROUGH. IT'S NOT JUST A THEORY. THEY
25 ACTUALLY COME IN THE COMMUNITY, WALK IN THE COMMUNITY, IDENTIFY

STEVEN R. HARRIS, SR.

11:14 1 WITH OTHERS IN THE COMMUNITY. AND MANY TIMES THE ONLY TIME I
2 SEE SOME OF THE OTHER ELECTED OFFICIALS IS WHEN -- EVERY FOUR
3 YEARS.

4 Q. AND YOU TESTIFIED THAT REPRESENTATIVE COX UNDERSTANDS
5 THE -- OR YOUR ANALOGY THAT HE UNDERSTANDS THE PERILS, PAIN,
6 AND PROBLEMS, AND COULD IDENTIFY WITH YOU. WHY DO YOU THINK
7 THAT'S SO?

8 A. 'CAUSE HE'S BEEN THERE.

9 Q. WHEN YOU SAY "HE'S BEEN THERE," WHAT DO YOU MEAN?

10 A. HE'S BEEN IN THE COMMUNITY. HE'S SEEN WHAT WE'VE GONE
11 THROUGH. HE'S BEEN THROUGH SOME OF THE SAME THINGS. HE
12 IDENTIFIES WITH THE PLIGHT OF THE COMMUNITY.

13 Q. WHEN YOU SAY "THE PLIGHT OF THE COMMUNITY," DO YOU MEAN
14 THE BLACK COMMUNITY?

15 A. THE BLACK COMMUNITY.

16 Q. IN DISTRICT 23?

17 A. YES.

18 Q. DO YOU KNOW IF REPRESENTATIVE COX IS STILL YOUR
19 REPRESENTATIVE?

20 A. HE MAY BE RIGHT NOW, BUT I DON'T THINK HE'S GONNA BE LONG.

21 Q. AND WHY IS THAT?

22 A. I THINK THEY REDREW THE LINES. SO --

23 Q. DO YOU KNOW -- I'M SORRY. CONTINUE.

24 A. AND SO WITH ME WORKING ON THE SCHOOL BOARD TO MAKE SURE
25 THAT WE HAVE REPRESENTATION, YOU KNOW, I THINK THAT HE WON'T BE

STEVEN R. HARRIS, SR.

11:16 1 REPRESENTING US.

2 Q. DO YOU KNOW IF DISTRICT 23, AS REPRESENTATIVE COX HAS
3 SERVED AS THE REPRESENTATIVE, IS MAJORITY BLACK?

4 A. RESTATE THE QUESTION.

5 Q. DO YOU KNOW, BASED ON YOUR PERSONAL KNOWLEDGE, IF DISTRICT
6 23 AS REPRESENTATIVE COX SERVED AS THE REPRESENTATIVE --

7 A. YES.

8 Q. -- WAS A MAJORITY-BLACK DISTRICT?

9 A. YES.

10 Q. DO YOU KNOW IF IN THE NEW REDRAWN DISTRICT, IF IT IS
11 MAJORITY BLACK?

12 A. I DON'T THINK SO.

13 MS. BAHN: YOUR HONOR, IF I COULD JUST HAVE A MINUTE
14 TO CONFER?

15 THE COURT: YES.

16 MS. BAHN: THANK YOU, YOUR HONOR.

17 BY MS. BAHN:

18 Q. I JUST HAVE A FEW MORE QUESTIONS, PASTOR HARRIS.

19 A. ALL RIGHT.

20 Q. THE FIRST IS, IN DISTRICT 23, IN YOUR COMMUNITY, YOU
21 MENTIONED RED RIVER AND NATCHITOCHEs. ARE THERE ANY OTHER --
22 STRIKE THAT.

23 IN YOUR COMMUNITY YOU'VE MENTIONED NATCHITOCHEs AND
24 RED RIVER ARE TIGHTLY KNIT EARLIER IN YOUR TESTIMONY. CAN YOU
25 WALK ME THROUGH DISTRICT 23 AND HOW EACH OF THOSE COMMUNITIES

STEVEN R. HARRIS, SR.

11:18 1 OR ANY OTHER COMMUNITIES WORK TOGETHER?

2 A. FROM A PASTORAL --

3 MR. CONINE: YOUR HONOR, I'M GOING TO HAVE TO OBJECT
4 HERE, 701. YOU KNOW, WE APPRECIATE HIM, YOU KNOW, GIVING HIS
5 EXPERIENCES AND THAT, BUT WE WANTED TO MAKE SURE IT DOESN'T GO
6 BEYOND THE -- INTO OPINION TESTIMONY.

7 THE COURT: DO YOU WANT TO RESPOND? HE'S OBJECTING
8 TO THE LAY OPINION TESTIMONY OR OPINION TESTIMONY.

9 MS. BAHN: I THINK HE'S TESTIFIED FAIRLY
10 SIGNIFICANTLY THROUGHOUT THE TESTIMONY, YOUR HONOR, THAT EACH
11 OF THOSE AREAS ARE COHESIVE, AND HE'S JUST GOING TO OFFER THAT
12 IN HIS NEXT ANSWER.

13 THE COURT: GIVE ME THE EXACT QUESTION AGAIN.

14 MS. BAHN: I WOULD LIKE --

15 THE COURT: ASK THE QUESTION AGAIN AND LET ME HEAR
16 WHAT YOUR QUESTION IS.

17 BY MS. BAHN:

18 Q. PASTOR HARRIS, BASED ON YOUR TESTIMONY TODAY, CAN YOU TELL
19 ME HOW NATCHITOCHE, DESOTO, AND RED RIVER COMMUNITIES WORK
20 TOGETHER?

21 THE COURT: IS THAT THE SAME OBJECTION?

22 MR. CONINE: YES. I'D LIKE TO LODGE AN OBJECTION
23 AGAIN. HE HASN'T MENTIONED ANYTHING ABOUT DESOTO PARISH.

24 BY THE WITNESS:

25 A. MY --

STEVEN R. HARRIS, SR.

11:19 1 **THE COURT:** JUST A MOMENT, SIR. THERE'S AN OBJECTION
2 ON THE -- WE HAVE TO LET THE LAWYERS ARGUE THIS.

3 **MR. CONINE:** I MEAN, HE'S GETTING INTO --

4 **THE COURT:** HE HASN'T TALKED ABOUT DESOTO PARISH.

5 **MS. BAHN:** I CAN ASK IT WITHOUT THAT, YOUR HONOR.

6 **THE COURT:** SO THE QUESTION IS GOING TO BE RED RIVER
7 AND NATCHITOCHE PARISH, HOW DO THEY WORK TOGETHER?

8 **MS. BAHN:** YES, YOUR HONOR.

9 **THE COURT:** OKAY. YOUR OBJECTION IS IN PART
10 SUSTAINED. I WILL ALLOW THAT QUESTION.

11 **MR. CONINE:** THANK YOU, YOUR HONOR.

12 **BY MS. BAHN:**

13 **Q.** YOU CAN ANSWER.

14 **A.** OKAY. AS BEING A PASTOR IN BOTH RED RIVER AND I PASTORED
15 FORMALLY IN RED RIVER, AND I PASTOR NOW IN NATCHITOCHE PARISH,
16 WE ALL FELLOWSHIP ONE WITH ANOTHER. WE HAVE DIFFERENT
17 ENGAGEMENTS THAT WE ALLOW ONE ANOTHER TO COME AND PREACH AND,
18 YOU KNOW, THAT'S HOW WE ARE CONNECTED ONE WITH ANOTHER. IT --

19 **Q.** I APOLOGIZE. YOU CAN FINISH YOUR ANSWER.

20 **A.** OKAY. WELL, THAT'S ALL I WAS GONNA SAY.

21 **Q.** PASTOR HARRIS, DO YOU HAVE ANY PERSONAL EXPERIENCES WITH
22 ANY OTHER COMMUNITIES IN DISTRICT 23?

23 **A.** YEAH. MY DAD PASTORS IN DESOTO PARISH AND HAS BEEN THERE
24 FOR THE LAST 50-SOME YEARS. I HAVE A -- MY OLDEST SON IS FROM
25 MANSFIELD, DESOTO PARISH. SO WE ALL -- WE ALL ARE CONNECTED IN

STEVEN R. HARRIS, SR.

11:21 1 THAT AREA AND IN THAT SENSE.

2 Q. YOU'LL --

3 A. BUT I THOUGHT I STATED THAT EARLIER.

4 Q. YOU'LL FORGIVE MY LACK OF UNDERSTANDING OF LOUISIANA
5 GEOGRAPHY TO KNOW THAT MANSFIELD IS IN DESOTO.

6 BUT IF YOU COULD JUST WALK ME THROUGH IF THERE'S ANY
7 CONNECTION BETWEEN DESOTO, NATCHITOCHE, AND RED RIVER
8 COMMUNITIES?

9 A. WE ALL JUST JOIN TOGETHER, ALMOST LIKE KIN. WE HAVE
10 RELATIVES ONE WITH ANOTHER. CAN'T WE FELLOWSHIP THROUGH -- OUR
11 CONGREGATIONS KNOW ONE ANOTHER.

12 AS A MATTER OF FACT, JUST LAST WEEK WE HAD A FUNERAL
13 IN COUSHATTA, WHICH IS IN RED RIVER, AND THERE WERE MANY PEOPLE
14 FROM BOTH NATCHITOCHE PARISH AS WELL AS IN DESOTO PARISH WHO
15 WERE THERE.

16 AND IN OUR COMMUNITY WE CALL ONE ANOTHER "KIN FOLK."
17 THAT MAY NOT BE NO KIN WHATSOEVER, BUT THAT'S WHAT WE CALL ONE
18 ANOTHER IN OUR COMMUNITY.

19 Q. PASTOR HARRIS, IF YOU COULD JUST -- ONE MORE QUESTION.
20 WHAT DO YOU HOPE TO ACHIEVE IN THIS LAWSUIT?

21 A. THAT WE HAVE REPRESENTATION, THAT WE HAVE EQUAL
22 REPRESENTATION, THAT OUR PEOPLE FEEL EMPOWERED. AND BECAUSE IF
23 THEY DON'T FEEL EMPOWERED, THEY FEEL DESPAIRED, AND THEY ACT AS
24 SUCH. WHEN YOU DON'T -- AS I SPOKE EARLIER TODAY ABOUT GETTING
25 THE PEOPLE IN OUR COMMUNITY TO GET OUT TO VOTE. THEY REALLY

STEVEN R. HARRIS, SR.

11:23 1 DIDN'T FEEL IT THIS LAST ELECTION CYCLE. THEY FELT THAT IT
2 DIDN'T MATTER.

3 Q. WHEN YOU SAY "WE," AND "OUR PEOPLE," WHO DID YOU MEAN?

4 A. THE PEOPLE IN MY BLACK COMMUNITY THAT I SPEAK WITH EVERY
5 SUNDAY AS WELL AS SPEAKING TO THEM IN OTHER VENUES AND THINGS
6 LIKE THAT.

7 Q. THANK YOU, PASTOR HARRIS.

8 MS. BAHN: YOUR HONOR, I HAVE NO FURTHER QUESTIONS.

9 THE COURT: CROSS.

10 MR. CONINE: JUST BRIEFLY, JUDGE.

11 JOHN CONINE FOR THE SECRETARY OF STATE.

12 CROSS-EXAMINATION

13 BY MR. CONINE:

14 Q. GOOD MORNING, REVEREND HARRIS.

15 A. GOOD MORNING.

16 Q. HOW LONG HAVE YOU LIVED AT YOUR CURRENT ADDRESS?

17 A. ABOUT 14 YEARS.

18 Q. IS THAT WITHIN THE CITY LIMITS OF NATCHITOCHEs?

19 A. NO. THAT'S OUT OF THE CITY LIMITS OF NATCHITOCHEs.

20 Q. SO THE POLICE JURY WOULD BE IN CHARGE OF THOSE ROADS?

21 A. THE POLICE JURY IS.

22 Q. OKAY. AND WHAT'S THE MAKEUP OF THE POLICE JURY, THE
23 DEMOGRAPHICS?

24 A. I THINK IT'S FIVE JURORS; TWO OF THEM ARE BLACK AND FIVE
25 WHITE -- I MEAN, THREE WHITES.

STEVEN R. HARRIS, SR.

11:24 1 Q. OKAY. AND THE MAYOR OF NATCHITOCHE IS AN AFRICAN
2 AMERICAN. ISN'T THAT RIGHT?

3 A. HE IS.

4 Q. OKAY. AND A DEMOCRAT?

5 A. YES.

6 Q. AND HE BEAT OUT A WHITE INCUMBENT. ISN'T THAT CORRECT?

7 A. YES.

8 Q. OKAY. AND YOU MENTIONED EARLIER ABOUT RED RIVER PARISH
9 AND NATCHITOCHE PARISH AND DESOTO PARISH, AS WELL, BEING CLOSE
10 FAMILIES. RED RIVER PARISH IS MORE RURAL. CORRECT?

11 A. SAME AS NATCHITOCHE.

12 Q. WOULD YOU SAY THAT COUSHATTA IS SMALLER THAN NATCHITOCHE?

13 A. IT IS.

14 Q. OKAY. AND WOULD YOU SAY THERE'S LESS POPULATION IN RED
15 RIVER PARISH THAN THERE IS IN NATCHITOCHE PARISH?

16 A. IT IS.

17 Q. AND DOES THAT GO FOR DESOTO PARISH AS WELL?

18 A. YES.

19 Q. AND MANSFIELD IS THE SEAT OF DESOTO PARISH. IS THAT
20 RIGHT?

21 A. YES.

22 Q. AND MANSFIELD IS SMALLER THAN NATCHITOCHE?

23 A. YES.

24 Q. OKAY. ARE YOU AWARE THAT REPRESENTATIVE COX WAS TERM
25 LIMITED?

STEVEN R. HARRIS, SR.

11:25 1 A. YES.

2 Q. OKAY. LET'S SEE IF I'LL HAVE ONE MORE.

3 AND WHAT YEAR DID YOU REGISTER TO VOTE?

4 A. I THINK MAYBE '95, SOMETHING LIKE THAT.

5 Q. AND THAT WAS IN --

6 A. I THINK ABOUT 28 YEARS.

7 Q. SORRY. I DIDN'T MEAN TO CUT YOU OFF.

8 COULD YOU REPEAT THAT?

9 A. I THINK ABOUT 28 YEARS, SOMETHING LIKE THAT.

10 Q. OKAY. WAS THAT IN NATCHITOCHE PARISH?

11 A. I THINK IT STARTED IN NATCHITOCHE PARISH, I THINK.

12 Q. YES, SIR. OKAY.

13 MR. CONINE: JUDGE, MAY I HAVE ONE MOMENT?

14 THE COURT: YOU MAY.

15 MR. CONINE: NO FURTHER QUESTIONS.

16 THE COURT: OKAY. REDIRECT?

17 MS. BAHN: NO, YOUR HONOR.

18 THE COURT: YOU MAY STEP DOWN.

19 THANK YOU, SIR.

20 NEXT WITNESS, PLEASE.

21 MS. WENGER: HELLO AGAIN, YOUR HONOR.

22 VICTORIA WENGER, WITH THE LEGAL DEFENSE FUND.

23 PLAINTIFFS CALLS DR. ALICE WASHINGTON.

24 AND, YOUR HONOR, MAY I APPROACH TO OFFER HER

25 WATER?

ALICE FRANCES WASHINGTON, PH.D.

11:26 1

THE COURT: YOU MAY.

2

MS. WENGER: THANK YOU.

3

4

THE COURT: BUT IT LOOKS LIKE SHE MAY HAVE BROUGHT
HER WATER.

5

ALICE FRANCES WASHINGTON, PH.D.,

6

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

7

DIRECT EXAMINATION

8

BY MS. WENGER:

9

Q. HELLO, DR. WASHINGTON.

10

A. HELLO.

11

Q. CAN YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD.

12

A. ALICE FRANCES WASHINGTON.

13

Q. AND HOW ARE YOU INVOLVED IN THIS CASE?

14

A. I AM ONE OF THE PLAINTIFFS IN THE CASE.

15

Q. WHAT RACE DO YOU IDENTIFY AS, DR. WASHINGTON?

16

A. BLACK AND AFRICAN AMERICAN.

17

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

18

A. I HAVE A B.S. DEGREE IN PSYCHOLOGY, A MASTER'S DEGREE IN
SOCIAL WORK, AND A DOCTORATE DEGREE IN SOCIAL WORK.

20

Q. CAN YOU SHARE SOME OF YOUR PROFESSIONAL BACKGROUND?

21

A. YES. I HAVE ENGAGED IN THE PRACTICE OF SOCIAL WORK WITH
INDIVIDUALS, FAMILIES, AND SMALL GROUPS, AND COMMUNITIES, AND
POST-DOCTORATE. I HAVE ENGAGED IN TEACHING AT THE MASTER'S
LEVEL, GRADUATE STUDENTS, CONSULTATION WITH INSTITUTIONS SUCH
AS THE NATIONAL INSTITUTE ON DRUG ABUSE, NATIONAL INSTITUTE ON

ALICE FRANCES WASHINGTON, PH.D.

11:28 1 MENTAL HEALTH, D.C. MENTAL HEALTH ASSOCIATION, WOMEN'S
2 COMPREHENSIVE HEALTH CENTER OF WASHINGTON, D.C., AND FAMILY AND
3 MEDICAL COUNSELING SERVICES OF WASHINGTON, D.C., AND I'M
4 ENGAGED AS A PROFESSOR OF SOCIAL WORK AT THE UNIVERSITY OF
5 VIRGINIA COMMONWEALTH.

6 Q. AND ARE YOU CURRENTLY WORKING OR RETIRED?

7 A. I AM RETIRED.

8 Q. WHERE DID YOU GROW UP, DR. WASHINGTON?

9 A. I GREW UP IN TENSAS PARISH, BORN AT A LOCUST WOOD
10 PLANTATION IN THE LATE 40'S BY MIDWIFE. MY FAMILY MOVED TO THE
11 TOWNSHIP OF ST. JOSEPH, LOUISIANA, AT -- WHEN I WAS ABOUT TEN
12 YEARS OLD, WHERE I THEN ATTENDED THE HIGH -- THE JUNIOR HIGH
13 SCHOOL AND HIGH SCHOOL IN ST. JOSEPH, LOUISIANA.

14 Q. AND WHERE DO YOU LIVE NOW?

15 A. I CURRENTLY RESIDE IN EAST BATON ROUGE PARISH,
16 BATON ROUGE, LOUISIANA.

17 Q. WHEN DID YOU FIRST MOVE TO BATON ROUGE?

18 A. I FIRST MOVED TO BATON ROUGE IN 1965.

19 Q. AND FOR WHAT PURPOSE?

20 A. TO ATTEND SOUTHERN UNIVERSITY IN BATON ROUGE.

21 Q. FOR ABOUT HOW LONG DID YOU STAY?

22 A. I WAS AT SOUTHERN UNIVERSITY FROM SEPTEMBER OF 1965 TO MAY
23 OF 1969, WHEN I LEFT THE CITY.

24 Q. AND FOR HOW LONG HAVE YOU LIVED AT YOUR CURRENT HOME HERE
25 IN BATON ROUGE?

ALICE FRANCES WASHINGTON, PH.D.

11:29 1 A. I'VE CURRENTLY RESIDED AT MY CURRENT HOME SINCE
2 OCTOBER 9TH, 2015.

3 Q. AND WHAT BROUGHT YOU BACK TO BATON ROUGE?

4 A. FAMILY. IT WAS NEVER MY FAMILY'S INTENTION THAT I WOULD
5 GO AWAY TO SCHOOL AND NOT RETURN. IT WAS ALWAYS MY INTENT TO
6 RETURN TO LOUISIANA TO LIVE.

7 Q. DO YOU FORESEE YOURSELF STAYING IN LOUISIANA IN THE
8 FUTURE?

9 A. YES, I DO.

10 Q. ARE YOU INVOLVED IN ANY VOLUNTEER ORGANIZATIONS HERE IN
11 YOUR COMMUNITY?

12 A. YES, I AM.

13 Q. AND WHAT MADE YOU CHOOSE TO VOLUNTEER?

14 A. I CHOOSE TO VOLUNTEER TO COME TO SOME UNDERSTANDING OF THE
15 COMMUNITY IN WHICH I RESIDE. THE BEST WAY TO GET TO KNOW A
16 COMMUNITY IS TO GET VERY INVOLVED VERY DIRECTLY. SO I
17 VOLUNTEER TO GET TO KNOW WHAT IS GOING ON IN MY CITY AND WHAT I
18 MIGHT BE ABLE TO DO AND OFFER MY SERVICES TO HELP MAKE THINGS
19 BETTER.

20 Q. AND IS IT IMPORTANT TO YOU TO VOLUNTEER IN YOUR COMMUNITY?

21 A. YES, IT IS, VERY MUCH SO.

22 Q. CAN YOU DESCRIBE TO ME SOME OF THE ORGANIZATIONS THAT YOU
23 WORK WITH?

24 A. CURRENTLY I AM INVOLVED WITH A GLOBAL TECHNOLOGY TRAINING
25 TASK FORCE. WE ARE PROVIDING TRAINING, TECHNOLOGY TRAINING,

ALICE FRANCES WASHINGTON, PH.D.

11:30 1 FOR STUDENTS IN TENSAS PARISH. I AM -- AND THAT, OF COURSE, IS
2 MY HOMETOWN HIGH SCHOOL. I'M DOING THAT WORK WITH SOME OTHER
3 CLASSMATES FROM MY HIGH SCHOOL IN ST. JOSEPH.

4 I AM ALSO INVOLVED WITH TOGETHER BATON ROUGE, A
5 FAITH-BASED CIVIC AND OTHER ASSOCIATION ORGANIZATIONS WHERE WE
6 ARE WORKING TOGETHER ACROSS LINES TO BUILD LEADERSHIP, DEVELOP
7 LEADERS, BUILD POWER, AND WORK TOWARD CHANGING SOME OF THE
8 THINGS, THE ISSUES AND PROBLEMS THAT WE SEE IN THIS AREA.

9 I'M A MEMBER OF TOGETHER LOUISIANA. WE ARE DOING THE
10 SAME THINGS WITH INSTITUTIONS ACROSS THE STATE OF LOUISIANA TO
11 MAKE CHANGES TO CHANGE THE CULTURE, TO CHANGE THE ISSUES, AND
12 TO MAKE THINGS BETTER FOR THE STATE.

13 AND I'M A MEMBER OF THE NATIONAL ASSOCIATION OF
14 SOCIAL WORKERS AND THE NATIONAL ASSOCIATION OF SOCIAL WORKERS
15 LOCAL CHAPTER IN LOUISIANA.

16 Q. CAN YOU DESCRIBE ANY OF THE CIVIC ENGAGEMENT TACTICS THAT
17 TOGETHER BATON ROUGE OR TOGETHER LOUISIANA ENGAGE IN?

18 A. WE ARE ENGAGING IN THE PRACTICES OF LOOKING AT SOME OF THE
19 MAJOR ISSUES THAT FACE OUR PARISH, EAST BATON ROUGE PARISH, AND
20 THAT FACE OUR STATE. WE FOCUS ON SOME KEY AREAS, LIKE TAX
21 POLICY. AND SPECIFICALLY I'M INVOLVED WITH ISSUES LIKE TAX
22 POLICY, CRIMINAL JUSTICE POLICIES, SOCIAL WELFARE POLICIES,
23 INFRASTRUCTURE, TRANSPORTATION, HEALTHY FOOD, HEALTHY HOUSING,
24 CRIMINAL JUSTICE. THE LIST IS LONG.

25 Q. DOES TOGETHER BATON ROUGE ENGAGE WITH ELECTED OFFICIALS OR

ALICE FRANCES WASHINGTON, PH.D.

11:32 1 CANDIDATES FOR OFFICE AT ALL?

2 A. YES, WE DO.

3 Q. HOW SO?

4 A. ONE OF THE PRIMARY THINGS WE DO IS WE ESTABLISH
5 ACCOUNTABILITY SESSIONS, FORUMS, WHERE THOSE WHO ARE RUNNING
6 FOR OFFICE ARE INVITED AND THEY COME AND THEY MEET THE MEMBERS
7 OF THE COMMUNITY WHERE THE COMMUNITY HAS THE OPPORTUNITY TO
8 ENGAGE THEM, TO INQUIRE OF THEIR PLANS, THEIR CONCERNS ABOUT
9 OUR CITY AND OUR PARISH, WHAT THEY PLAN TO DO ABOUT SOME OF THE
10 ISSUES THAT WE FACE, AND WILL THEY BE WILLING TO WORK WITH US
11 IN THE FUTURE.

12 Q. IS TOGETHER BATON ROUGE OR TOGETHER LOUISIANA, ARE THOSE
13 PARTISAN OR NON-PARTISAN ORGANIZATIONS?

14 A. NON-PARTISAN, NO PERMANENT FRIENDS AND NO PERMANENT
15 ENEMIES.

16 Q. AND ARE CANDIDATES FROM ANY POLITICAL PARTY INVITED TO THE
17 EVENTS HOSTED BY THESE ORGANIZATIONS?

18 A. YES, INDEED.

19 Q. HAVE YOU VOLUNTEERED WITH ANY POLITICAL CAMPAIGNS IN
20 LOUISIANA?

21 A. YES, I HAVE. MY VERY FIRST POLITICAL CAMPAIGN WAS IN
22 1968. I WAS A STUDENT AT SOUTHERN UNIVERSITY, AND IT WAS THE
23 PRESIDENTIAL ELECTION, THE HUMPHREY-MUSKIE CAMPAIGN.

24 Q. HOW ABOUT MORE RECENTLY?

25 A. MORE RECENTLY I'VE BEEN ENGAGED WITH THE MAYOR SHARON

ALICE FRANCES WASHINGTON, PH.D.

11:34 1 WESTON BROOME'S FIRST CAMPAIGN AND FOR HER SECOND RUN. AND I
2 ALSO DID PHONE BANKING AND SOME VOLUNTEER WORK WITH GOVERNOR
3 JOHN BEL EDWARDS' CAMPAIGN.

4 Q. WHY DO YOU CHOOSE TO VOLUNTEER FOR THOSE CAMPAIGNS?

5 A. WELL, THOSE PEOPLE -- WELL, FIRST OF ALL, I -- WHEN I MET
6 THE MAYOR, MAYOR BROOME THE FIRST TIME, MY VERY FIRST QUESTION
7 TO HER WAS "WILL YOU BE INCLUDING THE CLERGY AND THE CHURCH
8 COMMUNITY IN YOUR CAMPAIGN AND IN YOUR WORK IF YOU ARE
9 ELECTED?" AND HER RESPONSE WAS TREMENDOUS.

10 SHE IMMEDIATELY RESPONDED, "OH, YES, INDEED. THEY
11 ARE ALREADY WORKING WITH ME, AND I ANTICIPATE WORKING WITH THEM
12 OVER THE DURATION OF MY OFFICE." AND I WAS IMMEDIATELY STRUCK
13 BY THAT, AND I IMMEDIATELY DECIDED THAT DAY THAT I WANTED TO
14 WORK WITH HER CAMPAIGN.

15 AND, OF COURSE, THOSE THREE CAMPAIGNS -- WELL, EACH
16 OF THOSE THREE CANDIDATES REPRESENTED VIEWS AND VALUES THAT I
17 HOLD, AND I IDENTIFIED WITH EACH OF THE CANDIDATES IN ALL THREE
18 OF THOSE CAMPAIGNS. AND THERE HAVE BEEN MANY OTHER CAMPAIGNS
19 I'VE WORKED IN OVER THE YEARS. BUT IN THOSE THREE ESPECIALLY,
20 I FELT THAT THEY REPRESENTED VALUES AND CONCERNS THAT I HELD
21 AND THAT MORE THAN LIKELY WE'D BE ABLE TO GET SOME THINGS
22 ACCOMPLISHED IN THIS AREA.

23 Q. DID THEIR PLATFORMS ON RACIAL JUSTICE ISSUES MATTER TO
24 YOU?

25 A. THEY DID.

ALICE FRANCES WASHINGTON, PH.D.

11:35 1 Q. WOULD YOU DESCRIBE YOURSELF AS BEING ACTIVE IN YOUR
2 COMMUNITY?

3 A. OH, YES, INDEED.

4 Q. WOULD YOU SAY YOU'RE FAMILIAR WITH THE NEEDS OF YOUR
5 COMMUNITY HERE IN BATON ROUGE?

6 A. I AM.

7 Q. BASED ON YOUR EXPERIENCE LIVING HERE, WHAT IS YOUR
8 PERCEPTION OF THE STATE POLICY ISSUES THAT IMPACT QUALITY OF
9 LIFE IN BATON ROUGE?

10 A. SOME OF THE POLICY ISSUES HERE I FOUND WHEN I ARRIVED
11 HERE -- BACK HERE ARE RATHER REGRESSIVE POLICIES. THEY ARE
12 HOLDING TO AGO-OLD PREMISES AND TENETS THAT WILL NOT ALLOW OUR
13 STATE TO MOVE FORWARD AS I BELIEVE IT CAN.

14 FOR EXAMPLE, I THINK OUR TAX POLICIES ARE VERY
15 AGGRESSIVE. THEY FALL ON -- THE PRESSURE FROM THOSE POLICIES
16 FALL ON THE BACKS OF POORER PEOPLE, PEOPLE OF LESS MEANS. I
17 BELIEVE THAT THE CRIMINAL JUSTICE POLICIES ARE VERY DATED. WE
18 ARE HOLDING PEOPLE UNDER CONDITIONS THAT ARE JUST NOT EVEN
19 NECESSARY TODAY. WE ARE -- I WON'T GO INTO THE DETAILS OF
20 THESE POLICIES, MAYBE WE WILL LATER.

21 BUT THE SOCIAL WELFARE POLICIES ARE NOT ALWAYS UP TO
22 PAR. PEOPLE'S NEEDS ARE NOT BEING ADDRESSED. HEALTHCARE IS A
23 PROBLEM. I WAS VERY MUCH CONCERNED ABOUT MEDICARE POLICIES IN
24 RECENT TIMES AND WHETHER OR NOT WE WOULD BE EXPANDING OR
25 DROPPING IT. WE HAVE TO ALWAYS WORRY ABOUT ARE WE GOING TO

ALICE FRANCES WASHINGTON, PH.D.

11:37 1 LOSE SOME OF THE SERVICES THAT ARE OUR PEOPLE DESPERATELY NEED.

2 Q. IN YOUR OBSERVATIONS HOW, IF AT ALL, DO THESE POLICIES
3 IMPACT OPPORTUNITY FOR MEMBERS OF THE BLACK COMMUNITY HERE IN
4 BATON ROUGE?

5 A. I HAVE DISCOVERED THAT THE BLACK COMMUNITY IS ALWAYS
6 DISPROPORTIONATELY ADVERSELY AFFECTED BY THOSE CONDITIONS THAT
7 PREVAIL IN OUR SOCIETY AND TO A GREATER EXTENT THAN OTHER
8 GROUPS OF PEOPLE, AND THAT WE HAVE TO FOREVER BE CONCERNED
9 ABOUT HOW A POLICY IS GOING TO AFFECT THE LIVELIHOOD AND THE
10 CONDITIONS OF BLACK PEOPLE TO A GREATER EXTENT THAN OTHER
11 GROUPS.

12 Q. ARE YOU REGISTERED TO VOTE AT YOUR CURRENT HOME HERE IN
13 BATON ROUGE?

14 A. YES, INDEED.

15 Q. HAVE YOU BEEN REGISTERED TO VOTE SINCE AROUND WHEN YOU
16 BECAME OF VOTING AGE?

17 A. YES, I HAVE.

18 Q. WOULD YOU DESCRIBE YOURSELF AS A FREQUENT VOTER?

19 A. I AM A FREQUENT VOTER.

20 Q. IS IT IMPORTANT TO YOU TO BE A FREQUENT VOTER?

21 A. IT IS VERY IMPORTANT TO BE A FREQUENT VOTER.

22 Q. AND WHY IS THAT?

23 A. ON TWO LEVELS. AT LEAST, FIRST OF ALL, IF WE TALK ABOUT
24 CHANGE, THE WAY OUR SYSTEM, THE AMERICAN SYSTEM, IS SETUP AND
25 ORGANIZED, IT IS THE LEGISLATIVE, JUDICIAL, EXECUTIVE PROCESS.

ALICE FRANCES WASHINGTON, PH.D.

11:39 1 AND IF YOU ARE GOING TO GET INVOLVED IN CHANGE, YOU'VE GOT TO
2 GET INVOLVED AT THAT LEVEL. AND THE ONLY WAY TO DO THAT IS TO
3 VOTE AND GET THOSE IN OFFICE WHO ARE GOING TO WORK TOWARDS THE
4 CHANGES THAT YOU'RE SEEKING.

5 BUT THERE IS ANOTHER DEEPER REASON, PERHAPS A LITTLE
6 MORE PROFOUND REASON THAT I HAVE FOR VOTING. YOU KNOW, MY
7 FATHER WAS BORN IN 1890. NOW, THE 15TH AMENDMENT HAS BEEN ON
8 THE BOOKS SINCE 1870, BUT THAT DID NOT STOP THE ISSUES THAT
9 FACE PEOPLE THAT PREVENT VOTING, THAT LOWERS THE NUMBERS OF
10 VOTERS FOR ALL KINDS OF REASONS.

11 SO EVEN THOUGH THE LAWS HAVE BEEN ON THE BOOKS, THE
12 15TH AMENDMENT, THE WOMEN'S SUFFRAGE IN 1920, THEN ON THE
13 BOOKS, WOMEN HAVE NOT VOTED. BLACK MEN HAVE NOT VOTED. THEY
14 COULD HAVE VOTED SINCE 1870. SO WE -- THERE'S WORK THAT WE
15 HAVE TO DO TO ASSURE THAT ALL ARE VOTING, AND THAT'S MY --
16 THAT'S THE SECOND REASON WHY I VOTE.

17 I NEED TO BE A MODEL FOR THE PERSON -- ANYONE THAT I
18 WANT TO VOTE, I NEED TO MODEL THAT BY GOING TO THE POLLS AND
19 VOTE, AND THAT'S MY DEEPER REASON. SURE, I WANT TO GET PEOPLE
20 INTO OFFICE THAT I HOPE WILL CHANGE THINGS, WILL MAKE A
21 DIFFERENCE, WILL HOLD MY VALUES, WILL WANT TO SEE WHAT I WANT
22 TO SEE. BUT I ALSO KNOW THAT FOR THOSE WHO FOUGHT FOR THE
23 AMENDMENT TO MANIFEST IN 1870, AND WHO DIED FOR THAT TO HAPPEN
24 AND WHO WERE PREVENTED FROM VOTING FOR THAT TO HAPPEN, I NEED
25 TO REPRESENT THAT SIDE AS WELL.

ALICE FRANCES WASHINGTON, PH.D.

11:40 1 Q. DID YOU VOTE IN THE RECENT PRIMARY ELECTIONS HELD ON
2 OCTOBER 14TH?

3 A. I DID.

4 Q. AND HOW ABOUT THE GENERAL ELECTIONS ON NOVEMBER 18TH?

5 A. I DID.

6 Q. DO YOU PLAN TO VOTE IN FUTURE ELECTIONS?

7 A. I DO.

8 Q. DO YOU TEND TO VOTE IN PERSON OR ABSENTEE BY MAIL?

9 A. FOR YEARS I VOTED IN PERSON. BUT MORE RECENTLY I HAVE THE
10 OPPORTUNITY OR I SHOULD SAY THE PRIVILEGE TO VOTE IN ABSENTIA.
11 SO IN THE LAST FEW ELECTIONS, I HAVE VOTED IN ABSENTIA.

12 Q. AND YOU MENTIONED THAT PRIVILEGE. DO YOU HAVE TO QUALIFY
13 TO VOTE ABSENTEE BY MAIL IN LOUISIANA?

14 A. OH, YES YOU DO.

15 Q. AND HOW DO YOU QUALIFY?

16 A. I QUALIFY BY AGE. I'M CONSIDERED A SENIOR CITIZEN IN
17 LOUISIANA.

18 Q. CAN YOU DESCRIBE YOUR MOST RECENT EXPERIENCE VOTING
19 ABSENTEE BY MAIL?

20 A. YES. I HAD AN INTERESTING RECENT EXPERIENCE. FOR THE
21 FIRST TIME, THERE WAS A PROBLEM WITH MY BALLOT. I RECEIVED A
22 TEXT MESSAGE ABOUT THE PROBLEM. AND I VOTED IN THE WEEK BEFORE
23 THE ELECTION, SO LIKE FIVE DAYS BEFORE. AND THE MESSAGE SAID,
24 "THERE'S A PROBLEM," AND THEN I GOT A SECOND TEXT, A SERIES OF
25 TEXT MESSAGES.

ALICE FRANCES WASHINGTON, PH.D.

11:42 1 AND THE FINAL MESSAGE SAID "THERE IS A PROBLEM WITH
2 THE VOTER" -- "WITH THE FLAPPER ON YOUR BALLOT AND YOU NEED TO
3 VISIT THE VOTER REGISTRATION OFFICE," OR SOME OTHER OFFICE IT
4 SAID. IT WAS A SECOND OFFICE. BUT I IMMEDIATELY KNEW I NEEDED
5 TO VISIT THE VOTER -- I WAS GOING TO THE VOTER REGISTRATION
6 OFFICE.

7 SO I HAD TO GO AND FIX THAT PROBLEM. THAT WAS THE
8 ONLY PROBLEM I'VE EVER HAD WITH VOTING.

9 Q. AND WHEN DID YOU GET THAT TEXT MESSAGE?

10 A. I RECEIVED THAT TEXT MESSAGE ON THURSDAY OR FRIDAY BEFORE
11 ELECTION DAY.

12 Q. WHEN WAS ELECTION DAY?

13 A. SATURDAY THE 18TH OR WHATEVER. MY RECENT MEMORY IS VERY
14 BAD, BUT IT WAS THE NEXT DAY. ELECTION DAY WAS THE NEXT DAY
15 AFTER I RECEIVED THE TEXT MESSAGE. SO I JUMPED UP AND RUSHED
16 TO THE VOTER REGISTRATION OFFICE.

17 Q. AND WHEN YOU GOT TO THE VOTER REGISTRATION OFFICE, WHAT
18 HAPPENED?

19 A. THAT IS A PROBLEM. WELL, FIRST OF ALL, WHEN I DROVE DOWN
20 GOVERNMENT STREET AND MADE THE RIGHT TURN -- THE VOTER
21 REGISTRATION OFFICE IS AT THE CITY HALL. AND I MADE THE RIGHT
22 TURN ON ST. LOUIS STREET. THERE WAS SOMETHING GOING ON WITH
23 THE THOSE TWO -- THERE ARE TWO GARAGES: ONE ON THE LEFT; ONE
24 ON THE RIGHT. AND THEY DIDN'T SEEM IMMEDIATELY AVAILABLE.
25 THEY JUST WERE DIFFERENT THAN WHAT I HAD EXPERIENCED. AND I GO

ALICE FRANCES WASHINGTON, PH.D.

11:44 1 TO THAT AREA OFTEN ENOUGH.

2 BUT AS DROVE ALONG ST. LOUIS STREET AND ONCE I PASSED
3 CITY HALL, I COULD SEE THAT THERE WAS NOWHERE TO PARK. SO THEN
4 I DECIDED I NEED TO GO BACK AND TRY TO GET INTO ONE OF THOSE
5 GARAGES, WHICH I DID, AND THAT'S WHEN I EXPERIENCED MY FIRST
6 PROBLEM OF TRYING TO FIX THIS PROBLEM WITH MY VOTER
7 REGISTRATION.

8 I WAS ASKED IF I WAS A JUROR, AND I WAS TOLD THAT
9 THIS GARAGE IS FOR JURORS. IT IS NOW FOR JURORS. AND I SAID,
10 "WELL, NO, I'M NOT A JUROR. BUT I'VE GOT TO GET TO THE VOTER
11 REGISTRATION OFFICE BECAUSE THERE'S A PROBLEM WITH MY BALLOT.
12 AND THIS IS THE LAST DAY BEFORE ELECTION DAY."

13 SO -- AND SHE SAID, "WELL, NO, YOU CAN'T JUST COME
14 INTO THIS GARAGE IF YOU'RE NOT A JUROR. YOU NEED TO GIVE ME
15 YOUR CREDIT CARD. IT'S GOING TO COST YOU \$10."

16 AND SO THEN I SAID, "WELL, I WILL ASK THE MAYOR'S
17 OFFICE TO STAMP MY TICKET."

18 SHE SAID, "WELL, NO, YOU CAN'T DO THAT. WE CAN'T DO
19 IT THAT WAY."

20 AND SO I'M JUST KIND OF -- I WAS SHOCKED BECAUSE I'VE
21 BEEN GOING TO THAT GARAGE FOR A FEW YEARS NOW AND IT HAD NEVER
22 OCCURRED. BUT THIS IS SOMETHING NEW.

23 SO THEN SHE SAID "OKAY. I'LL GIVE YOU A TICKET THIS
24 TIME. BUT DO REMEMBER THAT YOU CANNOT JUST COME AND PARK IN
25 THIS GARAGE. YOU HAVE TO BE A JUROR." SO SHE GAVE ME A

ALICE FRANCES WASHINGTON, PH.D.

11:45 1 TICKET, AND I WAS ABLE TO THEN GO TO THE VOTER REGISTRATION
2 OFFICE FROM THAT POINT.

3 Q. AND WHERE WAS THE VOTER REGISTRATION OFFICE COMPARED TO
4 THE GARAGE?

5 A. ABOUT TWO AND A HALF, THREE MAYBE, WALKING BLOCKS FROM THE
6 GARAGE.

7 Q. ALL RIGHT. AND WHEN YOU GET TO CITY HALL, HOW DO YOU
8 ACCESS THE REGISTRAR VOTER'S OFFICE?

9 A. YOU TAKE THAT ELEVATOR -- TAKE THE ELEVATOR TO THE SECOND
10 FLOOR AND THAT'S ANOTHER PROBLEM, I THINK.

11 Q. HOW SO?

12 A. WELL, WHEN YOU COME OFF THE ELEVATOR, TO YOUR LEFT -- AND
13 TO YOUR RIGHT THERE IS THE SHERIFF'S OFFICE IN ONE DIRECTION
14 AND THERE IS THE VOTER REGISTRATION OFFICE IN THE OTHER
15 DIRECTION.

16 AND, YOU KNOW, I WORKED IN CRIMINAL JUSTICE FOR YEARS
17 AND I WORKED WITH PEOPLE IN THE CRIMINAL JUSTICE SYSTEM. AND
18 WHEN I -- IMMEDIATELY WHEN I SAW THE SHERIFF'S OFFICE AND I
19 THOUGHT, "GEE, IF I WORKING AS A SOCIAL WORKER TODAY AND I SENT
20 MY CLIENTS TO THIS" -- I WOULD SUGGEST THAT THEY GO TO THE
21 VOTER REGISTRATION OFFICE TO FIX A PROBLEM AND THEY WERE PEOPLE
22 IN THE CRIMINAL JUSTICE SYSTEM AND THEY HAD MAYBE SOME
23 OUTSTANDING TICKETS OR MAYBE THERE WAS A WARRANT FOR THEIR
24 ARREST OR WHATEVER THEY MIGHT FACE."

25 AND IF YOU'VE WORKED IN THE SYSTEM LIKE I HAD, THEY

ALICE FRANCES WASHINGTON, PH.D.

11:47 1 FACE ALL KINDS OF LEGAL MATTERS. THEY WOULD SAY -- THEY MAY
2 NOT EVEN SAY IT TO ME. THEY WOULD PROBABLY THINK "I'M NOT
3 GOING WITHIN TEN OR A THOUSAND FEET OF THAT BUILDING, 'CAUSE I
4 MIGHT BE ARRESTED ON THE SPOT FOR, SAY, SOME OUTSTANDING
5 TICKETS OR SOME OUTSTANDING WARRANT OR SOMETHING."

6 AND I THOUGHT THAT WOULD BE A PROBLEM BECAUSE WE HAVE
7 SCORES OF PEOPLE IN THE CRIMINAL JUSTICE SYSTEM WHO CAN NOW
8 VOTE. YOU KNOW, THEY ARE OUT. THEY ARE IN AFTERCARE AND
9 PROGRAMS THAT WE -- OUT HERE IN THE COMMUNITY. AND THEY WOULD
10 NOT GO AND FIX THEIR PROBLEM AND THEIR VOTE WOULD NOT BE
11 COUNTED. AND THAT'S A VOTE LOST BECAUSE THERE ARE SCORES OF
12 PEOPLE WHO JUST WOULD NOT GO NEAR THE VOTER REGISTRATION OFFICE
13 IF THE SHERIFF'S OFFICE IS RIGHT THERE ON THE SAME FLOOR. IT'S
14 LIKE THEY ARE TWO PEAS IN A POD.

15 Q. SO WHEN YOU GOT TO THE REGISTRAR'S OFFICE, DID THEY INFORM
16 YOU WHAT THE ISSUE WAS WITH THE BALLOT, THE ENVELOPE FLAP?

17 A. WELL, YES, THEY DID. THE AGENT AT THE DESK -- I GAVE HER
18 MY DRIVER'S LICENSE AND SHE PULLED MY BALLOT AND SHE SHOWED ME
19 THAT I HAD NOT LISTED MY MOTHER'S MAIDEN NAME ON THE BALLOT.
20 AND IT'S AMAZING I HAD NOT. I DID NOT RECALL THAT I HAD EVER
21 LISTED IT. I JUST -- I MEAN, MY RECENT MEMORY IS NOT IDEAL
22 THESE DAYS. BUT I JUST DID NOT NOTICE THAT I HAD MISSED THAT.
23 AND IT'S NOT IMMEDIATELY OBVIOUS ON THE BALLOT THAT THERE IS A
24 PLACE THAT THE MOTHER'S MAIDEN NAME MUST BE LISTED IN ORDER FOR
25 THAT BALLOT TO BE LEGITIMATE AND TO BE COUNTED. SO I GOT THAT

ALICE FRANCES WASHINGTON, PH.D.

11:48 1 DONE. I PUT HER NAME ON THE BALLOT. I THEN WAS TOLD THAT MY
2 BALLOT WAS NOW GOOD AND IT WOULD BE COUNTED.

3 Q. AND DID HAVING TO GO FIX THAT OMISSION CHANGE ANY OF YOUR
4 FRIDAY PLANS?

5 A. OH, YES IT DID.

6 Q. HOW SO?

7 A. MY DAUGHTER IS VISITING FROM VIRIGINA, FAIRFAX COUNTY, AND
8 WE HAD PLANS. I HAD A MEETING THAT MORNING, AND WE HAD PLANS
9 FOR THE -- WHEN I FINISHED MY MEETING. BUT ONCE I -- AND THAT
10 TOOK SOME TIME TO GET ALL THAT DONE, TO GET -- IT JUST TOOK
11 TIME TO DO THAT AND IT TOOK SO MUCH TIME THAT OUR WHOLE PLAN
12 FOR THAT -- AFTER THE MEETING WAS JUST -- HAD TO BE REDONE. SO
13 IT DID CHANGE MY -- BUT IT'S WORTH IT. I WOULD CHANGE MY PLANS
14 IF IT MEANT THAT MY VOTE WOULD BE COUNTED AND THAT'S WHAT I
15 DID.

16 Q. DO ANY ELEMENTS OF YOUR EXPERIENCE CORRECTING THE OMISSION
17 ON YOUR ABSENTEE BALLOT ENVELOPE RAISE CONCERNS FOR YOU ABOUT
18 ACCESS TO THE VOTING PROCESS?

19 A. IT DID.

20 Q. HOW SO?

21 A. THE FIRST THOUGHT I HAD AS I WAS WALKING FROM THE GARAGE,
22 I THOUGHT ABOUT MY 93-YEAR-OLD SISTER HERE IN BATON ROUGE, AND
23 I JUST WONDERED, "WELL, HOW WOULD THAT WORK FOR HER." WE WOULD
24 HAVE TO HELP HER GET -- OBVIOUSLY. BUT THAT WOULD TAKE SOME
25 EFFORT TO HELP PEOPLE WITH HANDICAPS AND CONDITIONS, OTHER

ALICE FRANCES WASHINGTON, PH.D.

11:50 1 PROBLEMS, MOBILE PROBLEMS, GETTING AROUND, THAT WOULD BE
2 DIFFICULT. THAT WOULD TAKE SOME EFFORT AND TIME AND IT MIGHT
3 BE A DETERRENT. SOME PEOPLE WOULD NOT WANT TO INVEST THAT KIND
4 OF TIME AND ENERGY TO MAKE SURE THAT THEIR VOTE IS COUNTED. SO
5 THAT WAS TROUBLING FOR ME.

6 Q. WERE THERE ANY RESERVED SPACES FOR VOTERS THAT NEED TO
7 ACCESS THE REGISTRAR OF VOTER'S OFFICE?

8 A. THERE WERE NO RESERVED SPACES THERE FOR ANYTHING EXCEPT
9 JURORS. IT WAS ALL FOR JURORS.

10 Q. HOW DOES YOUR EXPERIENCE AND FORM, IF AT ALL, YOUR
11 PERCEPTIONS ON HOW ACCESS IS PROVIDED TO BLACK VOTERS IN YOUR
12 COMMUNITY SPECIFICALLY?

13 A. THAT IS AN EVEN BIGGER PROBLEM BECAUSE WHAT I DISCOVERED
14 HERE IN EAST BATON ROUGE IS THAT MANY BLACK PEOPLE DON'T HAVE
15 CARS. PUBLIC TRANSPORTATION IS NOT IDEAL HERE. I'VE TRIED IT
16 MYSELF AND WAITED AND WAITED AND FINALLY GAVE UP WAITING FOR A
17 PUBLIC BUS WHEN MY CAR WAS IN DISSERVICE. SO FOR A NUMBER
18 OF -- FOR SCORES OF BLACK PEOPLE, THEY WOULDN'T -- AND THEN THE
19 OTHER ISSUE IS YOU'VE GOT TO HAVE YOUR PHONE. YOUR PHONE HAS
20 TO BE ON, HAS TO BE WORKING 'CAUSE YOU'VE GOT TO GET A TEXT
21 MESSAGE. THEN YOU GOT TO GET TO THE VOTER REGISTRATION OFFICE.
22 SO YOU'VE GOT TO EITHER DRIVE THERE OR YOU'VE GOT TO GET
23 SOMEONE TO TAKE YOU THERE OR YOU'RE GONNA TAKE PUBLIC
24 TRANSPORTATION. AND NONE OF THOSE THINGS COULD WORK.

25 AND SO I FEEL THAT'S GOING TO BE, ONCE AGAIN,

ALICE FRANCES WASHINGTON, PH.D.

11:51 1 DISPROPORTIONATELY AFFECTED, BLACK PEOPLE ARE GOING TO BE
2 DISPROPORTIONATELY AFFECTED WITH THIS PROBLEM BECAUSE OF THE
3 LACK OF THEIR OWN TRANSPORTATION OR THE LACK OF REALLY GOOD
4 QUALITY STRONG PUBLIC TRANSPORTATION.

5 Q. LET'S TALK ABOUT POLITICAL REPRESENTATION IN YOUR
6 COMMUNITY. DO YOU KNOW WHAT HOUSE DISTRICT YOU LIVE IN
7 CURRENTLY?

8 A. YES, I DO, 66.

9 Q. AND WHO IS YOUR REPRESENTATIVE IN DISTRICT 66 FROM THIS
10 MOST RECENT TERM?

11 A. MR. EDMONDS.

12 Q. DO YOU FEEL LIKE REPRESENTATIVE EDMONDS HAS REPRESENTED
13 YOUR INTERESTS?

14 A. NO, NOT AT ALL.

15 Q. AND WHY NOT?

16 A. I SAY THINGS LIKE I DON'T THINK WE'RE ON MR. EDMONDS'
17 RADAR. AND WHAT DOES THAT MEAN? MR. EDMONDS HAS NOT STOOD FOR
18 THE ISSUES THAT I'VE BEEN WORKING ON TIRELESSLY SINCE I'VE
19 BEEN BACK HERE IN BATON ROUGE. HE'S NOT STANDING FOR MEDICARE
20 EXPANSION. HE'S JUST -- SO, NO, HE JUST -- HE DOES NOT
21 REPRESENT MY VIEWS AND MY VALUES.

22 Q. DO YOU PAY ATTENTION TO VOTES THAT HE TAKES ON ISSUES THAT
23 YOU CARE ABOUT OR TOGETHER BATON ROUGE ORGANIZES AROUND?

24 A. I HAVE LEARNED OF HIS STANCES ON SOME OF THE ISSUES AND
25 IT'S JUST -- THEY ARE JUST NOT ON HIS RADAR. HE'S NOT FOCUSED

ALICE FRANCES WASHINGTON, PH.D.

11:53 1 ON THOSE THINGS.

2 Q. HAS HE ATTENDED ANY EVENTS WITH TOGETHER BATON ROUGE, TO
3 YOUR KNOWLEDGE?

4 A. NOT TO MY KNOWLEDGE.

5 Q. DO YOU BELIEVE REPRESENTATIVE EDMONDS HAS BEEN RESPONSIVE
6 TO THE PARTICULARIZED NEEDS OF THE BLACK COMMUNITY HERE IN
7 BATON ROUGE?

8 A. NO.

9 Q. AND WHY NOT?

10 A. ONCE AGAIN, THE BLACK COMMUNITY IS NOT ON HIS RADAR,
11 THAT'S NOT WHERE HIS THINKING IS. HE'S NOT FOCUSED ON THE
12 BLACK COMMUNITY. AND THE STANCES THAT HE TAKES SAYS THAT HE'S
13 NOT FOCUSED ON THE NEEDS THAT MASSES OF PEOPLE IN THE BLACK
14 COMMUNITY HAVE.

15 Q. IS IT YOUR UNDERSTANDING THAT THE CURRENT CONFIGURATION OF
16 DISTRICT 66 IS MAJORITY WHITE OR MAJORITY BLACK?

17 A. MAJORITY WHITE.

18 Q. DURING THE STATE LEGISLATIVE ELECTIONS THIS OCTOBER AND
19 NOVEMBER -- FIRST, DID ANY DEMOCRAT EVEN APPEAR ON THE BALLOT
20 IN DISTRICT 66 THIS YEAR?

21 A. NO.

22 Q. DID ANY BLACK CANDIDATE APPEAR ON THE BALLOT IN DISTRICT
23 66 THIS YEAR?

24 A. NO.

25 Q. HOW ABOUT IN THE PRIMARY ELECTIONS IN OCTOBER?

ALICE FRANCES WASHINGTON, PH.D.

- 11:54 1 A. EITHER WAS -- I THINK THERE WAS ONE BLACK CANDIDATE. NO,
2 THERE WAS ONE BLACK CANDIDATE ON THE PRIMARY BALLOT.
- 3 Q. AND WERE THEY SUCCESSFUL? DID THEY MAKE THE RUNOFF?
- 4 A. NOT AT ALL. THEY WEREN'T EVEN IN THE RUNNING.
- 5 Q. ARE YOU FAMILIAR WITH WHICH DISTRICT YOU WOULD LIVE IN
6 UNDER THE PLAINTIFFS' PROPOSED MAP?
- 7 A. YES.
- 8 Q. DO YOU KNOW WHICH ONE?
- 9 A. 101.
- 10 Q. AND IS DISTRICT 101 MAJORITY BLACK OR MAJORITY WHITE?
- 11 A. MAJORITY BLACK.
- 12 Q. DO YOU FEEL LIKE YOU ARE MORE OR LESS FAMILIAR WITH
13 MEMBERS OF THE BATON ROUGE DELEGATION WHO ARE ELECTED FROM
14 MAJORITY-BLACK DISTRICTS THAN YOUR OWN REPRESENTATIVE IN
15 DISTRICT 66?
- 16 A. I AM.
- 17 Q. WHY IS THAT?
- 18 A. I THINK IT'S BECAUSE THERE IS THE NETWORK AND -- A
19 COMMUNICATION NETWORK AMONG BLACK CANDIDATES WHERE BLACK PEOPLE
20 GET THEIR PLATFORMS AND HEAR FROM THEM EVEN WHEN WE ARE NOT IN
21 THEIR DISTRICTS. THEY TELL US WHAT THEY ARE DOING IN THE
22 DISTRICTS THEY ARE WORKING IN.
- 23 Q. AND DOES THAT INCLUDE REPRESENTATIVES WHO HAVE BEEN
24 ELECTED FROM DISTRICT 101?
- 25 A. YES.

ALICE FRANCES WASHINGTON, PH.D.

11:55 1 Q. DR. WASHINGTON, WHAT WOULD IT MEAN FOR YOUR EFFORTS AS AN
2 ACTIVE MEMBER IN YOUR COMMUNITY, A MEMBER OF TOGETHER BATON
3 ROUGE AND OTHER ORGANIZATIONS, TO HAVE MORE MAJORITY-BLACK
4 DISTRICTS HERE IN YOUR HOME PARISH OF BATON ROUGE?

5 A. OH, I THINK IT WOULD MAKE MY ORGANIZING A LOT EASIER. I
6 THINK IT WOULD BE REPRESENTATIVE OF THE -- A GREATER
7 REPRESENTATION OF MY VALUES, MY CONCERNS. I THINK THERE WOULD
8 BE MORE PEOPLE RUNNING, MORE MINORITIES RUNNING FOR OFFICE, AND
9 MORE OPPORTUNITIES TO WIN AN ELECTION. AND I THINK THERE WOULD
10 BE -- IT WOULD INSPIRE MORE HOPE, MORE EXCITEMENT, MORE
11 ENTHUSIASM, AND I THINK A BETTER LIFE FOR ALL, BECAUSE I THINK
12 AS I RISE, OTHERS RISE.

13 Q. HOW WOULD IT INFORM YOUR EFFORTS TO TURN OUT VOTERS IN
14 EAST BATON ROUGE?

15 A. OH, I THINK VOTERS WOULD BE ENCOURAGED TO TURN OUT IF THEY
16 WERE IN A DISTRICT AS SO DESCRIBED.

17 Q. AND FINALLY, WHAT WOULD IT MEAN TO YOU ON A PERSONAL LEVEL
18 TO BE ABLE TO ELECT YOUR CANDIDATE OF CHOICE?

19 A. I WOULD BE SO INSPIRED BY THAT, HAVING BEEN BORN HERE IN
20 THIS STATE AND BEING ABLE TO OPERATE IN AN AREA WHERE THE
21 REPRESENTATION IS THERE REPRESENTING MY INTERESTS AND MY
22 VALUES. PERSONALLY, I WOULD FEEL I HAVE ARRIVED.

23 MS. WENGER: PASS THE WITNESS.

24 THE COURT: CROSS.

25 MR. CONINE: JOHN CONINE ON BEHALF OF THE SECRETARY

ALICE FRANCES WASHINGTON, PH.D.

11:57 1 OF STATE.

2 **CROSS-EXAMINATION**

3 **BY MR. CONINE:**

4 **Q.** GOOD AFTERNOON, DR. WASHINGTON.

5 **A.** GOOD AFTERNOON.

6 **Q.** EARLIER YOU MENTIONED A VOTING ISSUE. SO YOU DID GET YOUR
7 VOTE CASTED. IS THAT CORRECT?

8 **A.** YES, I DID.

9 **Q.** OKAY. AND THEN YOU TALKED ABOUT SOME REPRESENTATION AND
10 YOUR PREVIOUS REPRESENTATIVES. DOES A REPRESENTATIVE NEED TO
11 BE BLACK TO REPRESENT YOUR INTERESTS?

12 **A.** A REPRESENTATIVE NEEDS TO HOLD SOME CERTAIN BASIC VALUES
13 AND BELIEFS ABOUT HUMANITY. I THINK IT'S AT A DEEPER LEVEL
14 THAT INDIVIDUALS OPERATE THAT HOLD CERTAIN VALUES AND CERTAIN
15 BELIEFS AND CERTAIN THOUGHTS ABOUT OTHER HUMAN BEINGS, AND
16 THAT'S THE LEVEL. IT'S NOT SKIN COLOR SO MUCH AS IT IS WHAT'S
17 INSIDE. SO WHENEVER I LOOK AT A CANDIDATE, I TRY TO GET TO
18 KNOW WHAT IS THAT PERSON REALLY LIKE INSIDE. AND I JUST KIND
19 OF LOOK PAST THE COLOR AT FIRST. AND ONCE I SEE WHAT'S INSIDE,
20 I SOMETIMES COME BACK TO COLOR AND I'M THINKING, "GEE, IT'S
21 AMAZING HOW I COME BACK TO COLOR FOR A LOT OF PEOPLE." IT'S
22 INTERESTING.

23 **Q.** THANK YOU.

24 **MR. CONINE:** JUDGE, ONE MOMENT. I COULD PERHAPS GET
25 US TO LUNCH PRETTY FAST.

MICHAEL MCCLANAHAN

11:59 1

NO FURTHER QUESTIONS.

2

THE COURT: ANY REDIRECT?

3

MS. WENGER: NO REDIRECT.

4

THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

5

THANK YOU, MA'AM.

6

THE WITNESS: THANK YOU, JUDGE.

7

THE COURT: OKAY. THIS IS A PERFECT TIME FOR A LUNCH

8

BREAK. WE WILL BE IN RECESS UNTIL 1:00 P.M.

9

THE LAW CLERK: ALL RISE.

10

COURT IS IN RECESS.

11

(WHEREUPON, THE COURT WAS IN RECESS.)

12

THE COURT: BE SEATED.

13

OKAY. ARE YOU READY WITH YOUR NEXT WITNESS,

14

PLEASE?

15

MS. ROHANI: GOOD AFTERNOON, YOUR HONOR.

16

SARA ROHANI ON BEHALF OF THE PLAINTIFFS.

17

THE PLAINTIFFS CALL MR. MICHAEL MCCLANAHAN.

18

MICHAEL MCCLANAHAN,

19

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

20

THE DEPUTY CLERK: JUST SIT RIGHT HERE.

21

THE WITNESS: OKAY.

22

DIRECT EXAMINATION

23

BY MS. ROHANI:

24

Q. GOOD AFTERNOON, MR. MCCLANAHAN.

25

A. GOOD AFTERNOON.

MICHAEL MCCLANAHAN

01:02 1 Q. CAN YOU PLEASE SPELL AND STATE YOUR NAME FOR THE RECORD.

2 A. IT'S MICHAEL MCCLANAHAN. M-I-C-H-A-E-L. MCCLANAHAN,
3 M-C-C-L-A-N-A-H-A-N.

4 Q. THANK YOU.

5 AND HOW LONG HAVE YOU LIVED IN LOUISIANA?

6 A. ALL MY LIFE.

7 Q. AND WHERE IN LOUISIANA DO YOU LIVE?

8 A. I LIVE IN BATON ROUGE.

9 Q. MR. MCCLANAHAN, WHAT IS YOUR ROLE IN THIS CASE?

10 A. I REPRESENT THE NAACP.

11 Q. AND WHAT IS YOUR ROLE IN THE NAACP?

12 A. I'M THE STATE PRESIDENT.

13 Q. THANK YOU.

14 A. I ALSO SERVE ON THE NATIONAL BOARD.

15 Q. THANK YOU.

16 IF I REFER TO THE LOUISIANA STATE CONFERENCE OF THE
17 NAACP AS THE LOUISIANA NAACP OR THE STATE CONFERENCE FOR SHORT,
18 WOULD YOU UNDERSTAND WHAT I'M REFERRING TO?

19 A. I WOULD.

20 Q. THANK YOU.

21 AND IS THE LOUISIANA NAACP A PLAINTIFF IN THIS CASE?

22 A. YES.

23 Q. HOW LONG HAVE YOU BEEN PRESIDENT OF THE LOUISIANA NAACP?

24 A. IF YOU USE DOG YEARS, IT'LL PROBABLY BE A LONG TIME. I
25 THINK ABOUT SIX, SEVEN YEARS, SOMETHING LIKE THAT.

MICHAEL MCCLANAHAN

01:03 1 Q. AND YOU SAID YOU WERE ALSO A MEMBER OF THE NATIONAL NAACP.
2 HOW LONG HAVE YOU BEEN A MEMBER OF THE NATIONAL NAACP?

3 A. I SERVE ON THE NATIONAL BOARD OF DIRECTORS. I'VE BEEN --
4 I WAS JUST REELECTED I THINK FOUR YEARS, GIVE OR TAKE, I GUESS.

5 Q. AND IF ONE SERVES ON THE NATIONAL BOARD OF DIRECTORS, IS
6 ONE A MEMBER OF THE NAACP AS WELL?

7 A. FOR THE PARTICULAR SEAT THAT I HOLD, YES.

8 Q. THANK YOU.

9 NOW, PRESIDENT MCCLANAHAN, WHAT IS THE LOUISIANA
10 NAACP?

11 A. IT IS A -- IT IS A ORGANIZATION OF THE PARENT -- THE
12 ASSOCIATION OF THE PARENT, WHICH IS THE NATIONAL NAACP AND THE
13 STATE CONFERENCES ARE JUST AN OFFSHOOT, FOR LACK OF BETTER TERM
14 OF THE PARENT ORGANIZATION.

15 Q. CAN YOU EXPLAIN THAT RELATIONSHIP A LITTLE BIT FURTHER?

16 A. OKAY. THE STATE OF -- SOME OF -- SOME OF THE STATES HAVE
17 A STATE CONFERENCE, AND FOR US WE ARE MADE UP OF -- ADULT
18 BRANCHES IN YOUTH AND COLLEGE CHAPTERS MAKE UP THE STATE
19 CONFERENCE.

20 Q. AND CAN YOU EXPLAIN THE RELATIONSHIP BETWEEN THE STATE
21 CONFERENCE AND THE NATIONAL NAACP?

22 A. OKAY. SO WE ACTUALLY -- WE ARE THE FIELD, THE ARM, THE
23 EXTENSION OF THE NATIONAL OFFICE. SO EVERYTHING THAT THE
24 NATIONAL OFFICE -- THE VISION, THE MISSION IS CARRIED OUT
25 THROUGH ITS STATE CONFERENCES AND ULTIMATELY THROUGH THE

MICHAEL MCCLANAHAN

01:05 1 BRANCHES IN THE YOUTH AND COLLEGE CHAPTERS.

2 Q. THANK YOU.

3 WHAT IS THE LOUISIANA NAACP'S MISSION?

4 A. TO ROOT OUT RACISM, DISCRIMINATION, AND TO ENCOURAGE
5 PERSONS TO PARTICIPATE IN THE DEMOCRATIC PROCESS THROUGH
6 VOTING.

7 Q. AND HOW DOES THE STATE CONFERENCE ACCOMPLISH THAT MISSION?

8 A. WE ACCOMPLISH THAT IN A VARIETY OF WAYS. WE HOST TOWN
9 HALLS, MEMBERSHIP DRIVES. WE PARTICIPATE IN A LOT OF THE
10 COMMUNITY ACTIVITIES THAT GO ON. WE HOST STATE CONVENTIONS IN
11 WHICH WE INVITE THE COMMUNITY AND OTHER BRANCHES AND WHAT HAVE
12 YOU. WE DO FREEDOM FUND BANQUETS, STUFF LIKE THAT THERE.

13 Q. CAN YOU DESCRIBE SOME OF THE LOUISIANA NAACP'S ACTIVITIES
14 RELATED TO VOTING?

15 A. OKAY. WE DO GET OUT THE VOTE, GOTV, GET-OUT-THE-VOTE
16 CAMPAIGNS, IN WHICH WE ENCOURAGE ALL OF OUR BRANCHES AND YOUTH
17 AND COLLEGE CHAPTERS TO GET ON THE RADIO, DO ADVERTISEMENTS
18 DEALING WITH VOTING, DO PHONE BANKING. WE DO -- THE YOUTH AND
19 COLLEGE HAVE SOMETHING WITH THEIR CELL PHONES CALLED HUSTLE GET
20 OUT THE VOTE. THEY CAN TEXT PERSONS, 200 OR 300 PEOPLE AT ONE
21 TIME ABOUT VOTING. WE DO ALL KINDS OF CAMPAIGNS. WE BE ON
22 COLLEGES. WE BE ON THE STREET CORNERS, YOU KNOW, RIDE AROUND
23 WITH FLOATS TALKING ABOUT VOTING.

24 BUT I WEAR A VOTING SHIRT EVERYDAY EXCEPT FOR -- THIS
25 MIGHT BE THE SECOND TIME I DIDN'T WEAR ONE IN THIS WHOLE YEAR.

MICHAEL MCCLANAHAN

01:06 1 I WORE ONE TO THE FOOTBALL GAME.

2 Q. THANK YOU, PRESIDENT.

3 NOW, HOW IS THE LOUISIANA NAACP FUNDED?

4 A. WELL, WE ARE FUNDED THROUGH OUR FREEDOM FUND BANQUETS.

5 ALL UNITS ARE REQUIRED TO HAVE -- HOST A FREEDOM FUND BANQUET,
6 AND THAT'S HOW THEY ARE FUNDED. BUT ALSO, WE HAVE PARTNERS
7 THAT SPONSOR A LOT OF ACTIVITIES THAT WE DO, AND THEN WE GET --
8 WE GENERATE FUNDS LIKE THAT. AND ALSO THROUGH MEMBERSHIPS. WE
9 GET A PORTION OF THAT MEMBERSHIP DUES, THE NATIONAL OFFICE GETS
10 A PORTION AND THE LOCAL UNITS GET A PORTION TOO.

11 Q. PRESIDENT, WHEN DID THE STATE CONFERENCE BECOME INVOLVED
12 IN REDISTRICTING WORK IN LOUISIANA?

13 A. RIGHT BEFORE -- RIGHT BEFORE THE CENSUS STARTED.

14 Q. AND CAN YOU TELL ME ABOUT YOUR EFFORTS DURING THE CENSUS?

15 A. WELL, WE KNEW AND UNDERSTOOD THAT IN ORDER FOR US TO GET
16 TO WHERE THE LINES WOULD BE PROPERLY DRAWN, THAT WE KNEW THAT
17 EVERYBODY IN THE STATE HAD TO BE COUNTED. AND SO WE WERE
18 REQUIRING -- YOU KNOW, TALKING TO PEOPLE ABOUT DON'T WE -- WHEN
19 YOU GET A KNOCK ON DOOR AND SOMEBODY SAY "CENSUS," YOU KNOW,
20 YOU CAN TALK TO THEM. YOU AIN'T GOTTA SAY "AIN'T NOBODY HOME."
21 I WANT YOU TO GO AHEAD AND TALK TO THE PEOPLE SO THEY GET YOUR
22 INFORMATION. IF THEY CALL YOU, WE WOULD WANT YOU TO GO AHEAD
23 AND ANSWER THE QUESTIONS SO THAT YOU AND YOUR FAMILY CAN BE
24 COUNTED IN THE CENSUS.

25 Q. AND HAS THE LOUISIANA NAACP BEEN INVOLVED IN THE PROCESS

MICHAEL MCCLANAHAN

01:08 1 RELATING TO THE LOUISIANA STATE HOUSE AND STATE SENATE MAPS
2 DURING THE LAST REDISTRICTING CYCLE?

3 A. VERY MUCH SO.

4 Q. AND WHY DID THE LOUISIANA NAACP DECIDE TO GET INVOLVED IN
5 THAT REDISTRICTING PROCESS?

6 A. WE KNOW THAT THE CORNERSTONE OF DEMOCRACY IS
7 REPRESENTATION, AND WE WANTED TO ENSURE THAT PERSONS THAT
8 NORMALLY WOULD NOT HAVE A VOICE HAD ADEQUATE REPRESENTATION.
9 AND SO WE -- AFTER THE CENSUS WE JUMPED RIGHT INTO THE
10 REDISTRICTING ASPECT OF IT.

11 Q. AND CAN YOU TELL ME ABOUT SOME OF THE LOUISIANA NAACP
12 EFFORTS DURING THAT REDISTRRICT PROCESS?

13 A. OKAY. SO THE LEGISLATURE HAD TOWN HALL MEETINGS. THEY
14 HAD THE ROADSHOW. I THINK IT'S CALLED A -- I THINK IT WAS
15 CALLED A REDISTRICTING ROADSHOW. AND WE WERE -- I HAVE MEMBERS
16 -- BRANCHES ALL OVER THE STATE. AND WHEREVER THOSE ROADSHOWS
17 WERE, I REQUIRED THAT WE SEND TEAMS THERE TO HELP CREATE --
18 BUILD A RECORD OF WHAT THE COMMUNITY WAS ASKING FOR, WHAT THE
19 COMMUNITY WANTED. AND SO WE WAS DOING -- ALSO, WE WAS, YOU
20 KNOW, TEXTING OUR LEGISLATURES TELLING THEM "DON'T FORGET US"
21 -- YOU KNOW, THOSE THAT WERE PART OF THAT ROADSHOW -- AS WELL
22 AS OTHERS THAT WAS GONNA PARTICIPATE IN DRAWING THE LINES AND
23 THE LEG- -- EXCUSE ME -- IN THE COMMUNITY PROCESS, JUST TALKING
24 TO THEM, YOU KNOW, LETTING THEM UNDERSTAND THAT EVERYTHING IS
25 FINE. BUT WE WANT IT TO STAY RIGHT, STAY GOOD.

MICHAEL MCCLANAHAN

01:10 1 Q. CAN YOU TELL ME WHAT THE LOUISIANA NAACP WAS SEEKING TO
2 ACCOMPLISH BY ENGAGING IN THE RESTRICTING PROCESS?

3 A. WELL, WE WANTED TO GIVE A VOICE TO THE VOICELESS; WE
4 WANTED TO GIVE HOPE TO THE HOPELESS. I'VE BEEN IN LOUISIANA A
5 LONG TIME AND LOUISIANA POLITICS IS, YOU KNOW, REAL DIRTY. YOU
6 KNOW, FOR YEARS PERSONS HAVE BEEN PUT ASIDE. THEY HAVE NOT
7 BEEN GIVEN AN OPPORTUNITY TO HAVE THEIR WANTS AND NEEDS MET.
8 AND I KNEW THROUGH THIS PROCESS THAT WE COULD. WE COULD TURN
9 THE CORNER. WE COULD BRING LOUISIANA UP TO THE NOWADAYS AND
10 LET EVERYBODY THAT HAS -- THAT WANTS TO BE HEARD, BE HEARD.

11 Q. COULD YOU JUST EXPLAIN A LITTLE FURTHER ABOUT WHAT THE
12 STATE CONFERENCE WAS SEEKING TO ACCOMPLISH BY ENGAGING IN THE
13 REDISTRICTING PROCESS WITH REGARDS TO THE STATE HOUSE AND STATE
14 SENATE MAPS?

15 A. WANTED THE STATE HOUSE TO DRAW MAPS THAT ADEQUATELY
16 REFLECT -- EXCUSE ME -- AS WELL AS ADEQUATELY REFLECT THE
17 MAKEUP OF THE BLACK FOLKS THAT MAKEUP THE STATE OF LOUISIANA.
18 YOU KNOW, I'M NOT -- PROBABLY MY CHILDREN WOULD TELL ME I'M NOT
19 A GOOD MATHEMATICIAN. BUT I DO KNOW A THIRD IS A THIRD. AND
20 FOR YEARS SOMEBODY ELSE'S MATH WASN'T MATHING. AND SO I WANTED
21 TO MAKE SURE THAT THOSE THAT UNDERSTOOD WHAT A THIRD WAS
22 REFLECTED IT IN THE HOUSE, THE MAKEUP OF THE HOUSE AS WELL AS
23 IN THE MAKEUP OF THE SENATE.

24 Q. SO, PRESIDENT, WAS A MAP ULTIMATELY PASSED?

25 A. IT WAS.

MICHAEL MCCLANAHAN

01:11 1 Q. AND HOW DOES THAT MAP AFFECT BLACK VOTERS INCLUDING
2 MEMBERS OF THE LOUISIANA NAACP?

3 A. IT CLEARLY DILUTES THE BLACK VOICE. IT CLEARLY DILUTES
4 THE STRENGTH OF BLACK PEOPLE IN THE STATE OF LOUISIANA. IT
5 ELIMINATES BLACK LEGISLATORS BECAUSE EITHER IT ERASED THEIR
6 DISTRICT OR IT DIDN'T CREATE AN ADDITIONAL DISTRICT THAT IT
7 COULD HAVE.

8 Q. AND CAN YOU TELL ME AFTER THE MAPS BECAME LAW, HOW DID
9 THEY AFFECT THE NAACP'S WORK IN LOUISIANA?

10 A. WELL, YOU KNOW, WE KNOW THE PROCESS. WE KNOW THAT ONCE
11 THE LEGISLATURE PASSED -- ENACTED THOSE MAPS THAT IT HAD TO GO
12 THROUGH THE GOVERNOR. AND SO WE STARTED GALVANIZING. I WAS
13 PULLING -- FOR LACK OF A BETTER -- TO USE AN ARMY TERM, I WAS
14 PULLING MEMBERS FROM EVERY -- SAY, "LOOK, WE NEED TO MAKE SURE
15 YOU'RE HERE IN BATON ROUGE. WE'RE GOING TO TALK TO THE
16 GOVERNOR."

17 ONE THING THAT'S ON MY MIND WAS GETTING HIS
18 ATTENTION. REMINDING HIM THAT THE NAACP AND OTHERS HELPED GET
19 HIM REELECTED. AND SO WE WANTED TO MAKE SURE THAT HE
20 UNDERSTOOD THAT BLACK PEOPLE AT THAT POINT IN TIME NEED TO BE
21 HEARD, AND HE NEEDED TO VETO THOSE MAPS.

22 Q. SO DID THOSE MAPS HAVE AN IMPACT ON VOTER SENTIMENT IN THE
23 COMMUNITIES?

24 A. I'M A NATIVE LOUISIANAN. THIS CITY HAS ALWAYS BEEN
25 POLITICS AS USUAL. WE DON'T HAVE A VOICE. THEY GONNA DO WHAT

MICHAEL MCCLANAHAN

01:13 1 THEY WANT TO DO. YOU KNOW, IT'S DISCOURAGING. IT'S
2 DISCOURAGING. IT'S DEHUMANIZING, DEGRADING WHEN YOU SEE WHAT
3 REALITY IS, BUT PEOPLE LOOK -- BUT LOOK THE OTHER WAY IN DOING
4 WHAT'S RIGHT TO CONTINUE TO DO WHAT'S WRONG. AND SO THAT MEANS
5 THAT WE ARE FIGHTERS. WE FIGHT INJUSTICES. THAT WAS AN
6 INJUSTICE THAT WE WAS WILLING TO FIGHT AND WE STILL WILLING TO
7 FIGHT.

8 Q. SO YOU MENTIONED EARLIER THAT THE STATE CONFERENCE DOES
9 VOTER EDUCATION, VOTER ENGAGEMENT EFFORTS. DID THE MAPS IMPACT
10 THOSE EFFORTS?

11 A. OH, YES, INDEED. BECAUSE IF YOU LOOK AT AN AREA THAT
12 THINK THEY GONNA HAVE A REPRESENTATIVE. YOU KNOW, SO TALK
13 ABOUT NORTHEAST LOUISIANA, THE AREA BETWEEN SHREVEPORT -- IT'S
14 CADDO, DESOTO, AND SABINE. WE HAD SENT TO -- BECAUSE WHAT
15 WE'RE DOING NOW IS WE'RE TARGETING -- WE'RE TARGETING
16 GET-OUT-THE-VOTE. WE TARGETING AREAS NOW WHERE, YOU KNOW, WE
17 WOULD TEAM UP WITH URBAN -- THE URBAN LEAGUE; WE WOULD TEAM UP
18 BLACK VOTERS MATTER; TOGETHER LOUISIANA TO, YOU KNOW, TO GET
19 PEOPLE EXCITED ABOUT VOTING.

20 SO NOW WHEN YOU SEE THAT -- WHEN YOU THOUGHT YOU HAD
21 A REPRESENTATIVE, YOU DON'T. YOU'RE LIKE, "WELL, I AIN'T GONNA
22 GO OUT TO VOTE. THEY GONNA DO WHAT THEY WANT TO DO ANYWAY."
23 THAT'S WHAT IT'S BEEN FOR YEARS.

24 I'VE BEEN IN -- I'M A NATIVE LOUISIANAN. I'VE SEEN
25 THAT MOVIE PLAY OUT. IT'S ALWAYS BEEN THAT WAY. WE HAD AN

MICHAEL MCCLANAHAN

01:14 1 OPPORTUNITY TO CHANGE THAT. WE DIDN'T. THE LEGISLATURE LOOKED
2 BEYOND WHAT WAS RIGHT AND SAID "WE GONNA DO WHAT WE'VE ALWAYS
3 DONE," THAT LOW-DOWN WRONG STUFF.

4 Q. AND SO DID THOSE EFFORTS TAKE AWAY FROM THE LOUISIANA
5 NAACP'S OTHER CORE ENGAGEMENT WORK?

6 A. WELL, YOU KNOW, EDUCATION. YOU KNOW, WE SEND -- WE HAVE
7 COMMITTEES AND WORKERS THAT WILLINGLY -- BECAUSE THIS IS A
8 VOLUNTEER ORGANIZATION, LET ME SAY THAT, THAT VOLUNTEER TO GO
9 AND SPEND THEIR OWN RESOURCES IN DIFFERENT AREAS. BUT NOW WE
10 HAD TO HAVE ALL HANDS ON DECK BECAUSE WE KNEW THAT THE GOVERNOR
11 WAS REELECTED OUT OF SHREVEPORT, MONROE, ALEXANDRIA, BATON
12 ROUGE, AND NEW ORLEANS TO NAME THE CORE. AND WE WANTED TO GET
13 PEOPLE THERE, GET THE VOTE OUT.

14 Q. PRESIDENT MCCLANAHAN, DOES THE STATE CONFERENCE HAVE
15 BRANCHES IN LOUISIANA?

16 A. YES.

17 Q. HOW MANY?

18 A. ABOUT 40.

19 THE COURT: SORRY. FORTY, SIR?

20 THE WITNESS: FORTY.

21 BY MS. ROHANI:

22 Q. AND WHERE ARE THEY LOCATED?

23 A. ALL OVER THE STATE OF LOUISIANA. FROM NORTH, SOUTH, EAST,
24 WEST, AND ALL POINTS IN BETWEEN.

25 Q. AND CAN YOU TELL ME WHAT ARE THE REQUIREMENTS TO BECOME A

MICHAEL MCCLANAHAN

01:15 1 MEMBER OF THE NAACP?

2 A. PAY YOUR DUES, ANNUAL DUES, AND YOU'RE READY TO
3 PARTICIPATE.

4 Q. AND WHEN AN INDIVIDUAL JOINS THE NAACP, DO THEY BECOME A
5 MEMBER OF A BRANCH?

6 A. THEY PAY THEIR DUES, THEY BECOME A MEMBER OF THE BRANCH
7 THEY LIVE OR WORK CLOSE TO A BRANCH.

8 Q. SO, PRESIDENT MCCLANAHAN, I'M GOING --

9 MS. ROHANI: OR, YOUR HONOR, MAY I SHOW THE WITNESS A
10 DOCUMENT ON THE ELMO? IT IS THE DOCUMENT THAT WE WILL BE
11 RE-UPLOADING TO JERS.

12 THE COURT: AND SO YOU ARE GOING TO REQUEST THAT IT
13 BE REDACTED OR SEALED?

14 MS. ROHANI: NO, NOT THIS TIME.

15 THE COURT: OKAY. YES.

16 HAS YOUR OPPOSING COUNSEL SEEN IT?

17 MS. ROHANI: YES. IT IS THE BYLAWS.

18 BY MS. ROHANI:

19 Q. SO, PRESIDENT MCCLANAHAN, DO YOU RECOGNIZE -- ARE YOU
20 FAMILIAR WITH THIS DOCUMENT?

21 A. YES, I AM.

22 Q. AND CAN YOU TELL ME WHAT IT IS?

23 A. IT IS THE BYLAWS FOR UNITS OF THE NAACP.

24 Q. AND IS THIS A DOCUMENT THAT THE STATE CONFERENCE KEEPS IN
25 ITS ORDINARY COURSE OF BUSINESS?

MICHAEL MCCLANAHAN

01:17 1 A. YES, IT IS.

2 MS. ROHANI: AND WE'LL BE MOVING THIS INTO EVIDENCE.
3 SO I'LL JUST REMOVE IT FROM THE ELMO RIGHT NOW.

4 THE COURT: OKAY. I CAN'T -- I MEAN, YOU ARE VERY
5 SOFT SPOKEN.

6 MS. ROHANI: OH, MY APOLOGIES.

7 THE COURT: YOU NEED TO USE THE MIC.

8 YOU ARE NOT GOING TO INTRODUCE IT INTO EVIDENCE?

9 MS. ROHANI: YEAH. WE WILL MOVE IT INTO EVIDENCE.
10 WE ARE JUST GOING TO BE UPLOADING IT FOLLOWING THIS.

11 THE COURT: OKAY.

12 THE DEPUTY CLERK: WHAT IS IT?

13 MS. ROHANI: IT'S EXHIBIT 214.

14 THE DEPUTY CLERK: P-214?

15 MS. ROHANI: PL-214, YES. AND THEN IT IS THE BYLAWS.
16 THANK YOU.

17 MS. MCKNIGHT: AND, YOUR HONOR, WE DO OBJECT BASED ON
18 AUTHENTICITY AND COMPLETENESS AND FOUNDATION.

19 THE COURT: OKAY. RESPOND TO THE OBJECTION.

20 MS. ROHANI: YOUR HONOR, THESE ARE BEING OFFERED TO
21 THE EXTENT -- THEY ARE BEING OFFERED TO PROVE MEMBERSHIP
22 STRUCTURE OF THE NAACP. THEY HAVE AN INDEPENDENT LEGAL
23 SIGNIFICANCE. THEY --

24 THE COURT: AUTHENTICITY AND FOUNDATION.

25 MS. ROHANI: I AM TRYING TO LAY THE FOUNDATION TO ASK

MICHAEL MCCLANAHAN

01:18 1 HIM ABOUT THE STRUCTURE OF THE ORGANIZATION.

2 **THE COURT:** SHE OBJECTS TO THE INTRODUCTION OF THE
3 BYLAWS ON THE GROUNDS THAT YOU HAVE NOT LAID -- THAT YOU HAVE
4 NOT SATISFIED THE AUTHENTICATION REQUIREMENTS AND YOU HAVE NOT
5 LAID A FOUNDATION FOR THE DOCUMENT.

6 **MS. ROHANI:** THANK YOU, YOUR HONOR.

7 **THE COURT:** I'M GOING TO SUSTAIN THE OBJECTION. YOU
8 CAN CONTINUE AND TRY TO DO WHAT YOU CAN DO.

9 **MS. ROHANI:** PRESIDENT MCCLANAHAN DID STATE THAT HE
10 KEEPS IT AS A BUSINESS RECORD.

11 **THE COURT:** THAT'S AN HEARSAY OBJECTION.

12 **MS. ROHANI:** OKAY. THANK YOU.

13 **THE COURT:** SHE QUESTIONS ITS AUTHENTICITY. IS IT
14 WHAT IT SAYS IT IS? IS IT A TRUE COPY OF WHAT IT SAYS IT IS?
15 YOU HAVE NOT DONE THAT. THAT'S WHAT SHE OBJECTED TO.

16 **MS. ROHANI:** PRESIDENT MCCLANAHAN DID TESTIFY THAT
17 IT'S TRUE AND CORRECT COPY.

18 **THE COURT:** OKAY.

19 **MS. ROHANI:** AND I CAN SHOW HIM THE WHOLE DOCUMENT
20 AND GO THROUGH IT.

21 **THE COURT:** OKAY. PLEASE DO SO.

22 **MS. ROHANI:** IT IS A BIT LONG.

23 **THE COURT:** WALK IT OVER TO HIM AND SHOW HIM THE
24 DOCUMENT.

25 DO YOU WANT TO ASK THE AUTHENTICITY QUESTIONS,

MICHAEL MCCLANAHAN

01:19 1 PLEASE?

2 **BY MS. ROHANI:**

3 **Q.** PRESIDENT MCCLANAHAN, DO YOU RECOGNIZE THIS DOCUMENT?

4 **A.** YES, I DO.

5 **Q.** AND WHAT IS IT?

6 **A.** IT IS THE COPY OF THE BYLAWS FOR UNITS.

7 **Q.** AND ARE YOU FAMILIAR WITH THIS DOCUMENT?

8 **A.** YES, I AM.

9 **Q.** CAN YOU CONFIRM THAT IT'S A TRUE AND CORRECT COPY OF THE
10 BYLAWS?

11 **A.** YES, IT IS.

12 **THE COURT:** DOES THAT RESOLVE YOUR AUTHENTICITY
13 OBJECTION?

14 **MS. MCKNIGHT:** YOUR HONOR, IT DOES NOT. HERE'S WHY:
15 AS YOU CAN SEE FROM THE FACE OF IT, THERE ARE INCOMPLETE
16 PORTIONS OF IT, THERE ARE BLANKS. IF YOU FLIP THROUGH IT,
17 THERE ARE HANDWRITTEN NOTES THROUGHOUT. WE ARE NOT SURE
18 WHETHER IT'S A DRAFT OR NOT. WE DON'T KNOW WHO MAINTAINED IT.
19 IT'S NOT SIGNED, AND THERE IS NO SECRETARY CERTIFICATE, WHICH
20 IS SOMETHING YOU WOULD EXPECT TO SEE IN BYLAWS.

21 **THE COURT:** DO YOU WANT TO RESPOND TO THAT? IT IS A
22 COMPLETE COPY? I MEAN, IS IT SIGNED? DOES IT HAVE
23 INTERLINEATIONS? DOES IT HAVE BLANKS?

24 **MS. ROHANI:** IT IS NOT SIGNED. WE DO BELIEVE IT'S A
25 COMPLETE COPY.

MICHAEL MCCLANAHAN

01:20 1

THE COURT: OBJECTION SUSTAINED.

2

MS. ROHANI: OKAY.

3

BY MS. ROHANI:

4

Q. PRESIDENT MCCLANAHAN, CAN YOU TELL ME HOW THE OFFICERS OF THE STATE CONFERENCE ARE ELECTED?

6

A. THE BRANCHES -- THE BRANCHES ELECT DELEGATES FROM THEIR UNIT AND THEY SEND THEM TO EITHER THE STATE CONVENTION WHERE THEY ARE ELECT THE OFFICERS AT THAT POINT.

9

Q. AND CAN YOU CLARIFY WHAT THE MAKEUP OF THE UNITS ARE?

10

A. UNITS ARE MADE UP OF THE MEMBERS, NAACP MEMBERS, THAT PAY THEIR DUES.

12

Q. THANK YOU.

13

AND WHEN ARE THE OFFICERS OF THE STATE CONFERENCE ELECTED?

14

15

A. EVERY -- WELL, YOU'RE SAYING ELECTION. EVERY ODD NUMBER OF YEARS THE OFFICERS OF THE STATE CONVENTION ARE ELECTED.

17

Q. AND WHO VOTES FOR THOSE OFFICERS?

18

A. THE DELEGATES THAT ARE ELECTED FROM THE MEMBERSHIP OF THE BRANCHES.

20

Q. CAN YOU JUST REPEAT HOW THE DELEGATES ARE SELECTED?

21

A. THE DELEGATES ARE -- THEY ARE -- ACTUALLY -- ACTUALLY THEY ARE ELECTED FROM THE BRANCH. THERE'S A BRANCH MEETING AND THOSE WHO WANT TO RUN FOR A DELEGATE -- SO THE MEMBERS WITHIN ELECT THEM AND SEND THEM TO THE STATE CONVENTION AND THEY ELECT MEMBERS OF -- THEY ELECT ME, AS WELL AS ALL THE OFFICERS

25

MICHAEL MCCLANAHAN

01:22 1 FROM -- THAT MAKEUP THE STATE CONVENTION OFFICE STAFF.

2 Q. AND DOES THE LOUISIANA NAACP HAVE COMMITTEES?

3 A. YES.

4 Q. AND CAN YOU TELL ME ABOUT THOSE COMMITTEES?

5 A. WE HAVE 12-PLUS COMMITTEES. SOME ARE HEALTH COMMITTEE,
6 EDUCATION COMMITTEE, COME TO JUSTICE COMMITTEE, WOMEN IN THE
7 NAACP COMMITTEE, LEGAL REDRESS COMMITTEE.

8 THE COURT: I MISSED THE LAST ONE. WHAT WAS IT, SIR?

9 THE WITNESS: I SAID LEGAL REDRESS COMMITTEE. YOU
10 GOT THAT ONE? LEGAL REDRESS.

11 THE COURT: OKAY.

12 BY THE WITNESS:

13 A. AND SOME OTHERS.

14 Q. AND DO THOSE COMMITTEES HAVE A CHAIR?

15 A. YES, THEY HAVE A CHAIR.

16 Q. AND HOW IS THE CHAIR OF THE COMMITTEE APPOINTED?

17 A. OKAY. I ASKED THE STATE PRESIDENT TO LOOK AROUND AND SEE
18 WHO I WANTED TO BE A CHAIR, AND I HOLD THOSE PERSONS OUT TO
19 THE -- TO THE MEMBERSHIP TO RATIFY THE PERSON I HAVE SELECTED
20 TO BE THE COMMITTEE CHAIR.

21 Q. AND CAN YOU JUST TELL ME WHO PARTICIPATES IN THOSE
22 COMMITTEES?

23 A. ANYBODY THROUGHOUT THE WHOLE STATE THAT'S A NAACP MEMBER
24 THAT WANTS TO PARTICIPATE.

25 Q. AND CAN YOU TELL ME SOME OF THE OTHER WAYS THAT MEMBERS

MICHAEL MCCLANAHAN

01:23 1 PARTICIPATE IN ACTIVITIES FOR THE STATE CONFERENCE?

2 A. WELL, MEMBERS ARE THE LIFE BLOOD OF THE NAACP. AND SO
3 THEY DO A PLETHORA OF STUFF, YOU KNOW. NOT ONLY THAT, BUT ALSO
4 THEY -- THEY SEND DELEGATES TO THE NATIONAL CONVENTION. AND SO
5 TO VOTE FOR -- VOTE FOR OUR BOARD MEMBERS COMES FROM THE
6 MEMBERSHIP. THOSE THAT HAVE BEEN ELECTED AS DELEGATES TO THE
7 NATIONAL CONVENTION IS HOW THEY ELECT THOSE PERSONS THERE.

8 Q. ARE THERE ANY REGULAR OCCASIONS WHERE YOU AND THE MEMBERS
9 GET TOGETHER?

10 A. OH, YEAH. WE DO -- OVER THE LAST THREE YEARS, I DO WHAT
11 YOU CALL -- I HAVE A MONDAY NIGHT CALL, AND IT'S ABOUT 60 TO 70
12 MEMBERS FROM THROUGHOUT THE STATE GET ON THE CALL. WE STARTED
13 THAT CALL BECAUSE OF COVID, AND WE JUST DO IT EVERY MONDAY. WE
14 HAVE ONE TONIGHT.

15 Q. AND ARE THOSE CALLS OPEN TO ALL MEMBERS?

16 A. ALL MEMBERS.

17 Q. AND WHAT ARE SOME OF THE THINGS THAT HAVE COME OUT OF THE
18 MONDAY NIGHT CALLS?

19 A. WELL, WHEN THE -- AS A MATTER OF FACT, WHEN THE
20 LEGISLATURE PASSED THOSE ILLEGAL MAPS AND WE WANTED GOVERNOR
21 JOHN BEL TO VETO THOSE MAPS, THE ACTION THAT WE TOOK CAME OUT
22 OF THAT CALL. WE DID EMAILS; WE DID PHONE CALLS; AND WE HAD A
23 PROTEST RALLY. THOSE THINGS COME OUT OF THE MONDAY NIGHT
24 CALLS. THEY HAVE TO DECIDE -- WHATEVER THEY DECIDE, I'M FINE
25 WITH.

MICHAEL MCCLANAHAN

01:25 1 Q. PRESIDENT MCCLANAHAN, CAN YOU JUST TELL ME WHY RELIEF IN
2 THIS CASE IS IMPORTANT TO THE LOUISIANA NAACP?

3 A. WELL, WE FINALLY BELIEVE THAT WE HAVE AN OPPORTUNITY TO
4 THE TURN THE PAGE IN THE HISTORY OF LOUISIANA. AND WE HAVE AN
5 OPPORTUNITY IN 2023 TO HAVE DONE RIGHT -- 2022 BY PASSING MAPS
6 THAT GAVE -- BLACK PEOPLE MAKEUP A THIRD OF THE POPULATION --
7 AN OPPORTUNITY WITH VOICE -- WITH A VOICE. AND WITH THIS
8 LAWSUIT, WE ARE LOOKING TO CORRECT SOMETHING THAT WAS ILLEGALLY
9 DONE THROUGH THE STATE -- THE STATE LEGISLATURE.

10 Q. AND CAN YOU JUST TELL ME WHY RELIEF IS IMPORTANT TO YOU
11 INDIVIDUALLY AS A BLACK VOTER?

12 A. WELL, YOU KNOW, IT'S IMPORTANT TO ME AS A BLACK VOTER
13 BECAUSE FOR YEARS WE BELIEVED THAT NOTHING IS GONNA CHANGE.
14 AND WHEN PEOPLE SEE ME AS A BLACK MAN EXCITED ABOUT THE
15 PROCESS, THAT GIVES OTHERS HOPE, 'CAUSE, YOU KNOW, I WALK
16 AROUND PEOPLE WATCHING ME ALL THE TIME. YOU KNOW, IT'S --
17 THAT'S WHO I AM. BUT I'M FINE WITH THAT. THAT'S WHY I WEAR A
18 SHIRT. I WEAR A VOTING SHIRT BECAUSE I DON'T WANT THEM TO SEE
19 MIKE MCCLANAHAN. I WANT THEM TO SEE VOTE AND OPPORTUNITY.
20 THERE'S THE OPPORTUNITY TO VOTE. AND WHEN THEY VOTE FOR THE
21 CANDIDATE OF THEIR CHOICE, THAT'S THEIR WAY OF PARTICIPATING.
22 I TELL THEM "DON'T CALL ME COMPLAINING, VOTE." IF THEY HAVE A
23 CANDIDATE OF THEIR CHOICE, THEY'RE DOING WHAT THEY -- THEY'RE
24 DOING WHAT THE PROCESS SAYS THEY CAN DO. ELECT SOMEBODY THAT
25 UNDERSTANDS THEIR PLIGHT, UNDERSTANDS THEIR COMMUNITY, THEIR

MICHAEL MCCLANAHAN

01:26 1 ISSUES, WHAT MATTERS AND AFFECTS THEM.

2 MS. ROHANI: AND, YOUR HONOR, WE ARE PLANNING TO NOW
3 BEGIN TESTIMONY THAT'S GOING TO INVOLVE NAMING INDIVIDUAL NAACP
4 MEMBERS, BUT PRIOR TO, I WOULD LIKE TO JUST CONFER WITH MY
5 COLLEAGUES FOR A MOMENT.

6 THE COURT: OKAY.

7 MS. ROHANI: THANK YOU.

8 BY MS. ROHANI:

9 Q. JUST ONE MORE QUESTION. SO PRESIDENT MCCLANAHAN, I JUST
10 WANT TO GO BACK TO THE LOUISIANA NAACP'S EFFORTS FOLLOWING
11 PASSAGE OF THE MAPS. SO DID THE MAPS IMPACT ANY -- DID THE
12 MAPS HAVE ANY IMPACT ON THE WAY THAT CANDIDATES AND PARTIES
13 ENGAGED WITH VOTERS?

14 A. REPEAT THAT QUESTION.

15 Q. DID THE MAPS THAT WERE PASSED HAVE ANY IMPACT ON -- WELL,
16 YOU STATED YOU KNOW THAT FOLKS -- OR MEMBERS DO GOTV EFFORTS.
17 AND SO I AM ASKING, DID THE MAPS HAVE ANY IMPACT ON THE WAY
18 THAT CANDIDATES OR PARTIES ENGAGED WITH BLACK VOTERS?

19 A. I CAN TELL YOU THIS, WHEN THE MAPS WERE PASSED IT SEEMS AS
20 THOUGH THE BLACK ELECTED OFFICIALS KIND OF CONCEDED THAT THE
21 MAPS WERE THERE; THEY WERE AT A DISADVANTAGE. AND SO MY
22 MEMBERS START CALLING THEM TOO. YOU KNOW, WE DON'T -- WE DON'T
23 CONCEDE, ESPECIALLY WHEN WE KNOW THAT WE ARE IN THE RIGHT. AND
24 SO THEY CONCEDED. WE JUST DOUBLED DOWN, SENT MORE RESOURCES,
25 WE MADE MORE CALLS.

MICHAEL MCCLANAHAN

01:28 1 BUT, YOU KNOW, NOT ONLY DID THE CANDIDATES -- THE
2 CANDIDATES THAT WERE RUNNING AS THOUGH THEY FELT -- THEY WOULD
3 CALL ME AND SAY, "MAN, WHAT'S GOING ON? IT DOESN'T FEEL LIKE
4 AN ELECTION." THIS PAST ELECTION DIDN'T FEEL LIKE AN ELECTION.

5 YOU KNOW, WHEN CANDIDATES ARE EXCITED ABOUT RUNNING,
6 THE VOTERS GET EXCITED. THERE WAS NO EXCITEMENT IN THE PROCESS
7 FROM THE CANDIDATES TO THE BALLOT. THAT'S WHY THERE WAS -- IN
8 MY VIEW, THAT'S WHY PEOPLE DIDN'T GO TO THE POLLS LIKE THEY
9 NORMALLY DO. AND WE -- IT'S NOT -- AND WE PUT AS MANY -- AS
10 MUCH EFFORT AS WE COULD WITH THE -- WITH THE LIMITED RESOURCES
11 THAT WE HAD.

12 Q. CAN YOU JUST EXPLAIN A LITTLE BIT ABOUT WHAT YOU MEAN BY
13 "PUT MORE RESOURCES AND MADE MORE CALLS"?

14 A. OKAY. IN 2022 -- 2022 ELECTION -- NOT 2022, BUT THE LAST
15 ELECTION CYCLE, WHENEVER IT WAS, WHEN THE GOVERNOR JOHN BEL
16 RAN, EVERYBODY WAS EXCITED. WE HAD RESOURCES. ORGANIZATIONS
17 WAS CALLING US TO GIVE US THE MONEY TO HELP GET THE VOTE OUT,
18 GET THE VOTE OUT, GET THE VOTE OUT. AND MONEY FLOWED AND WE
19 GOT THE VOTE OUT. WE WERE ABLE TO EMPLOY DIFFERENT METHODS.
20 LIKE WE DID A RELATIONAL VOTING. WE SENT CARDS. THE NATIONAL
21 OFFICE SENT CARDS TO CERTAIN AREAS WITH YOUR NEIGHBORS' NAME,
22 ADDRESS, AND PHONE NUMBER. YOU DIDN'T HAVE TO GO KNOCK ON THE
23 DOOR. YOU COULD JUST PICK UP THAT CARD AND CALL.

24 WE HAD COLLEGE STUDENTS EXCITED ABOUT WORKING THEIR
25 PHONES TO GET PEOPLE TO THE -- EXCITED ABOUT -- TO THE POLLS --

MICHAEL MCCLANAHAN

01:30 1 EXCITED ABOUT GOING TO THE POLLS TO VOTE.

2 I WAS UP IN NORTH LOUISIANA. WE HAD -- I WAS -- WE
3 WAS WITH BLACK VOTERS MATTER. WE HAD A TRAIN. EVERYBODY WAS
4 EXCITED.

5 THIS YEAR IT'S LIKE WE WERE GOING TO A FUNERAL.
6 YOU'D CALL AND ASK FOR RESOURCES, "OH, MAN, YOU KNOW, THE --
7 THE -- WE JUST DON'T HAVE IT THIS YEAR. OH, MAN, THE
8 LEGISLATURE ALREADY HAVE A SUPER MAJORITY. THEY'RE GONNA BEAT
9 US. WE JUST GOT TO SAVE GRACE."

10 I'M LIKE, "COME ON, MAN."

11 Q. AND DID YOU HAVE TO DO ANY FURTHER EFFORTS TO COUNTER THAT
12 SORT OF -- THAT VOTER SENTIMENT?

13 A. SO WHAT WE DO IS -- WHEN I'D TALK TO YOU AND YOU SAY --
14 AND YOU WERE EXCITED LIKE IN -- WHEN THE GOVERNOR -- THE
15 GOVERNOR JOHN BEL WAS REELECTED, YOU WAS LIKE, "YEAH, MAN, I'M
16 WITH YOU." BUT NOW YOU SEE THEM UNEXCITED. YOU LIKE I GOT TO
17 SIT THERE AND TALK TO YOU LONGER. NOW I GOT TO TALK TO YOU,
18 YOUR MAMA, YOUR DADDY, YOUR LITTLE SISTER, YOUR LITTLE BROTHER,
19 ALL ABOUT -- BEFORE THEN, I TALKED TO YOU. YOU SPREAD THAT
20 EXCITEMENT THROUGH YOUR WHOLE HOUSE. NOW, WE STAY IN THESE
21 TOWNS LONGER BECAUSE PEOPLE DON'T BELIEVE IN THE PROCESS. WE
22 WOULD STAY IN TOWNS -- NOW, I UNDERSTAND HOW LOUISIANA IS. SO
23 MOST OF THE TIME I'D TRY TO GET IN AND GET OUT IN THE SAME DAY.
24 I DRIVE UP, COME BACK WHILE IT'S STILL LIGHT, NOT DARK.

25 THIS TIME WE WAS LIKE, ALL RIGHT, NOW I'M PULLING --

MICHAEL MCCLANAHAN

01:31 1 I'M PULLING MEMBERS FROM CLOSE BY. MANSFIELD, I NEED YOU TO GO
2 OVER TO JONESVILLE. I NEED YOU TO GO HERE. YOU MIGHT BE
3 CLOSER. LET'S SEE CAN WE ORGANIZE SOMETHING, BECAUSE I'M NOT
4 GONNA TO BE ABLE TO MAKE IT UP THERE. I GOT -- I'M GOING TO
5 LAKE CHARLES. I'M ABOUT TO GO TO ALEXANDRIA. I NEED Y'ALL --
6 I NEED ALL HANDS ON DECK NOW. LET'S MAKE THIS WORK. WE HAVE
7 LIMITED RESOURCES. I'VE GOT TO MAKE EVERY DOLLAR COUNT.

8 Q. AND DID THAT IMPACT THE LOUISIANA NAACP'S OTHER WORK?

9 A. WELL, YOU KNOW, WHEN YOU HAVE TO PULL PEOPLE FROM DOING
10 HEALTH, WHEN YOU GOTTA PULL PEOPLE BACK FROM DOING EDUCATION,
11 YOU KNOW. LEGAL REDRESS IS WHERE COMPLAINTS COME IN. SO, YOU
12 KNOW, YOU GUYS ARE LIKE "WE GONNA DEAL WITH THAT IN A MINUTE.
13 WE'VE GOT TO GET THESE VOTERS EXCITED. WE'VE GOT TO GO TALK TO
14 THESE PEOPLE."

15 SO A LOT OF TIMES, I HAVE TO PULL BACK AND WHERE I
16 NORMALLY HAVE TWO OR THREE PEOPLE WORKING ON A PROJECT, I MIGHT
17 HAVE ONE. WHERE YOU MIGHT SEND SOMEBODY, YOU CAN'T SEND THEM
18 NOW. LET'S SAVE THAT FOR SHREVEPORT. LET'S SAVE THAT FOR
19 MONROE. LET'S SAVE THAT FOR ALEXANDRIA, LAFAYETTE. LET'S SAVE
20 THAT FOR HOUMA AND TERREBONNE. LET'S SAVE IT FOR LAKE CHARLES.

21 Q. THANK YOU, PRESIDENT.

22 MS. ROHANI: SO, YOUR HONOR, JUST ONE LAST MOMENT TO
23 CONFER WITH MY COLLEAGUES. IS THAT --

24 THE COURT: YES.

25 MS. ROHANI: SO, YOUR HONOR, WE ARE NOW GOING TO

MICHAEL MCCLANAHAN

01:32 1 BEGIN TESTIMONY REGARDING THE NAMED INDIVIDUAL NAACP MEMBERS.
2 SO WE -- IT'S INFORMATION PROTECTED BY THEIR FIRST AMENDMENT
3 PRIVILEGE. AND WE'D JUST ASK -- WE WOULD LIKE TO MOVE TO HAVE
4 THE TESTIMONY DELIVERED UNDER SEAL.

5 **THE COURT:** OKAY. YOU WANT THE -- OBVIOUSLY THAT
6 MEANS YOU WANT THE COURTROOM CLEARED?

7 **MS. ROHANI:** CORRECT. WE HAVE TWO INDIVIDUALS,
8 MR. COOPER AND MR. NAJARIAN, WHO HAVE SIGNED A PROTECTIVE ORDER
9 AND WILL BE PRESENT DURING THAT TESTIMONY.

10 **THE COURT:** MR. COOPER AND MISTER?

11 **MS. ROHANI:** NAJARIAN, MR. STEPHEN NAJARIAN.

12 **THE COURT:** OKAY. ALL RIGHT. IS THERE ANY OBJECTION
13 TO THAT, COUNSEL?

14 **MS. MCKNIGHT:** NO, YOUR HONOR.

15 **THE COURT:** OKAY, LADIES AND GENTLEMAN. THE
16 FOLLOWING TESTIMONY -- OR FOR A FEW MINUTES THE TESTIMONY IS
17 GOING TO BE MAINTAINED UNDER SEAL. SO I AM GOING TO HAVE TO
18 ASK EVERYONE THAT'S NOT DIRECTLY AFFILIATED WITH THIS CASE --
19 THAT MEANS YOU ARE NOT ONE OF PARTIES THAT SHE JUST MENTIONED
20 WHO SIGNED A PROTECTIVE ORDER OR YOU ARE NOT A LAWYER IN THE
21 CASE OR A PARTY, YOU MUST LEAVE THE COURTROOM. AND WE WILL LET
22 YOU KNOW WHEN YOU CAN COME BACK IN. I DON'T ANTICIPATE THAT IT
23 WILL BE A LONG TIME. AND THEN I WILL ASK THE COURT SECURITY
24 OFFICER ONCE -- ONCE YOU-ALL HAVE MADE IT OUT TO THE HALLWAY, I
25 AM GOING TO ASK THE COURT SECURITY OFFICER TO SEAL THE

MICHAEL MCCLANAHAN

01:34 1 COURTROOM.

2 (WHEREUPON, THIS PORTION OF THE TRANSCRIPT WAS ORDERED SEALED
3 BY THE COURT AND IS FILED IN A SEPARATE TRANSCRIPT. AFTER
4 WHICH THE PROCEEDINGS RESUMED AS FOLLOWS.)

5 THE COURT: YOU MAY TAKE THE PODIUM, MS. MCKNIGHT.
6 YOUR WITNESS. YOU MAY PROCEED.

7 MS. MCKNIGHT: THANK YOU VERY MUCH, YOUR HONOR.

8 CROSS-EXAMINATION

9 BY MS. MCKNIGHT:

10 Q. GOOD AFTERNOON, MR. MCCLANAHAN.

11 A. GOOD AFTERNOON.

12 Q. KATE MCKNIGHT ON BEHALF OF PRESIDENT CORTEZ AND SPEAKER
13 SCHEXNAYDER. NICE TO MEET YOU.

14 A. PLEASURE IS ALL MINE.

15 Q. I UNDERSTAND YOU'RE THE PRESIDENT OF THE LOUISIANA STATE
16 CONFERENCE OF THE NAACP. CORRECT?

17 A. CORRECT.

18 Q. AND THE LOUISIANA STATE CONFERENCE OF THE NAACP IS A
19 PLAINTIFF IN THIS MATTER. CORRECT?

20 A. CORRECT.

21 Q. AND THE LOUISIANA STATE CONFERENCE OF THE NAACP DOES NOT
22 HAVE ANY INDIVIDUAL MEMBERS. CORRECT?

23 MS. ROHANI: OBJECTION, YOUR HONOR. PRESIDENT
24 MCCLANAHAN DISCUSSED THAT THERE ARE INDIVIDUAL --

25 THE DEPUTY CLERK: MA'AM, YOU NEED TO SPEAK INTO THE

MICHAEL MCCLANAHAN

02:08 1 MICROPHONE.

2 MS. ROHANI: OBJECTION, YOUR HONOR. PRESIDENT
3 MCCLANAHAN DID DISCUSS THAT THERE ARE MEMBERS OF THE BRANCHES.

4 THE COURT: OKAY, MA'AM. THAT'S A SPEAKING
5 OBJECTION. YOU'RE COACHING YOUR WITNESS AND THE COURT IS NOT
6 GOING TO HAVE IT.

7 MS. ROHANI: APOLOGIES. IT'S BEYOND THE SCOPE OF THE
8 DIRECT EXAMINATION.

9 THE COURT: NO, IT'S NOT. OVERRULED.

10 YOU MAY PROCEED, MS. MCKNIGHT.

11 BY MS. MCKNIGHT:

12 Q. WOULD YOU LIKE ME TO ASK THE QUESTION AGAIN?

13 A. ASK IT AGAIN. THANK YOU.

14 Q. SURE.

15 THE LOUISIANA STATE CONFERENCE OF THE NAACP DOES NOT
16 HAVE ANY INDIVIDUAL MEMBERS. CORRECT?

17 A. CORRECT.

18 Q. THE MEMBERS OF THE LOUISIANA STATE CONFERENCE OF THE NAACP
19 ARE BRANCHES. CORRECT?

20 A. SAY THAT AGAIN.

21 Q. SURE.

22 THE MEMBERS OF THE LOUISIANA STATE CONFERENCE OF THE
23 NAACP ARE BRANCHES?

24 A. CORRECT.

25 Q. YOU ARE NOT THE PRESIDENT OF ANY NAACP BRANCH. CORRECT?

MICHAEL MCCLANAHAN

02:09 1

A. NO.

2

Q. AND, IN FACT, THESE BRANCHES HAVE SEPARATE OFFICERS TO THE STATEWIDE NAACP. IS THAT CORRECT?

3

4

A. CORRECT.

5

Q. AND THE BRANCHES ARE UNDERSTOOD TO BE SEPARATE ENTITIES. IS THAT CORRECT?

6

7

A. CORRECT.

8

Q. I UNDERSTOOD FROM YOUR DEPOSITION THAT YOU DON'T ALWAYS PREFER THE SAME CANDIDATES AS MEMBERS OF YOUR FAMILY. IS THAT RIGHT?

10

11

A. SOMETIMES, RIGHT.

12

Q. OKAY. AND YOU WOULD AGREE WITH ME THAT A CANDIDATE DOES NOT NEED TO BE BLACK TO GAIN THE SUPPORT OF THE NAACP?

13

14

A. THAT'S CORRECT.

15

Q. OKAY. AND WOULD YOU AGREE WITH ME THEN THAT A REPRESENTATIVE DOES NOT NEED TO BE BLACK IN ORDER TO REPRESENT THE INTEREST OF BLACK VOTERS?

17

18

A. HE DOES NOT PER SE.

19

THE COURT: HE OR SHE.

20

BY THE WITNESS:

21

A. YEAH, HE OR SHE DOES NOT NEED TO BE PER SE.

22

Q. WHAT DO YOU MEAN BY "PER SE"?

23

A. IN ORDER TO EFFECTIVELY REPRESENT ME, YOU HAVE TO UNDERSTAND AND FEEL MY PAIN. YOU HAVE TO KNOW AND WALK IN MY SHOES. YOU HAVE TO BE IN MY NEIGHBORHOOD WHEN THE LIGHTS GO

25

MICHAEL MCCLANAHAN

02:10 1 OFF, WHEN THE STREETLIGHTS COME ON AND YELLING STARTS
2 HAPPENING, "COME ON HOME." YOU GOT KNOW THAT. IF YOU DON'T,
3 THEN YOU ONLY -- YOU ONLY REPRESENT ME JUST AS YOU REPRESENT
4 ANYBODY. BUT IF YOU REALLY WANT TO REPRESENT ME AND MY
5 INTERESTS, YOU GOT TO KNOW WHAT HAPPENS IN MY NEIGHBORHOOD ALL
6 THE TIME. YOU'VE GOT TO UNDERSTAND AS A SINGLE MOTHER HOW
7 SINGLE MOTHERS RAISE BOYS TO BECOME STATE PRESIDENTS, SERVE ON
8 NATIONAL BOARDS, YOU HAVE TO KNOW SMALL TOWNS ARE SMALL TOWN
9 VERSUS, YOU KNOW, CITIES, YOU KNOW, THAT BLACK PEOPLE LIVE IN.
10 YOU GOT TO BE ABLE TO UNDERSTAND IF A KID GOES TO SCHOOL AND IS
11 ACTING UP AT -- IN THE FIRST GRADE, YOU DON'T EXPEL THEM FOR
12 LIFE. YOU'VE GOT TO UNDERSTAND THAT THERE'S SOME STUFF THAT
13 HAPPENS AT HOME THAT NEEDS TO BE TAKEN CARE OF. SO TO
14 REPRESENT ME, YOU GOT TO UNDERSTAND AT LEAST SOME OF THAT, BUT
15 NOT ALL OF THAT.

16 Q. THANK YOU.

17 AND THE NAACP HAS SUPPORTED CANDIDATES WHO ARE WHITE
18 IN THE PAST. ISN'T THAT RIGHT?

19 A. IF WE DON'T HAVE ANY OTHER CANDIDATE, YES. BUT IF WE HAVE
20 A BLACK CANDIDATE --

21 Q. OKAY. AND IF YOU HAVE TWO BLACK CANDIDATES?

22 A. WELL, WE COULD CHOOSE SOMEBODY BLACK.

23 Q. OKAY. THANK YOU VERY MUCH. NO FURTHER QUESTIONS.

24 A. THANK YOU.

25 THE COURT: IS THERE ANY REDIRECT?

CEDRIC BRADFORD GLOVER

02:11 1

MS. ROHANI: NO REDIRECT, YOUR HONOR.

2

THE COURT: OKAY. THANK YOU, SIR. YOU MAY STEP

3

DOWN.

4

THE WITNESS: THANK YOU, YOUR HONOR.

5

THE COURT: OKAY. NEXT WITNESS, PLEASE.

6

MS. KEENAN: YOUR HONOR, THE PLAINTIFFS CALL REP

7

CEDRIC GLOVER.

8

THE COURT: WHAT'S GOING ON?

9

(WHEREUPON, THERE WAS AN OFF-RECORD DISCUSSION.)

10

MS. KEENAN: THANK YOU FOR ACCOMMODATING. WE CAN BE

11

SURE TO ZOOM IN ON THE BIG SCREEN, AS NEEDED, TO ACCOMMODATE

12

THE WITNESS'S VIEWING.

13

THE DEPUTY CLERK: I NEED TO SWEAR YOU IN.

14

THE COURT: CAN YOU STAND UP, SIR, SO SHE CAN SWEAR

15

YOU IN, PLEASE?

16

CEDRIC BRADFORD GLOVER,

17

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

18

DIRECT EXAMINATION

19

BY MS. KEENAN:

20

Q. GOOD AFTERNOON, SIR.

21

COULD YOU PLEASE STATE AND SPELL YOUR NAME FOR THE

22

RECORD.

23

A. CEDRIC BRADFORD GLOVER. C-E-D-R-I-C, B-R-A-D-F-O-R-D,

24

G-L-O-V-E-R.

25

Q. THANK YOU, SIR.

CEDRIC BRADFORD GLOVER

02:13 1 WHERE DO YOU LIVE, REP GLOVER?

2 A. SHREVEPORT, LOUISIANA.

3 Q. AND WHAT IS YOUR CURRENT TITLE?

4 A. STATE REPRESENTATIVE FOR THE FOURTH REPRESENTATIVE
5 DISTRICT.

6 Q. CAN YOU TELL ME WHERE YOU FIRST RAN FOR OFFICE?

7 A. NOVEMBER OF 1990, SHREVEPORT CITY COUNCIL.

8 Q. OKAY. CAN YOU WALK THROUGH THE OFFICES THAT YOU'VE HELD
9 SINCE THEN?

10 A. I WAS REELECTED TO THE CITY COUNSEL IN 1994. I RAN FOR AN
11 OPEN SEAT IN THE LOUISIANA HOUSE OF REPRESENTATIVES IN OCTOBER
12 OF '95, TOOK THAT OFFICE IN JANUARY OF 1996. SERVED UNTIL
13 NOVEMBER OF 2006, WHEN I BECAME MAYOR OF THE CITY OF
14 SHREVEPORT. I SERVED THERE UNTIL TERM LIMITS IN DECEMBER OF
15 2014. RETURNED TO THE HOUSE OF REPRESENTATIVES IN JANUARY OF
16 2016, AND THAT SERVICE WILL END ON JANUARY 8TH OF NEXT YEAR.

17 **THE COURT:** SIR, I'M GOING TO ASK THAT YOU HOLD THE
18 MIC TO YOUR -- WE ARE MAKING A RECORD AND I WANT TO MAKE SURE
19 THAT WHAT YOU HAVE TO SAY IS ON THE RECORD. I ALSO WANT TO
20 MAKE SURE THAT EVERYONE INCLUDING THE COURT AND THE OPPOSING
21 COUNSEL CAN HEAR YOU.

22 **THE WITNESS:** UNDERSTOOD.

23 **THE COURT:** YOU MAY PROCEED.

24 **MS. KEENAN:** THANK YOU, YOUR HONOR.

25

CEDRIC BRADFORD GLOVER

02:15 1

BY MS. KEENAN:

2 **Q.** CAN YOU TELL ME WHAT INSPIRED YOU TO RUN FOR PUBLIC OFFICE
3 IN THE FIRST INSTANCE?

4 **A.** A DESIRE TO SERVE MY COMMUNITY. TO HELP TO ADDRESS THE
5 HISTORICAL DISCREPANCIES THAT LARGELY WERE A RESULT OF
6 OBVIOUSLY, SLAVERY, JIM CROW, AND THEN AFTER THAT DECADES OF NO
7 DIRECT REPRESENTATION AT ANY LEVEL OF GOVERNMENT UNTIL THE
8 PASSAGE OF THE VOTING RIGHTS ACT IN 1965.

9 **Q.** SO I WANT TO TALK ABOUT YOUR WORK AS A STATE REP. DID YOU
10 HAVE ANY INVOLVEMENT IN THE REDISTRICTING PROCESS INVOLVING
11 LOUISIANA STATE HOUSE AND SENATE IN THE LAST REDISTRICTING
12 CYCLE?

13 **A.** I DID.

14 **Q.** DID YOU INTRODUCE ANY BILLS OR AMENDMENTS DURING THAT
15 PROCESS?

16 **A.** I DID.

17 **Q.** AND WOULD YOU RECOGNIZE THOSE BILLS OR AMENDMENTS IF YOU
18 SAW THEM HERE IN COURT TODAY?

19 **A.** I BELIEVE I WOULD.

20 **Q.** OKAY. I'M NOW GOING TO PULL UP ON THE SCREEN WHAT'S BEEN
21 ADMITTED AS JOINT EXHIBIT 42. THIS WAS ADMITTED AT THE START
22 OF TRIAL.

23 REP GLOVER, DO YOU RECOGNIZE THIS DOCUMENT ON THE
24 SCREEN UP THERE?

25 **A.** YES.

CEDRIC BRADFORD GLOVER

02:16 1 Q. OKAY. AND WHAT IS THIS ON THE SCREEN HERE?

2 A. THAT IS ONE OF THE THREE BILLS THAT I BELIEVE I INTRODUCED
3 THAT OFFERED AN ALTERNATIVE REDISTRICTING PLAN TO THE ONE THAT
4 WAS BEING ADVANCED BY THE SPEAKER IN HOUSE BILL 14.

5 Q. AND CAN YOU READ THE HOUSE BILL NUMBER AT ISSUE AND WHAT'S
6 ON THE SCREEN HERE?

7 A. HOUSE BILL NO. 21.

8 Q. OKAY. IF WE COULD TURN TO PAGE 20 OF THIS DOCUMENT.

9 REP GLOVER, ARE YOU ABLE READ THE COLUMN THAT SAYS
10 "VAP BLACK" AT THE TOP OF THE SCREEN HERE?

11 A. I CANNOT.

12 Q. OKAY. I THINK WE CAN ZOOM HERE.

13 IF THE TECH PEOPLE COULD ZOOM ON THE COLUMN THAT SAYS
14 "VAP BLACK."

15 ARE YOU ABLE TO SEE THAT ON THE SCREEN NOW?

16 A. I CAN.

17 Q. OKAY. AND I THINK WE'RE GOING TO ABLE TO ZOOM AND
18 HIGHLIGHT A BIT.

19 COULD YOU PLEASE READ INTO THE RECORD THE "VAP BLACK"
20 PERCENTAGE FOR HOUSE DISTRICTS 2, 3, 4, AND 5 ON THE SCREEN IN
21 FRONT OF YOU?

22 A. I NEED YOU TO GO OVER JUST A LITTLE BIT FURTHER TO THE
23 LEFT, IF YOU CAN, IN TERMS OF EXPANDING IT.

24 AND BLACK IS 64.116 PERCENT FOR HOUSE DISTRICT 2;
25 57.5703 [SIC] FOR 3; AND 56.769 FOR HOUSE DISTRICT 4; AND

CEDRIC BRADFORD GLOVER

02:17 1 62.683 PERCENT FOR HOUSE DISTRICT 5.

2 Q. THANKS, REP GLOVER.

3 DO YOU RECALL WHETHER YOU INTRODUCED THIS SAME BILL
4 IN THE FORM OF AN AMENDMENT TO HB 14 AS WELL?

5 A. YES, I DID.

6 Q. AND WOULD YOU RECOGNIZE THAT AMENDMENT IF YOU SAW IT HERE
7 IN COURT TODAY?

8 A. I BELIEVE I WOULD.

9 Q. I'M NOW SHOWING THE WITNESS WHAT'S BEEN PREADMITTED AS
10 JOINT EXHIBIT 40.

11 REP GLOVER, DO YOU RECOGNIZE THIS DOCUMENT?

12 A. YES, I DO.

13 Q. AND UP IN THE TOP CORNER OF THE DOCUMENT, ARE YOU ABLE TO
14 SEE THE NUMBER OF THIS AMENDMENT?

15 A. YES, I CAN.

16 Q. WHAT NUMBER IS IT?

17 A. 47490.

18 Q. IF WE FLIP AHEAD TO PAGE 7 OF THIS DOCUMENT, ARE YOU ABLE
19 TO SEE THAT THERE'S ALSO A "VAP BLACK" COLUMN HERE?

20 A. YES, I THINK I'LL RECOGNIZE IT APPROPRIATELY THIS TIME.

21 Q. OKAY. AND IF YOU'RE ABLE TO READ THOSE NUMBERS, IF YOU
22 COULD JUST READ THEM TO YOURSELF. DO YOU RECALL IF THEY'RE THE
23 SAME NUMBERS THAT WE JUST REVIEWED OUT LOUD WITH THE COURT?

24 A. COULD YOU MAKE IT A LITTLE BIT BIGGER, PLEASE?

25 YES, I BELIEVE THOSE ARE THE SAME NUMBERS.

CEDRIC BRADFORD GLOVER

02:18 1 Q. OKAY. I'M NOW GOING TO SHOW THE WITNESS WHAT'S BEEN
2 ADMITTED AS JOINT EXHIBIT 45.

3 REP GLOVER, DO YOU RECOGNIZE THIS DOCUMENT?

4 A. YES, THAT WOULD BE ONE OF THE OTHER OF THE THREE BILLS
5 THAT I BELIEVE I INTRODUCED.

6 Q. AND WHICH BILL NUMBER IS THIS? CAN YOU SEE AT THE TOP?

7 A. HOUSE BILL NO. 23 OF THE FIRST EXTRAORDINARY SESSION OF
8 2022.

9 Q. OKAY. WE'RE GOING TO DO THE SAME PROCESS WITH THIS BILL.
10 IF WE COULD TURN TO PAGE 20.

11 AND IF YOU COULD READ THE "VAP BLACK" COLUMN. THIS
12 TIME FOR HOUSE DISTRICT 1, 2, 3, AND 4 THAT ARE HIGHLIGHTED ON
13 THE SCREEN.

14 A. 60.493 FOR 1; 63.205 FOR DISTRICT 2; 57.066 FOR DISTRICT
15 3; 57.643 FOR DISTRICT 4.

16 Q. OKAY. AND DO YOU RECALL WHETHER YOU INTRODUCED THIS SAME
17 BILL IN THE FORM OF AN AMENDMENT TO HB 14 AS WELL?

18 A. YES, I DID.

19 Q. WOULD YOU RECOGNIZE THAT AMENDMENT IF YOU SAW IT?

20 A. YES, I WOULD.

21 Q. ALL RIGHT. I'M NOW SHOWING THE WITNESS WHAT HAS BEEN
22 PREADMITTED AS JOINT EXHIBIT 39.

23 REP GLOVER, COULD YOU TELL US WHETHER YOU RECOGNIZE
24 THIS DOCUMENT?

25 A. YES, I DO.

CEDRIC BRADFORD GLOVER

02:20 1 Q. ALL RIGHT. AND COULD YOU READ THE AMENDMENT NUMBER AT THE
2 TOP OF THIS DOCUMENT?

3 A. AMENDMENT 62 -- 362.02 [SIC].

4 Q. OKAY. WE'RE GOING TO FLIP AHEAD TO PAGE 7 OF THIS
5 DOCUMENT.

6 AND COULD YOU ONCE AGAIN TAKE A LOOK AND LET ME KNOW
7 IF THE "VAP BLACK" PERCENTAGE IS THE SAME AS THE NUMBERS YOU
8 JUST READ FOR THE CORRESPONDING BILL?

9 A. YES, THEY ARE.

10 Q. OKAY. NEXT WE'RE GOING TO SHOW THE WITNESS WHAT'S BEEN
11 ADMITTED AS JOINT EXHIBIT 47.

12 REP GLOVER, DO YOU RECOGNIZE THIS DOCUMENT?

13 A. YES, I DO.

14 Q. AND WHICH -- CAN YOU TELL US WHAT IT IS?

15 A. HOUSE BILL NO. 24 OF THE FIRST EXTRAORDINARY SESSION OF
16 2022.

17 Q. OKAY. AND JUST TO TAKE A STEP BACK. HAVE WE NOW REVIEWED
18 EACH OF THE THREE BILLS THAT YOU INTRODUCED RELATED TO THE
19 HOUSE PLAN IN THE 2022 REDISTRICTING CYCLE?

20 A. YES, WE HAVE.

21 Q. OKAY. I'M GOING TO ASK THE TECH TO FLIP AHEAD TO PAGE 20
22 OF THIS DOCUMENT AGAIN AND FOR YOU TO READ THE "VAP BLACK"
23 COLUMN AS IT RELATES TO -- I'M SORRY.

24 TO THE TECH, IT'S ACTUALLY GOING TO BE 1, 2, 3, AND 4
25 AGAIN. I THINK ONLY 1, 2, AND 3 ARE HIGHLIGHTED.

CEDRIC BRADFORD GLOVER

02:21 1 A. OKAY.

2 Q. THERE WE GO.

3 SO IF YOU COULD READ THE "VAP BLACK" PERCENTAGE FOR
4 HOUSE DISTRICTS 1, 2, 3, AND 4 IN HB 24?

5 A. HOUSE DISTRICT 1 WOULD BE 56.697 PERCENT; HOUSE DISTRICT 2
6 WOULD BE 69.153 PERCENT; HOUSE DISTRICT 4 WOULD BE -- LET ME
7 MAKE SURE --

8 Q. I THINK IT'S NOT ALIGNED. I THINK 3 --

9 A. IS IT 2, 3, 4, AND 5, I BELIEVE?

10 Q. NO, SORRY. IT'S 1, 2, 3, AND 4 SO THAT --

11 A. OKAY.

12 Q. -- THE LEFT SIDE PANEL NEEDS TO BE PULLED DOWN A BIT SO
13 THAT IT CORRESPONDS.

14 A. GOT IT.

15 Q. THERE WE GO. THANK YOU.

16 A. ALL RIGHT. SO TO BE CLEAR: HOUSE DISTRICT 1 WOULD BE
17 56.597; HOUSE DISTRICT 2 WOULD BE 69.153; HOUSE DISTRICT 3
18 WOULD BE 54.906; HOUSE DISTRICT 4 WOULD BE 57.751.

19 Q. THANK YOU.

20 AND DID YOU INTRODUCE THIS SAME BILL IN THE FORM OF
21 AN AMENDMENT TO HB 14?

22 A. YES, I DID.

23 Q. THANK YOU.

24 WOULD YOU RECOGNIZE THAT AMENDMENT IF YOU SAW IT
25 HERE?

CEDRIC BRADFORD GLOVER

02:22 1 A. YES, I WOULD.

2 Q. I'M NOW SHOWING THE WITNESS WHAT'S BEEN ADMITTED AS JOINT
3 EXHIBIT 41.

4 REP GLOVER, CAN YOU TELL US WHAT THIS DOCUMENT IS?

5 A. AMENDMENT 474 113.

6 Q. OKAY. AND WE'RE GOING TO TURN TO PAGE 7 OF THIS DOCUMENT.

7 CAN YOU TAKE A LOOK AT THE "VAP BLACK" COLUMN AND LET
8 US KNOW IF THOSE ARE SAME NUMBERS WE JUST READ FOR HB 24?

9 A. YES, THEY ARE.

10 Q. OKAY. SO WE'VE NOW GONE THROUGH THE BILLS AND THE
11 AMENDMENTS YOU INTRODUCED ON THE HOUSE SIDE. DO YOU RECALL
12 WHETHER YOU HAD ANY PARTICIPATION AS IT RELATED TO SENATE BILL
13 1, THE SENATE MAP THAT WAS INTRODUCED IN THE 2022 REDISTRICTING
14 CYCLE?

15 A. I DID HAVE AN AMENDMENT FOR THAT LEGISLATION AS WELL.

16 Q. OKAY. AND HOW DID YOU DECIDE WHAT AMENDMENT TO INTRODUCE
17 ON THE SENATE SIDE?

18 A. I BASED IT ON THE ACTUAL LEGISLATION FOR SENATE MAPS THAT
19 WAS DRAFTED AND ADVANCED BY SENATOR ED PRICE.

20 Q. WOULD YOU RECOGNIZE THAT BILL THAT SENATOR PRICE ADVANCED
21 IF YOU SAW IT HERE TODAY?

22 A. I BELIEVE THAT I WOULD, YES.

23 Q. OKAY. I'M NOW GOING TO SHOW THE WITNESS WHAT'S BEEN
24 ADMITTED AS JOINT EXHIBIT 37.

25

CEDRIC BRADFORD GLOVER

02:23 1 AND DO YOU RECOGNIZE THE DOCUMENT YOU SEE HERE?

2 A. YES.

3 Q. WHAT IS THIS?

4 A. SENATE BILL NO. 17 OF THE FIRST EXTRAORDINARY SESSION OF
5 2022.

6 Q. CAN YOU READ THE FIRST SENATOR WHO IS LISTED AS THE
7 SPONSOR OF THIS BILL?

8 A. SENATOR PRICE.

9 Q. OKAY. SO IS THIS THE BILL THAT YOU WERE DISCUSSING JUST A
10 MOMENT AGO?

11 A. THAT IS CORRECT.

12 Q. DID YOU INTRODUCE THIS SAME BILL IN THE FORM OF AN
13 AMENDMENT TO SB 1?

14 A. WHEN SENATE BILL 1 MADE ITS WAY TO THE HOUSE, I REQUESTED
15 THAT AN AMENDMENT BE DRAFTED THAT WOULD ESSENTIALLY PUT IT INTO
16 THE FORM OF SENATE BILL 17 AS INTRODUCED AND ADVANCED BY
17 SENATOR PRICE.

18 Q. OKAY. AND WOULD YOU RECOGNIZE THAT AMENDMENT IF YOU SAW
19 IT HERE TODAY?

20 A. YES, I WOULD.

21 Q. I'M NOW SHOWING THE WITNESS WHAT'S BEEN ADMITTED AS JOINT
22 EXHIBIT 49.

23 DO YOU RECOGNIZE THIS DOCUMENT?

24 A. YES, I DO.

25 Q. AND CAN YOU READ THE AMENDMENT NUMBER UP AT THE TOP OF THE

CEDRIC BRADFORD GLOVER

02:24 1 CORNER OF THE DOCUMENT?

2 A. AMENDMENT NO. 4144 155.

3 Q. OKAY. AND IF WE SCROLL AHEAD TO PAGE 16 OF THIS DOCUMENT
4 -- OH, SORRY -- PAGE 13 OF THIS DOCUMENT, EXCUSE ME. WE HAVE
5 THAT SAME "VAP BLACK" COLUMN, AND I'M WONDERING IF YOU COULD
6 READ THE "VAP BLACK" PERCENTAGE FOR SENATE DISTRICT 37.

7 A. 54.404 PERCENT.

8 Q. OKAY. AND THEN WE'LL GO AHEAD TO THE NEXT PAGE, PAGE 14
9 OF THIS DOCUMENT.

10 CAN YOU ALSO READ THE "VAP BLACK" PERCENTAGE FOR
11 DISTRICT -- SENATE DISTRICT 39?

12 A. 55.094 PERCENT.

13 Q. OKAY. THANK YOU.

14 THE TECH CAN TAKE THE EXHIBIT DOWN.

15 I KNOW THAT WAS A LOT OF NUMBERS. I WANT TO GET BACK
16 TO BASICS. CAN YOU TELL ME WHAT THE OBJECTIVES OF THOSE BILLS
17 AND AMENDMENTS WE JUST TALKED ABOUT WAS?

18 A. AS I HAD OBSERVED THE PROCESS, STARTING BACK TO THE
19 ROADSHOW THAT CAME TO SHREVEPORT AND THE OTHER INPUT THAT I'D
20 SEEN FROM VARIOUS GROUPS AND INDIVIDUALS ACROSS THE STATE AND
21 HAVING OBSERVED THE REDISTRICTING SPECIAL SESSION UP TO THAT
22 POINT, IT BECAME APPARENT TO ME THAT WE WERE NOT ACTUALLY DOING
23 THAT WHICH I BELIEVE THE PROCESS IS INTENDED TO DO. AND THAT
24 IS TO OFFER A SET OF MAPS THAT IS ACTUALLY REFLECTIVE OF THE
25 DEMOGRAPHICS OF THE STATE AS THE VOTING RIGHTS ACT WOULD COMPEL

CEDRIC BRADFORD GLOVER

02:26 1 US TO DO. KNOWING THAT THE IDEA OF TRYING TO DO THAT IN TOTAL,
2 ESPECIALLY WITH REGARD TO THE HOUSE, SINCE THAT'S THE BODY I'M
3 A MEMBER OF, WOULD BE DIFFICULT TO DO.

4 WITH REGARD TO ATTEMPTING TO DEMONSTRATE THAT IN
5 OTHER AREAS OUTSIDE OF SHREVEPORT, THE ONE THING THAT I WAS
6 COMFORTABLE IN BEING ABLE TO EFFECTIVELY ADVANCE WAS THAT IT
7 WAS POSSIBLE TO SHOW AND DEMONSTRATE THAT AN INCREASED NUMBER
8 OF A MAJORITY-BLACK DISTRICT WAS POSSIBLE RATHER EASILY BY
9 SIMPLY UNPACKING THE DISTRICTS IN SHREVEPORT.

10 Q. OKAY. SO I WANT TO BREAK THAT ANSWER DOWN A LITTLE BIT.
11 YOU MENTION THE ROADSHOW HEARINGS THAT SORT OF SPREAD YOUR WORK
12 HERE. CAN YOU TALK ABOUT WHAT THE ROADSHOW HEARINGS ARE?

13 A. THE ROADSHOW HEARINGS ARE THE PROCESS BY WHICH THE
14 LEGISLATURE IN THE JOINT GOVERNMENTAL COMMITTEES BETWEEN THE
15 HOUSE AND THE SENATE IN AN EFFORT TO TRY AND ENSURE THAT THEY
16 ARE ENGAGING IN A PROCESS THAT ALLOWS THE CITIZENS OF THE STATE
17 TO BE ABLE OFFER INPUT WITH REGARD TO ALL LEVELS OF
18 REDISTRICTING FROM CONGRESSIONAL TO LEGISLATIVE TO PSC AND WHAT
19 HAVE YOU.

20 VARIOUS SECTIONS OF THE STATE ARE VISITED BY THE
21 JOINT COMMITTEE. INTEREST GROUPS FROM THROUGHOUT THAT REGION
22 ARE INVITED TO COME AND LISTEN TO A PRESENTATION ON WHAT
23 CHANGES HAVE OCCURRED DEMOGRAPHICALLY WITH REGARD TO THE LAST
24 TIME THE LEGISLATURE ENGAGED IN THAT PROCESS, AND AT THAT POINT
25 OFFER ANY THOUGHTS, IDEAS, CONCERNS, PRIORITIES THAT THEY WOULD

CEDRIC BRADFORD GLOVER

02:27 1 HAVE INDIVIDUALLY OR AS GROUPS OR WHAT HAVE YOU IN TERMS OF
2 WHAT THEY WOULD LIKE TO SEE THE LEGISLATURE ADDRESS ONCE THEY
3 CONVENE TO GO THROUGH THE PROCESS.

4 Q. AND DID YOU ATTEND ANY OF THOSE ROADSHOW HEARINGS AS IT
5 RELATES TO THE 2022 REDISTRICTING PROCESS?

6 A. YES, I DID.

7 Q. WHICH ONES DID YOU ATTEND?

8 A. THE ONE IN SHREVEPORT.

9 Q. AND WHAT --

10 A. WATCHED SOME OF THE OTHERS ONLINE, BUT ATTENDED THE ONE IN
11 SHREVEPORT.

12 Q. AND WHAT ABOUT THE ROADSHOW HEARING THAT YOU ATTENDED IN
13 SHREVEPORT INSPIRED YOU TO INTRODUCE NEW MAPS?

14 A. WELL, IT AFFIRMED WHAT I HAD OBSERVED OVER THE COURSE OF
15 THE YEARS I'VE BEEN IN ELECTED OFFICE AND DIRECTLY ENGAGED IN
16 REDISTRICTING PROCESSES MYSELF AND WHAT I UNDERSTOOD IN KNOWING
17 THE HISTORY OF THE VOTING RIGHTS ACT AND HOW WE ACTUALLY ENDED
18 UP WITH MORE REPRESENTATIVE BODIES. I HEARD FOLKS ASKING FOR
19 FAIR MAPS, THAT THEY REPRESENT THE ACTUAL DEMOGRAPHICS OF THE
20 STATE AND ADHERE TO THE PROVISIONS OF THE VOTING RIGHTS ACT.

21 Q. NOW, YOU MENTIONED THAT YOU FOCUSED YOUR BILL ON THE
22 SHREVEPORT AREA. CAN YOU EXPLAIN WHY YOU FOCUSED YOUR BILLS
23 AND AMENDMENTS ON THAT AREA IN PARTICULAR?

24 A. WELL, BECAUSE, ONE, FROM A PRACTICAL STANDPOINT, I KNEW
25 THAT, AGAIN, WE WERE ALREADY INTO THE SESSION, WHILE IT HAD

CEDRIC BRADFORD GLOVER

02:28 1 TAKEN SOME TIME FOR THE ACTUAL SPEAKERS PLAN TO COME FORWARD.
2 I KNEW THAT THE IDEA OF GOING IN AND ATTEMPTING TO SAY TO
3 REPRESENTATIVES IN BATON ROUGE OR NEW ORLEANS OR LAFAYETTE OR
4 MONROE OR OTHER AREAS THAT I'M NOT A CITIZEN OF AND DID NOT
5 REPRESENT WOULD BE A DIFFICULT PROPOSITION.

6 WHAT I DID HAVE STANDING TO BE ABLE TO DO WOULD BE
7 ABLE TO SPEAK SPECIFICALLY ABOUT THE AREA AND THE REGION THAT I
8 REPRESENT AND THE FACT THAT IN TERMS OF THAT PARTICULAR AREA,
9 IF YOU TOOK JUST SIMPLY THE DISTRICTS 1 THROUGH 6, 1 THROUGH 7
10 WITHIN CADDO PARISH AND UNPACK THOSE DISTRICTS BECAUSE I THINK
11 THEY WERE ALL APPROACHING 70 PERCENT OR MORE, EITHER BLACK OR
12 WHITE, IF YOU JUST SIMPLY UNPACK THOSE DISTRICTS. AND WHAT
13 HAPPENED IS ONE OF THOSE DISTRICTS WENT FROM BEING MAJORITY
14 WHITE TO BEING MAJORITY BLACK AS A CLEAR DEMONSTRATION THAT AN
15 EXPANDED NUMBER OF MAJORITY-BLACK DISTRICTS WAS READILY
16 POSSIBLE WITHIN AT LEAST THIS PARTICULAR REGION OF THE STATE
17 AND WAS LIKELY POSSIBLE IN THE REST OF THE STATE AS WELL, AND
18 THAT THAT SHOULD SERVE AS A BASIS FOR US TO PAUSE AND
19 RECONSIDER WHAT IT IS THAT WE ARE DOING AND POSSIBLY LOOK AT A
20 LARGER, MORE EXPANSIVE APPROACH TO THE REDISTRICTING THAT WE
21 ARE IN THE MIDST OF.

22 Q. AS AN ELECTED OFFICIAL AND A LOUISIANA RESIDENT, WHY ARE
23 ADDITIONAL MAJORITY-BLACK DISTRICTS IMPORTANT TO YOU?

24 A. BECAUSE THEY HAVE THE ABILITY TO ENSURE THAT A
25 HISTORICALLY UNDERREPRESENTED, UNHEARD COMMUNITY OF FOLKS HAVE

CEDRIC BRADFORD GLOVER

02:30 1 THE ABILITY TO BE ABLE TO EFFECTIVELY REPRESENT THEIR
2 INTERESTS, THEIR CONCERNS, THEIR PRIORITIES WITHIN OUR
3 POLITICAL PROCESS.

4 Q. NOW, REP GLOVER, IN YOUR TIME IN THE LOUISIANA POLITICS
5 HOW OFTEN HAVE YOU OBSERVED BLACK CANDIDATES SUCCEEDING AND
6 RUNNING FOR PUBLIC OFFICE AT THE STATEWIDE LEVEL?

7 A. I'VE YET TO SEE THAT SUCCESS.

8 Q. WHAT ABOUT IN DISTRICTS THAT ARE NOT MAJORITY BLACK, HOW
9 OFTEN HAVE YOU OBSERVED BLACK CANDIDATES SUCCEEDING AND RUNNING
10 FOR PUBLIC OFFICE IN THOSE DISTRICTS?

11 A. VERY SELDOM.

12 Q. IN YOUR TIME HOLDING PUBLIC OFFICE, HAVE YOU EVER OBSERVED
13 ANY DISCRIMINATION AGAINST BLACK LOUISIANANS IN EDUCATION?

14 A. YES, I HAVE.

15 Q. COULD YOU EXPLAIN OR PROVIDE SOME EXAMPLES OF THAT
16 DISCRIMINATION YOU'VE OBSERVED?

17 A. I THINK IF YOU LOOK AT THE HISTORICAL FUNDING THAT'S BEEN
18 APPROPRIATED FOR HISTORICALLY BLACK COLLEAGUES AND UNIVERSITIES
19 INSIDE THE STATE, I THINK IF YOU LOOK AT THE LOCAL LEVEL, AT
20 LEVEL OF FUNDING, RESOURCES PROVIDED AT THE ELEMENTARY AND
21 SECONDARY LEVEL, I THINK IT'S EVIDENT THAT THE ISSUES AND
22 CONCERNS AND PRIORITIES OF THE BLACK COMMUNITY HAVE NOT
23 NECESSARILY BEEN ALWAYS EFFECTIVELY REPRESENTED.

24 Q. IN YOUR TIME HOLDING PUBLIC OFFICE AND LIVING IN
25 LOUISIANA, HOW WOULD YOU DESCRIBE WHETHER THE LEGISLATURE HAS

CEDRIC BRADFORD GLOVER

02:31 1 BEEN RESPONSIVE TO BLACK LOUISIANANS' NEEDS?

2 A. FAR LESS THAN IDEAL.

3 Q. AND HOW WOULD YOU DESCRIBE WHETHER THE LEGISLATURE HAS
4 BEEN RESPONSIVE TO BLACK LOUISIANANS' NEEDS IN THE VOTING
5 RIGHTS CONTEXT IN PARTICULAR?

6 A. VERY FAR LESS THAN IDEAL. I DON'T THINK THAT THERE'S BEEN
7 ANY SIGNIFICANT ADVANCEMENT WITH REGARD TO VOTING RIGHTS, THE
8 EXPANSION OF REPRESENTATION THAT DID NOT COME AT THE TIP OF A
9 FEDERAL SPEAR, WHETHER THAT WAS THE CIVIL WAR OR THE CIVIL
10 RIGHTS ACT OR THE VOTING RIGHTS ACT OR SECTION 5 OR SECTION 2
11 OR ANY OF THE OTHER PROVISIONS THAT HAVE BEEN NECESSARY OVER
12 THE YEARS IN ORDER TO ENSURE THAT WE END UP HAVING BASIC
13 REPRESENTATION. HOUSE REPRESENTATIVES UP UNTIL 1968 WERE MADE
14 UP OF 100 MEMBERS.

15 IT WAS 1968 BEFORE IT HAD ITS FIRST BLACK MEMBER
16 POST-RECONSTRUCTION. IT TOOK A SPECIAL MASTER AFTER NUMEROUS
17 ATTEMPTS BY THE LEGISLATURE IN THE LATE '60S AND THE EARLY '70S
18 COMING UP WITH A REAPPORTIONMENT REDISTRICTING PLAN THAT DID
19 NOT MEET THE MUSTER OF THE COURTS. IT TOOK A SPECIAL MASTER AS
20 OPPOSED TO THE LEGISLATURE ITSELF TO DRAW A SET OF MAPS AND
21 DISTRICTS THAT ENDED UP MAKING IT POSSIBLE FOR A STATE THAT WAS
22 ONE-THIRD BLACK AT THAT TIME TO END UP I THINK WITH IT'S FIRST
23 SIX OR SEVEN MEMBERS OF THE HOUSE OF REPRESENTATIVES. IT TOOK
24 YEARS AFTER THAT TO GET THE FIRST SENATOR, AND IT'S A PROCESS I
25 THINK THAT WE'RE STILL TRYING TO GET RIGHT WHICH ACCOUNTS FOR

CEDRIC BRADFORD GLOVER

02:33 1 WHY WE'RE HERE TODAY.

2 Q. THANK YOU, REP GLOVER.

3 MS. KEENAN: I HAVE NO FURTHER QUESTIONS FOR THE
4 WITNESS.

5 THE COURT: IS THERE ANY CROSS-EXAMINATION?

6 MR. TUCKER: YES, YOUR HONOR. I DON'T KNOW IF YOUR
7 HONOR WANTS TO TAKE A BREAK BEFORE CROSS-EXAMINATION. IT MIGHT
8 GIVE ME AN OPPORTUNITY TO ACTUALLY CUT SOME OF THE
9 CROSS-EXAMINATION DOWN GIVEN THE SCOPE OF DIRECT OR IF NOT I'M
10 HAPPY TO MOVE FORWARD NOW.

11 THE COURT: MOVE FORWARD, PLEASE.

12 MR. TUCKER: SURE.

13 CROSS-EXAMINATION

14 BY MR. TUCKER:

15 Q. GOOD AFTERNOON, REPRESENTATIVE GLOVER.

16 A. GOOD AFTERNOON, SIR.

17 Q. MY NAME IS RALPH TUCKER, AND I AM COUNSEL FOR SPEAKER
18 SCHEXNAYDER AND PRESIDENT CORTEZ IN THIS CASE.

19 I UNDERSTOOD FROM YOUR DIRECT TESTIMONY THAT YOU WERE
20 ELECTED THE MAYOR OF SHREVEPORT IN 2006. IS THAT CORRECT?

21 A. THAT IS CORRECT.

22 Q. AND I BELIEVE I SAW SOME REFERENCES IN THE LEGISLATIVE
23 RECORD TO THE FACT THAT AT THAT TIME SHREVEPORT WAS MAJORITY
24 WHITE. IS THAT CORRECT?

25 A. IT STILL WAS, YES.

CEDRIC BRADFORD GLOVER

02:34 1 Q. AND YOU WERE UP AGAINST A WHITE REPUBLICAN CANDIDATE IN
2 THAT RACE?

3 A. YES, I WAS.

4 Q. AND YOU WON?

5 A. YES, I DID.

6 Q. TURNING TO THE 2022 REDISTRICTING PROCESS, YOU MET WITH
7 CHAIRMAN STEFANSKI DURING THAT PROCESS. CORRECT?

8 A. YES, I DID.

9 Q. IN FACT, YOU RECOGNIZE AT THAT TIME THAT THE COMMITTEE AND
10 THE CHAIRMAN PUT A LOT OF WORK INTO COMING UP WITH HOUSE BILL
11 14?

12 A. ARE YOU ASKING ME TO AGREE WITH THAT STATEMENT?

13 Q. YEAH. DID YOU RECOGNIZE AT THAT TIME THAT THE CHAIRMAN
14 AND THE COMMITTEE PUT A LOT OF WORK INTO COMING UP WITH HOUSE
15 BILL 14?

16 A. I THINK A LOT OF TIME WAS SPENT --

17 MS. KEENAN: OBJECTION. I THINK IT CALLS FOR
18 SPECULATION FOR HIM TO SAY WHAT THE CHAIRMAN DID OR DIDN'T PUT
19 WORK INTO.

20 MR. TUCKER: I'M NOT ASKING HIM. I'M ASKING HIM WHAT
21 HE STATED PREVIOUSLY ON THE RECORD IN THE LEGISLATIVE PROCESS.

22 THE COURT: I'M GOING TO ALLOW THE QUESTION.

23 BY THE WITNESS:

24 A. I THINK A LOT OF TIME WAS EXPENDED.

25 Q. AND THAT CHAIRMAN STEFANSKI MET WITH MANY MEMBERS.

CEDRIC BRADFORD GLOVER

02:35 1 CORRECT?

2 A. YES.

3 Q. NOW, AS I UNDERSTOOD YOUR TESTIMONY, YOU BELIEVED THAT THE
4 PERCENTAGE OF THE MAJORITY-BLACK DISTRICT SHOULD REFLECT THE
5 STATEWIDE BLACK VOTING-AGE POPULATION. IS THAT CORRECT?

6 A. I BELIEVE THAT THE NUMBER OF DISTRICTS SHOULD FAIRLY
7 REPRESENT THE DEMOGRAPHICS OF THE STATE, YES.

8 Q. AND YOU WERE CONCERNED THAT HOUSE BILL 14 CREATED SOME 70
9 PLUS PERCENT EITHER BLACK DISTRICTS OR WHITE DISTRICTS.

10 CORRECT?

11 A. I WAS CONCERNED THAT HOUSE BILL 14 IN TERMS OF SHREVEPORT
12 PACKED BLACKS INTO DISTRICTS AND PACKED WHITES INTO DISTRICTS.

13 Q. BUT EVEN IN YOUR HOUSE BILL 21 AND EVEN IN THE SHREVEPORT
14 AREA, AT LEAST ONE OF DISTRICTS WAS OVER 70 PERCENT WHITE
15 VOTING-AGE POPULATION. ISN'T THAT CORRECT?

16 A. THERE WAS NOTHING PERFECT ABOUT WHAT I OFFERED.

17 Q. SO IS THAT A "YES"?

18 A. I WOULD SAY IT WAS NOTHING PERFECT. I WOULD HAVE TO GO
19 AND LOOK AT THE DATA TO KNOW SPECIFICALLY WHAT YOU'RE MAKING
20 REFERENCE TO.

21 Q. AND I THINK I'VE HEARD YOU REFER TO THERE ARE 11 DISTRICTS
22 IN THE NORTHWEST LOUISIANA AREA?

23 A. WELL, THERE'S SEVEN THAT ARE ALL OR PARTIALLY WITHIN CADDO
24 PARISH, THEN DISTRICTS 8, 9 AND 10 ARE OVER INTO BOSSIER AND TO
25 WEBSTER. AND THEN 11 WOULD INCLUDE PARTS OF HOMER AND

CEDRIC BRADFORD GLOVER

02:36 1 CLAIBORNE PARISH OR WHAT HAVE YOU. SO, YES, YOU GET TO 12 BY
2 THE TIME YOU GET TO RUSTON.

3 Q. BUT OUT OF THOSE 11 DISTRICTS, I THINK YOU HAD REFERRED TO
4 DURING THE LEGISLATIVE PROCESS, UNDER YOUR HOUSE BILLS FOUR OF
5 THOSE DISTRICTS WOULD BE MAJORITY BLACK. IS THAT RIGHT?

6 A. FOUR OF THE SEVEN IN CADDO PARISH WOULD BE MAJORITY BLACK.

7 Q. AND THAT'S SIGNIFICANTLY MORE THAN THE 31 PERCENT BLACK
8 VOTING-AGE POPULATION IN THE STATE, ISN'T IT?

9 A. I WOULD HAVE TO DO THAT CALCULATION. AGAIN, MY INTENTION
10 WAS TO AVOID PACKING BLACKS OR WHITES AT PERCENTAGES OF UPWARDS
11 OF 70 PERCENT OR MORE INTO DISTRICTS BECAUSE I THINK THAT'S
12 CONTRARY TO EFFECTIVE REPRESENTATIVE DEMOCRACY.

13 Q. YOU FIRST INTRODUCED HOUSE BILL 21 ON FEBRUARY 8TH, 2002
14 -- OR 2022, EXCUSE ME. DOES THAT SOUND ABOUT RIGHT?

15 A. SOUNDS ABOUT RIGHT.

16 Q. AND I THINK ACCORDING TO YOUR PRIOR STATEMENTS, YOU LEFT
17 ABOUT -- WELL, STRIKE THAT.

18 I THINK YOU TESTIFIED EARLIER YOU STARTED WITH HOUSE
19 BILL 14 IN DRAWING YOUR HOUSE BILL 21 PLAN. CORRECT?

20 A. ALL MY BILLS AND AMENDMENTS WERE BASED UPON ACCEPTING THE
21 SPEAKER'S PLAN AND ATTEMPTING TO MAKE AN ADJUSTMENT WITH REGARD
22 TO THE SHREVEPORT AREA AND LEAVING THE REST OF -- TO THE EXTENT
23 POSSIBLE, AS IT IS, TO AVOID THE OBJECTION FROM OTHER MEMBERS
24 OF BEING ABLE TO SAY NOW YOU'RE COMING IN AND DISRUPTING THINGS
25 THAT WE'VE ALREADY WORKED OUT AND AGREED TO AMONGST OURSELVES

CEDRIC BRADFORD GLOVER

02:38 1 AND WITH THE LEADERSHIP.

2 Q. AND YOU BELIEVE THAT ADDING THIS ADDITIONAL MAJORITY-BLACK
3 DISTRICT IN THE SHREVEPORT AREA WOULD AT LEAST DEMONSTRATE A
4 GOOD-FAITH EFFORT TO COMPLY WITH THE VOTING RIGHTS ACT.
5 CORRECT?

6 A. I THINK IT WOULD DEMONSTRATE THE FACT THAT THE PROCESS
7 ITSELF WAS PROBABLY LESS THAN WHAT IS EXPECTED AND CALLED FOR
8 BY THE VOTING RIGHTS ACT, BECAUSE I THINK THE SAME THING COULD
9 BE DONE IF WE WERE TO GO INTO THOSE OTHER POPULATION CENTERS
10 AND UNPACK THOSE DISTRICTS AS WELL.

11 Q. AND HAD HOUSE BILL 21 BEEN CALLED FOR A VOTE, YOU WOULD
12 HAVE VOTED FOR IT. CORRECT?

13 A. BASED UPON THE FACT THAT IT WOULD HAVE REPRESENTED AN
14 IMPROVEMENT OVER HOUSE BILL 14 AS IT WAS, YES. IN TERMS OF
15 REPRESENTING THE BEST OF WHAT IT IS THAT WE SHOULD BE ASPIRING
16 TO ACHIEVE AS LEGISLATORS, NO.

17 Q. BUT YOU WOULD HAVE VOTED FOR IT?

18 A. YES.

19 Q. AND YOU WOULD HAVE ENCOURAGED OTHERS TO VOTE FOR IT?

20 A. YES.

21 Q. AND YOU WOULD ENCOURAGE OTHERS TO VOTE FOR A BILL YOU
22 BELIEVED TO BE ILLEGAL, WOULD YOU?

23 A. SAY AGAIN.

24 MS. KEENAN: OBJECTION.

25

CEDRIC BRADFORD GLOVER

02:39 1

BY MR. TUCKER:

2 **Q.** YOU WOULDN'T ENCOURAGE OTHERS TO VOTE FOR A BILL YOU
3 BELIEVED TO BE ILLEGAL, WOULD YOU?

4 **THE COURT:** JUST A MOMENT, SIR.

5 YES, WHAT'S YOUR OBJECTION?

6 **MS. KEENAN:** I THINK IT CALLS FOR HIM TO PROVIDE A
7 LEGAL CONCLUSION ABOUT WHAT KIND OF ADVICE HE WOULD GIVE TO
8 OTHER LEGISLATORS.

9 **THE COURT:** OVERRULED. I THINK HE'S ASKING IT MORE
10 AS AN ART FORM.

11 **MS. KEENAN:** OKAY.

12 **THE COURT:** OVERRULED.

13 YOU MAY ANSWER.

14 **BY THE WITNESS:**

15 **A.** ARE YOU -- TO MAKE SURE I'M TRYING TO -- ARE YOU SAYING
16 THAT BECAUSE MY BILLS WOULD NOT HAVE FULLY AFFECTED ALL OF THE
17 CHANGES THAT NEEDED TO BE PUT IN PLACE, THAT BY VOTING FOR IT
18 AND ADVOCATING FOR OTHER MEMBERS TO VOTE FOR IT AS WELL, I
19 WOULD BE ASKING FOR THEM TO VOTE FOR AN ILLEGAL BILL?

20 **Q.** NO, I'M ACTUALLY ASKING THE INVERSE. BY THE FACT THAT
21 YOU'D BE ASKING OTHERS TO VOTE FOR IT, WOULD ASSUME THAT YOU
22 DID NOT BELIEVE YOUR BILL WAS ILLEGAL. CORRECT?

23 **A.** WELL, NO.

24 **MS. KEENAN:** OBJECTION. IT MISCHARACTERIZES THE
25 WITNESS'S TESTIMONY.

CEDRIC BRADFORD GLOVER

02:40 1 **THE COURT:** THAT DOES CALL FOR A LEGAL CONCLUSION.
2 SUSTAINED.

3 **BY MR. TUCKER:**

4 **Q.** NOW, YOUR HOUSE BILL 21, LIKE HOUSE BILL 14, MOVED
5 EXISTING HOUSE DISTRICT 23 FROM THE NATCHITOCHEs AREA INTO A
6 DIFFERENT PART OF THE STATE. CORRECT?

7 **A.** IT LEFT EVERYTHING INTACT WITH THE EXCEPTION OF THE
8 SHREVEPORT DISTRICTS.

9 **Q.** CORRECT.

10 BUT I GUESS TO CLARIFY, WHEN YOU SAY LEFT IT INTACT,
11 IT LEFT IT INTACT AS IT EXISTED IN HOUSE BILL 14?

12 **A.** THE BASIS OF ALL OF MY LEGISLATION IS HOUSE BILL 14.

13 **Q.** AND HOUSE BILL 14 MOVED HOUSE DISTRICT 23 AS IT EXISTED
14 UNDER THE PRIOR PLAN IN NATCHITOCHEs TO A DIFFERENT PART OF THE
15 STATE?

16 **A.** WHICH I VEHEMENTLY DISAGREED WITH, BUT UNDERSTOOD THE
17 POLITICAL REALITY IN TERMS OF TRYING TO COME UP WITH A VEHICLE
18 THAT WOULD ADDRESS THE POINT AND THE ISSUES THAT I WAS TRYING
19 TO REPRESENT. BUT ALSO THAT IS A REPRESENTATIVE OF WHAT WAS
20 WRONG AND IS WRONG WITH THE ENTIRETY OF HOUSE BILL 14.

21 **Q.** BUT DIDN'T YOU ALSO PREVIOUSLY STATE DURING THE
22 LEGISLATIVE PROCESS THAT YOU BELIEVED IT WAS A GOOD THING
23 BECAUSE YOU WERE CONCERNED THAT FAILING TO MOVE HOUSE DISTRICT
24 23 MIGHT RESULT IN A LOSS IN A DISTRICT UP IN THE NORTHWEST
25 PART OF THE STATE?

CEDRIC BRADFORD GLOVER

02:41 1 A. SAY AGAIN.

2 Q. DIDN'T YOU ALSO TESTIFY DURING THE LEGISLATIVE PROCESS
3 THAT FAILING TO MOVE HOUSE DISTRICT 23 INTO A DIFFERENT PART OF
4 THE STATE MIGHT HAVE RESULTED IN A LOSS OF A HOUSE DISTRICT IN
5 THE NORTHWEST PART OF THE STATE?

6 A. HOUSE DISTRICT 23 IS IN THE NORTH -- OR WAS IN THE
7 NORTHWEST PART OF THE STATE.

8 Q. LET ME BE MORE SPECIFIC. A HOUSE DISTRICT IN THE
9 SHREVEPORT AREA?

10 A. IF THERE WAS GOING TO BE A DISTRICT THAT WAS MOVED AND HAD
11 TO BE MOVED, NOT THAT I WOULD AGREE WITH OR SUPPORT IT, I WOULD
12 HAVE PREFERRED FOR IT NOT TO COME FROM THE SHREVEPORT AREA.
13 BUT I THINK ACCORDING TO THE DICTATES OF THE VOTING RIGHTS ACT,
14 HOUSE DISTRICT 23, JUST LIKE SENATE DISTRICT 37, BOTH SHOULD
15 HAVE STAYED IN THE NORTHWEST LOUISIANA AREA.

16 Q. YOU TESTIFIED EARLIER THAT -- YOU SAID YOU VERY SELDOM SEE
17 BLACK CANDIDATES ELECTED WITHOUT BEING IN A MAJORITY-BLACK
18 DISTRICT. DO YOU RECALL THAT?

19 A. YES.

20 Q. BUT DID YOU PERFORM ANY STUDIES OR ANALYSES ON THAT?

21 A. JUST 30 YEARS OF OBSERVATION.

22 Q. NOW, YOU TALKED ABOUT SEVERAL OF THE AMENDMENTS THAT YOU
23 PROPOSED TO HOUSE BILL 14. CORRECT?

24 A. YES.

25 Q. AND THOSE WERE SIMILAR TO THE THREE SEPARATE HOUSE BILLS

CEDRIC BRADFORD GLOVER

02:42 1 THAT YOU PROPOSED?

2 A. YES.

3 Q. BUT IT'S TRUE THAT SEVERAL MEMBERS TESTIFIED IN OPPOSITION
4 TO YOUR AMENDMENTS BECAUSE THEY MAY IMPACT COMMUNITIES OF
5 INTEREST. CORRECT?

6 A. I'M NOT RECOLLECTING.

7 Q. YOU DON'T RECALL OTHER MEMBERS OPPOSING YOUR AMENDMENTS?

8 A. ON THE FLOOR OR IN COMMITTEE OR --

9 Q. IN THE HOUSE COMMITTEE.

10 A. I MEAN, I'M SURE THERE ARE PEOPLE WHO SPOKE AGAINST MY
11 BILLS BOTH IN COMMITTEE. AND IF MEMORY SERVES, THE BILLS
12 THEMSELVES ARE HEARD IN THE COMMITTEE BEFORE THE AMENDMENTS
13 WERE OFFERED ON THE FLOOR. AND SO I THINK THERE WAS OPPOSITION
14 AND SUPPORT THAT WAS PROBABLY OFFERED IN BOTH OF THOSE VENUES.

15 Q. SO YOU RECOGNIZE THAT REPRESENTATIVE JENKINS ALSO PROPOSED
16 A BILL FOR THE HOUSE PLAN. CORRECT?

17 MS. KEENAN: OBJECTION. IT'S OUTSIDE OF THE SCOPE OF
18 THE WITNESS'S DIRECT TO TALK ABOUT THE OTHER LEGISLATORS'
19 BILLS.

20 THE COURT: DO YOU WANT TO RESPOND TO THE OBJECTION?

21 MR. TUCKER: IT GOES INTO HIS PARTICIPATION IN THE
22 ENTIRE REDISTRICTING PROCESS.

23 THE COURT: WHAT'S THE RELEVANCE OF IT?

24 MR. TUCKER: BECAUSE HE MADE STATEMENTS ABOUT THIS
25 HOUSE BILL THAT RELATE TO CHANGING OF DISTRICTS IN THE

CEDRIC BRADFORD GLOVER

02:44 1 SHREVEPORT AREA THAT HE'S ALREADY TESTIFIED ABOUT.

2 THE COURT: THEN CALL HIM BACK IN YOUR CASE-IN-CHIEF,
3 BUT OBJECTION SUSTAINED.

4 MR. TUCKER: OKAY.

5 BY MR. TUCKER:

6 Q. REPRESENTATIVE GLOVER, YOU AGREE THAT YOU DON'T NEED TO
7 HAVE A MAJORITY-BLACK POPULATION TO ELECT A BLACK
8 REPRESENTATIVE. CORRECT?

9 A. I THINK THERE ARE EXCEPTIONS TO MOST RULES, BUT THOSE
10 EXCEPTIONS SHOULD NOT BE MISCONSTRUED AS BEING THE RULE.

11 Q. AND YOU AGREE THAT SOMETIMES PROTECTED GROUPS LIKE BLACK
12 VOTERS MAY SELECT SOMEONE OTHER THAN THEIR RACE TO REPRESENT
13 THEM?

14 A. IF THAT INDIVIDUAL WHO HAPPENS TO BE OF THEIR RACE HAPPENS
15 TO ENGAGE IN ACTIVITIES OR ESPOUSES VIEWPOINTS AND TAKES
16 POSITIONS OR HAS A DOCUMENTED HISTORY OF POSITIONS AND POSTURES
17 THAT ARE COUNTER TO THOSE THINGS THAT REPRESENT THE BEST
18 INTEREST OF THE BLACK COMMUNITY, THEN, YES, I THINK THAT THAT
19 CERTAINLY IS POSSIBLE. SENATOR LUNEAU PROBABLY WOULD BE A
20 LIVING EXAMPLE OF THAT.

21 Q. REPRESENTATIVE GLOVER, ARE YOU AWARE OF ANY OTHER MEMBER
22 OFFERING ANY BILL OR AMENDMENT THAT CREATED MORE THAN 30
23 MAJORITY-BLACK DISTRICTS IN THE HOUSE?

24 A. NO.

25 MR. TUCKER: JUST ONE MINUTE TO CONFER WITH MY

02:46 1
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COLLEAGUES.

BY MR. TUCKER:

Q. THANK YOU VERY MUCH, REPRESENTATIVE GLOVER, FOR YOUR TIME.

A. THANK YOU, SIR.

MR. TUCKER: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: IS THERE ANY REDIRECT?

MS. KEENAN: NO, YOUR HONOR.

THE COURT: OKAY. THANK YOU, REPRESENTATIVE GLOVER.

WE WILL TAKE A 15-MINUTE RECESS.

THE LAW CLERK: ALL RISE.

COURT IS IN RECESS.

(WHEREUPON, THE COURT WAS IN RECESS.)

THE COURT: BE SEATED.

NEXT WITNESS, PLEASE.

MS. KEENAN: PLAINTIFFS CALL OMARI HO-SANG.

OMARI HO-SANG

03:12 1

OMARI HO-SANG,

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

3 **THE COURT:** YOU MAY PROCEED.

4 **MS. KEENAN:** THANK YOU.

5 **DIRECT EXAMINATION**

6 **BY MS. KEENAN:**

7 **Q.** GOOD AFTERNOON.

8 COULD YOU PLEASE STATE AND YOUR SPELL YOUR NAME FOR
9 THE RECORD.

10 **A.** OMARI HO-SANG. O-M-A-R-I, H-O-S-A-N-G.

11 **Q.** AND WHERE DO YOU LIVE, MS. HO-SANG?

12 **A.** I LIVE IN BOSSIER CITY, LOUISIANA.

13 **Q.** WHERE DO YOU WORK?

14 **A.** I WORK FOR THE BVM CAPACITY BUILDING INSTITUTE.

15 **Q.** AND IS IT OKAY IF WE GO AHEAD AND CALL THAT BVM FOR SHORT
16 TODAY?

17 **A.** YES.

18 **Q.** OKAY. WHAT'S YOUR TITLE AT BVM?

19 **A.** I AM THE SENIOR STATE ORGANIZING MANAGER.

20 **Q.** AND HOW LONG HAVE YOU WORKED WITH BVM?

21 **A.** FOR ABOUT THREE YEARS. SINCE APRIL 2020.

22 **Q.** WHAT DO YOU KNOW ABOUT BVM'S ROLE IN THIS CASE?

23 **A.** BVM IS A PLAINTIFF IN THE CASE.

24 **Q.** AND COULD YOU EXPLAIN FOR THE COURT WHAT "BVM" IS?

25 **A.** BLACK VOTERS MATTER IS A NONPROFIT ORGANIZATION THAT OUR

OMARI HO-SANG

03:13 1 MISSION IS TO INCREASE BLACK CIVIC ENGAGEMENT THROUGH VOTING
2 AND BUILDING THE CAPACITY OF OUR PARTNERS TO ADDRESS OTHER
3 ISSUES IN THEIR COMMUNITY.

4 Q. AND SO HOW DOES BVM EFFECTUATE THAT MISSION YOU JUST TOLD
5 US ABOUT?

6 A. AND SO WE DO IT IN A VARIETY OF WAYS. THE FIRST WAY IS
7 THROUGH OUR CAPACITY BUILDING, WORK WITH OUR PARTNERS, HELPING
8 THEM TO ADDRESS THE ISSUES, BUT ALSO HELPING THEM -- SUPPORTING
9 THEIR EFFORTS AROUND ELECTIONS, HELPING THEM TO BOLSTER THEIR
10 GOTV OR GET-OUT-THE-VOTE EFFORTS.

11 AND WE ALSO CONVENE OUR PARTNERS, WE PROVIDE
12 TRAINING, AS WELL AS A ONCE MONTHLY SPACE WHERE PARTNERS CAN
13 COME TOGETHER, TALK ABOUT THE ISSUES AND CHALLENGES OF THEIR
14 WORK. AND WE USUALLY TRY TO PROVIDE SOME TYPE OF TRAINING OR A
15 GUEST SPEAKER DURING THOSE TIMES AS WELL.

16 Q. SO YOU TOLD US ABOUT HOW BVM WORKS WITH THOSE PARTNERS.
17 DOES BVM DO ANY WORK WITH INDIVIDUALS IN LOUISIANA?

18 A. THROUGH THE COURSE OF OUR WORK, YES, WE DO WORK WITH
19 INDIVIDUALS. IT'S INEVITABLE IN MANY WAYS. BUT IN TERMS OF
20 OUR CAPACITY BUILDING WORK, WE REALLY TRY TO CHANNEL THAT
21 THROUGH OUR PARTNERS.

22 Q. OKAY. WHERE IN THE STATE IS BVM'S WORK CONCENTRATED?

23 A. SO WE HAVE OUR TARGET PARISH AREAS THAT ARE ALL ACROSS THE
24 STATE. SO WOULD YOU LIKE TO KNOW THE TARGET PARISHES
25 SPECIFICALLY OR --

OMARI HO-SANG

03:15 1 Q. SURE. IF YOU KNOW THEM, BUT YEAH.

2 A. YEAH. SO WE FOCUS ON ABOUT NINE DIFFERENT PARISHES:
3 CADDO, BOSSIER, EAST BATON ROUGE, ORLEANS PARISH, CALCASIEU,
4 WHERE LAKE CHARLES IS, RAPIDES, AND A FEW OTHERS THAT I MAY NOT
5 REMEMBER RIGHT NOW.

6 Q. AND ARE THOSE TARGET PARISHES THE ONLY PLACE THAT BVM
7 WORKS IN THE STATE?

8 A. NO.

9 Q. IS BVM'S WORK LIMITED TO A SPECIFIC REGION OF THE STATE?

10 A. NO.

11 Q. OKAY. HOW MANY PARTNERS IS BVM BUILDING CAPACITY IN
12 WITHIN LOUISIANA?

13 A. WE HAVE ABOUT 50-PLUS GRASS ROOTS AND ALLIED ORGANIZATIONS
14 THAT WE WORK WITH.

15 Q. WAS BVM INVOLVED IN THE REDISTRICTING PROCESS RELATED TO
16 THE LOUISIANA STATE HOUSE AND SENATE MAPS DURING THIS LAST
17 REDISTRICTING CYCLE?

18 A. YES.

19 Q. AND WHEN DID BVM FIRST BECOME INVOLVED IN REDISTRICTING
20 WORK IN LOUISIANA?

21 A. SO WE FIRST BECAME INVOLVED AROUND THE END OF 2020, 2021
22 EARLY. WE STARTED WITH BEING INVOLVED IN TRAININGS,
23 PARTICIPATING IN TRAININGS AND REALLY LEARNING ABOUT THE
24 PROCESS.

25 Q. AND WHY DID BVM DECIDE TO GET INVOLVED IN THE

OMARI HO-SANG

03:16 1 REDISTRICTING PROCESS?

2 A. WE FELT FROM LISTENING TO OUR PARTNERS THAT IT WAS REALLY
3 IMPORTANT TO GIVE VOICE TO THE COMMUNITIES THAT OUR PARTNERS
4 REPRESENT. IT IS A CRITICAL PROCESS THAT, OF COURSE, IMPACTS
5 THE WAY THAT BLACK VOTERS ENGAGE IN THE PROCESS. AND SO, YOU
6 KNOW, BASED ON OUR PARTNERS' CONCERNS, BASED ON THE NEEDS, WE
7 GOT INVOLVED.

8 Q. SO WHAT WORK WAS BVM DOING ON REDISTRICTING IN THE FALL OF
9 2021?

10 A. THE FALL OF 2021, TO MY UNDERSTANDING WAS THE
11 REDISTRICTING ROADSHOW. AND SO WE WERE ENGAGING WITH OUR
12 PARTNERS. WE WERE HAVING TRAINING SESSIONS. WE WOULD ALSO
13 HAVE GATHERINGS PRIOR TO THE ROADSHOW HEARINGS AS WELL AS
14 ENGAGING AND INVITING OUR PARTNERS TO PARTICIPATE IN THOSE
15 ROADSHOWS.

16 Q. YOU TALKED ABOUT ROADSHOW HEARINGS. COULD YOU EXPLAIN
17 WHAT THOSE ARE?

18 A. THE REDISTRICTING ROADSHOW HEARINGS WERE SESSIONS THAT
19 WERE HOSTED BY THE REDISTRICTING COMMITTEE OF THE LEGISLATURE.
20 AND THEY WERE HELD IN VARIOUS CITIES ACROSS THE STATE TO GIVE
21 COMMUNITY MEMBERS AN OPPORTUNITY TO LEARN ABOUT THE
22 REDISTRICTING PROCESS AS WELL AS ENGAGE IN AND PROVIDE
23 TESTIMONY.

24 Q. AND WHAT, IF ANY, ROLE DID BVM PLAY IN THOSE ROADSHOWS?

25 A. WE PARTICIPATED, WE ATTENDED, BUT WE ALSO MOBILIZED,

OMARI HO-SANG

03:17 1 TRAINED AND PREPARED OUR PARTNERS TO ATTEND AS WELL. WE WORKED
2 WITH ALLIED PARTNERS TO REALLY INCREASE AWARENESS AROUND THE
3 ROADSHOWS. WE TESTIFIED AS WELL.

4 Q. DID YOU ATTEND ANY OF THOSE ROADSHOWS THAT YOU'VE JUST
5 DISCUSSED?

6 A. YES.

7 Q. AND DID YOU TESTIFY AT ANY OF THEM?

8 A. YES, I DID.

9 Q. WHAT WAS THE CORE REASON THAT YOU TESTIFIED AT THE
10 ROADSHOWS HEARINGS?

11 A. THE CORE REASON WAS TO REPRESENT MYSELF AS A VOTER, BUT
12 ALSO TO REPRESENT THE ORGANIZATION AND OUR PARTNERS TO REALLY,
13 AGAIN, ADD TO THE VOICES AROUND OUR INTERESTS AND WHAT WE
14 NEEDED FROM THIS PROCESS.

15 Q. AND WHAT MESSAGE DID YOU WANT TO CONVEY TO THE LEGISLATURE
16 ABOUT WHAT YOU AND YOUR PARTNERS NEEDED IN THIS PROCESS?

17 A. TO LISTEN AND TO HEED THE MANY CONCERNS THAT WERE COMING
18 UP FOR OUR COMMUNITIES AND TO BE RESPONSIVE TO THOSE NEEDS.

19 Q. AND WHEN YOU SAY "OUR COMMUNITIES," CAN YOU BE SPECIFIC
20 ABOUT WHICH COMMUNITIES YOU MEAN?

21 A. THE BLACK COMMUNITY.

22 Q. NOW, WE'VE TALKED ABOUT BVM'S REDISTRICTING WORK IN THE
23 FALL OF 2021. WAS BVM WORKING ON ANY OTHER INITIATIVES DURING
24 THE FALL OF 2021?

25 A. IN THE FALL OF 2021, WE WERE PREPARING FOR AN UPCOMING

OMARI HO-SANG

03:19 1 ELECTION. SO RAMPING UP GOTV EFFORTS AND, OF COURSE, JUST
2 RESPONDING TO COMMUNITY ISSUES THAT OUR PARTNERS BROUGHT FORTH.

3 Q. IF BVM HAD NOT BEEN DEVOTING STAFF TIME TOWARD COMMUNITY
4 TRAININGS, REDISTRICTING, ROADSHOWS AND THE THINGS YOU JUST
5 TALKED ABOUT, WHAT WOULD THAT STAFF TIME AND ATTENTION HAD BEEN
6 DEVOTED TOWARD?

7 A. WE WOULD MOST CERTAINLY BE CAPACITY BUILDING, PREPARING
8 FOR -- DEEPENING OR PREPARATION FOR GOTV, WHETHER THAT BE, YOU
9 KNOW, GETTING LISTS, DATA TO OUR PARTNERS, PROVIDING TRAINING
10 SO OUR PARTNERS CAN HAVE CONFIDENCE IN ENGAGING IN THEIR GOTV
11 WORK. YOU KNOW, PROVIDING SUPPORT SO OUR PARTNERS CAN BE
12 RESPONSIVE TO THEIR COMMUNITY ISSUES.

13 BUT, YOU KNOW, OUR MAIN FOCUS IS CAPACITY BUILDING.
14 SO OUR PARTNERS CAN BE PREPARED TO DO THE WORK. SO THAT'S WHAT
15 WE WOULD HAVE BEEN DOING.

16 Q. SO YOU MENTIONED THE BVM'S ENGAGEMENT IN THE REDISTRICTING
17 PROCESS STARTED IN 2021. DID BVM STOP WORKING ON THE
18 REDISTRICTING PROCESS AT THAT POINT?

19 A. NO, WE DID NOT.

20 Q. OKAY. SO LET'S TURN TO 2022 THEN. IN EARLY 2022 WHAT DID
21 BVM'S WORK ON REDISTRICTING LOOK LIKE AT THAT POINT?

22 A. SO IN 2022 THE -- OUR PARTNERS' DESIRE TO WANT TO GIVE
23 VOICE TO THEIR CONCERNS REALLY DEEPENED, ESPECIALLY AFTER THE
24 ROADSHOW HEARING, SOME OF OUR PARTNERS EXPRESSED CONCERN THAT
25 THEY WERE NOT ABLE TO TESTIFY OR THAT THE ROADSHOW DID NOT COME

OMARI HO-SANG

03:20 1 TO THEIR COMMUNITY. AND SO WE WANTED TO MAKE SURE THAT, YOU
2 KNOW, AS THE PROCESS TRANSITIONED TO THE SESSION THAT OUR
3 PARTNERS WERE PREPARED TO TESTIFY. SO WE CONTINUED TRAININGS,
4 AND WE ALSO BEGAN THE PLANNING FOR OUR REDISTRICTING TAKEOVER
5 EVENT.

6 Q. AND WHAT IS THAT REDISTRICTING TAKEOVER EVENT THAT YOU
7 JUST MENTIONED?

8 A. SO THE REDISTRICTING TAKEOVER HAD A COUPLE OF DIFFERENT
9 COMPONENTS TO IT. THE FIRST COMPONENT WAS OUR CARAVAN. SO WE
10 CARAVANED FROM THE NORTHERN PART OF THE STATE DOWN TO BATON
11 ROUGE AND FROM THE SOUTH UP. AND WE HAD A RALLY HERE IN BATON
12 ROUGE WHERE WE BROUGHT IN -- I THINK IT WAS THE MCKINLEY HIGH
13 SCHOOL BAND AND OTHER PARTNERS ATTENDED TO JUST REALLY CREATE
14 AN EXCITEMENT AND PREPARE FOR A DAY OF TESTIMONY. AND THEN THE
15 LAST COMPONENT OF IT WAS THE ACTUAL TESTIMONY THAT TOOK PLACE
16 DURING THE SESSION.

17 Q. BEFORE WE GET INTO THE RESOURCES EXPENDED TOWARD THAT
18 REDISTRICTING TAKEOVER, YOU MENTIONED A MOMENT AGO THAT SOME OF
19 THE COMMUNITIES YOU WORKED WITH FELT THEY WEREN'T REPRESENTED
20 IN THE ROADSHOWS OR THAT ROADSHOWS HADN'T COME TO THEIR
21 COMMUNITIES. ARE THERE ANY PARTICULAR COMMUNITIES WHERE YOU
22 REMEMBER THAT BEING A CONCERN?

23 A. YES. THE ONE THAT I REMEMBER MOST CLEARLY IS JEFFERSON
24 PARISH.

25 Q. OKAY.

OMARI HO-SANG

03:21 1 A. THEY ARE PROBABLY SOME OTHERS, BUT THAT'S THE ONE I
2 REMEMBER MOST CLEARLY.

3 Q. AND HOW ABOUT THE COMMUNITIES WHERE THE ROADSHOWS DID TAKE
4 PLACE, DID YOUR PARTNERS EXPRESS ANY CONCERN ABOUT WHETHER
5 THEIR MESSAGES TO THE REDISTRICTING -- OR TO THE COMMITTEE WERE
6 BEING HEARD?

7 A. YES, THEY WERE DEFINITELY CONCERNS ABOUT THAT. AND THERE
8 WAS ALSO CONCERNS ABOUT AWARENESS. LIKE, JUST KNOWING ABOUT
9 THE ROADSHOW AND BEING ABLE TO ATTEND IN THEIR CITY.

10 Q. ARE THERE ANY PARTICULAR CONCERNS THAT COME TO MIND IN
11 TERMS OF FOLKS BEING IGNORED OR NOT LISTENED TO AT THE
12 RESTRICTING ROADSHOWS FROM YOUR RECOLLECTION?

13 A. FROM MY MEMORY, I KNOW THERE WERE SOME CONCERNS OUT OF ONE
14 OF OUR REGIONS IN SHREVEPORT. EVEN THOUGH THAT WAS A HIGHLY
15 ATTENDED SESSION, THERE WERE A LOT OF -- AND ESPECIALLY WITH ME
16 LIVING NEAR THAT LOCATION, THERE WERE A LOT OF CONCERNS AROUND
17 JUST BEING IGNORED, YOU KNOW. WE HAD A LOT OF TESTIMONY -- AS
18 WELL AS IN LAFAYETTE WHICH IS AN AREA WHERE WE HAD A
19 PRE-MEETING EVENT AND PEOPLE WERE ABLE TO EXPRESS THEIR
20 CONCERNS PRIOR TO TESTIFYING -- WERE ABLE TO ATTEND AND TESTIFY
21 AND EXPRESS CONCERNS AFTERWARDS.

22 SO THOSE ARE TWO THAT I REMEMBER. BUT DURING OUR
23 GATHERINGS THAT WE HAVE, OUR ONCE MONTHLY CALLS, THERE WAS A
24 LOT OF CONCERN AND TALK AROUND JUST IN GENERAL NOT BEING HEARD
25 DURING THE REDISTRICTING PROCESS AND REALLY WANTING TO FIGURE

OMARI HO-SANG

03:23 1 OUT HOW COULD THEY BE HEARD AND HOW THEY COULD RECEIVE A
2 RESPONSE FOR THEIR TESTIMONY OR THEIR CONCERNS.

3 Q. AND SO WHAT RESOURCES DID BVM POUR INTO HELPING PREPARE
4 FOR THAT REDISTRICTING TAKEOVER WHERE FOLKS COULD TESTIFY IN
5 FRONT OF THE LEGISLATURE AGAIN?

6 A. SO ONE OF THE -- THE FIRST MOST TANGIBLE RESOURCES WE
7 PROVIDE WAS OUR MINI GRANT. FOR THOSE ORGANIZATIONS THAT
8 PARTICIPATED IN THE TAKEOVER, WE PROVIDED MINI GRANTS ON
9 AVERAGE ABOUT \$2,500 OR MORE SO THAT OUR PARTNERS COULD BE ABLE
10 TO TRAVEL IN THE CARAVAN AND ATTEND AS WELL AS BRING THEIR
11 MEMBERS WITH THEM.

12 WE ALSO PROVIDED TRAININGS, BOTH FROM OUR NATIONAL
13 TEAM AS WELL AS THROUGH OUR ALLIED PARTNERS. AND WE ALSO
14 UTILIZED ASSETS. AND SO, YOU KNOW, PRESS RELEASES, MEDIA
15 ADVISORIES, TEXT CAMPAIGNS, MARKETING FLYERS.

16 AND THEN ONE OF OUR BIGGEST ASSETS THAT WE USE IS OUR
17 BUS, WHICH IS AN ASSET THAT IS VERY EXPENSIVE TO BRING INTO THE
18 STATE. AND IT TRAVELED WITH US ON THE CARAVAN AND REMAINED IN
19 BATON ROUGE DURING THE SESSION.

20 Q. AND SO IF BVM HAD NOT BEEN DEVOTING ALL THE STAFF TIME AND
21 FINANCIAL RESOURCES THAT YOU JUST MENTIONED TOWARD THE
22 REDISTRICTING TAKEOVER, WHAT WOULD THOSE RESOURCES HAVE BEEN
23 DEVOTED TOWARD INSTEAD?

24 A. AGAIN, CAPACITY BUILDING AND GETTING OUT THE VOTE BECAUSE
25 WE BELIEVE THAT VOTING IS NOT THE ONLY WAY, BUT IT IS A VERY

OMARI HO-SANG

03:24 1 CRITICAL WAY. AND WITH BVM'S FOCUS ON INCREASING BLACK VOTER
2 ADVOCACY, YOU KNOW, WE WANT TO MAKE SURE THAT OUR PARTNERS HAVE
3 THE TOOLS AND ARE CONFIDENT IN USING THOSE TOOLS.

4 AND FOR MANY OF OUR PARTNERS, THEY -- THESE TOOLS ARE
5 NEW. AND SO WE WANT TO SPEND AS MUCH TIME AS POSSIBLE IN
6 MAKING SURE OUR PARTNERS ARE PREPARED TO GET OUT THE VOTE AND
7 ALSO HAVE THE CAPACITY TO DO SO.

8 Q. SO AFTER THE REDISTRICTING TAKEOVER, HOW DID THE
9 LEGISLATURE RESPOND TO THE TESTIMONY AND THE TAKEOVER PROCESS
10 THAT YOU ORGANIZED?

11 A. IN GENERAL OR DURING OUR -- DURING THE SESSION?

12 Q. AFTER THE REDISTRICTING TAKEOVER WAS COMPLETED.

13 A. SO FROM OUR VIEW, THERE WAS REALLY NO RESPONSE TO OUR
14 REQUEST. THERE MAY HAVE BEEN SOME COMMENTS FROM LEGISLATORS,
15 BUT, YOU KNOW, ON THE WHOLE, THERE WAS NOT A RESPONSE.

16 Q. AND DO YOU RECALL WHETHER THE LEGISLATURE PASSED MAPS
17 FOLLOWING THE REDISTRICTING TAKEOVER?

18 A. YES.

19 Q. ABOUT WHEN, TO YOUR RECOLLECTION, DID THEY PASS THOSE
20 MAPS?

21 A. MARCH OF 2022.

22 Q. HOW DID THOSE MAPS COMPARE TO THE MAPS THAT BVM AND ITS
23 PARTNERS WERE FIGHTING FOR?

24 A. THEY WERE COMPLETELY CONTRARY TO WHAT OUR PARTNERS WANTED
25 OR REQUESTED.

OMARI HO-SANG

03:25 1 Q. AND HOW SO?

2 A. THEY DID NOT INCLUDE THE OPPORTUNITY DISTRICTS THAT WERE
3 REQUESTED FROM OUR PARTNERS.

4 Q. AS A LOUISIANA RESIDENT AND AS AN ORGANIZING MANAGER WITH
5 BVM, WHAT WOULD FAIR MAPS MEAN TO YOU?

6 A. FAIR MAPS MEAN FAIR REPRESENTATION.

7 Q. YES.

8 A. ADEQUATE REPRESENTATION. FAIR MAPS HAVE SO MANY
9 IMPLICATIONS AND RAMIFICATIONS FOR THE EVERYDAY LIFE OF OUR
10 COMMUNITY MEMBERS. AND I THINK WE'VE SEEN THROUGHOUT THE
11 COURSE OF HISTORY, OR EVEN THE SHORT TIME THAT I'VE BEEN WITH
12 BLACK VOTERS MATTER, THAT UNFAIR MAPS AND A LACK OF
13 REPRESENTATION CAN HAVE LIFE OR DEATH CONSEQUENCES. AND I
14 COULD GO ON AND ON. BUT, YOU KNOW, JUST ON THE WHOLE, FAIR
15 MAPS MEANS A CHANCE FOR MY COMMUNITY, MY CHILDREN TO HAVE A
16 FAIR CHANCE AT LIFE.

17 Q. AND SO I WANT TO TALK SOME MORE ABOUT THAT. HOW HAVE THE
18 STATE HOUSE AND SENATE MAPS HARMED BVM, ITS PARTNERS AND ITS
19 CONSTITUENTS?

20 A. IT'S JUST TAKEN AWAY FROM OUR ABILITY TO BUILD CAPACITY
21 WITH OUR PARTNERS IN A WAY THAT IS NECESSARY TO INCREASE BLACK
22 VOTER ENGAGEMENT, BLACK CIVIC ENGAGEMENT. YOU KNOW, SPECIFIC
23 THINGS THAT I CAN REMEMBER IN TERMS OF THIS PERIOD OF TIME, WE
24 HAVE -- WE HAVE A PROJECT THAT WE CALL ISSUE MINING THAT GIVES
25 US AN OPPORTUNITY TO REACH OUT TO OUR COMMUNITY TO BETTER

OMARI HO-SANG

03:27 1 UNDERSTAND WHAT ARE THE ISSUES THAT ARE IMPORTANT TO THEM. AND
2 DURING THE TIME WHERE WE HAD RESPOND TO THE UNFAIR MAPS, WE HAD
3 TO DIVERT OUR ATTENTION AWAY FROM THAT. AND OUR PARTNERS HAD A
4 DESIRE TO ISSUE MINE. BUT, YOU KNOW -- AND WE WANTED TO
5 SUPPORT THEM. WE WERE ABLE TO SUPPORT THEM EVENTUALLY, BUT
6 THERE WAS A DELAY IN OUR ABILITY TO DO SO.

7 THERE IS ALSO THE CHALLENGE THAT WE EXPERIENCED EVEN
8 BEFORE REDISTRICTING, BUT EVEN MORE SO NOW, OF CONTENDING WITH
9 THIS IDEA THAT PEOPLE IN OUR COMMUNITY, THAT THEIR VOTE DOESN'T
10 MATTER AND THAT, YOU KNOW, EVEN IF THEY DID VOTE, THEY WOULD
11 NOT BE ABLE TO GET SOMEBODY WHO THEY FEEL REPRESENTS THEM, WHO
12 UNDERSTANDS THEM, WHO WOULD EVEN COME TAKE THE TIME OR EVEN
13 BOTHER TO COME TO THEIR COMMUNITY, BOTHER TO COME TO A
14 COMMUNITY FORUM. AND SO THESE INSTANCES MAKES IT A LITTLE BIT
15 MORE CHALLENGING FOR US TO HAVE THE CONVERSATION AND URGE BLACK
16 PEOPLE TO JUST GO AND VOTE ANYWAY, ENGAGE IN THIS PROCESS
17 ANYWAY. SO, YOU KNOW, THAT IS A HARM. THOSE ARE THE THREE.

18 **Q.** SO I WANT TO -- I WANT TO TALK ABOUT A COUPLE OF THOSE IN
19 MORE DETAIL. YOU MENTIONED ISSUE MINING. CAN YOU TALK ABOUT
20 WHY ISSUE MINING, WHY THE TIMING OF ISSUE MINING IS IMPORTANT?

21 **A.** THE TIMING IS IMPORTANT BECAUSE IT HELPS US TO HAVE A
22 RESPONSIVE MESSAGE WHEN WE'RE GETTING OUT THE VOTE. YOU KNOW,
23 JUST KIND OF AS FOLLOW-UP TO THE CHALLENGES THAT WE EXPERIENCE
24 IN THE FIELD WHEN WE WERE TALKING TO BLACK VOTERS. YOU KNOW, A
25 PART OF OVERCOMING SOME OF THOSE OBJECTIONS IS REALLY

OMARI HO-SANG

03:29 1 UNDERSTANDING WHAT PEOPLE CARE ABOUT. YOU KNOW, I COULD FEEL
2 THAT, YOU KNOW, EDUCATION IS REALLY IMPORTANT IN MY COMMUNITY.
3 BUT SOMEONE WHO I'M TALKING TO, IT MIGHT BE THE MASS
4 INCARCERATION ISSUE THAT LOUISIANA IS EXPERIENCING. AND SO
5 IT'S IMPORTANT FOR US TO HAVE A DATA DRIVEN UNDERSTANDING
6 THAT'S DOCUMENTED TO REALLY FORMULATE OUR CONVERSATIONS IN A
7 WAY THAT'S MEANINGFUL WITHIN OUR COMMUNITY. AND THEN FURTHER
8 WE UTILIZE THAT MESSAGING IN OUR -- IN OUR COMMUNICATIONS. WE
9 INCORPORATE THAT WHEN WE'RE TALKING IN TERMS OF OUR DIGITAL
10 COMMUNICATIONS AS WELL. AND SO IT'S IMPORTANT THAT THESE
11 CONVERSATIONS TAKE PLACE PRIOR TO THE ELECTION CYCLE SO THAT WE
12 CAN INCORPORATE THAT INTO OUR GOTV STRATEGY.

13 **Q.** AND SO HOW DOES A DELAY IN ISSUE MINING AFFECT BVM'S
14 ABILITY TO BUILD CAPACITY IN ITS PARTNER AND ITS WORK?

15 **A.** IT JUST -- IT MAKES IT A LITTLE BIT MORE DIFFICULT TO HAVE
16 A RESPONSIVE CONVERSATION WITH PEOPLE, A CONVERSATION THAT IS
17 RELEVANT BECAUSE, AGAIN, I -- YOU KNOW, WE CAN SAY, "HEY, IT'S
18 IMPORTANT TO GET OUT TO VOTE BECAUSE OUR ANCESTORS DIED FOR
19 IT." BUT FOR SOME VOTERS THAT DOESN'T REALLY RESONATE. AGAIN,
20 FOR SOME VOTERS IT'S OUR ECONOMIC SITUATION, FOR SOME VOTERS
21 THEY NEED A JOB. FOR OTHERS THEY WANT A GROCERY STORE WITHIN
22 THEIR COMMUNITY, RIGHT. AND SO THE NEEDS, THE CONCERNS ARE
23 DIVERSE AS OUR PEOPLE. THERE IS NO ONE SINGLE CONCERN FOR
24 BLACK VOTERS, AND SO THAT GIVE US THE ABILITY TO BE RESPONSIVE
25 AND TO REALLY MOVE PEOPLE IN A WAY THAT IS MEANINGFUL AND

OMARI HO-SANG

03:30 1 SUBSTANTIVE.

2 Q. AND SO WHEN YOU SAY YOUR ISSUE MINING WORK WAS DELAYED AS
3 A RESULT OF THE MAPS, CAN YOU TALK ABOUT WHAT ISSUES YOU WERE
4 WORKING ON IN THE REDISTRICTING CONTEXT THAT PUSHED OUT YOUR
5 ISSUE MINING IN 2022?

6 A. SO IN 2022, LIKE, AFTER MARCH SPECIFICALLY WHEN THE MAPS
7 WERE VOTED ON INSTEAD OF, YOU KNOW, FOCUSING ON ISSUE MINING,
8 WE LIFTED UP A CAMPAIGN ALONG SIDE OUR PARTNERS WITH THE NAACP
9 TO VETO THE MAPS AND TO GET OUR COMMUNITY TO ENGAGE IN
10 THAT WORK. SO WHETHER THAT WAS EMAILING, PHONE CALLING, OR
11 SHOWING UP TO THE GOVERNOR'S MANSION FOR THE RALLY.

12 AND THEN WE ALSO HAD A CAMPAIGN CALLED *POINT THEM OUT*
13 WHERE WE SPECIFICALLY ENGAGED COMMUNITY MEMBERS AND OUR
14 PARTNERS IN CALLING LEGISLATORS WHO VOTED AGAINST THE FAIR MAPS
15 AND JUST CALLING AND QUESTIONING WHY DID YOU VOTE AGAINST FAIR
16 MAPS. SO THERE WAS A LOT OF ENERGY, THERE WAS A LOT OF TIME
17 AND THERE WAS A FINANCIAL INVESTMENT IN TERMS OF LIFTING THAT
18 CAMPAIGN UP AND THEN ENGAGING OUR PARTNERS TO IN TURN ENGAGE
19 THEIR COMMUNITIES IN THAT WORK.

20 Q. NOW, WHY WAS THE *POINT THEM OUT* CAMPAIGN SOMETHING THAT
21 WAS IMPORTANT TO BVM?

22 A. IT IS IMPORTANT FOR THERE TO BE ACCOUNTABILITY WHEN
23 DECISIONS ARE MADE, ESPECIALLY WHEN THOSE DECISIONS IMPACT OUR
24 PARTNERS AND OUR COMMUNITIES. AND SO WE WANTED TO -- AND,
25 AGAIN, IT WAS KIND OF A PART OF AN ONGOING EFFORT ALSO TO

OMARI HO-SANG

03:32 1 EDUCATE OUR COMMUNITY ABOUT WHAT WAS GOING ON WITHIN THE
2 REDISTRICTING PROCESS. SO WHEN THE -- WHEN THE UNFAIR MAPS
3 WERE PRODUCED, IT WAS IMPORTANT FOR THE LEGISLATORS WHO VOTED
4 AGAINST THE FAIR MAPS TO HEAR FROM OUR COMMUNITY MEMBERS AND TO
5 HEAR FROM OUR PARTNERS AND FOR OUR COMMUNITY TO HEAR SOME
6 ANSWERS AND GET SOME RESPONSE, BECAUSE I THINK THAT'S A PART OF
7 OUR CHALLENGE IS THAT A LOT OF OUR COMMUNITY MEMBERS FEEL THAT
8 THEY ARE NOT BEING RESPONDED TO AND THAT THEY ARE BEING
9 IGNORED. AND WE TRY PREEMPT THAT, AND WE TRY TO CREATE A SENSE
10 OF ENGAGEMENT. NOT A SENSE OF IT, BUT ACTUAL ENGAGEMENT IN THE
11 PROCESS.

12 **Q.** AND SO WHEN YOU STARTED DOING THAT WORK TO HOLD
13 LEGISLATORS ACCOUNTABLE FOLLOWING THE REDISTRICTING MAP, ARE
14 THERE ANY OTHER EXAMPLES OF HOW YOU'VE ENGAGED IN
15 ACCOUNTABILITY WORK SINCE THE MAPS WERE PASSED?

16 **A.** YES. OUR -- THAT CAMPAIGN HAS KIND OF MORPHED INTO AN
17 ONGOING PROGRAM THAT WE INFORMALLY REFERRED TO AS
18 ACCOUNTABILITY SEASON BECAUSE WE BELIEVE THAT, AGAIN, VOTING IS
19 AN IMPORTANT PART OF CIVIC ENGAGEMENT AND IT IS AN IMPORTANT
20 PART OF BUILDING POWER IN OUR COMMUNITY, BUT IT IS NOT THE ONLY
21 WAY. AFTER A VOTE IS CAST, AFTER SOMEONE IS ELECTED AND
22 DECISIONS ARE MADE, IT IS ALSO IMPORTANT FOR OUR COMMUNITY TO
23 BUILD THE MUSCLE AND FLEX THE MUSCLE OF HEARING FROM THEIR
24 LEGISLATORS, WHETHER, YOU KNOW, IT BE ON A STATE LEVEL OR ANY
25 OTHER LEVEL. AND SO WE ARE CONTINUING TO TRAIN OUR PARTNERS

OMARI HO-SANG

03:33 1 AND HOLD CONVERSATIONS WITH OUR PARTNERS ABOUT WHAT DOES
2 ACCOUNTABILITY LOOK LIKE IN THIS ENVIRONMENT AND WHAT ARE THE
3 VARIOUS TOOLS THAT WE CAN USE TO HOLD OUR LEGISLATORS AND OUR
4 ELECTED OFFICIALS ACCOUNTABLE.

5 **Q.** AND WHAT DO THOSE TOOLS TO HOLD FOLKS ACCOUNTABLE LOOK
6 LIKE SINCE THE STATE HOUSE AND SENATE MAPS WERE PASSED BY THE
7 LEGISLATURE?

8 **A.** SO WE -- THIS YEAR WE'VE HAD OR LAUNCHED OUR VIRTUAL
9 FREEDOM SCHOOL AS WELL AS OUR IN-PERSON FREEDOM SCHOOL TOUR.
10 AND THIS -- YOU KNOW, CALLING ON THE LEGACY OF FREEDOM SCHOOLS
11 WHICH WERE STOOD UP AS A RESPONSE TO SIMILAR ISSUES THAT WE'RE
12 EXPERIENCING NOW. WE'VE GATHERED OUR PARTNERS TO EDUCATE THEM
13 AND ENGAGE THEM IN THE WORK OF BUILDING POWER THROUGH THE
14 ELECTORAL PROCESS AND OTHERWISE AS WELL AS BUILDING. BECAUSE,
15 AGAIN, WE'RE A CAPACITY BUILDING ORGANIZATION. SO WE WORK WITH
16 PARTNERS SO THAT WHEN WE'RE NOT HERE ANYMORE, THEY HAVE THE
17 TOOLS NECESSARY, WHETHER IT'S ACCOUNTABILITY, WHETHER IT'S
18 GETTING OUT THE VOTE. AND SO WE'VE INCORPORATED THAT INTO OUR
19 VIRTUAL FREEDOM SCHOOL AND IN-PERSON FREEDOM SCHOOL TRAINING.

20 **Q.** YOU ALSO MENTIONED THAT SINCE THE MAPS HAVE BEEN PASSED,
21 YOU HAVE WORKED WITH VOTERS WHO FEEL LIKE THEIR VOTES DON'T
22 MATTER. HOW HAVE YOU OBSERVED THAT TREND WITH VOTERS IN YOUR
23 MORE RECENT WORK WITH THIS LAST ELECTION?

24 **A.** IT'S ONLY GOTTEN WORSE.

25 **Q.** AND CAN YOU EXPLAIN WHAT TRENDS YOU'VE OBSERVED WITH

OMARI HO-SANG

03:35 1 RESPECT TO VOTERS FEEL LIKE THEIR VOTES DON'T MATTER IN THE
2 COMMUNITIES YOU WORK IN?

3 A. SO, AGAIN, IT WAS ALREADY A CHALLENGE. NOW IT'S -- IT IS
4 EXTREMELY DIFFICULT. IT IS ALMOST LIKE WE'RE PULLING TEETH,
5 YOU KNOW, TO GET FOLKS TO UNDERSTAND VOTING. AND NOW
6 INDIVIDUALS ARE BRINGING UP SPECIFIC INSTANCES, MORE NOW, WHERE
7 THEY VOTED AND NOTHING IN THEIR COMMUNITY CHANGED. AND THIS IS
8 ACROSS AGE GROUPS. IT'S NOT JUST YOUNG VOTERS. IT'S -- YOU
9 KNOW, THIS IS AN INTERGENERATIONAL ISSUE THAT WE'RE DEALING
10 WITH, AGAIN, BECAUSE OF A LACK OF RESPONSIVENESS, A LACK OF
11 REPRESENTATION.

12 YOU KNOW, ONE OF THE CONCERNS THAT I HEARD IN THIS
13 MOST RECENT ELECTION IS THAT, YOU KNOW, ONE OF THE CANDIDATES
14 DIDN'T EVEN BOTHER TO SHOW UP IN THEIR COMMUNITY. AND IT IS
15 HARD, IT IS A CHALLENGE TO PUSH BACK AGAINST THAT BECAUSE IT'S
16 THE TRUTH. SO, YOU KNOW, WE -- YOU KNOW, THAT'S WHY IT'S
17 IMPORTANT TO ISSUE MINE. THAT'S WHY IT'S IMPORTANT TO REALLY
18 UNDERSTAND WHAT ARE THE ISSUES THAT ARE GOING TO MOVE PEOPLE TO
19 ACTUALLY GO VOTE, WHAT ARE SOME STRATEGIES THAT WE CAN USE TO
20 REALLY GET PEOPLE TO REGAIN TRUST IN THIS PROCESS. SO, YEAH.

21 Q. AND BASED ON YOUR EXPERIENCE IN ORGANIZING IN THESE
22 COMMUNITIES AND WITH YOUR PARTNERS, HOW HAVE THE STATE HOUSE
23 AND SENATE MAPS PASSED IN 2022 AFFECTED THAT VOTER DISILLUSION
24 APATHY?

25 A. MY BELIEF IS THAT IT HAS CREATED A LOT OF VOTER APATHY AND

OMARI HO-SANG

03:36 1 THAT IT IS KIND OF A CASE IN POINT FOR A LOT OF PEOPLE WHO FEEL
2 THAT THEY ARE NOT BEING REPRESENTED. SEE, LOOK WHAT HAPPEN
3 WITH THIS LAST SESSION, FOR THOSE WHO KNOW ABOUT IT, FOR THOSE
4 WHO ARE AWARE, IT HAS JUST REALLY DEEPENED THE APATHY BECAUSE
5 IT'S A PART OF THIS LONG LEGACY OF, YOU KNOW, THEY SAW OUR BUS,
6 YOU KNOW. THEY SAW THE REDISTRICTING TAKEOVER. THEY KNOW THAT
7 WE'RE OUT PUSHING PEOPLE OUT TO VOTE, BUT YET AND STILL, THE
8 MAPS THAT WERE PASSED WERE STILL UNFAIR. SO IT'S ALSO CREATED
9 A LOT OF FRUSTRATION IN THE COMMUNITY. AND, AGAIN, I WON'T SAY
10 CREATE. I'LL SAY DEEPENED. THE VALLEY HAS TURNED INTO A
11 CHASM. AND SO WE'RE JUST PLAYING -- WE'RE CONSTANTLY PLAYING
12 CATCH-UP TO MAKE SURE THAT OUR COMMUNITIES ARE REPRESENTED AND
13 THAT OUR PEOPLE BELIEVE IN THE PROCESS ENOUGH TO ACTUALLY GO
14 AND CAST THEIR BALLOT.

15 **Q.** AND I THINK YOU STARTED TO ANSWER THIS WITH YOUR LAST
16 ANSWER ABOUT PLAYING CATCH-UP. BUT HOW HAS THAT VOTER APATHY
17 SINCE THESE MAPS HAVE BEEN PASSED AFFECTED BVM'S WORK IN THESE
18 COMMUNITIES?

19 **A.** IT'S JUST MORE OF AN EXPENDITURE OF TIME AND INVESTMENT IN
20 SPECIFIC COMMUNITIES. IT IS TRYING TO FIGURE OUT INNOVATIVE
21 AND NEW STRATEGIES THAT DON'T EXIST ALREADY. THE TRIED AND
22 TRUE, YOU KNOW, TRADITIONAL STRATEGIES OF GETTING OUT THE VOTE,
23 WHICH, OF COURSE, INCLUDES PHONE BANKING AND CANVASING. YOU
24 KNOW, WE HAVE TO GO DEEPER, AND WE HAVE TO HAVE A 365-DAY
25 APPROACH TO THE WORK BECAUSE, YOU KNOW, JUST DURING THE

OMARI HO-SANG

03:38 1 ELECTION SEASON IS NOT ENOUGH. THERE HAS TO BE ONGOING
2 CONVERSATIONS. AND, AGAIN, WE DON'T WANT TO BE THE
3 ORGANIZATION -- WE DON'T WANT TO BE THE PERSON THAT GOES INTO A
4 COMMUNITY ONCE AND NEVER COMES BACK. WE WANT TO BUILD
5 RELATIONSHIP AND BUILD TRUST BECAUSE TRUST HAS BEEN BROKEN.
6 AND SO HOW DO WE AS A ORGANIZATION REBUILD THE TRUST, AT LEAST
7 IN US, TO BELIEVE THAT WE HAVE THE INTEREST, YOU KNOW, IN MIND
8 OF YOUR COMMUNITY FOR THEM TO ENGAGE. AND IT'S NOT JUST IN
9 VOTING, JUST TO ENGAGE IN GENERAL IN THE CIVIC PROCESS.

10 **Q.** AND HOW DOES THAT 365-DAY PROCESS AFFECT BVM'S CAPACITY
11 BUILDING AND ITS OTHER WORK APART FROM ITS WORK IN RESPONSE TO
12 THE MAPS?

13 **A.** SO OUR PREFERENCE, OUR -- THE CORE OF WHAT WE DO IS
14 ENGAGING OUR PARTNERS IN CIVIC ENGAGEMENT. WE DO BUS TOURS.
15 WE HAVE OUR ONCE-MONTHLY CALLS. BUT, AGAIN, BECAUSE THE
16 ENVIRONMENT IN LOUISIANA IS SO DIFFICULT AND SO CHALLENGING,
17 WE ARE RECOGNIZING THAT WE HAVE TO CHANGE UP OUR APPROACH AND
18 WE NEED TO SPEND MORE TIME IN COMMUNITY WITH BLACK VOTERS TO
19 NOT ONLY GET THEM TO REGISTER, BECAUSE WE HAVE A LOT OF
20 REGISTERED BLACK VOTERS IN LOUISIANA, BUT ALSO JUST TO LIKE
21 BUILD THE TRUST.

22 AND SO SOMETIMES BUILDING TRUST IN COMMUNITY MEANS
23 GOING INTO A COMMUNITY AND NOT TALKING ABOUT VOTING AT ALL,
24 JUST TALKING ABOUT THE CONCERNS THAT OUR COMMUNITY MEMBERS HAVE
25 AND THAT IS -- THAT IS NOT A TRANSACTIONAL PROCESS. THAT'S A

OMARI HO-SANG

03:40 1 TRANSFORMATIONAL PROCESS THAT TAKES TIME, IT TAKES ENERGY, IT
2 TAKES INVESTMENT. IT REQUIRES BVM ASSETS MORE OFTEN THAN WOULD
3 BE -- THAT HAS BEEN TYPICAL IN THE PAST. SO THOSE ARE SOME
4 WAYS THAT -- YOU KNOW, THAT HAS IMPACTED US AND HAS CREATED
5 MORE EXPENDITURE THAN WE WOULD NORMALLY HAVE.

6 Q. SO I WANT TO WALK THROUGH A COUPLE OF CONCRETE EXAMPLES
7 ABOUT HOW BVM STAFF TIME WAS DIVERTED TOWARD REDISTRICTING.

8 A. OKAY.

9 Q. DID BVM CREATE ANY LETTERS OR PRESS RELEASES RELATING TO
10 THE REDISTRICTING PROCESS?

11 A. YES.

12 Q. I'M NOW SHOWING THE WITNESS WHAT HAS BEEN PREMARKED AS
13 PLAINTIFFS' EXHIBIT 184.

14 MS. HO-SANG, DO YOU RECOGNIZE THIS DOCUMENT?

15 A. YES.

16 Q. AND WHAT IS IT?

17 A. THIS IS A LETTER THAT WAS SENT TO GOVERNOR EDWARDS ON
18 FEBRUARY 18, 2022.

19 Q. WHAT DATE WAS IT SENT? OH, SORRY, YOU JUST SAID THAT.

20 ON PAGE 15 OF THIS DOCUMENT, DO YOU SEE YOUR
21 SIGNATURE AT THE BOTTOM?

22 A. YES.

23 MS. KEENAN: YOUR HONOR, WE MOVE TO ADMIT PLAINTIFFS'
24 EXHIBIT 184.

25 MS. HOLT: NO OBJECTION, YOUR HONOR.

OMARI HO-SANG

03:41 1 **THE COURT:** ADMITTED.

2 **BY MS. KEENAN:**

3 **Q.** SO I'M NOW SHOWING THE WITNESS WHAT'S BEEN PREMARKED AS
4 PLAINTIFFS' EXHIBIT 185.

5 MS. HO-SANG, DO YOU RECOGNIZE THIS DOCUMENT?

6 **A.** YES.

7 **Q.** AND WHAT IS IT?

8 **A.** THIS IS A LETTER THAT WAS SENT TO THE HOUSE AND
9 GOVERNMENTAL AFFAIRS COMMITTEE ON JANUARY 19TH OF 2022.

10 **Q.** OKAY. AND FLIPPING AHEAD TO PAGE 14, DO YOU SEE YOUR
11 SIGNATURE ON THIS DOCUMENT IN THE MIDDLE?

12 **A.** YES.

13 **Q.** OKAY.

14 **MS. KEENAN:** WE MOVE TO ADMIT PLAINTIFFS' EXHIBIT
15 185.

16 **MS. HOLT:** NO OBJECTION, YOUR HONOR.

17 **THE COURT:** ADMITTED.

18 **BY MS. KEENAN:**

19 **Q.** I'M NOW SHOWING THE WITNESS WHAT'S BEEN PREMARKED AS
20 PLAINTIFFS' EXHIBIT 187.

21 MS. HO-SANG, DO YOU RECOGNIZE THIS DOCUMENT?

22 **A.** YES.

23 **Q.** AND WHAT IS IT?

24 **A.** THIS IS A PRESS RELEASE.

25 **Q.** AND WHEN WAS IT CIRCULATED?

OMARI HO-SANG

03:41 1 A. ON FEBRUARY 22ND, 2022.

2 MS. KEENAN: AT THIS POINT WE'D MOVE TO ADMIT
3 PLAINTIFFS' EXHIBIT 187.

4 MS. HOLT: NO OBJECTION, YOUR HONOR.

5 THE COURT: ADMITTED.

6 BY MS. KEENAN:

7 Q. OKAY. I'M NOW SHOWING THE WITNESS WHAT'S BEEN PREMARKED
8 AS PLAINTIFFS' EXHIBIT 201.

9 MS. HO-SANG, DO YOU RECOGNIZE THIS DOCUMENT?

10 A. YES.

11 Q. AND WHAT IS IT?

12 A. THIS IS ALSO A PRESS RELEASE.

13 Q. AND WHAT DATE WAS IT CIRCULATED?

14 A. FEBRUARY 9TH, 2022.

15 MS. KEENAN: WE MOVE TO ADMIT PLAINTIFFS' EXHIBIT
16 201.

17 MS. HOLT: NO OBJECTION.

18 THE COURT: ADMITTED.

19 BY MS. KEENAN:

20 Q. MS. HO-SANG, DID YOU ALSO SEND OR RECEIVE ANY EMAILS WITH
21 INTERNAL STAFF ABOUT REDISTRICTING AND BVM'S WORK?

22 A. YES.

23 Q. WHAT ABOUT WITH BVM'S PARTNERS?

24 A. YES.

25 Q. AND WHAT ABOUT WITH BVM'S CONSTITUENCY.

OMARI HO-SANG

03:42 1 A. YES. WELL, WE CONSIDER OUR PARTNERS OUR CONSTITUENTS.
2 SO, YES.

3 Q. OKAY. I'M NOW SHOWING THE WITNESS WHAT'S BEEN PREMARKED
4 AS PLAINTIFFS' EXHIBIT 186.

5 MS. HO-SANG, DO YOU RECOGNIZE THIS DOCUMENT?

6 A. YES.

7 Q. AND WHAT IS IT?

8 A. THIS IS AN EMAIL THAT WAS SENT REGARDING THE RALLY AT THE
9 GOVERNOR'S MANSION.

10 Q. DO YOU SEE WHEN IT WAS SENT?

11 A. YES. FEBRUARY 22ND, 2022.

12 Q. AND DO YOU RECALL RECEIVING THIS EMAIL?

13 A. YES, I DO.

14 MS. KEENAN: WE MOVE TO ADMIT PLAINTIFFS'
15 EXHIBIT 186.

16 MS. HOLT: NO OBJECTION.

17 THE COURT: 186 IS ADMITTED.

18 BY MS. KEENAN:

19 Q. I'M NOW SHOWING THE WITNESS WHAT'S BEEN PREMARKED AS
20 PLAINTIFFS' EXHIBIT 188.

21 I UNDERSTAND THE FIRST PAGE IS A BUNCH OF EMAILS.

22 SO ON THE SECOND PAGE, ARE YOU ABLE TO RECOGNIZE THIS
23 DOCUMENT?

24 A. YES.

25 Q. AND WHAT IS IT?

OMARI HO-SANG

03:43 1 A. THIS IS AN EMAIL THAT I SENT TO OUR PARTNERS.

2 Q. AND ON WHAT DATE DID YOU SEND IT?

3 A. ON SEPTEMBER 22ND, 2021.

4 MS. KEENAN: WE MOVE TO ADMIT PLAINTIFFS'
5 EXHIBIT 188.

6 MS. HOLT: NO OBJECTION.

7 THE COURT: COUNSEL, DO YOU WANT -- IS THERE ANY
8 PERSONAL IDENTIFYING INFORMATION IN THOSE EMAIL ADDRESSES THAT
9 NEEDS TO BE REDACTED? IT WAS A BUNCH OF THEM. I'M GOING TO
10 JUST ASK THAT YOU TAKE A LOOK AT WHATEVER EXHIBIT THAT WAS,
11 P-186 I THINK IT WAS, AND MAKE SURE THERE'S NOT REDACTIONS THAT
12 NEED TO BE MADE IN THAT EMAIL LIST.

13 MS. KEENAN: THANK YOU, YOUR HONOR, OF COURSE. JUST
14 TO PREVIEW, THERE ARE A NUMBER OF ADDITIONAL EMAILS WE'RE ABOUT
15 TO MOVE THROUGH, ALL OF WHICH ARE IN JERS. IF IT'S EASIER I
16 CAN CONFER BRIEFLY WITH OPPOSING COUNSEL, SEE IF THERE ARE ANY
17 EXHIBITS AND WE CAN JUST MOVE TO ADMIT THOSE WITHOUT SHOWING
18 THE EMAIL ADDRESSES IN COURT.

19 THE COURT: WHY DON'T YOU -- WHY DON'T THE TWO OF
20 TALK AND SEE IF YOU CAN'T DO AN IN GLOBO ADMISSION, AND THEN
21 YOU CAN REDACT ANY PERSONALLY IDENTIFYING INFORMATION
22 SUBSEQUENTLY.

23 MS. KEENAN: THANK YOU, YOUR HONOR. WE'LL BE SURE TO
24 DO THAT. I'LL CONFER WITH COUNSEL BRIEFLY.

25 THE COURT: ALL RIGHT. TAKE A MINUTE.

OMARI HO-SANG

03:44 1 (WHEREUPON, THERE WAS AN OFF-RECORD DISCUSSION BETWEEN
2 COUNSEL.)

3 MS. KEENAN: SO, YOUR HONOR, IT SOUNDS LIKE THERE'S
4 NO ISSUE WITH ADMITTING EACH OF THE DOCUMENTS, AND I CAN READ
5 OUT THE STRING, EXCEPT COUNSEL HAS ASKED IF WE'RE GOING TO
6 SPEND ANY ADDITIONAL TIME SPEAKING ABOUT THESE EXHIBITS -- OUR
7 POSITION IS THAT WE'VE ACTUALLY ALREADY ASKED MS. HO-SANG ABOUT
8 EACH OF THE EVENTS THAT ARE DESCRIBED IN THIS EMAIL. WE DON'T
9 WANT HER TO TRY TO BRING IN THE CONTENT OF THESE EMAILS FOR THE
10 TRUTH OF THE MATTER ASSERTED. WE'RE ADMITTING THEM AS CONCRETE
11 EXAMPLES OF BVM DIVERTING ITS STAFF TIME AND ATTENTION TOWARD
12 THE REDISTRICTING PROCESS. SO WE'RE NOT OFFERING THEM FOR THE
13 TRUTH OF THE MATTER. WE WERE PLANNING TO JUST PUT THEM INTO
14 THE RECORD, AND THEN MOVE ON WITH THE TESTIMONY TO AVOID BEING
15 CUMULATIVE.

16 THE COURT: TO SHOW THE USE OF THEIR ASSETS DURING
17 THE TIME PERIOD IN QUESTION?

18 MS. KEENAN: THAT'S RIGHT, YOUR HONOR.

19 THE COURT: OKAY. WHAT ARE YOUR EXHIBIT NUMBERS?

20 MS. KEENAN: OKAY. SO I THINK WE HAD MADE IT
21 THROUGH -- STEPHEN, DO YOU HAVE THE LAST NUMBER THAT WE WERE
22 ON? OKAY. SO WE HAD MADE IT THROUGH 188. I HAVE 191 -- IT'S
23 A STRING. 191, 192, 193, 199, 203, 205, 206, 207, 195, 194,
24 196, 200, 204, AND 208.

25 THE COURT: OKAY. THOSE EXHIBITS THAT HAVE BEEN

OMARI HO-SANG

03:48 1 IDENTIFIED BY PLAINTIFFS' COUNSEL WILL BE ADMITTED WITHOUT
2 OBJECTION. IS THAT CORRECT?

3 **MS. HOLT:** BASED ON OUR UNDERSTANDING OF WHAT WE JUST
4 SAID, YES, YOUR HONOR.

5 **THE COURT:** BASED ON THAT, WE'RE NOT GOING TO HAVE A
6 LOT OF WITNESS TESTIMONY ABOUT IT. THEY ARE BEING OFFERED TO
7 SHOW DEPLOYMENT OF RESOURCES DURING THE TIME PERIODS INDICATED
8 IN THE DOCUMENTS?

9 **MS. HOLT:** YES, YOUR HONOR.

10 **THE COURT:** OKAY.

11 **MS. KEENAN:** YES, YOUR HONOR.

12 **THE COURT:** ALL RIGHT. CARRY ON.

13 **BY MS. KEENAN:**

14 **Q.** OKAY. SO WE CAN MOVE PAST TO A COUPLE OF OTHER QUESTIONS
15 I WANTED TO ASK YOU, MS. HO-SANG, ABOUT BVM'S WORK INVOLVING
16 DISCRIMINATION IN LOUISIANA MORE BROADLY.

17 **A.** OKAY.

18 **Q.** CAN YOU TALK ABOUT WHAT, IF ANY, PRACTICES YOU'VE OBSERVED
19 IN LOUISIANA THAT MAKE IT HARDER FOR FOLKS TO VOTE?

20 **A.** YES. SO THERE HAS BEEN REPORTS OF VOTER INTIMIDATION
21 DIRECTLY. THERE IS ALSO AN ISSUE OR CHALLENGE WITH AWARENESS
22 IN UNDERSTANDING OF ELECTIONS. THERE IS ALSO A LACK OF
23 RESOURCES TO REALLY HELP TO BOLSTER THE WORK AND TO BOLSTER THE
24 AWARENESS OF ELECTIONS AND UNDERSTANDING OF WHAT'S ON THE
25 BALLOT AND HOW IT IMPACTS OUR VOTERS.

OMARI HO-SANG

03:49 1 THERE HAS ALSO BEEN -- IN TERMS OF FROM A POLICY
2 PERSPECTIVE, THERE HAVE BEEN ATTEMPTS TO MAKE VOTING MORE
3 ACCESSIBLE THAT HAVE BEEN BLOCKED BY THE LEGISLATURE. AND I
4 THINK THAT IN MANY WAYS THAT THAT HAS MADE VOTING MORE
5 DIFFICULT OR IT HAS, YOU KNOW, CREATED A PATH -- LESS OF A
6 PATHWAY FOR MORE BLACK VOTERS AND MORE MARGINALIZED VOTERS TO
7 GET TO THE BALLOT.

8 **Q.** YOU TALKED A LITTLE BIT ABOUT STRUGGLES WITH AWARENESS.
9 WHY IS IT HARD FOR LOUISIANA VOTERS IN PARTICULAR TO STAY ON
10 TOP OF INFORMATION ABOUT ELECTIONS?

11 **A.** WELL, NO. 1, I THINK BECAUSE THERE ARE SO MANY. I THINK
12 THIS YEAR WE'VE HAD FOUR OR FIVE ELECTIONS, AND THERE IS A
13 FATIGUE AROUND ELECTIONS. WHEN WE DO OUR ORGANIZING WORK AND
14 WE HAVE CONVERSATIONS WITH OUR PARTNERS AND THEY HAVE
15 CONVERSATIONS IN THE COMMUNITY, IT'S, "OH, THERE'S ANOTHER
16 ELECTION" OR "I HAVE TO VOTE AGAIN." AND SO REALLY ENCOURAGING
17 ON TOP OF THIS LAYER OF, YOU KNOW, "MY VOTE DOESN'T COUNT."
18 AND THEN IT'S LIKE, "OH, I GOT TO VOTE AGAIN," AND THAT HAS
19 DEFINITELY ADDED AN ADDITIONAL CHALLENGE.

20 AND THERE HAS BEEN AN ATTEMPT TO STREAMLINE
21 ELECTIONS, TO EVEN HAVE A CONVERSATION ABOUT IT AND THAT HAS
22 BEEN BLOCKED AS WELL. SO I THINK THAT THAT HAS BEEN A MAJOR
23 CONTRIBUTOR TO VOTER APATHY.

24 **Q.** I WANT TO TALK NEXT ABOUT POLITICAL CAMPAIGN ADS. CAN YOU
25 TALK ABOUT WHAT, IF ANY, RACIAL APPEALS OR UNDERTONES YOU'VE

OMARI HO-SANG

03:50 1 OBSERVED IN CAMPAIGN ADS IN YOUR TIME LIVING IN LOUISIANA?

2 A. THE TOP OF MINE THAT COMES TO MIND IS THE "CALL A
3 CRACKHEAD" COMMERCIAL. THAT WAS VERY OFFENSIVE TO ME, AND
4 THAT WAS A COMMERCIAL THAT WAS -- IT CAME UP DURING THE
5 MID-TERM ELECTION, SENATOR JOHN KENNEDY.

6 AND THEN MORE RECENTLY COMMERCIALS THAT WERE PUT
7 FORTH BY OUR GOVERNOR-ELECT AROUND BEING TOUGH ON CRIME AND
8 WOKE AROUND EDUCATION IN OUR SCHOOLS AND THE ACCURATE
9 RETEACHING OF EDUCATION. AND I THINK FOR ME, SEEING THE FIGHT
10 AROUND THE ACCURATE TEACHING AND SEEING ATTEMPTS TO BLOCK
11 SPECIFICALLY AP AFRICAN-AMERICAN HISTORY, TO ME, IT FELT LIKE A
12 DOG WHISTLE AND IT FELT LIKE A CONTINUATION AROUND THAT.

13 ANOTHER CONCERNING INSTANCE IN THE GOVERNOR-ELECT'S
14 COMMERCIALS WAS SHOWING THE FACES OF BLACK D.A.'S. ONE OF
15 THOSE D.A.'S I RECOGNIZE, BECAUSE IT'S THE D.A. IN THE PARISH
16 THAT I USED TO LIVE IN AND HIS -- I DON'T KNOW WHAT HIS EXACT
17 WORDS WERE, BUT, YOU KNOW, IN THE TOUGH ON CRIME PIECE, HE
18 SHOWED THE FACES OF THOSE BLACK D.A.'S. SPECIFICALLY -- I KNOW
19 SHREVEPORT WAS ONE OF THOSE AREAS THAT HAS A BLACK D.A. SO
20 THOSE ARE THREE THAT I CAN THINK OFF TOP OF MIND.

21 Q. DO YOU RECALL THE RACE OF THE CANDIDATES WHO WERE RUNNING
22 THOSE ADVERTISEMENTS?

23 A. YES.

24 Q. AND WHAT WAS IT?

25 A. WHITE.

OMARI HO-SANG

03:52 1 Q. CAN YOU TALK ABOUT WHAT, IF ANY, TRENDS YOU'VE OBSERVED IN
2 YOUR TIME IN LOUISIANA REGARDING THE SUCCESS OF BLACK
3 CANDIDATES RUNNING FOR OFFICE?

4 A. IN ANY PARTICULAR JURISDICTION OR JUST IN GENERAL?

5 Q. YOU CAN -- YOU CAN TALK ABOUT IT SORT OF IN GENERAL AS IT
6 RELATES EACH OF THE JURISDICTIONS THAT COME TO MIND.

7 A. RIGHT. SO ON THE LOCAL LEVEL, YOU KNOW, I'VE SEEN BLACK
8 CANDIDATES BE SUCCESSFUL. BUT THE HIGHER UP THAT WE GO IN
9 TERMS OF JURISDICTION, THE LESS LIKELY IT IS OR THE LESS THAT I
10 HAVE SEEN. I HAVEN'T SEEN DURING MY TIME IN LOUISIANA A BLACK
11 CANDIDATE WIN A STATEWIDE RACE. AND I'VE EVEN BEEN TOLD THAT
12 IT'S IMPOSSIBLE BY VARIOUS INDIVIDUALS. SO I WOULD SAY THAT
13 SPEAKING TO THE HIGHER OFFICES, IT IS VERY DIFFICULT AND HAS
14 BEEN VERY FEW AND FAR BETWEEN.

15 AND ON THE LEGISLATIVE LEVEL, I HAVE SEEN SOME BLACK
16 CANDIDATES IN MAJORITY-BLACK AREAS FIND SUCCESS. BUT I THINK
17 OVERALL IF WE LOOK AT THE MAKEUP OF THE STATE LEGISLATURE, IT'S
18 CLEAR THAT THERE'S NOT BEEN A LOT OF SUCCESS THERE.

19 Q. IN YOUR EXPERIENCE, MS. HO-SANG, BOTH ORGANIZING AND AS A
20 RESIDENT OF LOUISIANA, HOW RESPONSIVE HAS THE LEGISLATURE BEEN
21 TO THE NEEDS OF BLACK LOUISIANANS?

22 A. AGAIN, ON THE WHOLE, THERE IS A CLEAR LACK OF RESPONSE. I
23 THINK THAT THERE HAVE BEEN VARIOUS LEGISLATORS WHO HAVE MADE
24 ATTEMPTS. AND I THINK THERE HAVE BEEN SOME SUCCESS. AND SO I
25 DON'T WANT TO DISMISS THAT. THAT HAS HAPPENED. BUT ON THE

OMARI HO-SANG

03:54 1 WHOLE, THERE HAS NOT BEEN A LOT OF SUCCESS. AND I THINK IT'S
2 EVIDENCED IN THE CONDITIONS IN OUR COMMUNITY AND IT'S EVIDENCED
3 LIKE FOR THE EXAMPLE THAT I PROVIDED BEFORE AROUND STREAMLINING
4 ELECTIONS OR EVEN WORK THAT HAS BEEN ATTEMPTED AROUND BLACK
5 MATERNAL HEALTH OR CRIMINAL JUSTICE, THERE HAVE BEEN CHALLENGES
6 THERE.

7 **Q.** OKAY. THANK YOU, MS. HO-SANG.

8 **MS. KEENAN:** NO FURTHER QUESTIONS.

9 **THE COURT:** CROSS.

10 **MS. KEENAN:** I'M SORRY, YOUR HONOR. BEFORE I PASS
11 THE WITNESS, DO YOU MIND IF I CHECK-IN WITH YOUR COUNSEL
12 QUICKLY?

13 **THE COURT:** GO AHEAD. TAKE A MINUTE.

14 **MS. KEENAN:** THANK YOU, YOUR HONOR.

15 JUST BRIEFLY, YOUR HONOR, TWO CLEAN-UP
16 QUESTIONS.

17 **BY MS. KEENAN:**

18 **Q.** FIRST, DID ANY ELECTION OR GOTV SEASONS OVERLAP WITH THE
19 TIMELINES WHEN YOU HAD TO ORGANIZE FOR THE REDISTRICTING
20 PROCESS THAT YOU'VE TALKED ABOUT HERE TODAY?

21 **A.** YES. WE'VE HAD AN ELECTION EACH YEAR, SO ABSOLUTELY.
22 THERE -- IN 2022, LIKE WE HAD SOME MUNICIPAL ELECTIONS EARLY IN
23 THE YEAR, AND THEN TOWARD THE END OF 2022, OF COURSE, WE HAD
24 OUR MID-TERM ELECTIONS. SO, YES.

25 **Q.** AND YOU'VE TALKED A LITTLE BIT ABOUT WHAT FAIR MAPS MEAN

OMARI HO-SANG

03:55 1 TO YOU, BUT WHAT DO YOU THINK FAIR MAPS WOULD REPRESENT FOR THE
2 RISING GENERATION OF BLACK VOTERS THAT BVM ORGANIZES AND FIGHTS
3 FOR?

4 A. I THINK IT MEANS THAT WE CAN KEEP SOME YOUNG PEOPLE HERE.
5 YOU KNOW, EVERY TIME I HAVE A CONVERSATION WITH A YOUNG PERSON,
6 EVEN MY OWN YOUNG PEOPLE, THEY DON'T WANT TO BE HERE. THEY'VE
7 HAD BAD EXPERIENCES THEMSELVES DIRECTLY.

8 AND, IN FACT, DURING THE REDISTRICTING SESSION, WE
9 BROUGHT YOUNG PEOPLE WITH US TO TESTIFY AROUND FAIR MAPS. AND
10 THEY EVEN HAD A VERY CONCERNING EXPERIENCE IN THEIR TESTIMONY.
11 AND SO WE HOPE THAT FAIR MAPS MEANS WE CAN RETAIN OUR YOUNG,
12 OUR BRIGHT, OUR BEST SO THAT THEY CAN CONTINUE TO HELP US WITH
13 YOUR WORK AND ALSO JUST LIVE THEIR BEST LIFE IN LOUISIANA.

14 Q. WHEN YOU SAY THERE WAS A CONCERNING EXPERIENCE FOR THE
15 YOUNG FOLKS WHO TESTIFIED, COULD YOU ELABORATE A LITTLE BIT ON
16 WHAT YOU MEAN BY THAT?

17 A. YES. ONE OF THE REPRESENTATIVES -- AFTER THEIR TESTIMONY
18 AND DURING THEIR TESTIMONY, THERE WAS A BACK-AND-FORTH AND HE
19 WAS FACT CHECKING THEM AND THERE WAS SOMEWHAT OF AN ARGUMENT
20 BETWEEN HIM AND THE YOUNG PEOPLE. HE DID END UP APOLOGIZING AT
21 THE END FOR HIS BEHAVIOR, BUT THAT WAS VERY CONCERNING. IT WAS
22 THEIR FIRST TIME TESTIFYING AT THE LEGISLATURE, AND THEY ENDED
23 UP HAVING AN ARGUMENT WITH ONE OF THE LEADERS IN THE COMMITTEE.

24 Q. THANK YOU, MS. HO-SANG.

25 A. YOU'RE WELCOME.

OMARI HO-SANG

03:57 1

MS. KEENAN: NOTHING FURTHER.

2

THE COURT: CROSS.

3

CROSS-EXAMINATION

4

BY MS. HOLT:

5

Q. GOOD AFTERNOON, MS. HO-SANG.

6

A. GOOD AFTERNOON.

7

Q. GOOD TO SEE YOU AGAIN. MY NAME IS CASSIE HOLT. I'M WITH THE LAW FIRM OF NELSON MULLINS, AND I REPRESENT THE SECRETARY OF STATE IN THIS MATTER.

8

9

MS. HO-SANG, WHO IS YOUR EMPLOYER?

10

11

A. THE BVM CAPACITY BUILDING INSTITUTE.

12

Q. DO YOU RECALL GIVING A DEPOSITION IN THIS MATTER?

13

A. YES.

14

Q. AND WOULD IT SURPRISE YOU THAT YOUR ANSWER WAS DIFFERENT IN THAT DEPOSITION?

15

16

A. NO, IT WOULD NOT SURPRISE ME. SO BVM CAPACITY BUILDING INSTITUTE AND BLACK VOTERS MATTER FUND ARE TWO ENTITIES, BUT A MAJORITY OF THE WORK THAT I DO IS FOR THE BVM CAPACITY BUILDING INSTITUTE.

17

18

19

20

Q. OKAY. SO IS YOUR TESTIMONY TODAY STILL THAT YOUR EMPLOYER IS THE CAPACITY BUILDING INSTITUTE OR THE FUND?

21

22

A. BOTH ARE MY EMPLOYERS BECAUSE IT'S -- IT IS ONE ORGANIZATION THAT HAS A C3 FUNCTION AND A C4 FUNCTION, AND IT'S ALL BLACK VOTERS MATTER. SO, YES.

23

24

25

Q. BUT THEY ARE SEPARATE ENTITIES. CORRECT? THE C3 AND C4?

OMARI HO-SANG

03:58 1

A. YES.

2

Q. DO YOU KNOW IF THEY HAVE SEPARATE WEBSITES?

3

A. TO MY UNDERSTANDING, I THINK THERE ARE TWO DIFFERENT WEBSITES.

4

5

Q. AND BVM CAPACITY BUILDING INSTITUTE DOES NOT HAVE ANY INDIVIDUAL MEMBERS. IS THAT CORRECT?

6

7

A. CORRECT.

8

Q. JUST PARTNER ORGANIZATIONS?

9

A. YES.

10

Q. OKAY. AND NOT EVERY PARTNER ORGANIZATION HAS MEMBERS. IS THAT CORRECT?

11

12

A. NOT EVERY PARTNER ORGANIZATION HAS MEMBERS, CORRECT.

13

Q. AND NOT EVERY PARTNER ORGANIZATION FOCUSES ON VOTER ENGAGEMENT. IS THAT CORRECT?

14

15

A. CORRECT.

16

Q. AND THE MINI GRANTS THAT WERE DISCUSSED EARLIER, THOSE ARE MOSTLY PAID BY THE CAPACITY BUILDING INSTITUTE. IS THAT CORRECT?

17

18

A. IT JUST REALLY DEPENDS ON WHAT THE FUNCTION OR WHAT THE PROPOSAL IS. IF THE PROPOSAL IS, YOU KNOW, GOTV WORK THAT IS NON-PARTISAN SPECIFICALLY, YES, THAT WILL COME DOWN THROUGH THE BVM CAPACITY BUILDING INSTITUTE. HOWEVER, WITH BLACK VOTERS MATTER FUND BEING A C4, IF THE WORK IS CONSIDERED A C4 FUNCTION, THEN IT WILL COME THROUGH THE BLACK VOTERS MATTER FUND.

19

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OMARI HO-SANG

04:00 1 **Q.** OKAY. AND I WOULD LIKE TO PULL BACK UP --

2 **MS. HOLT:** AND I WILL BRIEFLY CONFER WITH COUNSEL, IF
3 I MAY, YOUR HONOR?

4 **THE COURT:** YOU MAY.

5 **BY MS. HOLT:**

6 **Q.** OKAY. I'M GOING TO PULL BACK UP EXHIBIT 188.

7 **MS. HOLT:** AND, FORREST, I'M GOING TO USE THE ELMO
8 SO THAT WE CAN HAVE THE EMAIL ADDRESSES COVERED.

9 **THE COURT:** SHE PUT IT ON FOR YOU.

10 **MS. HOLT:** IF I CAN --

11 **THE COURT:** IT'S UPSIDE DOWN. WHAT IS GOING ON WITH
12 THE ELMO? IT'S ILLEGIBLE. OKAY. THAT'S BETTER. OKAY.

13 **THE COURT:** WHAT'S THE EXHIBIT NUMBER AGAIN? I'M SORRY,
14 MA'AM.

15 **MS. HOLT:** 188, YOUR HONOR.

16 **THE COURT:** THANK YOU.

17 **MS. HOLT:** PLAINTIFFS' EXHIBIT 188.

18 **THE COURT:** GO AHEAD. ALL RIGHT. GO AHEAD.

19 **BY MS. HOLT:**

20 **Q.** MS. HO-SANG, THIS DOCUMENT AS I JUST SAID HAS PREVIOUSLY
21 BEEN MARKED AS PLAINTIFFS' EXHIBIT 188 AND YOUR COUNSEL ASKED
22 YOU A FEW QUESTIONS ABOUT THIS DOCUMENT. IS THAT CORRECT?

23 **A.** YES.

24 **Q.** AND AT THE VERY END OF THE DOCUMENT, WE HAVE YOUR
25 SIGNATURE BLOCK. DO YOU SEE THAT?

OMARI HO-SANG

04:01 1 A. YES.

2 Q. AND SITTING HERE TODAY IS YOUR SIGNATURE BLOCK THE SAME AS
3 IT IS IN THIS EXHIBIT?

4 A. NO.

5 MS. KEENAN: OBJECTION, YOUR HONOR, TO RELEVANCE TO
6 THE WITNESS'S SIGNATURE BLOCK IN THIS EMAIL. SHE'S ALREADY
7 TESTIFIED THAT SHE WORKS WITH BOTH ORGANIZATIONS.

8 THE COURT: WHAT IS THE RELEVANCE? HELP ME
9 UNDERSTAND.

10 MS. HOLT: THE RELEVANCE IS THE HARM, YOUR HONOR.
11 THE HARM THAT WE -- THAT HAS BEEN ASSERTED IN THIS CASE IS NOT
12 NECESSARILY ON BEHALF OF THE CAPACITY BUILDING INSTITUTE AND
13 WE'RE TRYING FIGURE OUT EXACTLY WHICH ENTITY SUFFERED THE HARM.

14 THE COURT: OKAY. I'LL ALLOW IT.

15 BY MS. HOLT:

16 Q. SO, MS. HO-SANG, I WAS ASKING IF -- I'LL REPEAT THE
17 QUESTION.

18 A. THANK YOU.

19 Q. IF THE SIGNATURE BLOCK AT THE BOTTOM OF THE EMAIL IS
20 THE -- SITTING HERE TODAY IS THE SAME?

21 A. NO, IT IS NOT THE SAME.

22 Q. OKAY. AND ON THE SIGNATURE BLOCK HERE, DO YOU SEE HOW IT
23 SAYS "BLACK VOTERS MATTER FUND"?

24 A. YES.

25 Q. OKAY. AND NOT BLACK VOTERS MATTER CAPACITY BUILDING

OMARI HO-SANG

04:02 1 INSTITUTE. CORRECT?

2 A. YES.

3 Q. OKAY. AND LET'S -- AND I'M GOING TO TAKE THIS DOWN. AND
4 BVM CAPACITY BUILDING INSTITUTE IS A PLAINTIFF IN THIS CASE.
5 RIGHT?

6 A. YES.

7 Q. NOT THE BLACK VOTERS MATTER FUND?

8 A. CORRECT.

9 Q. AND I'D LIKE TO PULL BACK UP EXHIBIT -- PLAINTIFFS'
10 EXHIBIT 184.

11 MS. HO-SANG, I BELIEVE YOU TESTIFIED TO THIS EXHIBIT
12 EARLIER, PLAINTIFFS' EXHIBIT 184. IS THAT CORRECT?

13 A. YES.

14 Q. OKAY. AND IF WE COULD SCROLL TO THE SIGNATURE PAGE. I
15 BELIEVE IT SHOULD BE PAGE 16. WELL, 15 ONTO 16.

16 MS. HO-SANG, DO YOU SEE YOUR NAME THERE?

17 A. YES, I DO.

18 Q. OKAY. AND IF WE COULD GO TO THE NEXT PAGE.

19 AND THE ORGANIZATION YOU SIGNED ON BEHALF OF IS THE
20 BLACK VOTERS MATTER FUND. IS THAT CORRECT?

21 A. YES.

22 Q. OKAY. AND WE CAN TAKE THAT DOWN. THANK YOU.

23 AND, MS. HO-SANG, YOU TESTIFIED ABOUT THE BUS TOUR
24 AND THE REDISTRICTING TAKEOVER. AND THOSE EVENTS TOOK PLACE
25 OVER TWO TO THREE DAYS. IS THAT CORRECT?

OMARI HO-SANG

04:04 1 A. YES. I THINK SO, YES.

2 Q. AND THE MAJORITY OF THOSE EVENTS TOOK PLACE IN BATON
3 ROUGE?

4 A. YES.

5 Q. AND THOSE EVENTS TOOK PLACE BEFORE HOUSE BILL 14 AND
6 SENATE BILL 1 WERE PASSED. IS THAT CORRECT?

7 A. CORRECT.

8 MS. HOLT: YOUR HONOR, IF I COULD HAVE A MOMENT TO
9 CONFER WITH MY --

10 THE COURT: YOU MAY.

11 MS. HOLT: NO FURTHER QUESTIONS. THANK YOU.

12 THE COURT: ANY REDIRECT?

13 MS. KEENAN: JUST A COUPLE, YOUR HONOR.

14 THE COURT: GO AHEAD.

15 REDIRECT EXAMINATION

16 BY MS. KEENAN:

17 Q. SO, MS. HO-SANG, I UNDERSTAND YOU JUST TESTIFIED THAT YOU
18 WORK FOR BOTH THE BVM FUND AND THE BVM CAPACITY BUILDING
19 INSTITUTE?

20 A. CORRECT.

21 Q. COULD YOU TALK A LITTLE BIT ABOUT HOW YOU WEAR TWO HATS IN
22 YOUR ROLE WITH THE ORGANIZATION?

23 A. YES. SO, AGAIN, THE BVM CAPACITY BUILDING INSTITUTE IS A
24 C3 ARM AND 90 PERCENT OR MORE OF THE WORK THAT WE DO IS THROUGH
25 OUR BVM CAPACITY BUILDING INSTITUTE BECAUSE WE ARE A

OMARI HO-SANG

04:05 1 NON-PARTISAN 501(C)(3) ORGANIZATION.

2 THE BLACK VOTERS MATTER FUND IS THE C4 ARM OF THE
3 ORGANIZATION. IT IS HOW WE ARE TECHNICALLY PAID. IT IS THE
4 NAME THAT IS IN OUR EMAIL ADDRESSES. HOWEVER, THE WORK OF THE
5 FUND IS LESS THAN 10 PERCENT, WHATEVER THE REMAINDER OF
6 90 PERCENT OF WHAT WE DO. IT IS VERY SELDOM THAT WE ARE DOING
7 C4 WORK BECAUSE, AGAIN, OUR PRIMARY FOCUS -- IT'S IN OUR
8 MISSION STATEMENT -- IS TO INCREASE BLACK CIVIC ENGAGEMENT AND
9 THAT IS -- YOU KNOW, THAT IS COMPLETELY NON-PARTISAN.

10 Q. AND WHAT ABOUT THE REDISTRICTING WORK THAT YOU DID, DID
11 YOU VIEW THAT AS PARTISAN OR NON-PARTISAN?

12 A. IT WAS NON-PARTISAN.

13 Q. ARE THE MEMBERS AND THE PARTNERS YOU DISCUSSED TODAY
14 AFFILIATED STRICTLY WITH THE CAPACITY BUILDING INSTITUTE OR THE
15 FUND OR BOTH OF THOSE ORGANIZATIONS?

16 A. BLACK VOTERS MATTER. WE DON'T -- IN TERMS OF -- IF YOU
17 WOULD ASK A PARTNER "WHO DO YOU WORK WITH?" NO ONE WOULD SAY
18 BLACK VOTERS MATTER FUND. EVERYONE WOULD SAY BLACK VOTERS
19 MATTER AS AN ENTITY.

20 NOW, IN TERMS OF THE REDISTRICTING TAKEOVER AND IN
21 TERMS OF THE FUNDS THAT WE EXPENDED, ALL OF THE FUNDS THAT WE
22 EXPENDED FOR THE REDISTRICTING TAKEOVER, BECAUSE IT WAS
23 NON-PARTISAN 501(C)(3) WORK, CAME THROUGH OUR BVM CAPACITY
24 BUILDING INSTITUTE.

25 THE BUS WHICH IS LIKE -- EVERY TIME IT ROLLS IS ABOUT

OMARI HO-SANG

04:06 1 \$75,000 OR MORE, THAT IS THROUGH OUR BVM CAPACITY BUILDING
2 INSTITUTE. YOU KNOW, AGAIN, THE 90 PERCENT OF THE WORK WE DO
3 IN WHOLE, BUT 100 PERCENT OF THE WORK THAT WE DID AROUND
4 REDISTRICTING WAS NON-PARTISAN AND, THEREFORE, THROUGH THE BVM
5 CAPACITY BUILDING INSTITUTE.

6 **Q.** AND, MS. HO-SANG, JUST TO CONFIRM: DO YOU CHANGE YOUR
7 EMAIL SIGNATURE BLOCK FOR EVERY EMAIL THAT YOU SEND?

8 **A.** NO.

9 **Q.** THANK YOU.

10 **A.** I HAVE A STANDARD EMAIL SIGNATURE.

11 **Q.** THANK YOU.

12 **MS. KEENAN:** NOTHING FURTHER.

13 **THE COURT:** OKAY. WE ARE GOING TO WRAP COURT UP FOR
14 THE DAY. WE WILL RECOMMENCE -- YOU MAY STEP DOWN, MA'AM.
15 THANK YOU.

16 WE WILL COMMENCE AGAIN TOMORROW MORNING AT 9:00
17 A.M.

18 **(WHEREUPON, THE PROCEEDINGS WERE RECESSED UNTIL 11/28/2023 AT**
19 **9:00 A.M.)**

20 * * *

21

22

23

24

25

10:51 1 CERTIFICATE

2 I, SHANNON THOMPSON, CCR, OFFICIAL COURT REPORTER FOR THE
3 UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA,
4 CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT, TO
5 THE BEST OF MY ABILITY AND UNDERSTANDING, FROM THE RECORD OF
6 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

7
8 *Shannon Thompson*

9 SHANNON THOMPSON, CCR
10 OFFICIAL COURT REPORTER
11
12
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Attachment 2

1 R O U G H D R A F T

2 IN THE UNITED STATES DISTRICT COURT

3 FOR THE MIDDLE DISTRICT OF LOUISIANA

4

5 DR. DOROTHY NAIRNE,
JARRETT LOFTON, REV.
6 CLEE EARNEST LOWE, DR.
ALICE WASHINGTON, AND
7 DR. ROSE THOMPSON, COMPLAINT FOR
BLACK VOTERS MATTER DECLARATORY
8 CAPACITY BUILDING JUDGMENT AND
INSTITUTE, and THE INJUNCTIVE
9 LOUISIANA STATE RELIEF
CONFERENCE OF THE
10 NAACP, STATUTORY CLAIMS ONLY
Plaintiff, SINGLE-JUDGE DISTRICT
11 VERSUS COURT
12

13 KYLE ARDOIN, in his
official capacity as
Secretary of State of
14 Louisiana
Defendant.

15

16 TRIAL PROCEEDINGS

17 Held on Tuesday, November 28, 2023

18 Before The

19 HONORABLE SHELLY DICK

20 Judge Presiding

21 Baton Rouge, Louisiana

22

23 REPORTED BY:CHERIE' E. WHITE

24 CCR (LA), CSR (TX), CSR (MS), RPR

25 CERTIFIED COURT REPORTER

↑

2

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4 MEGAN KEENAN

5 JOHN ADCOCK

6

7

8

9 Representing the Defendants:

10 ALYSSA RIGGINS

11 ROBERT CLARK

12 JOSEPHINE BAHN

13 MICHAEL de LEEUW

14 AMANDA GIGLIO

15 VICTORIA WENGER

16 STUART NAIFEH

17 SARA ROMANI

18

19 Representing the Legislative Intervenors, Clay

20 Schexnayder, in his Official Capacity as Speaker

21 of the Louisiana House of Representatives, and of

22 Patrick Page Cortez, in his Official Capacity as

23 President of the Louisiana Senate:

24

25



3

1 Representing the Defendant/Intervenor, State of

2 Louisiana, through Jeff Landry in his Official

3 Capacity as Attorney General:

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I N D E X

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Plaintiffs' Witnesses:

PAGE

4

DR. LISA HANDLEY

5

6

DR. CRAIG COLTEN

7

8

WILLIAM COOPER

9

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DR. R. BLAKESLEE GILPIN

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1 P R O C E E D I N G S

2 THE BAILIFF:

3 All rise.

4 THE COURT:

5 I good morning. Be seated.

6 Plaintiffs may call their next witness.

7 MS. KEENAN:

8 Your Honor, can we do a half of
9 quick matters to discuss first, is that
10 okay.

11 THE COURT:

12 Yes. So it's just three items.

13 MS. KEENAN:

14 Your Honor, Megan Keenan for the
15 plaintiffs. First of the -- court noted

16 that several of the exhibits had nonpublic
17 personal identifying information. We did
18 upload those exhibits to jurors with the
19 redactions. Do you need us to list the
20 exhibits that were redacted for the record
21 or is it okay that we just --

22 THE COURT:

23 Did you supplement the ones that
24 were in there Suzie didn't know how to
25 handle that.

↑

6

1 MS. KEENAN:

2 We replaced them to avoid the.

3 THE COURT:

4 The district, that's fine.

5 MS. KEENAN:

6 Okay. Second, also related to
7 jurors, I prepared for witnesses last now
8 we noticed a few errors. Jurors the --
9 the first is joint Exhibits 55 and joint
10 Exhibit 56, that's legislative record
11 material. The parties have agreed on were
12 /EUPB add vertical at the particular time
13 /HRAOE /#2K34EU9ed from junior or /SOS we

14 uploaded them that's joint 21 in-house
15 bill 16 with the court's preadmission.
16 The parties have both consented to those.

17 THE COURT:

18 There's no objection to the
19 redirection?

20 MS. HOLT:

21 No objection, Your Honor.

22 THE COURT:

23 You should stand when you address
24 the court.

25 MS. KEENAN:

↑

7

1 The last one is plaintiff, it was
2 just showing sort of in the Adobe cartoon
3 like image. We have re-uploaded that into
4 two parts, so it's now 163A and 163B in
5 jurors.

6 THE COURT:

7 Thank you.

8 MS. KEENAN:

9 Thank you.

10 THE COURT:

11 Anything further?

12 MS. KEENAN:

13 Not from the plaintiff case.

14 THE COURT:

15 All right. Call your next witness,
16 please.

17 MS. KEENAN:

18 Your Honor, Sarah Brannon, ACLU for
19 the plaintiffs and we will call Dr. Lisa
20 Handily.

21 MS. LISA HANDLEY,

22 after having first been duly sworn by the
23 above-mentioned Court Reporter did testify as
24 follows:

25 MS. KEENAN:

↑

8

1 Your Honor, I'm going to actually go
2 get my glasses.

3 THE COURT:

4 Okay.

5 THE CLERK:

6 And would you please state your name
7 and spell it for the record?

8 THE WITNESS:

9 Lisa Handley, H-A-N-D-L-E-Y.

10 MS. BRANNON:

11 Your Honor, may I approach the
12 witness with a binder which, for the
13 record, is Plaintiff's Exhibits PL 1
14 through 19?

15 THE COURT:

16 Is there any objection? They have
17 not been admitted, but I assume that they
18 are going to be admitted.

19 MS. BRANNON:

20 So, Your Honor, we don't have any
21 objection to Dr. Handley having this
22 binder. I would note that plaintiffs
23 Exhibits 16, 17, 18 and 19, are a sur
24 rebuttal report prepared by Dr. Handley
25 that was in response to Dr. Solansky

↑

9

1 reports which Your Honor has excluded in
2 her ruling on plaintiff's motion in
3 limine.

4 THE COURT:

5 So we need to have 16 through 19.

6 MS. BRANNON:

7 Your Honor, we will 16 and 19, and I

8 assume topics today are going to cover
9 some of the same issues that were raised
10 by defendants related to the nature of Dr.
11 Handley's opinions and her report.

12 THE COURT:

13 So you said you were planning to --

14 MS. KEENAN:

15 We are planning to move to admit the
16 sur rebuttal which is PL 16 and 19.

17 THE COURT:

18 And you are going to admit it in
19 your case in chief?

20 MS. BRANNON:

21 We are.

22 THE COURT:

23 Let's just see where it go make your
24 objections as they arose. I'll allow you
25 to make your opinion to Dr. Handley and

↑

10

1 give her opinion and testimony.

2 MS. BRANNON:

3 Thank you, Your Honor.

4 THE COURT:

5 Good morning, Dr. Handley.

6 BY MS. BRANNON:

7 Q. Dr. Handley, did you prepare a
8 report in the case?

9 A. I did.

10 Q. And can you turn to A in your binder
11 and can we see approximate Exhibit PL 1 on the
12 screen. Is this a copy of the report you
13 prepared?

14 A. It is.

15 Q. Can you turn to Tab 2 in your binder
16 and can we see Exhibit PL 2 on the screen. Do
17 you recognize this document?

18 A. Yes.

19 Q. Is this a complete and accurate
20 summary of your background and professional
21 experience?

22 A. Yes.

23 Q.

24 A. It might not include all my recent
25 court cases --

↑

11

1 Q. Okay.

2 A. -- in the list.

3 Q. But within the last year, it's an

4 accurate and up to date representation of your
5 CV?

6 A. Yes.

7 Q. What do you do for a living,
8 Dr. Handley?

9 A. I am a political scientist by
10 training and I run a consulting firm that
11 primarily works for the UN and a USA funded NGO
12 call like this working to provide election
13 administration assistance to post-conflict and
14 transitional countries.

15 Q. Can you provide some examples of
16 some of your different clients?

17 A. As I just mentioned, the UN is a
18 primary client for that kind of work. If you
19 mean here in the United States, my clients
20 include the U.S. Department of Justice, a number
21 of civil rights organizations and a lot of
22 various states and local jurisdictions as well as
23 simply independent redistricting commissions.

24 Q. And can you describe some of the
25 academic work you've done in the -- on the topic

↑

12

1 of redistricting and minority vote dissolution?

2 A. Well, if you look at my CV, almost
3 every article that's listed there and there's a
4 couple dozen at least deal with those subjects.

5 Q. Approximately, how many times have
6 you performed a racial block voting analysis?

7 A. Hundreds.

8 Q. And have you been accepted as an
9 expert before?

10 A. Yes.

11 Q. Have you been accepted as an expert
12 in redistricting and racially polarized voting?

13 A. Yes.

14 Q. How many times?

15 A. Dozens.

16 Q. Okay. The plaintiffs move to admit
17 Dr. Handley as an expert on redistricting and
18 minority vote dissolution?

19 THE COURT:

20 Any cross on the tender?

21 /SKWRAO:

22 No, Your Honor.

23 THE COURT:

24 Okay. The court will accept

25 Dr. Handley to give opinion testimony in



1 redistricting and am I not on --

2 /STPHAO:

3 It's redistricting and minority vote
4 dissolution.

5 THE COURT:

6 And minority vote /TKEUS /HRAOUGZ.

7 She was looking at me. I thought maybe my
8 light wasn't on accept to give opinion in
9 that field.

10 BY MS. KEENAN:

11 Q. Dr. Handley, what were you asked to
12 do in this case?

13 A. I was asked to conduct a racial
14 block voting analysis in specific areas of the
15 state as well as evaluate a set of illustrative
16 districts and enacted districts in the Senate and
17 house plans.

18 Q. And were you asked to evaluate the
19 entire state?

20 A. No, just in the specific areas of
21 interest.

22 Q. Can we see Table 9, page 2 from
23 Dr. Handley's report PL 1. Do you recognize this
24 table?

25 A. Yes.

14

1 Q. What does this table show?

2 A. This shows the areas of interest
3 that my analysis focused on. There were seven
4 areas of interest, three of them related to the
5 State Senate plan and five of them related to the
6 State House plan because area one was
7 encompassed. Both an extra State Senate and
8 extra State House district.

9 Q. Can you walk us through briefly what
10 geographies are included in your areas of
11 interest as reflected on this table?

12 A. You can see that area one northwest
13 Louisiana includes Bossier and Caddo Parish and
14 that includes an additional illustrative State
15 Senate district 38 and an additional illustrative
16 State House district one. And the second area is
17 Southeast Louisiana Jefferson and St. Charles
18 Parishes. That includes additional illustrative
19 State Senate district 19, area three, East
20 Central Louisiana includes four parishes,
21 Baton Rouge, West Baton Rouge, Iberville and
22 Pointe Coupee and that is additional illustrative

23 State Senate district 17, area four, Western
24 Louisiana is Desoto and I'm not going to say that
25 right.

↑

15

1 THE COURT:

2 Natchitoches.

3 THE WITNESS:

4 And Red River Parishes that is State
5 House -- illustrative State House district
6 23, area five, Southwest Louisiana,
7 Calcasieu Parish, and that's illustrative
8 State House district 38, area six, South
9 Central Louisiana Ascension and Iberville
10 and that's State House district house 60
11 and /TPHAOEUBL /AOE, East Central
12 Louisiana that's area seven, Baton Rouge
13 and East Feliciana and that includes
14 actually two additional illustrative State
15 House districts, 68 and 69.

16 BY MS. BRANNON:

17 Q. And can you describe for us how you
18 selected these parishes in relation to the
19 illustrative districts you've just identified?

20 A. Yes. So the illustrative districts

21 were -- the additional illustrative districts
22 were located in those parishes so, for example,
23 State Senate district 38 in the illustrative plan
24 covered parts of Bossier and Caddo.

25 Q. Okay. All right. We can take this

↑

16

1 down. Dr. Handley, now turning to your more of
2 your specific analysis, at a high -- let me
3 rephrase.

4 Dr. Handley, how would you define
5 cohesive voting?

6 A. Minority voters because of their
7 shared interests are cohesive when they
8 consistently support the same candidates.

9 Q. And at a high level, can you
10 summarize your opinions as to whether black
11 voters in Louisiana in your areas of interest
12 vote cohesive?

13 A. Yes, they certainly do vote
14 cohesively. Black voters are very cohesive in
15 the seven areas.

16 Q. At a high level, can you summarize
17 your opinion as to whether white voters typically
18 vote in a block to defeat the black candidate of

19 interest, black candidate of choice in your areas
20 of interest?

21 A. Yes. White voters do typically vote
22 as a block to defeat the black preferred
23 candidates.

24 Q. And, Dr. Handley, how would you
25 define racially polarized voting?

17

1 A. I define a contest as racially
2 polarized if the outcome would have been
3 different, if the black voters and white voters
4 voted separately.

5 Q. At a high level, can you summarize
6 your opinions with respect to whether there is
7 racially polarized voting in the areas of
8 Louisiana you examined?

9 A. Nearly every single contest that I
10 looked at was racially polarized.

11 Q. And at a high level, does this
12 racially polarized voting effect the ability of
13 black voters to elect the candidate of their
14 choice in the state legislature in the areas of
15 interest you analyzed?

16 A. Yes, it does. What it means is that

17 unless you draw a district that provides
18 minorities with an opportunity to elect their
19 candidates of choice they will not be able to.

20 Q. What statistical techniques did you
21 use to evaluate whether voting in Louisiana in
22 the areas of interest is racially polarized?

23 A. I used the three standard techniques
24 they are called homogeneous ecological inference
25 and, in fact, I used two types of ecological

↑

18

1 inference.

2 Q. And why did you use all of these
3 methods?

4 A. Although ecological inference is now
5 considered most accurate, I used the other
6 methods as a check in one part and on the other
7 hand it's also easier to understand the other
8 methods, so it's easier to explain those methods
9 and the courts have traditionally used those
10 methods and that's what I was trained on.

11 Q. So you have an opinion that the
12 ecological inference is the best of the methods?

13 A. Over time they have gotten more
14 sophisticated methods so they have improved over

15 time so yes, I think that's the most reliable, I
16 think that's basically what almost every expert I
17 can think of uses now.

18 Q. And so the ecological inference has
19 been accepted by courts?

20 A. Yes.

21 Q. What kind of data did you use in
22 order to conduct your statistical analysis?

23 A. The analysis is looking for patterns
24 across areas in this particular case, we are
25 looking at precincts and we need to know the

19

1 racial composition of those precincts and the
2 voting patterns of those precincts, so you need a
3 database that provides the racial composition of
4 the precincts and voting patterns of the
5 precincts, in other words, the election returns
6 by precinct and what I used for racial
7 composition here in Louisiana we had turn out by
8 race. So we had information about the race of
9 the people who were turning out in each precinct
10 as well as who they voted for and then you look
11 for patterns across these precincts do, for
12 example, does voting for a particular candidate

13 increase as say the percent black turn out of the
14 precincts increase.

15 Q. And what was the source of the data
16 that you compiled for your analysis in this case?

17 A. Well, there were different sources
18 depending on the data that I was using. The turn
19 out by race came from the secretary of state's
20 website, the election returns came from either
21 the secretary of state's website directly or
22 indirectly through open elections, the census
23 data came from the census website, the precinct
24 shape files came either directly from secretary
25 of state's website or indirectly through an

↑

20

1 organization called "Vest", which is voting and
2 election science team.

3 Q. Did you compile this data yourself?

4 A. I did not.

5 Q. Who compiled the data?

6 A. I relied on the ACLU's analytics
7 department to compile the data --

8 Q. Did you --

9 A. -- and merge it.

10 Q. Did you verify the accuracy of the

11 data that was compiled by the ACLU analytics, but
12 then you then used for your analysis in this
13 case?

14 A. Yes, I did.

15 Q. At what geographic level did you
16 require the data to conduct your analysis?

17 A. The smallest level at which you
18 could do this, the election returns are available
19 at the precinct level, so this analysis is
20 typically done at the precinct level.

21 Q. Dr. Handley, is there early absentee
22 voting in Louisiana?

23 A. There is.

24 Q. And is the election data for early
25 and absentee voting publicly available?

↑

21

1 A. It is at the parish level. It is
2 not available at the precinct level. You cannot
3 get early results at the precinct level only at
4 the parish level.

5 Q. So what's the source of that data?

6 A. The secretary of state.

7 Q. So the secretary of state does not
8 report the early absentee votes at the precinct

9 level?

10 A. That's correct. They do not -- they
11 do not take -- many states actually take it and
12 record it at the precinct level, that is not the
13 case in Louisiana.

14 Q. Was data from the early and absentee
15 voting including in the database you used for
16 conducting your E & I analysis in this case?

17 A. Yes. The early votes were allocated
18 down to the precinct level so that I could use
19 them in my analysis.

20 Q. Can we see page 6, footnote 18 in
21 Exhibit PL 1?

22 TRIAL TECH:

23 (Complied.)

24 BY MS. BRANNON:

25 Q. Dr. Handley, can you explain how



22

1 that allocation, how the method works refreshing
2 your recollection from this example you provided
3 in your report?

4 A. Yes. So at the parish level you
5 know how many votes each candidate received. You
6 also know you can look at the parish level

7 election day votes and the precinct election day
8 votes and you can determine how many votes each
9 candidate got from each precinct and you can use
10 that allocation to actually do the same thing
11 with the early votes. So if say Biden, President
12 Biden got 60 percent of his votes from this
13 particular election day, votes from this
14 particular candidate, then we allocate it up
15 60 percent of the early votes for Biden to that
16 precinct and did that across the board for all of
17 the candidates for all of the precincts.

18 Q. And why did you take this approach?

19 A. Well, in my experience, opinion,
20 that was the best approach to take. I didn't
21 want to ignore the early vote. There are too
22 many early votes. At least 25 to almost
23 50 percent of the votes were early votes so they
24 had to be allocated, and then the most logical
25 way to do that is to do it on the basis of

↑

23

1 election day voting.

2 Q. So this is an approach that you
3 think political scientists would endorse?

4 A. I know political scientists would

5 endorse it.

6 Q. So can you tell us some other
7 political scientists that you know who use this
8 method?

9 A. Well, the Vest project that I
10 mentioned voting election science team which is
11 run by political scientists, Michael McDonald at
12 University of Florida, but a number of others use
13 precisely this method and so any political
14 scientist that uses that database and there are
15 quite a number of them actually are using votes
16 allocated in this way. This is how they did it
17 in Louisiana, this is how they do it in every
18 state for which they supply election results.
19 The political scientists have arrived at the
20 accept Dr. Maximum palmar, for example, doesn't
21 use Vest data, he used allocations method that I
22 used arriving at it separately.

23 Q. Okay. Do you know if any other
24 experts who provided reports or opinions in this
25 case, relied on your data?

↑

24

1 A. I know that Dr. Louis and Dr. Alford
2 used my data. And raised no concerns about it.

3 Q. We can take this down. We are going
4 to move on now to discuss the specifics of the
5 elections that you analyzed in detail. Can we
6 see Table 1 on page 6 and 7 of PL 1?

7 TRIAL TECH:

8 (Complied.)

9 BY MS. BRANNON:

10 Q. Did you -- how many statewide
11 elections did you analyze in the seven areas of
12 interest?

13 A. 16 statewide elections.

14 Q. Does this reflect on the screen on
15 page 6 and 7, contain an accurate list of the 16
16 elections that you looked at?

17 A. It does.

18 Q. Why did you choose these elections?

19 A. These are statewide elections that
20 included black candidates and we know that the
21 courts find these most primitive because even if
22 black voters don't actually support the black
23 candidate, they have the option to support a
24 black candidate should they so wish to.

25 Q. And do you have an opinion whether

↑

1 it is important to look at elections that include
2 black candidates?

3 A. Yes. Again, I would want to know if
4 -- you don't want to -- you want to be assured
5 that black voters have an opportunity to elect
6 not just white candidates of choice, but black
7 candidates of choice and so you want to look at a
8 contest that includes black candidates.

9 Q. Do these elections include any
10 primary elections?

11 A. It's a complicated question. We
12 call the -- typically, primaries are party
13 specific Democrat primaries, Republican primaries
14 here in Louisiana you have what's called a junk
15 gel primaries some of these are junk gel
16 primaries and some of them are the resulting
17 runoffs.

18 Q. Can you explain when you say junk
19 gel primary, exactly what that means?

20 A. That means that anybody wants to run
21 for the office regardless of their political
22 party affiliation runs in the primary.

23 Q. And how does the process work in
24 Louisiana to move from the primary to the runoff?

25 A. So no candidate in primary gets a



1 percent of the vote. There's a runoff between
2 the top two voting candidates.

3 Q. And did you look at these elections
4 statewide?

5 A. These are statewide elections, but I
6 looked at the voting patterns only in the
7 specific areas that I just described in the
8 parishes or groups of parishes that made up my
9 areas of interest.

10 Q. Thank you: We can take this down.
11 Can we see Exhibit PL 3 which is Dr. Handley, at
12 table Tab C in your report, in your binder.

13 TRIAL TECH:

14 (Complied.)

15 BY MS.BRANNON:

16 Q. Do you recognize this spreadsheet?

17 A. I do.

18 Q. And can you explain what this
19 spreadsheet is?

20 A. This -- this relays the results of
21 my racial block voting analysis.

22 Q. And can you explain for what area of
23 interest this spreadsheet relates?

24 A. This particular one is area of
25 interest one Bossier and Caddo parishes.

↑

27

1 Q. Okay. And can we highlight -- we
2 are going to walk through -- have you walk
3 through one example and explain an analysis that
4 you've done in this case. Can we highlight
5 November 2019, secretary of state election, which
6 I believe is on the second page?

7 TRIAL TECH:

8 (Complied.)

9 BY MS. BRANNON:

10 Q. Can you walk us through what this
11 table shows using that November 19th election as
12 an example?

13 A. Yes. So in the first column you see
14 the -- the date and the office as well as the
15 candidates. I identified the party of the
16 candidates and the race of the candidates. Then
17 you have four sets of estimates, for black voters
18 and the same four sets of estimates for white
19 voters as well as confidence in their votes so
20 the first column is what we talked about, the I R
21 times C. I think these are the most accurate and

22 they also have associated with them confidence
23 intervals that are deemed by political scientists
24 in this particular area of specialization as the
25 most accurate. So we have the EIR times C

↑

28

1 estimate, then we have the confidence intervals
2 around that estimate, then we have the EI by two
3 estimate, the ER estimate and then the HP, which
4 is homogeneous precinct estimate, then we have
5 the same information for the white voters. So
6 for again, Collins green /AEU the EIR by C
7 estimate of the percentage of black voters that
8 supported her is 96.9, the EI two by two is 97.4,
9 the ER is 98.8 and the HP is 94.5. They are all
10 as you can see, very close.

11 Q. And why don't you include confidence
12 intervals for your EI two by two?

13 A. Those are generally not accepted by
14 political scientists in this area.

15 Q. And would you characterize this
16 November 2019 secretary of state's election, as a
17 polarized contest within the area of interest?

18 A. Yes. You can see that black voter
19 voted if you consider just black voters, they'd

20 have overwhelmingly elected Collins green up
21 while white voters would have elected Ardoin.

22 Q. Is it in your opinion, are white
23 voter -- or black voters voting cohesively in
24 this election?

25 A. In this particular election you have

29

1 over 95 percent of the black voters supporting a
2 particular candidate, that's very cohesive.

3 Q. And in your opinion, is it fair to
4 say that the white voters voted as a block
5 against the black for candidate in this election?

6 A. Yes.

7 Q. Did you do this same type analysis
8 for the other 16 elections in all the other areas
9 of interest that you looked at?

10 A. Yes. For all seven areas of
11 interest, I did this analysis for all 16
12 statewide contests.

13 Q. We can take this down. And those
14 other analysis are in your report in similar
15 tables that have been labeled appendix A 2
16 through A 7; is that correct?

17 A. That's correct. Appendix A includes

18 all of the areas of interest, the 16 contests
19 that I analyzed for all of the areas of interest.

20 Q. And for the record, those additional
21 appendixes for the other six areas, are exhibits
22 PL 4 through PL 9. Did you reach any conclusion
23 -- what, if any, conclusions did you reach about
24 racially polarized voting in Louisiana in these
25 seven areas of interest based on your analysis of

30

1 these 16 elections?

2 A. In most of the areas of interest,
3 all 16 contests were polarized. In two of the
4 areas, all but one was polarized, so essentially
5 very, very polarized voting in these seven areas
6 that I looked at.

7 Q. Can we see Table 3 on page 10 of the
8 P X -- of PL 1. Do you recognize this table?

9 TRIAL TECH:

10 (Complied.)

11 THE WITNESS:

12 Yes.

13 BY MS. BRANNON:

14 Q. Can you explain what information is
15 reflected on this table?

16 A. This just presents the averages
17 across the 16 contests for each of the areas.

18 Q. What, if anything, did you conclude
19 about the racially polarized voting in these
20 seven areas based on your analysis of the
21 statewide elections?

22 A. Well, you can see that in the
23 average percentage of black voters who supported
24 the black preferred candidate regardless of the
25 number of candidates was 82.7 when you limit it

↑

31

1 to just two candidate contests of which that was
2 half of the 16 contests it goes up to
3 93.2 percent, so on average 93.2 percent of black
4 voters supported the same candidate in two
5 candidate contests, that's very cohesive in terms
6 of white voters. You can see that on average
7 only 12.2 percent of white voters supported the
8 black preferred candidates in the 16 contests as
9 a whole and it goes up to only 15.6 percent when
10 you are looking at the two candidate contests.

11 Q. Okay. We can take that down. Now,
12 I'd like to turn to -- talk a little bit about
13 the state legislative contests that you analyzed.

14 Did you also look at state legislative elections?

15 A. I did look at biracial state
16 legislative elections in the seven areas of
17 interest.

18 Q. Okay. Why did you look at those
19 state legislative election contests?

20 A. Because it's the office at issue.
21 These aren't actually districts at issue so we
22 wouldn't really call them endogenous elections,
23 but it is for the office at issue state
24 legislative and I just wanted to see if voting
25 was also quite polarized in state legislative

↑

32

1 elections and it was.

2 Q. And how did you select the state
3 legislative districts that you looked at?

4 A. These were elections that included
5 black candidates, black candidates and white
6 candidates and where the district was wholly or
7 partially contained within the area of interest
8 in the parishes in the area of interest.

9 Q. Can we see page 11 of PX 1, PL one?

10 TRIAL TECH:

11 (Complied.)

12 BY MS. BRANNON:

13 Q. Dr. Handley, can you explain to us
14 what's in the two texts, two pieces of texts that
15 have been highlighted to refresh your
16 recollection about how many state legislative
17 districts you looked at?

18 A. So there were 11 state legislative
19 -- State elective elections that I looked at, ten
20 of which were polarized. There were ten State
21 House contests that I looked at and all of them
22 were polarized.

23 Q. So you looked at a total of 21 state
24 legislative elections?

25 A. That's correct.

↑

33

1 Q. And what analysis did you use when
2 you were evaluating those elections?

3 A. I simply did a racial block voting
4 analysis.

5 Q. This is the same type of analysis
6 that we were just discussing --

7 A. (Nodded head affirmatively.)

8 Q. -- related to the statewide
9 elections you did in this case?

10 A. That's right. If you look at
11 appendix B which reports these, you'll see the
12 exact same format on the appendix and that as you
13 see the ER -- EIR times C, EI two by two, ER and
14 HP estimates as well as the confidence levels.

15 Q. And for the record, Dr. Handley, did
16 you attach these to your report as appendix B 1
17 and B 2?

18 A. I did.

19 Q. And for the record, appendix B 1 and
20 B 2 on plaintiff's Exhibit 10 and 11.

21 Did you form an opinion about the --
22 did you form an opinion, if any, about the racial
23 polarization of state legislative elections in --

24 A. Yes. Again, almost all of them were
25 racially polarized.

↑

34

1 Q. At a high level, if at all, did this
2 -- how, if at all, did this racially polarized
3 voting in the 21 state legislative elections,
4 effect the ability of black voters to elect
5 candidates of their choice in state -- in the
6 state legislature in the area that you analyzed?

7 A. You can see that in almost all of

8 the contests were polarized in majority black
9 districts. The black preferred candidate
10 actually won while in the districts that were not
11 majority black in composition, the minority
12 preferred candidates almost always lost.

13 Q. So at a high level, did white voters
14 vote as a block to usually defeat the black
15 preferred candidate in the house and Senate
16 districts you analyzed where the population of
17 the district was not a black majority?

18 A. That's correct.

19 Q. Okay. Now, we are going to turn to
20 -- look at the -- some of the analysis that you
21 did of districts in the illustrative and enacted
22 maps. Did you calculate the opportunity of black
23 voters to elect their candidates of choice in the
24 areas of interest in the enacted map?

25 A. I did.

35

1 Q. Did you --

2 A. Not in all of the districts just in
3 the areas of interest in the districts that are
4 indicated in the tables.

5 Q. Yes. Can we call up Table 4 A on

6 page 14 of plaintiff's Exhibit 1.

7 TRIAL TECH:

8 (Complied.)

9 BY MS. BRANNON:

10 Q. And then, did you also evaluate the
11 opportunity of black voters to elect a candidate
12 of choice in the areas of interest in the
13 illustrative maps drawn by plaintiff's expert
14 Bill Cooper?

15 A. Again, yes. I looked at the
16 opportunity to elect the -- in terms of the
17 districts that you see in this table, so I looked
18 at illustrative districts 36, 38, 39, for
19 example, in State Senate cluster one and compared
20 it to enacted districts 36, 38 and 39.

21 Q. So this table reflects Senate
22 districts?

23 A. This table reflects the Senate
24 districts that I evaluated.

25 Q. And how did you go about determining

↑

36

1 which districts to include from the illustrative
2 districts and from the enacted districts in this
3 analysis?

4 A. First, I identified the additional
5 illustrative district that was offered, the
6 illustrative -- the additional majority black
7 illustrative district and then I looked at
8 neighboring districts in that area and attempted
9 to come up with a similar number of districts to
10 compare. I left out of the analysis the same
11 number of majority black districts in terms of
12 both the illustrative and the enacted plan and
13 focused just on the districts in the area in
14 which the illustrative plan offered an additional
15 district.

16 Q. Can we see Table 4 B which is on
17 page 15?

18 TRIAL TECH:
19 (Complied.)

20 BY MS. BRANNON:

21 Q. And is this the same table for the
22 house?

23 A. It is.

24 Q. And were these districts selected in
25 the same -- using the same method?

↑

37

1 A. With the exception of the first

2 State house cluster one where there was -- there
3 was a majority black district, it was taken away
4 in the enacted plan and spread across three
5 districts and then there was in the illustrative
6 plan it was kept intact, so that's the only time
7 in which you see a comparison of one district to
8 three.

9 Q. And you described doing an analysis.
10 Can you explain to us the details of the actual
11 analysis that you conducted on all of these
12 districts Table 4 A and 4 B?

13 A. Yes. I produced effectiveness
14 scores and I did this on the basis of recompiled
15 election results. A lot of times, redistrictors
16 will want to look at the performance of a
17 proposed district by looking at recompiled
18 election results. That means that they are going
19 to take past elections and conform those
20 elections to the boundaries of the proposed
21 district to see how particular candidates would
22 do in the new district. You can only do that
23 with statewide elections because you are not
24 going to have enough overlap if you use say, for
25 example, state legislative districts, you are



1 going to use statewide elections and you can see
2 how candidates perform in the proposed districts.

3 Now, it's a little complicated here
4 because of the junk gel primary system.

5 Ordinarily, you would forget just look at general
6 elections and I do co-produce an average
7 percentage vote for how your particular
8 candidates would do. Oh, this Republican would
9 get 75 percent of the vote across these
10 candidates, but here, I had so say I can't do
11 that because you have these runoff situations, so
12 instead what I did was I looked at the -- looking
13 at recompiled election results how often, what
14 percentage of those contests would the black
15 preferred candidate either win or make it to the
16 runoff. So this -- the effectiveness scores are
17 actually the percentage of contest in terms of
18 effecting the score one the percentage of
19 contests that the black preferred candidate would
20 win or make it to the runoff win out right or
21 make it to the runoff effectiveness score two
22 focuses on the two candidate where you would have
23 in the instance of a runoff and that looks at the
24 percentage of say, runoff contests, the black

25 preferred candidate would win in that particular

39

1 contest. It turns out that the runoff is the
2 barrier to being elected. Sometimes it's not so
3 hard to make it into the runoff, it's in the
4 runoff that you're excluded.

5 Q. Can we see a table on page 17 and
6 the maps on page 18 of PL 1? Is this table here
7 that's shown on the screen reflect the
8 effectiveness and effectiveness two 64s that
9 you were just speaking about?

10 A. Yes. So you can see that, for
11 example, illustrative district 36 has an
12 effectiveness score 1 of 0 and an effectiveness
13 score 2 of 0, the same for the enacted district
14 36, 0 and 0 and so on.

15 Q. In this table, some of the districts
16 are in bold; is that correct?

17 A. Yes.

18 Q. And why is that?

19 A. Those are majority black voting age
20 population districts. So you can see that in the
21 enacted plan there's one in this particular
22 cluster and in the illustrative plan there are

23 two.

24 Q. Your Honor, I'm going to use the
25 demonstrative to walk through some of Lisa

↑

40

1 Handley's maps in her report. That I need to set
2 up on the easel?

3 THE COURT:

4 Go ahead.

5 MS. BRANNON:

6 Just give me a minute.

7 THE WITNESS:

8 Is it possible to get some water?

9 THE COURT:

10 Yes.

11 MS. BRANNON:

12 Counsel, can you-all see it from
13 here?

14 THE WITNESS:

15 I need to know the actual --

16 MS. BRANNON:

17 Can you see that?

18 THE WITNESS:

19 Absolutely. Thank you.

20 THE COURT:

21 The record will reflect that there's
22 a demonstrative map on the easel and
23 defense counsel has indicated that they
24 are able to see the map. Is the witness
25 able to see the map?

↑

41

1 THE WITNESS:

2 Yes, I am.

3 THE COURT:

4 Okay. Everyone's on the same page.

5 BY MS. BRANNON:

6 Q. For the record, this is a blow up of
7 plaintiff's Exhibit PL 04 from Bill Cooper's
8 report. And we are going to label it
9 demonstrative Exhibit 27. Dr. Handley, are you
10 familiar with what this blow up is showing?

11 A. Yes.

12 Q. Okay. And then you are also
13 familiar with the map that's shown on this screen
14 right now?

15 A. I am familiar with the two maps,
16 yes.

17 Q. Okay. Can you see where I'm
18 pointing?

19 A. I can.

20 Q. And the court reporter hear me is
21 this the /#15EU78 as the maps that are currently
22 shown on the screen?

23 A. That is the area, yes.

24 Q. Hold on one second. There's this
25 map on her screen. Hold on a second. I'm not --

42

1 I'm confused. Can you go back and show me
2 Table 17 and page 18?

3 TRIAL TECH:

4 It's on the screen now.

5 BY MS. BRANNON:

6 Q. Yeah. I'm talking about the
7 relationship between the map that's on the screen
8 that's from your report and the demonstrative.
9 You're aware -- did you understand my question?

10 A. I did.

11 Q. Okay.

12 A. Yes. Yes.

13 Q. Okay. So I should ask again was it
14 confusing?

15 THE COURT:

16 Well, I mean, you don't have much of

17 a record. Your record right now says you
18 point at something and you say does this
19 recollect that, so I don't know, maybe you
20 want to ask it again.

21 BY MS. BRANNON:

22 Q. Okay. This is the demonstrative
23 that's here is the state map, correct?

24 A. Yes.

25 Q. For the record, I am pointing to the

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43

1 north east -- northwest of the state, correct?

2 A. Yes, that would be the northwest of
3 the state.

4 Q. All right. And for the record, what
5 we want to move into evidence is the maps from
6 Dr. Handley's report. This is just a
7 demonstrative to give a perspective of where
8 those maps are in the state. It is not intended
9 to be evidence. We are not going to admit this
10 document through Dr. Handley into the evidence
11 today?

12 THE COURT:

13 Okay.

14 BY MS. BRANNON:

15 Q. All right.

16 THE COURT:

17 Carry on.

18 BY MS. BRANNON:

19 Q. Okay. Dr. Handley, turning back to
20 your table, you explained to us how you
21 calculated the effectiveness scores, would you
22 characterize any of the State Senate districts
23 from enacted map in the area of cluster one as an
24 opportunity district?

25 A. Yes. District 39 in the enacted

44

1 plan is an effective district.

2 Q. And can you just explain to us what
3 that means?

4 A. It means that I believe that it will
5 provide black voters an opportunity to elect
6 their candidates of choice.

7 Q. And would you characterize any of
8 the state Senate districts from the illustrative
9 map in the area of Senate cluster one as
10 opportunity districts?

11 A. Yes. I would identify districts 38
12 and 39 as effective districts that is districts

13 that are likely to provide minority voters with
14 an opportunity to elect their candidates of
15 choice.

16 Q. Did you draw any conclusions about
17 the ability of black voters to elect their
18 candidates of choice in the illustrative map
19 versus the enacted map in the area of Senate
20 cluster one?

21 A. Yes. The illustrative district --
22 the illustrative districts -- the illustrative
23 plan offers one additional effective black
24 district in this particular area.

25 Q. Can we see the maps on page 20 and

↑

45

1 the table on page 19 from PL 1?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. BRANNON:

5 Q. Do you recognize this -- these maps
6 and this table?

7 A. I do.

8 Q. And the same -- we are going to go
9 through the same exercise just to give context of
10 where these are. I am pointing now to the area

11 of St. Charles parish; is that correct?

12 A. Yes.

13 Q. Is this area on the demonstrative
14 map the same area that is in your map that's
15 currently on the screen?

16 A. Yes.

17 Q. And this table reflects the same
18 analysis that we have just been discussing in
19 terms of effectiveness scores for the direct in
20 the illustrative and the enacted maps?

21 A. That's correct.

22 Q. Do you draw any conclusions about
23 the ability of black voters to elect their
24 candidate of choice in the illustrative plan
25 versus the enacted plan in the area of Senate

↑

46

1 cluster two?

2 A. Yes. The additional majority black
3 district in this particular area is an effective
4 black district and therefore, the illustrative
5 plan offers one additional majority black
6 effective district in this area.

7 Q. Can we see page 22, table -- the
8 table on page 21?

9 TRIAL TECH:

10 (Complied.)

11 BY MS. BRANNON:

12 Q. Do you recognize these -- this table
13 and these maps?

14 A. I do.

15 Q. Okay. And I am now pointing for the
16 record, in the area of Baton Rouge?

17 A. Okay.

18 Q. And is this area of Baton Rouge the
19 same area that is reflected in the maps from your
20 report on this table?

21 A. Yes.

22 THE CLERK:

23 Ma'am, would you try and speak into
24 that microphone or that handheld because
25 I'm having trouble hearing the audio?



47

1 MS. BRANNON:

2 Is this better if I do it next time?

3 BY MS. BRANNON:

4 Q. And, Dr. Handley, the analysis that
5 is reflected on this table is the same analysis
6 that we have been discussing?

7 A. That's correct.

8 Q. Did you form an opinion about -- did
9 you draw any conclusions about the ability of
10 black voters to elect their candidate of choice
11 in the illustrative plan versus the enacted plan
12 in Senate cluster three?

13 A. Yes. In Senate cluster three, there
14 are two effective black districts in the enacted
15 plan and there are three in the illustrative
16 plan.

17 Q. Can we call up page 24 and page 23,
18 the table on page 23 in the map and on page 24.

19 TRIAL TECH:

20 (Complied.)

21 BY MS. BRANNON:

22 Q. And for the record, this is Exhibit
23 No. PL 048, which has been demonstrative that I'm
24 now through with it. And for the record, I've
25 just put up what we are labelling demonstrative

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48

1 28 which is a blow up of PL 067, which is from
2 Dr. Cooper's report.

3 Dr. Handley, do you recognize this
4 document?

5 A. I do.

6 Q. And what is it?

7 A. That is a map of the State of
8 Louisiana with the illustrative house plan put
9 onto it.

10 Q. Okay. And for the record, I am
11 pointing now to PL 07, which is demonstrative 28
12 in the area of Red River. In this -- is this the
13 same where I'm pointing, is that the same area of
14 this map that is shown in more detail on the blow
15 ups from your report that are on the screen at
16 the moment?

17 A. Yes.

18 Q. And the analysis that you conducted
19 that's reflected in this table, is the same type
20 of effectiveness analysis we have been
21 discussing, correct?

22 A. Yes.

23 Q. Did you form an opinion about the
24 ability of black voters to elect their candidate
25 of choice in the illustrative plan versus the

↑

49

1 enacted plan in-house cluster one?

2 A. Yes.

3 MS. BRANNON:

4 Okay. Can we see page 28 and 27
5 from plaintiff's Exhibit 1.

6 TRIAL TECH:

7 (Complied.)

8 BY MS. BRANNON:

9 Q. Dr. Handley, do you recognize this
10 table and this map that's currently on the
11 screen?

12 A. I do.

13 Q. Oh, actually, can we go back?
14 Sorry. Can we do 26 and 25, page 26 and table on
15 page 25 from plaintiff's Exhibit 1. Do you
16 recognize these -- this table and these maps?

17 A. Yes.

18 Q. And for the record, I'm now pointing
19 to PL 067 in the area of Lake Charles?

20 A. Yes.

21 Q. And is this area that's reflected
22 here on this that I am pointing to, the same area
23 that is shown in more detail in the map in PL 1
24 from your report?

25 A. Yes.



1 Q. And is the table here in-house
2 cluster two, reflect the same analysis that we
3 have been discussing?

4 A. Yes.

5 Q. Do you have an opinion about the
6 ability of black voters to elect their candidate
7 of choice in the illustrative plan versus the
8 enacted plan in-house cluster two?

9 A. Yes. The enacted plan offers one
10 minority opportunity district and the
11 illustrative plan offers two black opportunity
12 districts in this particular area.

13 Q. Okay. Now, can we see page 28 and
14 -- the table on page 27 from PL 1. Do you
15 recognize this table and this -- these maps?

16 TRIAL TECH:

17 (Complied.)

18 THE WITNESS:

19 I do.

20 BY MS. BRANNON:

21 Q. Okay. And I'm -- now for the
22 record, I am now pointing at the demonstrative
23 Exhibit 28 which is from plaintiff's Exhibit PL
24 67 in the area of Caddo and Bossier parish. Is
25 this area that I'm pointing to the same area that



1 is reflected in more detail on the map from your
2 report that's on the screen?

3 A. Yes.

4 Q. And is the analysis that's reflected
5 in cluster -- the table about house cluster three
6 that's on the screen, the same type of analysis
7 we have been discussing?

8 A. Yes.

9 Q. Do you have an opinion as to the
10 ability of black voters to elect their candidate
11 of choice in the illustrative map versus the
12 enacted map in-house cluster three?

13 A. Yes. My opinion is that the enacted
14 plan offers three effective black districts and
15 the illustrative plan offers four effective black
16 districts in this particular area.

17 Q. Okay. Can we move now to page 30
18 and the table -- the maps on page 30 and the
19 table on page 29 from plaintiff's Exhibit 1?

20 TRIAL TECH:

21 (Complied.)

22 BY MS. BRANNON:

23 Q. Do you recognize the table and the

24 maps that are on the screen?

25 A. I do.

↑

52

1 Q. And, for the record, we are almost
2 done. For the record, I am now pointing to PL 67
3 which is demonstrative 28 in the area of house
4 district 60 which is south of Baton Rouge; is
5 that correct?

6 A. Yes.

7 Q. And is that the same area of the
8 state that is shown in more detail on the map,
9 that is part of your report that's currently on
10 the screen?

11 A. Yes.

12 Q. And is the analysis that's reflected
13 in the table that's currently on the screen about
14 house cluster four, the same type of analysis we
15 have been discussing?

16 A. Yes.

17 Q. And do you have an opinion about the
18 ability of black voters to elect their candidates
19 of choice in-house cluster one in the
20 illustrative map versus the enacted map house
21 cluster four?

22 A. I do. In this particular area,
23 there is no enacted district that provides black
24 voters with an opportunity to elect. There is
25 one such district in the illustrative plan.

↑

53

1 Q. Okay. Can we see the maps on
2 page 32 and the table on page 31 of plaintiff's
3 Exhibit 1.

4 TRIAL TECH:

5 (Complied.)

6 BY MS. BRANNON

7 Q. Do you recognize these?

8 A. Yes.

9 Q. And this is the same table and the
10 same kind of maps that we have been discussing,
11 correct?

12 A. That's correct.

13 Q. And for the -- for the record, I am
14 pointing to demonstrative Exhibit 28 which is PL
15 067 in this area which is in Baton Rouge; is that
16 correct?

17 A. Yes.

18 Q. And this area of Baton Rouge is the
19 same area that's shown in more detail in the

20 blown up map that is part of your report of PL 1?

21 A. Yes, it is.

22 Q. All right. And do you have an
23 opinion as to the effective -- do you have an
24 opinion as to the ability of black voter to elect
25 their candidate of choice in the illustrative map

54

1 versus the enacted map for house cluster five?

2 A. Yes. You can see that the enacted
3 plan offers five black opportunity districts and
4 the illustrative plan offers seven effective
5 black districts in the -- in this particular
6 area.

7 Q. Okay. We can pull this down now.
8 Did you conduct any additional functional
9 analysis effectiveness score analysis for other
10 districts in the enacted map?

11 A. I did. I looked at the calculated
12 effectiveness scores for all districts over
13 25 percent black in voting age population.

14 Q. And what did you find?

15 A. I found that there were with one
16 exception, no districts that were effective that
17 were under 50 percent with the exception of I

18 think it's house district 91. It's mentioned in
19 the footnote. There is one exception, but that
20 is the only exception. All of the effective
21 districts were at least 50 percent black in
22 voting age population and none of the districts
23 except the one, that was less than majority black
24 was an effective district.

25 Q. Okay. Bringing your racially

55

1 polarized analysis and your effectiveness
2 analysis of the enacted and illustrative maps
3 together, how does the racial block voting in
4 Louisiana effect black voters opportunities to
5 elect their candidates of choice in the legislature
6 -- in state legislative elections in the seven
7 areas of interest that you evaluated for this
8 case?

9 A. In the seven areas of interest that
10 I evaluated for this case, without exception a
11 majority black district is necessary to elect
12 black preferred candidates to the state
13 legislature.

14 Q. The plaintiffs would move for
15 admission of Dr. Handley's report, which is PL

16 report and then the related exhibits which are PL
17 2 through PL 11?

18 MS. RIGGINS:

19 No objection to the admission.

20 THE COURT:

21 Admitted. Can we pre-admit the
22 expert reports for those that we know are
23 going to testify so that we don't have to
24 have this labor us exercise.

25 MS. RIGGINS:

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1 So, Your Honor, our agreement
2 notwithstanding my earlier objections
3 regarding Dr. Solanky and Dr. Handley's
4 reports at PL 17 through PL 19, that is
5 our agreement. We are unsure if two of
6 plaintiff's experts will be testifying.
7 They were on the may call witness, but for
8 those that testify, that's fine.

9 THE COURT:

10 At the beginning of the experts
11 testifying, let's get the reports admitted
12 so that we don't have to streamline things
13 a little bit so let's carry on admitting.

14 MS. BRANNON:

15 Okay. I just have a few more
16 questions for Dr. Handley.

17 BY MS. BRANNON:

18 Q. Dr. Handley, we discussed earlier
19 your methodologies for early and absentee votes,
20 correct?

21 A. Yes.

22 Q. Do you have any concerns about this
23 process potentially creating any bias in your EI
24 analysis.

25 A. I do not.

↑

57

1 Q. And why not?

2 A. Well, I did some analysis to -- to
3 determine if this was the case. I did a couple
4 of different things to determine if it was likely
5 that bias was being introduced.

6 Q. So then I am going to call up
7 plaintiff's Exhibit 16, which defendants have
8 articulated an objection to. This is additional
9 analysis that Dr. Handley did to verify the
10 opinions that she has provided in her additional
11 report. It does not speak to anything

12 specifically that Dr. Solanky has discussed or
13 talked about and plaintiff's think it's
14 appropriate for admission because it relates to
15 Dr. Handley's initial report and it's for the
16 benefit of the court to understand the specific
17 analysis that Dr. Handley did. So we would move
18 for admission. We are going to walk through it a
19 little bit, but we would move for admission of PL
20 17 through -- PL 16 through PL 19.

21 MS. RIGGINS:

22 And, Your Honor, if I may be
23 permitted to respond?

24 THE COURT:

25 Please.

58

1 MS. RIGGINS:

2 So PL 16, the first --

3 THE COURT:

4 Adjust your mic. You're very soft
5 spoken so speak up.

6 MS. RIGGINS:

7 I'm sorry, Your Honor. Is that
8 better?

9 THE COURT:



10 Yes.

11 MS. RIGGINS:

12 Is the first phrase in PL 16 starts
13 with Dr. Solanky contends PL 16 was
14 authored in response to work that Dr.
15 Solanky did that criticized Dr. Handley's
16 allocation method the entire report and
17 the appendices attached there to were done
18 in response to Dr. Solanky that has been
19 excluded. If plaintiffs want to testimony
20 to come in we think it's only fair that
21 Dr. Solanky be allowed to testify to this
22 as well.

23 THE COURT:

24 The court is not going to reconsider
25 it's motion in immaterially on

↑

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1 Dr. Solanky. The question on the table is
2 whether or not the allocation method that
3 Dr. Handley used to allocate the -- what
4 we will call the absentee or the early
5 votes that are collected at a parish wide
6 level, how did she -- what was the
7 methodology for allocating those to the

8 precinct level. She's given us that
9 testimony already. Now, the question is:
10 Was that methodology used biased. The
11 court will allow the question. The court
12 will defer ruling on the admission of the
13 reports until we are concluded with this.
14 But the court's going to allow that
15 question.

16 BY MS. BRANNON:

17 Q. Okay. Thank you, Your Honor. Can
18 we see PL 16?

19 TRIAL TECH:

20 (Complied.)

21 BY MS. BANNON:

22 Q. What's this document?

23 A. This is a supplemental report I
24 prepared.

25 Q. And what analysis is reflected in

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1 this supplemental report?

2 A. I did several analyses, first, I
3 looked to see if casting an early or absentee
4 vote was related to the party -- the party of the
5 voters and determined that there was little

6 difference in whether you were a Republican or
7 Democrat as to whether you cast an early vote
8 with one exception and that is in 2020, and in
9 2020 you were more likely to vote early if you
10 were a Democrat than if you were a Republican.
11 Otherwise, most years was very comparable or
12 Republicans or slightly more like to -- to early
13 vote than Democrats except for 2022 where
14 Democrats were slightly more likely to early vote
15 than Republicans. But the only year that there
16 was a distinct difference was in 2020.

17 Q. Can we see PL 17?

18 TRIAL TECH:

19 (Complied.)

20 BY MS. BRANNON

21 Q. Are you familiar with this document?

22 A. Yes. That's the table I prepared on
23 which I just based the conclusion that I gave
24 you.

25 Q. Can we now see PL 19.

↑

61

1 TRIAL TECH:

2 (Complied.)

3 BY MS. BRANNON:

4 Q. Dr. Handley, are you familiar with
5 this document?

6 A. Yes.

7 Q. Can you explain what this document
8 shows?

9 A. Yes. So we don't know at the
10 precinct level how the early votes compared to
11 the election day votes because we don't know who
12 the candidates were that each of the precincts
13 voted for, but we do know that at the parish
14 level, so these are scatter plots of the parishes
15 each point is a parish and I essentially did a
16 racial block voting analysis of the early votes
17 for each of the candidates and of the election
18 day votes for each of the candidates, so the top
19 plot is a plot of the parishes early votes for in
20 this particular instance, Gary chambers who ran
21 for Senate in 2022 and the middle plot is looking
22 at the proportion of election day votes by
23 proportion of election day black turn out and you
24 can see that both are equally polarized, so at
25 that time there is essentially no difference

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1 between the early votes, the degree of

2 polarization among the early voters and the
3 election day voters.

4 And then the last scatter plot
5 simply looks at the proportion of early votes to
6 the proportion of election day votes for chambers
7 to see if there was a difference.

8 Q. Did you evaluate any more elections
9 besides the November 2022 election?

10 A. Yes, I looked at several elections.

11 Q. Can we turn to the next page?

12 TRIAL TECH:

13 (Complied.)

14 BY MS. BRANNON:

15 Q. Was this one of the other elections
16 that you evaluated?

17 A. Yes.

18 Q. And then can we turn to the next
19 page?

20 TRIAL TECH:

21 (Complied.)

22 BY MS. BRANNON:

23 Q. And for the record, the last one was
24 November 20th -- the 2020 election, correct?

25 A. The one prior to the one showing on



1 the screen, yes, correct.

2 Q. And then the next one is this one of
3 the elections that you evaluated in this method?

4 A. Yes.

5 Q. And for the record, this is
6 November 19th?

7 A. Yes.

8 Q. And then if we turn to the next
9 page?

10 TRIAL TECH:

11 (Complied.)

12 BY MS. BRANNON:

13 Q. And for the record, is this one of
14 the other elections that you evaluate indeed this
15 method?

16 A. Yes.

17 Q. And for the record, this is
18 October 2019?

19 A. Yes.

20 Q. And then can we turn to what I think
21 is the last page?

22 TRIAL TECH:

23 (Complied.)

24 BY MS. BRANNON:

25 Q. And is this one of the other

64

1 elections that you evaluated in this method?

2 A. That's correct.

3 Q. And for the record, this is

4 December 2018?

5 A. Correct.

6 Q. Okay. So, Your Honor, we would move
7 for admission of the report. We could do just
8 the exhibits to reflect the analysis if we didn't
9 want to do the actual report which does mention
10 Dr. Solanky in the first sentence as a comprise?

11 THE COURT:

12 Does that solve your problem?

13 MS. BRANNON:

14 Your Honor, I wish it did, but it
15 doesn't. The analysis and appendices were
16 prepared in the rebuttal of that service
17 report and it's all in response to
18 Dr. Solanky's analysis which he first
19 raised as to whether this allocation was
20 biased in his expert report and those have
21 been excluded.

22 THE COURT:

23 You may address it the proper rule,
24 but go ahead.

25 MS. BRANNON:



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1 Yeah. I think, Your Honor, the
2 substantive factual issue has been raised
3 in this case and as I stated before, I
4 think the report is an appropriate
5 supplement to Dr. Handley's original
6 opinion because it provides clarity to the
7 report. The analysis is reflective of Dr.
8 Handley's own opinions about work that she
9 did in this case from the initial -- you
10 know, when she first did her report
11 addressing an issue just to verify the
12 validity of the opinions that she's giving
13 and I think that is an appropriate
14 supplement for us to produce and to be
15 entered into evidence regardless of the
16 position of Dr. Solanky being excluded.

17 THE COURT:

18 Okay. The court is going to admit
19 Plaintiff's 16 through 19 and the reason
20 is that under 702 it is the moving

21 parties, the offering party of the experts
22 burden to show the reliability of the
23 opinion testimony and this goes directly
24 to reliability. That burden of proof is
25 being -- has -- is being made part of the

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1 rule effective December the 1st, but the
2 case law would reflect that it's always
3 been the movements burden and so
4 therefore, in the interest of the court's
5 full understanding and the ability for the
6 court to make the analysis of the
7 reliability of the opinion testimony, the
8 court will allow it for completion of the
9 record or to make a complete record. So
10 PL -- Plaintiff's 16 through 19 are
11 admitted.

12 MS. BRANNON:

13 Thank you. Just a couple more
14 questions. Can we turn to Dr. Handley's
15 CV again at Exhibit PL 2.

16 TRIAL TECH:

17 (Complied.)

18 BY MS. BRANNON:

19 Q. That's at tab two of your binder and
20 can we go to I think it's the third page?

21 TRIAL TECH:

22 (Complied.)

23 BY MS. BRANNON:

24 Q. Yes. Dr. Handley, did you write an
25 article for the North Carolina law review?

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1 A. I co-authored the article being
2 highlighted here, yes.

3 Q. Okay. Given the -- can you read the
4 title of that article into the record?

5 A. Drawing effective minority districts
6 a conceptual framework and some empirical
7 evidence.

8 Q. Given the title of that article,
9 does this article discuss ways to determine if
10 election districts are effective?

11 A. Yes, it does.

12 Q. And what approaches are discussed?

13 A. I discuss the approach I took here
14 in terms of recompiled election results. If you
15 actually have proposed districts you look at
16 recompiled election results and it also offers a

17 new way of looking at whether a district is
18 likely to be effected before actually drawing
19 districts. You would look at -- you would take
20 the information from the racial black voting
21 analysis and produce what's called a percent
22 needed to win percentage.

23 Q. Did you conduct a percent needed to
24 win analysis in this case?

25 A. I did not do so in this case. In

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1 this case I had proposed districts to evaluate.
2 I had enacted districts as well as illustrative
3 districts. The boundaries were already drawn.

4 Q. And do you have an opinion of which
5 one of those analyses is the most available to
6 addressing racial -- racially polarized voting in
7 your opinion in this case?

8 A. The -- looking at recompiled
9 election results focuses in on the very specific
10 voters that will be included in the district. It
11 also takes into account, of course, turn out and
12 voting patterns because you are looking at
13 previous elections just as you would if you
14 calculated a percent needed to win. But this

15 focuses on just specifically the residents of the
16 proposed district.

17 Q. So it looks at the actual districts
18 that have been enacted and not hypothetical
19 districts?

20 A. Correct.

21 Q. Okay.

22 MS. BRANNON:

23 I have nothing further. Thank you,
24 Dr. Handley.

25 THE COURT:

69

1 Cross?

2 MS. BRANNON:

3 Oh, wait. Let me confer with them.

4 Yeah. I have nothing further.

5 THE COURT:

6 Cross?

7 EXAMINATION BY MS. RIGGINS:

8 Q. Good morning, Your Honor. Lisa
9 Riggins on behalf of the secretary of state. May
10 I have a minute with Ms. Brannon, please?

11 THE COURT:

12 You may.

13 MS. RIGGINS:

14 Your Honor, just to clarify the date
15 on the expert report which is plaintiff's
16 Exhibit PL 1, it is incorrect. That
17 report was produced on June 30th of 2023.
18 Isn't that correct, Dr. Handley?

19 THE WITNESS:

20 Yes.

21 THE COURT:

22 I note that fact. Glad you cleared
23 that up for the record.

24 MS. RIGGINS:

25 Yeah. Dr. Handley PL 1 which has

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1 now been admitted was produced on
2 June 30th of 2003.

3 THE COURT:

4 2023?

5 MS. RIGGINS:

6 2023. Thank you.

7 THE COURT:

8 Thank you for your professionalism,
9 Ms. Riggins.

10 BY MS. RIGGINS:

11 Q. Good morning, Dr. Handley. It is
12 nice to see you again. How are you today?

13 A. I'm good. And yourself?

14 Q. I am fine. I finally managed to get
15 a hot cup of coffee. It took me a while this
16 morning. So, Dr. Handley, you conducted a
17 racially polarized voting analysis in this
18 matter; is that correct?

19 A. Yes.

20 Q. Okay. And would you agree with me,
21 Dr. Handley, that this racially polarized voting
22 analysis is needed to determine first, whether a
23 minority group is politically cohesive and
24 second, to determine if white voters are voting
25 as a block to defeat the candidates preferred by

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1 those minority voters?

2 A. I would agree.

3 Q. And, Dr. Handley, if I refer to a
4 racially polarized analysis as an RVP analysis,
5 will you know what I mean?

6 A. I will.

7 Q. Thank you. So in order to conduct
8 your RVP analysis Dr. Handley, you needed an

9 aggregate level database; isn't that correct?

10 A. Yes. By aggregate, we mean that we
11 don't have individual level data. We are looking
12 at precinct level data in this case.

13 Q. Okay. Thank you, Dr. Handley. But
14 I believe you testified earlier that you sourced
15 this data from the secretary of state's website
16 open elections and the census; is that right?

17 A. I sourced -- that is the source of
18 it, yes.

19 Q. And some of this data that was used
20 in your report was also gathered for the current
21 congressional case pending in Louisiana, the
22 Robinson case for which you are also an expert,
23 isn't that right, Dr. Handley?

24 A. Yes.

25 Q. And you personally did not compile

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1 all of this data?

2 A. I did not compile the precinct level
3 data.

4 Q. And who compiled that data, Dr.
5 Handley?

6 A. The personnel who work at it, the

7 ACLU Analytics department.

8 Q. And you were retained by the ACLU in
9 this case, is that right, Dr. Handley?

10 A. Yes.

11 Q. All right. And I would like to turn
12 to Table 1 in your report, which is plaintiff's
13 Exhibit 6, please. And do you still have your
14 white binder in front of you Dr. Handley?

15 A. I do.

16 Q. Is it okay if Dr. Handley uses that
17 binder?

18 MS. BRANNON:

19 Yes.

20 BY MS. RIGGINS:

21 Q. Save some trees. I think it's tab A
22 in your report, Dr. Handley?

23 A. Okay. We are also bringing it up on
24 the screen which is actually easier for me to
25 see. I have to put on my glasses, but --

↑

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1 Q. That's fine. I'm happy to do it
2 whatever way is easier for you.

3 THE COURT:

4 Adjust the microphone. There you

5 go. Bend it down a little bit.

6 BY MS. RIGGINS:

7 Q. Sorry. I'm short. Dr. Handley, can
8 you please turn to table one in your report, I
9 think it starts on page 6.

10 A. Yes.

11 Q. So these are the 16 statewide
12 election contests that you analyzed in this
13 report; isn't that right, Dr. Handley?

14 A. These are the 16 statewide, that's
15 correct.

16 Q. And these 16 statewide election
17 contests include a black candidate in each of
18 them, isn't that right?

19 A. At least one, that's correct.

20 Q. And so because the 2016 presidential
21 election did not include a black candidate you
22 did not analyze that election in this report,
23 Dr. Handley?

24 A. Correct.

25 Q. And so you likewise in this report,

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1 did not examine the 2015 or the 2019

2 gubernatorial elections, did you?

3 A. Correct.

4 Q. But don't you understand,
5 Dr. Handley, that Governor Edwards received a
6 high level of support from the black community as
7 analyzed in your rebuttal report?

8 A. As reported -- I did not analyze it.
9 I used Dr. Offered's estimates and I would agree
10 that Edwards received a high percentage of the
11 black vote.

12 Q. Thank you, Dr. Handley.
13 Do you agree with me, Dr. Handley,
14 that the black preferred candidate is usually a
15 Democrat?

16 A. In Louisiana, yes.

17 Q. And would you also agree with me,
18 Dr. Handley, that sometimes a white candidate can
19 be the candidate of choice for the black
20 community?

21 A. Yes.

22 Q. And, in fact, Dr. Handley, haven't
23 you conducted racially polarized voting analyses
24 in other states where you examine elections with
25 white candidates only?

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1 A. Yes. If there are not a sufficient
2 number of contests that include black candidates.
3 Here, of course, I had 16 so I did have a
4 sufficient number, but in some states, for
5 example, in Arkansas, you had maybe two
6 candidates, black candidates who ran statewide
7 over an entire decade, so I did look at contests
8 that included only white candidates.

9 Q. Okay. But here in Louisiana you
10 were able to find 16 biracial contests over a
11 period of approximately seven years?

12 A. Yes.

13 Q. And, Dr. Handley, you -- the results
14 of the statistical analysis that you performed,
15 we looked at those earlier. Those are contained
16 in exhibit -- I'm sorry, Appendix A to your
17 report?

18 A. Correct.

19 Q. All right. And you also examined
20 State house and State Senate elections in
21 Appendix B it owe your original report; isn't
22 that right?

23 A. Yes.

24 Q. But those state legislative
25 elections that you examined in appendix B to your

↑

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1 report are not really endogenous elections, are
2 they, Dr. Handley?

3 A. As I said, those are for the office
4 at issue, but not for the actual districts at
5 issue.

6 Q. Okay. And so therefore, they are
7 not actually endogenous elections because they
8 are not the election districts at issue in this
9 case?

10 A. As I understand the word endogenous.
11 I'm not sure that all courts would agree, but
12 that's how I understand it.

13 Q. Thank you, Dr Handley?

14 A. And, Dr. Handley, would you agree
15 with me that it's valuable for experts such as
16 yourself to study endogenous elections when they
17 are available.

18 A. Yes.

19 Q. And so in this report you don't
20 examine any endogenous elections, do you?

21 A. Depending on your definition, I
22 would say I looked at state legislative
23 elections, but not for the districts at issue.

24 Q. But isn't your definition of an
25 endogenous election, Dr. Handley, that the

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1 election is for the district at issue?

2 A. That -- that's my definition.

3 Again, I'm not really sure the court's came up
4 with the word and I'm not really sure what courts
5 would have to say about that.

6 Q. But studying the election district
7 at issue, that's your definition of an endogenous
8 election?

9 A. Yes.

10 Q. Could we please turn to Table 2
11 which is on page 9 of your report, please?

12 TRIAL TECH:

13 (Complied.)

14 BY MS. RIGGINS:

15 Q. I think it's also up on the screen
16 if that's easier for you, Dr. Handley.

17 These are the seven areas of
18 interest that you studied in your June 2023
19 report; isn't that right, Dr. Handley?

20 A. Yes.

21 Q. And you chose these districts

22 because they were based on areas where plaintiffs
23 illustrative maps added additional majority
24 minority districts; isn't that true?

25 A. Yes. I think you phrased that

↑

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1 incorrectly, but yes.

2 Q. So you did not examine the entire
3 State of Louisiana?

4 A. That's correct.

5 Q. And you did not study majority
6 minority districts outside of these seven areas
7 of interest?

8 A. That's correct.

9 Q. Can we please turn to Table 3
10 forest, from the next page?

11 TRIAL TECH:

12 (Complied.)

13 THE WITNESS:

14 I neglected to mention something. I
15 did not study or do any analysis other
16 than produce effectiveness scores. I did
17 calculate effectiveness scores. Sorry
18 about that.

19 BY MS. RIGGINS:

20 Q. I appreciate the clarity,
21 Dr. Handley. Thank you. And, Dr. Handley, do
22 you see that Table 3 is up on your screen?

23 A. Yes.

24 Q. And I believe that you discussed
25 this table earlier on direct; is that right?

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1 A. Yes.

2 Q. Okay. And I'd like to look at the
3 second set of columns here, the two candidate
4 contests; is that right?

5 A. Yes.

6 Q. Can you see that okay. Area of
7 interest three, do you recall what area of
8 interest that is?

9 A. Off the top of my head, no. I
10 could certainly go back and look.

11 Q. Yes, of course.

12 MS. RIGGINS:

13 Could we maybe pull that up or put
14 those side by side?

15 TRIAL TECH:

16 (Complied.)

17 BY MS. RIGGINS:

18 Q. So, Dr. Handley. Do you see these
19 Table 2 and Table 3 up side by side on your
20 screen?

21 A. I do.

22 Q. Okay. So what area of interest is
23 area of interest three?

24 A. East central Louisiana, that
25 includes Baton Rouge, West Baton Rouge, Iberville

80

1 and point could you please see.

2 Q. Great. Thank you. And what areas
3 of interest does area seven include?

4 A. Baton Rouge and East Feliciana.

5 Q. So Baton Rouge is examined in both
6 area three and area seven; is that right?

7 A. Correct.

8 Q. Okay. And so looking at the two,
9 candidate contests for area three in Table 3,
10 isn't the white vote for black preferred
11 candidate approximately 20 percent?

12 A. For area seven?

13 Q. For area three.

14 A. It's 19.6 to be exact.

15 Q. Okay. And it's 20.1 for area seven;

16 isn't that right?

17 A. Yes.

18 Q. Okay. Thank you, Forest. We can
19 take this down.

20 TRIAL TECH:

21 (Complied.)

22 MS. RIGGINS:

23 And Forest, can we pull up
24 plaintiff's Exhibit 3, please?

25 BY MS. RIGGINS:

↑

81

1 Q. And if it's easier on paper,
2 Dr. Handley, whichever is easier for you. This
3 is appendix A-1 covering area of interest one
4 Bossier and Caddo Parish; isn't that right,
5 Dr. Handley?

6 A. Yes.

7 Q. And you would agree with me, Dr.
8 Handley, that appendix A-1 is not a district
9 specific analysis, is it?

10 A. It's a very area specific analysis.
11 It focuses on the area where the additional
12 illustrative district is drawn, an illustrative
13 district is drawn.

14 Q. So the answer to my question is yes,
15 this is not a district specific analysis?

16 A. It focuses on the two parishes in
17 which there is an illustrative, an additional
18 illustrative district.

19 Q. But appendix A-1 does not study
20 specific districts within Bossier and Caddo
21 Parish, does it?

22 A. No.

23 Q. Thank you. So there is some column
24 headers here that you and Ms. Brannon went
25 through earlier, EIR by CEI two by two and ER.

↑

82

1 Do you see those?

2 A. Yes.

3 Q. And these are all statistical
4 estimates; is that right, Dr. Handley?

5 A. Yes.

6 Q. But the homogenous precinct
7 analysis, those are real election percentages
8 reported in the HP column?

9 A. Yes. Those are the percentages for
10 in -- in the first column for the precincts --
11 for all of the precincts that at least 90 percent

12 of the voters were black and in the white
13 section. It was for those precincts in which at
14 least 90 percent of the voters were white.

15 Q. Thank you, Dr. Handley. So setting
16 aside the HP column which I understand are
17 actually election percentages, the remainder of
18 the EI and ER analysis here in the appendix
19 reports, estimates for black and white voters in
20 Bossier and Caddo Parishes for the 16 statewide
21 election contest we discussed earlier; isn't that
22 right?

23 A. Yes.

24 Q. And the numbers in the EIR by C
25 column, are statistical estimates of a

↑

83

1 percentage; isn't that right?

2 A. Yes.

3 Q. So I'd like to, if we could,
4 Dr. Handley, look at the 2020 November
5 presidential election. If we could, look under
6 the estimates in the far right section of columns
7 estimate for white voters. Would you agree with
8 me that the 22.6 number that is on the screen
9 here, represents the estimates of the percentage

10 of white voters who voted for president Biden
11 across all precincts in Caddo and Bossier
12 parishes?

13 A. Yes.

14 Q. And, Dr. Handley, you used R code
15 and several R code packages to produce the EI and
16 ER and HP analysis replicated here; isn't that
17 right?

18 A. Yes.

19 Q. Okay. Do you recall which R code
20 packages you used to produce this analysis?

21 A. Yes. Well, more or less, yes.

22 Q. And which packages were those?

23 A. EI pack and EI compare for the ER
24 estimates and HP estimates. Maybe -- maybe EI
25 pack for the ER estimates. I don't remember, but

↑

84

1 I used both of those packages.

2 Q. Thank you, Dr. Handley. And I
3 believe you testified to this earlier, but the
4 data unit that you are using to conduct this
5 analysis is per precinct; isn't that right?

6 A. The unit of analysis or observation
7 is the R precincts.

8 Q. And so to produce this 22.6 number
9 that we just mentioned a few minutes ago, you
10 instructed your packages in R code to limit the
11 results in just the precincts in Bossier and
12 Caddo Parishes; isn't that right?

13 A. Yes.

14 Q. And so next to this 22.6 number,
15 there are two numbers reported here for
16 95 percent confidence interval; is that right?

17 A. Yes.

18 Q. All right. And what are those two
19 numbers, Dr. Handley?

20 A. So EIR times C is actually a
21 simulation process, and I believe I ran something
22 like 250,000 simulations and this range 17.2 to
23 30.5 indicates that 95 percent of my simulations
24 produced means within that range.

25 Q. So then -- I appreciate the

↑

85

1 explanation, Dr. Handley. I was going to try to
2 do the inverse and ask you questions about that,
3 but your explanation is much better than mine.
4 But just to clarify, you said means within this
5 range, you mean that 95 percent of the results of

6 your simulations produced a mean between 17.2 and
7 30.5 in this specific example we are looking at?

8 A. Yes.

9 Q. And would you generally agree with
10 me, Dr. Handley, that the smaller the range of
11 the 95 percent confidence interval the better
12 idea you have as to the true number?

13 A. The less uncertainty attached to the
14 estimate.

15 Q. So the smaller the range, the more
16 certain you are about the estimate?

17 A. The less than certainty are I
18 suppose you could read it at, but a statistician
19 would say the wider the range the more
20 uncertainty.

21 Q. And you do not produce confidence
22 intervals for EI two by two or ecological
23 regression, do you, Dr. Handley?

24 A. Those have been rejected as by
25 experts.

↑

86

1 Q. But your package would allow you to
2 produce those confidence intervals; isn't that
3 true, Dr. Handley?

4 A. No, not for EI compare, no.

5 Q. But what about for EI pack?

6 A. Yes.

7 Q. What is the estimate for EI two by
8 two reported here for white voters in Caddo and
9 Bossier parishes for president Biden and versus
10 president Harris in the November 2022 election?

11 A. The EI two by two did you ask?

12 Q. Yes, ma'am.

13 A. 9.8.

14 Q. All right. And what is it for ER?

15 A. 9.3.

16 Q. And both of these numbers are
17 outside of the 95 percent confidence interval you
18 reported for EIR by C; isn't that right?

19 A. Different statistical methods.

20 Q. So the answer to my question is yes?

21 A. They are outside the 17.2 to 30.5,
22 yes.

23 Q. And would you agree with me,
24 Dr. Handley, that these estimates being outside
25 of the confidence intervals, isn't necessarily

↑

87

1 surprising because this analyzes the

2 November 2022 election?

3 A. In part, but it is also not
4 surprising because these are different methods.
5 They rely on different statistical assumptions
6 and produce different statistical estimates.

7 Q. Sure. But in part, isn't it also
8 because this analyzes the November 2022 election
9 which produced problematic estimates due to the
10 number of people voting early?

11 A. It is true that these estimates are
12 more problematic.

13 Q. Dr. Handley, I don't want to be
14 repetitive, but would you agree with the
15 statement that the November 2020 election
16 produced problematic estimates because of the
17 number of people who early voted in Louisiana?

18 A. No, I would not disagree with that.

19 Q. You would not disagree with that
20 statement?

21 A. That's correct.

22 Q. So let's look one election up, if we
23 can, to the 2022 November Senate election.

24 I would also like to look at the
25 estimates for white voters which are on the far



1 right side of your screen. Was Mr. Chambers the
2 black candidate of choice in this race,
3 Dr. Handley?

4 A. Yes.

5 Q. And what is the EIR by C estimate
6 for Mr. Chambers for white voters in Bossier and
7 Caddo Parishes? EIR by C, I'm sorry?

8 A. For Mr. Chambers did you say?

9 Q. Yes, ma'am?

10 A. Five, 5 percent.

11 Q. And what are your 95 percent
12 confidence intervals for that EIR by C estimate?

13 A. 4.3 to 5.7.

14 Q. And what is the EI two by two
15 estimate here?

16 A. 3.5.

17 Q. And what is the ER estimate?

18 A. 3.9.

19 Q. And again, both the EI two by two
20 and the ER estimates are outside of the
21 95 percent confidence interval; isn't that right,
22 Dr. Handley?

23 A. Yes. Sure. I should have waited.

24 Sorry. Sorry about that.

25 Q. Dr. Handley, would you agree with me

89

1 that if you looked at different election contests
2 with different candidates than the ones listed in
3 appendix A-1, you would have gotten different
4 estimates?

5 A. The estimates are election specific.

6 Q. So the answer to my question is yes?

7 A. I wouldn't address it that way, but
8 I think I answered it different elections would
9 produce different estimates.

10 Q. Thank you, Dr. Handley. So I would
11 like to move on and talk a bit about
12 effectiveness scores unless Your Honor would like
13 to take the morning break?

14 THE COURT:

15 How much longer do you have?

16 MS. RIGGINS:

17 15 to 20 minutes, Your Honor.

18 THE COURT:

19 Let's take a 15-minute recess.

20 THE BAILIFF:

21 All rise. The court is in recess.

22 (A short recess was taken at 10:36 a.m.)

23 THE BAILIFF:

24 All rise. The court.

25 THE COURT:

90

1 Okay. Cross you may continue.

2 BY MS. RIGGINS:

3 Q. Thank you, Your Honor. Dr. Handley,
4 I'd like to shift gears a little bit and talk
5 about your effectiveness scores, but before I do
6 your kind counsel pointed out in a couple of
7 places it may have referred as the Biden election
8 as occurring in November 2020, that is an error
9 obviously on my part. Can we agree, Dr. Handley,
10 that Biden was elected in November 2022 not in
11 2020?

12 A. Yes.

13 Q. Can we look at -- thank you, Forest.
14 There's a comparison table here for State Senate
15 cluster three isn't that right?

16 A. Yes.

17 Q. And what areas of interest are
18 included in State Senate cluster three?

19 A. Area of interest, I think it's area
20 of interest three. Do you mean what parishes,

21 perhaps?

22 Q. Yes. I'm sorry. What parishes are
23 included in that, Dr. Handley?

24 A. East and west Baton Rouge, Iberville
25 and Point could you please pay.

↑

91

1 Q. Thank you. And the scores here on
2 on the comparison table, these are specific to
3 the illustrative and enacted districts; isn't
4 that right, Dr. Handley?

5 A. Yes.

6 Q. And would you agree with me,
7 Dr. Handley, that if any of these districts are
8 split precincts, you would be required to perform
9 a census block desegregation in order to
10 calculate these effectiveness scores?

11 A. I would agree that you would have to
12 do that. I don't believe that there are any
13 split precincts, but --

14 Q. And so that gets to my next
15 question, Dr. Handley. You did not perform any
16 census block desegregation yourself in this case,
17 did you?

18 A. The precinct results were brought

19 down to the block level, but it would only impact
20 a precinct result if a precinct was split, but I
21 don't believe there are any split precincts.

22 There's certainly none in the enacted and maybe
23 one or two in the illustrative plan as a whole.

24 Q. Thank you, Dr. Handley?

25 A. I'm sorry. I don't know the

92

1 question. Can you --

2 Q. Sure. So you did not perform a
3 census block disaggregation yourself in this
4 case, did you?

5 A. A -- the election returns were
6 disaggregated down to the block.

7 Q. But did the ACLU data analytics team
8 perform that function for you?

9 A. Yes.

10 Q. Thank you. All right. And so there
11 are two types of effectiveness scores listed here
12 for the illustrative and enacted districts; isn't
13 that right, Dr. Handley?

14 A. Yes.

15 Q. Can you explain to me the difference
16 between the effectiveness score No. One and score

17 No. Two?

18 A. Yes. Score number one considers all
19 16 contests and indicates whether the black
20 preferred candidate would have one or made to the
21 runoff so that's the percentage of the 16
22 contests in which the black preferred candidate
23 won or made it to the runoff. The effectiveness
24 score two was only at the eight contests in which
25 there were two candidate to give you and

↑

93

1 indication of what would happen if the minority
2 preferred candidate made it to the runoff would
3 they, in fact, win the runoff so it looks at at
4 only eight contests.

5 Q. Thank you, Dr. Handley. You did not
6 report effectiveness scores for illustrative or
7 enacted Senate District two in this cluster, did
8 you?

9 A. No. I might have calculated them.
10 It depends. Is it over 25 percent? Black in
11 voting age population.

12 Q. Well, I guess my question,
13 Dr. Handley is: In this table you don't report
14 effectiveness scores for Senate District two;

15 isn't that right?

16 A. Yes.

17 MS. RIGGINS:

18 Okay. And Forest, if we could, pull
19 up the map of this region on the next page
20 which is page 22, and while we do that,
21 I'm going to grab the pen I left on the
22 table.

23 TRIAL TECH:

24 (Complied.)

25 BY MS. RIGGINS:

↑

94

1 Q. Dr. Handley, does the top map here,
2 depict the illustrative district contained or
3 districts, I'm sorry -- contained in State Senate
4 cluster three?

5 A. Yes. That's a -- that's a map of
6 those -- of that area, yes.

7 Q. Okay. And it's a map of the same
8 area for the enacted district on the bottom of
9 the page; is that right?

10 A. Yes.

11 Q. Okay. And there's a kind of
12 yellowish shading on some of these maps; is that

13 right?

14 A. Yes.

15 Q. And does that represent shading for
16 districts that are majority black districts that
17 you analyzed?

18 A. Yes.

19 Q. All right. And so an enacted
20 district 17 on the map at the bottom of the page
21 that is not shaded, correct, Dr. Handley?

22 A. That's correct.

23 Q. So enacted district 17 is not a
24 majority minority district, is it?

25 A. It is not.

↑

95

1 Q. Okay. But it is shaded above in the
2 illustrative districts?

3 A. Because it's a majority minority,
4 yes.

5 Q. Thank you. Senate district two is
6 shown on both of these maps; isn't that right,
7 Dr. Handley?

8 A. Yes.

9 Q. And it's not shaded in either map?

10 A. It was not included in the clusters

11 you pointed out, right, so I only shaded the
12 districts that were included in the cluster, I
13 believe.

14 Q. Right. So you did not include
15 Senate district two in this cluster?

16 A. Correct.

17 Q. Okay. Even though portions of
18 Senate district two are in the parishes covered
19 by Senate district three?

20 A. That's correct.

21 Q. Okay. And is Senate district two a
22 majority minority district in the enacted
23 district map depicted in the bottom map below?

24 A. So those are both majority minority
25 districts, both you know, in the illustrative and

↑

96

1 the enacted plan district two is majority black.

2 Q. Thank you, Dr. Handley. And what is
3 the level of black voting age population in the
4 enacted plan as shown on your map here for Senate
5 district two?

6 A. I -- I'm having a little trouble. I
7 think it says 57.75.

8 MS. RIGGINS:

9 Forest, could we Zoom in on that
10 placard, is that possible?

11 TRIAL TECH:

12 (Complied.)

13 THE WITNESS:

14 Try putting on my glasses, but I
15 think just the wrong distance that neither
16 set is going to work.

17 BY MS. RIGGINS:

18 Q. Is that better for you, Dr. Handley?

19 A. It is.

20 Q. So what is the level of BVAP for
21 Senate district two shown here?

22 A. 57.75.

23 MS. RIGGINS:

24 Thank you. And Forest, can we Zoom
25 in on the same placard for Senate district

97

1 two in the illustrative plan, please?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. RIGGINS:

5 Q. What is the level of BVAP for Senate
6 district two in the illustrative plan here,

7 Dr. Handley?

8 A. 51.73 percent.

9 Q. Thank you. And do you see in --
10 this is helpful, Forest, to leave it Zoomed in,
11 please.

12 Do you see that district 14 and
13 district 17 in the enacted plan border each other
14 here?

15 A. 14 and 17 border each other, yes.

16 Q. Okay. And the yellow portion of 17
17 indicates that that's a majority minority
18 district here, right?

19 A. 17.

20 Q. Is it a majority black district?

21 A. Yes.

22 MS. RIGGINS:

23 Thank you. Forest, and can we do
24 the same Zoom in for the enacted map
25 below, please?

↑

98

1 TRIAL TECH:

2 (Complied.)

3 BY MS. RIGGINS:

4 Q. And so in the enacted map there's

5 still a portion of Senate district two that
6 borders in between Senate district 17 and 14. Do
7 you see that, Dr. Handley?

8 A. Say that again.

9 Q. So there is -- do you see Senate
10 district two in gray on the screen, Dr. Handley?

11 A. Yes.

12 Q. And do you see how it comes north
13 and is on the border between both Senate
14 districts 14 and 17?

15 A. Yes.

16 Q. Okay. And you did not analyze
17 Senate district two in your effectiveness scores,
18 right?

19 A. I did. Not in the table, but I did.
20 You recall that I looked at the effectiveness
21 scores of all of the districts that were over 25,
22 but it's not included in the table.

23 Q. So that's an interesting point,
24 Dr. Handley.

25 MS. RIGGINS:

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99

1 Can we turn to footnote 18 on
2 page 16 of your report? Thank you,

3 Forest.

4 BY MS. RIGGINS:

5 Q. Do you see here in footnote 18 that
6 it states that you examined the house and Senate
7 districts with BVAPs between 35 and 49.9 percent,
8 Dr. Handley?

9 A. I do.

10 Q. Okay. And so I believe you
11 testified earlier that you examined the House and
12 Senate districts with BVAPs between two -- at
13 25 percent or higher?

14 A. That's correct.

15 Q. Okay. So where are -- where is the
16 analysis for the districts between 25 and
17 35 percent?

18 A. On a piece of paper on my computer.

19 Q. So it's not -- does this refresh
20 your recollection, Dr. Handley, that you actually
21 only studied the House and Senate districts
22 between 35 and 49.9 percent BVAP?

23 A. That's incorrect.

24 Q. Fine. So if you studied them,
25 Dr. Handley, did you report them anywhere in this

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1 report?

2 A. I did not.

3 Q. Thank you. And because Senate
4 district two was majority minority, it does not
5 fall within the 35 to 49.9 percent range
6 referenced in this footnote?

7 A. That's correct. But of course, I
8 did do an effectiveness analysis of it.

9 Q. That is not reported in this report?

10 A. Correct.

11 Q. Dr. Handley, I believe that Senate
12 district two was one of the election -- there was
13 some election contests that you examined for this
14 district; is that right?

15 A. Can you point it to me?

16 Q. Absolutely.

17 A. I can't do that off the top of my
18 head.

19 Q. Sure. So it's in appendix B in your
20 report which is plaintiff's Exhibit 1. I'd like
21 to look at the first election contest there. Do
22 you have it there in front of you, Dr. Handley?

23 A. Yes, I do. But even better I have
24 it in front of me on the screen.

25 Q. Yes. Perfect. Thank you. Is the



1 first election that you analyzed in appendix B,
2 on the October 2015 election for State Senate
3 district two?

4 A. That's correct.

5 Q. Okay. And did you determine,
6 Dr. Handley, that this October 2015 election for
7 State Senate district two was not polarized?

8 A. Correct.

9 MS. RIGGINS:

10 And so, Dr. Handley -- Forest, you
11 can take PL 10 down.

12 TRIAL TECH:

13 (Complied.)

14 MS. RIGGINS:

15 Can we return to the chart of the
16 illustrative and enacted districts that we
17 were looking at before on page 21?

18 TRIAL TECH:

19 (Complied.)

20 BY MS. RIGGINS:

21 Q. Thank you. Dr. Handley, do you see
22 that on the screen in front of you?

23 A. Yes.

24 Q. So these scores are for the
25 illustrative and enacted districts as drawn,

102

1 correct, Dr. Handley?

2 A. Yes.

3 Q. So you did not do any analysis in
4 this report to determine the level of BVAP needed
5 at which a district would become effective in
6 providing a real particular opportunity for black
7 voters to elect their candidate of choice?

8 A. Can you repeat the question?

9 Q. Sure. In this report, you did not
10 no analysis to determine the BVAP level at which
11 a district would become effective in providing
12 you realistic opportunity for black voter to
13 elect their candidate of choice?

14 A. I looked at all of the illustrative
15 and enacted districts over 25 percent and
16 determined only districts over 50 percent would
17 elect with the one exception that is noted in the
18 footnote.

19 Q. Sure. And those results were only
20 reported for the districts over 35 percent and
21 lower than 49.9 percent unless they were included

22 in these tables; isn't that right, Dr. Handley?

23 A. I didn't report them on for 35 to
24 49.9. Either I merely said they are more
25 effective.

↑

103

1 Q. Okay. And you did not anywhere in
2 this report, determine any specific level of
3 black voting age population for which a district
4 would become effective; isn't that right,
5 Dr. Handley?

6 A. Become effective.

7 Q. I'll rephrase the question?

8 A. Okay. Try that.

9 Q. So you would agree with me,
10 Dr. Handley, that you looked at the illustrative
11 districts as drawn; is that correct?

12 A. Yes.

13 Q. And you examined the effectiveness
14 scores with the level of BVAP that was in the
15 districts as drawn?

16 A. Correct.

17 Q. And you did no other analysis to
18 determine if any of the illustrative BVAPs would
19 be effective at a different level of BVAP, did

20 you?

21 A. I looked only at the districts as
22 drawn.

23 Q. So the answer to my question is that
24 you did not do any analysis to determine a
25 different level of BVAP needed?

↑

104

1 A. Different than other than what was
2 drawn.

3 Q. Correct.

4 A. I believe that's correct, if I
5 understand your question, yes.

6 Q. And, Dr. Handley, haven't you found
7 in some jurisdictions that sometimes a majority
8 black district is not necessary to elect a black
9 preferred candidate?

10 A. Yes.

11 Q. And, Dr. Handley, did you co-author
12 an article that was published in 2019 that
13 discussed the increased ability of black
14 preferred candidates to win districts that were
15 between 40 and 50 percent black?

16 /STPHAO.

17 Your Honor, we are just going to

18 object. We think questions about that are
19 outside the scope of the direct.

20 THE COURT:

21 The 2019 article?

22 /STPHAO.

23 Yes, the 2019 article.

24 THE COURT:

25 Your question about the 2019 article

↑

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1 is what Ms. Riggins?

2 MS. RIGGINS:

3 I asked Dr. Handley if she
4 co-authored this article that examined the
5 ability of black preferred candidates to
6 win in districts that were between 40 and
7 50 percent black so less than majority
8 minority.

9 THE COURT:

10 I'm going to overrule the question,
11 the whole question and Dr. Handley's
12 entire opinion is racial polarized voting
13 so this is contrary to the courts
14 understanding of racial polarized voting.

15 MS. RIGGINS:

16 Thank, you Your Honor. Forest, can
17 we please pull up this article so that Dr.
18 Handley can identify it. It's secretary
19 of state 36.

20 TRIAL TECH:

21 (Complied.)

22 BY MS. RIGGINS:

23 Q. Dr. Handley, do you see it on the
24 screen in front of you?

25 A. I do.

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106

1 Q. Okay. And is this an article that
2 you co-authored in 2019?

3 A. It was published in 2019. I think
4 we wrote it years before that, but.

5 Q. Oh, I apologize. Is this an article
6 that you published with several co-authors in
7 2019?

8 A. Yes.

9 Q. Thank you. All right. And
10 Dr. Handley, do you recall if Louisiana was one
11 of the states that you and your co-authors looked
12 at in drafting this article?

13 A. Yes. We grouped the south together

14 and Louisiana was one of the states included in
15 the south.

16 Q. Thank you. And in this article,
17 didn't you and your colleagues find that white
18 Democrats are more likely to vote for a black
19 Democrat than a white Republican?

20 A. I don't remember that across the
21 board, but can you point to what you're referring
22 to.

23 MS. RIGGINS:

24 Sure. Can we please go to page 280
25 of this article?

↑

107

1 TRIAL TECH:

2 (Complied.)

3 BY MS. RIGGINS:

4 Q. And this is sort of one of the
5 paragraphs so I apologize, Dr. Handley. We are
6 looking towards -- there we go -- the middle of
7 the paragraph do you see a sentence that starts
8 the increase in political polarization suggests
9 that comma?

10 A. I do.

11 Q. Okay. And does this refresh your

12 recollection that when you look at the sentence
13 you and your co-authors concluded that white
14 Democrats are more likely to vote for an
15 African-American or latino Democrat than a white
16 Republican?

17 A. Yes. It offers this as a reason
18 possibly for the increase in the number of
19 districts that were less than majority minority
20 in composition for electing minority preferred
21 candidates.

22 Q. And this was because of increased
23 political polarization; is that right,
24 Dr. Handley?

25 A. Yes.

↑

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1 Q. And didn't you and your co-authors
2 also find that so long as Republicans did not
3 constitute a majority of voters in a district,
4 but in general a minority candidate had a better
5 opportunity to get elect indeed a 40 to
6 50 percent BVAP district?

7 A. Well, you would look at that in each
8 specific location, but in general, that's what we
9 found, yes.

10 Q. Thank you. And, Dr. Handley, didn't
11 you determine that enacted house district 91 in
12 this case was effective with a BVAP of 41.7?

13 A. I don't remember the BVAP, but you
14 can point it out to me. I'm willing to believe
15 that you know what it is.

16 Q. Sure?

17 A. But I did say that there was a
18 district that was -- it's majority minority it's
19 not a majority white district it's a majority
20 minority district and it is BVAP.

21 Q. Sure. Dr. Handley, I don't want you
22 to guess for us. Could we please return to
23 plaintiff's Exhibit 1 on page 16 and we are
24 looking at footnote 18 again. All right.

25 Dr. Handley, does this refresh your recollection

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1 that you concluded that the proposed State house
2 district 91 in the enacted state house plan in
3 the illustrative plan was effective with a BVAP
4 of 40.7?

5 A. Yes.

6 Q. Thank you. So, Dr. Handley, we
7 briefly discussed earlier and you discussed on

8 direct early voting as it pertains to the 2020
9 election.

10 MS. RIGGINS:

11 So I'd like to look at footnote 8 on
12 page 6 of your report, if we could,
13 please.

14 TRIAL TECH:

15 (Complied.)

16 BY MS. RIGGINS:

17 Q. And I believe you explained this
18 earlier. Is this footnote an example of how you
19 allocated early votes to precincts in this
20 report, Dr. Handley?

21 A. Yes.

22 Q. And you followed this allocation
23 method for every area of interest that you
24 studied and every election that you analyzed in
25 this report; isn't that right, Dr. Handley?

110

1 A. Yes.

2 Q. Okay. And, Dr. Handley, do I
3 understand from your deposition testimony that
4 you acknowledge that your allocation method in
5 some instances resulted in candidates being

6 allocated more votes than those cast in the
7 precinct?

8 A. More votes than turn out I think is
9 what you mean.

10 Q. Yes, Dr. Handley. You acknowledge
11 that your allocation method at the precinct level
12 sometimes results in a candidate being allocated
13 more votes than the total number of votes cast in
14 that precinct?

15 A. No. That's incorrect. It was turn
16 out.

17 Q. Then I apologize, Dr. Handley. So
18 you acknowledge that your allocation method
19 resulted in candidates being allocated more votes
20 than the total number of voter turn out in that
21 precinct?

22 A. That's correct.

23 Q. And, Dr. Handley, do you recall if
24 you knew about this over allocation before your
25 expert report was produced in this case in June

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111

1 of 2023?

2 A. Yes. I recall. I do know that this
3 was happening, yes.

4 Q. Okay. And you did not report that
5 anywhere in your June 2023 report, did you?

6 A. No. I supplied the database.

7 Q. And the database shows that in
8 certain precincts certain candidates were
9 allocated more votes than the voter turn out; is
10 that right?

11 A. Correct.

12 Q. And, Dr. Handley, I think that you
13 testified on direct earlier that you examined
14 whether this would cause any potential bias in
15 your analysis; isn't that right?

16 A. Correct.

17 Q. And you conducted this analysis in
18 part in response to expert reports prepared by
19 Dr. Solanky; isn't that right?

20 A. Yes.

21 Q. And, Dr. Handley, I would like to
22 look at plaintiff's Exhibit 17 briefly.

23 TRIAL TECH:

24 (Complied.)

25 BY MS. RIGGINS:

↑

1 Q. Do you recognize this appendix

2 that's been marked as plaintiff's Exhibit 17?

3 A. Yes.

4 Q. And did you prepare this appendix,
5 Dr. Handley?

6 A. Yes.

7 Q. And was this appendix submitted with
8 your sur rebuttal report in September of 2023?

9 A. It was submitted with the report. I
10 don't know that it was called a surrender
11 rebuttal report, but this is appendix two in my
12 reports.

13 MS. RIGGINS:

14 Sure. Forest, could we please call
15 up plaintiff's Exhibit 16?

16 TRIAL TECH:

17 (Complied.)

18 BY MS. RIGGINS:

19 Q. I'm sorry, Dr. Handley. I misquoted
20 you. It's a supplemental rebuttal report was
21 appendix A appendix?

22 A. Yes.

23 MS. RIGGINS:

24 And could we flip to the last page
25 in this document, Forest?



1 TRIAL TECH:

2 (Complied.)

3 BY MS. RIGGINS:

4 Q. Oh, I'm sorry. It has the
5 appendices still attached to it. Could you look
6 at page 3 of the document then? Page 4? What
7 date did you execute this supplemental rebuttal
8 report, Dr. Handley?

9 A. September 29th, 2023.

10 Q. Okay. And that was after you had
11 had Dr. Solanky's expert reports for over a
12 month; is that right?

13 A. I don't know when I got his reports.

14 Q. But you authored this after you had
15 both of Dr. Solanky's expert reports submitted in
16 this case?

17 A. Certainly, after one of them. I --
18 I don't even remember how many he submitted.

19 Q. Sure. Dr. Handley, do you recall
20 that this expert report was submitted after your
21 deposition in this case?

22 A. It was.

23 MS. RIGGINS:

24 All right. And so back to

25 plaintiff's Exhibit 17, please, Forest.

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1 TRIAL TECH:

2 (Complied.)

3 BY MS. RIGGINS:

4 Q. All right. So, Dr. Handley, you
5 prepared this table and it reports early vote
6 totals for the 16 statewide election contests; is
7 that right?

8 A. No. No, not exactly.

9 Q. All right. Let's look through just
10 one example then. So for the November 2022
11 election, do you see that on the first page?

12 A. Yes. Let me explain what I mean.

13 Q. Sure.

14 A. This is for the actual election
15 date, not for the 16 elections that I looked at
16 unless the 16 elections all occurred on different
17 election dates. So it is probably less than 16.

18 Q. I thank you for that clarification,
19 Dr. Handley. I apologize for my immaterial
20 precise question. So does appendix A generally
21 then report the percentage of early voters that
22 voted on election day or for that election

23 contest that you studied?

24 A. For the election day, not for the
25 election contest.

↑

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1 Q. Okay. And so you looked at the U.
2 S. Senate election that occurred on the election
3 day for November 2022; is that right?

4 A. So this looks at the election as a
5 whole. I analyzed the Senate election.

6 Q. Thank you. That's what I was trying
7 to get at. And what is the percentage of people
8 who voted early in the November 2022 election
9 total?

10 A. 26.8 percent.

11 Q. Okay. And, Dr. Handley, looking at
12 plaintiff's Exhibit 17 as a whole, do you ever
13 see a total percent of early voters lower than
14 20 percent? And if you would like to ask
15 Mr. Forest to flip through this exhibit for you,
16 please let me know?

17 A. He will have to flip through it for
18 me to look at that.

19 Q. Please let me know when you've had
20 sufficient time to review the first page?

21 A. I've had sufficient time.

22 Q. Thanks. Okay.

23 A. I've had sufficient time. I've had
24 sufficient time.

25 Q. All right. So, Dr. Handley, do you

↑

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1 ever see here in appendix A a total percent of
2 early voters lower than 20 percent for the total?

3 A. No. There are a couple at 20.6 or
4 7, but nothing below 20 percent.

5 Q. Okay. And what is the percent of
6 early vote for the November 2019 election?

7 A. 33.2 percent.

8 Q. Okay. And so that's approximately a
9 third of the voters for that November 2019
10 election; is that right?

11 A. Correct.

12 MS. RIGGINS:

13 And, Your Honor, if I may have a
14 minute just to consult with my co-counsel
15 I may be done, but I want to make sure.

16 THE COURT:

17 Go ahead.

18 BY MS. RIGGINS:

19 Q. Dr. Handley, as my co-counsel has
20 reminded me, I neglected to ask you a question on
21 my outline. Dr. Handley, do you recall our
22 discussion earlier today about endogenous
23 elections?

24 A. Yes.

25 Q. And do you understand that elections

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1 have been held in Louisiana under the enacted
2 plans in this October and November?

3 A. Yes.

4 MS. RIGGINS:

5 And, Your Honor, at this time, we
6 would like to conclude our examination of
7 Dr. Handley. We would however,
8 Your Honor, for the record, like to note
9 that we believe plaintiff's counsel opened
10 the door by asking Dr. Handley to opine on
11 how other experts treat her allocation
12 method and the level of bias. We raised
13 these objections earlier, but we think,
14 Your Honor, that you know, plaintiff's
15 counsel has opened the door to allow
16 Dr. Handley to or I'm sorry, Dr. Solanky

17 to testify about this, the reports that
18 were excluded go to Dr. Handley's bias in
19 her allocation method. We would
20 respectfully request, Your Honor, that you
21 reconsider your ruling and allow
22 Dr. Solanky to testify at least in the
23 limited capacity as to the potential bias
24 and reliability caused by Dr. Handley's
25 allocation method.

↑

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1 THE COURT:

2 You want to respond?

3 MS. BRANNON:

4 Your Honor, I think your opinion on
5 this matter squarely addressed that
6 question of whether Dr. Solanky's opinions
7 about bias in Dr. Handley'S allocation
8 method was reliable or not reliable and I
9 think Your Honor has already ruled and
10 found that Dr. Solanky's opinions on that
11 topic are not reliable and that is the
12 basis for why you excluded his testimony
13 initially.

14 THE COURT:

15 Okay. The court is not persuaded
16 that by asking Dr. Handley about the
17 reliability or bias of her calculations
18 and analysis opens the door. Even if it
19 does open the door, it hadn't -- it
20 doesn't there by convert Dr. Solanky's
21 opinion testimony to reliable or well
22 grounded in facts and data which was the
23 court's basis for excluding Dr. Solanky,
24 so the open the door argument while novel
25 and yeah, novel, it's not -- it's not

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1 persuasive. It doesn't there by convert
2 Dr. Solanky's opinions to that of reliable
3 opinions that are required by 702 so your
4 motion is denied.

5 /SKWRAO.

6 Thank you, Your Honor. We
7 appreciate your consideration.

8 THE COURT:

9 Redirect, please?

10 MS. BRANNON:

11 Yes, Your Honor.

12 EXAMINATION BY MS. BRANNON:

13 Q. Dr. Handley, defense counsel just
14 asked you about elections in October of 2023 and
15 November of 2023. Prior to that date, were there
16 any endogenous elections available for you to
17 analyze in your report in this case on the
18 enacted maps that this case is about?

19 A. No.

20 Q. Okay. Have you looked at just
21 briefly the elections that were held in October
22 of 2023 and November of 2023?

23 A. I have looked at the results. I
24 have not done a racial polarization analysis.

25 Q. And as we established for the record

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1 your report in this case, initial report was put
2 into evidence in June of 2023 well in advance of
3 those elections?

4 A. Correct.

5 Q. Of those elections that took place
6 in October of 2023, how many contested elections
7 were there in the enacted districts that you have
8 analyzed in your report?

9 A. Off the top of my head, like half of
10 the enacted districts did not have elections.

11 There were no contested elections. But I don't
12 -- but you asked me about the enacted districts
13 in my report.

14 Q. In your report, if you know. If you
15 don't know --

16 A. I don't know. All I can tell you is
17 about 50 percent of the districts overall were
18 not contested.

19 Q. And if there's not a contested
20 election, you couldn't do an endogenous
21 evaluation -- an endogenous RPV analysis any way
22 correct?

23 A. If there's no election I can't
24 analyze it, that would be correct.

25 Q. Okay. In your opinion, counsel was

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1 asking you about area -- area of interest three
2 and area of interest seven. In your opinion, is
3 it fair to say that the white voters as a block
4 voted against the black preferred candidate in
5 the elections you evaluated in area three?

6 A. Yes.

7 Q. Is it fair to say that in your
8 opinion white voters voted as a block against the

9 black preferred candidate in the elections that
10 you analyzed in area seven?

11 A. Yes.

12 Q. You acknowledge that the EI analysis
13 that you conducted for the presidential election
14 for 2020 was problematic, but do you have an
15 opinion as to whether that analysis was useful to
16 your overall racially -- racial polarization work
17 in this case?

18 A. Well, I looked at all contests that
19 it was possible to look at. I merely suggested
20 that this one was less probative than others
21 simply because 45 percent of the votes were cast
22 early and had to be allocated.

23 Q. Did it have any probative value to
24 your racial Polar vacation analysis?

25 A. Yes. Or I would have included it.

↑

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1 Q. And was it valuable to you in
2 reaching your opinions in this case that there's
3 polarized voting in the areas of interest you
4 looked at in Louisiana?

5 A. Yes.

6 Q. Okay. Counsel asked you about the

7 data that was allocated by the ACLU analytics
8 team including the work they did to disaggregate
9 the census data down to the block level for the
10 data that was used -- used in your effectiveness
11 scores. Did you review the work of the ACLU
12 analytics team?

13 A. Yes.

14 Q. And did you verify the accuracy of
15 that work?

16 A. Yes.

17 Q. And you feel confident in relying on
18 the work that they did?

19 A. Yes.

20 MS. BRANNON:

21 Can we call up secretary of State's
22 Exhibit 36?

23 TRIAL TECH:

24 (Complied.)

25 MS. BRANNON:

↑

123

1 And can we turn to Table 2?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. BRANNON:

5 Q. I'm sorry. This is a table from the
6 report that defense counsel -- that defense
7 counsel asked you about, correct?

8 A. Yes.

9 Q. Does this table reflect any specific
10 Louisiana data?

11 A. This aggregates the southern states
12 I think the 11 states of the confederacy, I don't
13 remember off the top of my head. It included
14 Louisiana it doesn't differentiate Louisiana from
15 the other states this is a compilation of all of
16 the southern states.

17 Q. Do you know the specific Louisiana
18 data from the 2015 elections that contributed to
19 this table?

20 A. I do because I did a special
21 representation it's called a threshold
22 representation. I know how many majority black
23 districts and how -- elected black candidates and
24 I know where the black representatives came from.
25 And I can tell you in 2015, Louisiana contributed

↑

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1 0 to the number of black candidates being elected
2 from non majority black districts at the house

3 level, at the U.S. house level and 0 at the
4 Senate level and one district at the state house
5 level.

6 MS. BRANNON:

7 Can we turn to Table 3, which I
8 believe is on the next page of S O S 36?

9 TRIAL TECH:

10 (Complied.)

11 BY MS. BRANNON:

12 Q. Is this another table from your
13 report?

14 A. It is.

15 Q. Does this table compare performance
16 in different elections in state and house
17 legislative elections around the country looking
18 at how black candidates are performing in
19 different ranges of the BVAP population?

20 A. It is looking at the number of
21 districts in that range that elected black
22 candidates to office.

23 Q. And are the -- some of the ranges
24 that are listed in this table, BVAP from 40 to 45
25 and then BVAPs from 45 to 50?

↑

1 A. Yes.

2 Q. Are you aware of any district in the
3 -- enacted map in Louisiana in the Senate that
4 has a BVAP between 40 and 50 percent?

5 A. In the enacted plan, no. There are
6 none.

7 Q. Are you aware of any district in the
8 enacted plan in the house that has a BVAP between
9 40 and 50 percent?

10 A. There might be one.

11 Q. Are there any -- if there's one is
12 there any more than to the best of your
13 recollection?

14 A. To the best of my recollection, no.

15 MS. BRANNON:

16 Can we go back to your in areas of
17 interest for -- which is Table 2, can we
18 go back to Table 2 in plaintiff's Exhibit
19 PL 1?

20 TRIAL TECH:

21 (Complied.)

22 BY MS. BRANNON:

23 Q. Can you just refresh for the court
24 what parishes were evaluated in area three?

25 A. Baton Rouge, west Baton Rouge,



1 Iberville and Pointe Coupee.

2 Q. So does that mean you did a racially
3 polarized voting analysis of all of those
4 parishes as part of the analysis you did for area
5 three?

6 A. Correct.

7 Q. And so you would have looked at
8 voting behavior in all four of those parishes?

9 A. Correct.

10 MS. BRANNON:

11 And then can we also turn to page 22
12 of Dr. Handley's report which is a picture
13 of Senate cluster three. That's the
14 illustrative. Can we look at the enacted?
15 There we go.

16 TRIAL TECH:

17 (Complied.)

18 BY MS. BRANNON:

19 Q. So you did a racially polarized
20 voting analysis of all the voting patterns in a
21 number of the parishes that are reflected on this
22 map?

23 A. Correct.

24 Q. And that would have included some of
25 the analysis of the voting patterns in CD 2?

↑

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1 A. In -- I'm sorry.

2 Q. CD 2, which is on this map as being
3 part of the west Baton Rouge and Iberville and
4 Baton Rouge CD 2?

5 A. State Senate district two.

6 Q. Oh, sorry. Sorry. SD 2, State
7 Senate district 2?

8 A. Yes.

9 Q. To clarify I was asking about state
10 Senate district two which is on this map.

11 And you were asked a few more
12 questions about the allocation methodology that
13 you used. If we go back maybe it's easier to
14 just go back to plaintiff's Exhibit 19.

15 TRIAL TECH:

16 (Complied.)

17 BY MS. BRANNON:

18 Q. These reports, this scatter plot
19 that's shown in Exhibit 19, demonstrates that the
20 -- there was similarity in the polarization of
21 voting early and on election day in the elections

22 that you looked at, correct?

23 A. Yes.

24 MS. BRANNON:

25 Let me just confer with my team.

↑

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1 BY MS. BRANNON: Just one final question, Dr.

2 Handley. You were asked some about the fact that

3 the allocation method in some precincts leads to

4 an over or under count of votes. Does that

5 effect the validity of your opinions about the

6 polarization.

7 A. No.

8 Q. And can you explain why?

9 A. Several reasons. First of all, I

10 used portions when I did my analysis. I didn't

11 actually use votes, I used the proportioned vote

12 the and the proportion of black and white turn

13 out when I did the analysis. But also because

14 there -- I don't believe there was any bias

15 introduced by over and under votes.

16 MS. BRANNON:

17 Okay. Nothing further. Thank you

18 very much, Dr. Handley.

19 THE COURT:

20 Okay. You may step down. Thank
21 you, ma'am. All right. We will be in
22 recess until 1:00 p.m.

23 THE BAILIFF:

24 All rise. The court's in recess.

25 (A lunch recess was taken at 11:48 a.m)

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1 THE BAILIFF:

2 All rise.

3 THE COURT:

4 Good afternoon, be seated. Next
5 witness.

6 MS. KEENAN:

7 Your Honor, plaintiffs call

8 Dr. Craig Colten.

9 CRAIG COLTEN,

10 after having first been duly sworn by the
11 above-mentioned Court Reporter did testify as
12 follows: Suzie

13 THE BAILIFF:

14 Would you please state your name and
15 spell it for the record?

16 THE WITNESS:

17 My name a Craig Colten, C-R-A-I-G,

18 C-O-L-T-E-N.

19 MS. KEENAN:

20 Your Honor, before we get started
21 I'd like to hand Dr. Colten a binder with
22 several exhibits marked in this case. May
23 I approach?

24 THE COURT:

25 You may.

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1 /SKWRAO

2 Counsel, you have another book.

3 /STPHAO.

4 Yes. And, Your Honor, just to state
5 during Dr. Handley's ***expectation, would
6 you like us to produce the exhibits at the
7 outset or after tender him as an expert.

8 THE COURT:

9 If there's no objection go ahead and
10 offer them. Might waive if you are going
11 to cross on the tender, Mr. Clark.

12 /SKWRAO.

13 Your Honor, I am not going to cross
14 on the expertise. I have no objection to
15 the admission of the report.

16 THE COURT:

17 Or his CV?

18 /SKWRAO.

19 No, ma'am.

20 THE COURT:

21 Okay. Go ahead and move the

22 admission.

23 /STPHAO.

24 Your Honor, we will move for the

25 admission of Plaintiff's 129, 130, 131 and

131

1 132.

2 THE COURT:

3 The exhibits are admitted.

4 EXAMINATION BY MS. KEENAN:

5 Q. So, Dr. Colten, I'd like to start by

6 asking you a few questions about your

7 qualifications as an expert. Could you turn to

8 Tab 1 of the binder you have in front of you?

9 A. Yes.

10 Q. And what is the document in Tab 1?

11 A. It's my curriculum vitae.

12 Q. Let the record reflect that

13 curriculum vitae is plaintiff's Exhibit 130.

14 Dr. Colten, could you tell us what positions you
15 currently hold?

16 A. My main position is professor
17 emeritus which basically is I'm retired from the
18 Louisiana State University from geography and
19 anthropology. I also hold a position of senior
20 advisor to the water institute of the gulf here
21 in Baton Rouge.

22 Q. And prior to your retirement, how
23 long where are you a professor?

24 A. I was an active full-time professor
25 for 21 years here in Baton Rouge and four years

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1 in Texas.

2 Q. Were you tendered prior to your
3 retirement?

4 A. Yes, I was.

5 Q. And at your retirement, did you hold
6 any specific title at LSU?

7 A. Yes. I hold the Carl /SAL professor
8 of geography.

9 Q. And what's that?

10 A. It's an honor area title awarded to
11 people who have distinguished themselves in the

12 course of their career.

13 Q. Could you tell me about your
14 educational background?

15 A. Certainly. I received my bachelor
16 of arts degree here at LSU in 1974, my master of
17 arts at Baton Rouge at LSU in 1978, and my PhD
18 from Syracuse University in 1984.

19 Q. And what subject was each of your
20 degrees in?

21 A. Each degree was in geography.

22 Q. Have the courses you've taught as a
23 professor specialized in any area?

24 A. Yes. They have all been -- well,
25 most of them have been in geography.

↑

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1 Q. All right. And do you view
2 geography through any specific lens in your work
3 as a professor and reserver?

4 A. Yeah. My training was in historical
5 geography. I continue to pursue that in my
6 research and my teaching.

7 Q. How would you define historical
8 geography?

9 A. A very shorthand way of saying it is

10 we study past geographies what are the processes
11 and movements of people and things that create a
12 place in the past, we go back and try to
13 reconstruct that. What -- how a place evolves
14 over time and historic, for example, tend to
15 organize things chronologically historical first
16 a place and space nor organize things, so that's
17 a principal framework of what we do.

18 Q. Have you taught any courses on
19 historical geography?

20 A. Yes. I've taught both undergraduate
21 and a graduate course in historical geography.

22 Q. And what kind of things do you cover
23 in your course on historical geography?

24 A. My -- my undergraduate courses is
25 typically organized into three major sections,

↑

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1 the first being a review of the majority figures
2 in the field, their contributions in terms of
3 concepts and theories. A second phase looks and
4 methods and sources to go to constructing past
5 geographies. I have taught students how to do
6 that and then the third, is where you are a case
7 studies where experts in the field have actually

8 done this. We try to critique their ideas, point
9 out really the favorable excellent examples of
10 peopling doing historical geography.

11 Q. Have you also supervised
12 dissertations related to historical geography?

13 A. Yes. I've supervised a number of
14 dissertations in several and historical
15 geography.

16 Q. Apart from your role as professor,
17 have you held any other affiliations or roles in
18 the field of historical geography?

19 A. In my first job after my PhD, was I
20 -- was recruited to be a historical geography
21 with the state of Illinois.

22 Q. How long were you within that
23 position?

24 A. I was with the department of US
25 ***Geological Survey with the state nearly a

↑

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1 decade a few months shy of a decade.

2 Q. And you mentioned role. Role with
3 the water institute of the gulf. Can you tell me
4 a little bit about your role there?

5 A. Yes, I was brought on in a half time

6 position more or less. I retained my position at
7 LSU, but also worked more or less as a director
8 of human dimensions. They are a basic applied
9 research organization here in Baton Rouge and my
10 job was to implement the work of the physical
11 scientists looking at issues related to coastal
12 land loss and hydrology and to try to introduce
13 how people fit into that picture, how -- how
14 humans and society should be factored into the
15 research they were doing and how it might expand
16 their understanding.

17 Q. When you talk about the human
18 dimension, could you tell us a little bit about
19 whether you've ever studied historical
20 communities in your field of historical geography
21 and how that works?

22 A. Certainly, yeah. From -- from my
23 dissertation, research, I've looked very careful
24 at communities. My dissertation looked at how
25 communities and groups of people migrate from the

↑

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1 eastern satisfy board to the state of Ohio and
2 how they used religious institutions to kind of
3 recreate a common communities, communities that

4 were familiar to them on this frontier setting in
5 the time in the early 19th century. When I came
6 here to Baton Rouge, I started doing a series of
7 studies on environmental justice for the
8 department of -- of minerals management service
9 which is part of the department of the interior,
10 so we looked at community formation as expressed
11 through racial communities and low income
12 communities all my workover the last 10 or
13 12 years has looked at topics such and social
14 memory and community resilience to understand how
15 communities are able to survive and recover and
16 rebound from disastrous environmental events.

17 Q. So you started to talk a little bit
18 about your work outside of T J, have you
19 published any peer-reviewed books or articles?

20 A. Quite a number, yes.

21 Q. Approximately how many peer-reviewed
22 books have you published?

23 A. I've I've been author co-author for
24 I think six.

25 Q. And what about articles, how many

↑

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1 peer-reviewed articles have you published?

2 A. Articles and book chapters number
3 about a 100.

4 Q. Okay. Are any of those books or
5 articles listed in your CV?

6 A. My CV list is a selected group of
7 them, but some of them are, yes.

8 Q. Okay. Have those research in
9 /PURBLZ efforts focused on any particular subject
10 matter?

11 A. For of the -- of the early part of
12 my career, I was studying mainly environmental
13 issues particularly as it relates to hazardous
14 waste and social and environmental impacts of
15 hazardous waste disposal. More recently my work
16 has tended to look at human environment
17 interactions particularly as it relates to
18 dealing with -- with hazardous events such as
19 Hurricane Zetas and floods and those kinds of
20 things and how community helps people to rebound
21 from those sort of events.

22 Q. And how do those focused events
23 relate to your historical field of geography?

24 A. They all -- all my work has a
25 historical depth to it. I don't start just with



1 the present and try to explain what's going on
2 now. I look at -- I -- each -- each study may
3 start at a different time in the past, but
4 there's a historical depth in the basic purpose
5 to show how things change over time or how things
6 are different or were different in the past than
7 they are today. But always connecting to the
8 present to show that there is continuity that the
9 past is connected to the present.

10 Q. How many pouch Louisiana
11 specifically?

12 A. Well, not really counting the term
13 papers. I did graduate school, I began work on
14 Louisiana topics specifically in about '96, '97,
15 and have done that to the present.

16 Q. Have you published any of those
17 peer-reviewed articles or books you mentioned on
18 the topic of historical geography of Louisiana
19 specifically?

20 A. Yes, I have, quite a number.

21 Q. And could you give us new examples?

22 A. The -- the book I did in 19 -- or
23 that came out in 2005 unnatural in respect to
24 /HRUS very much it was historical geography of

25 environmental change in New Orleans. My most

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1 recent book, "State of Disaster", is an example.

2 Another book, "Perils in place", is another

3 example of that contracted by the Corps of

4 Engineers and another book, "Southern Waters",

5 includes Louisiana, but it really looks at the

6 broader region of the south.

7 Q. What about any textbooks have you

8 ever authored or co-edited any textbooks related

9 to historical geography in Louisiana?

10 A. I co-authored a textbook

11 specifically about the geography of Louisiana

12 yes.

13 Q. Okay. Have you received any

14 academic awards or professional honors for your

15 work?

16 A. Yes, I have.

17 Q. Could you give us any examples of

18 those?

19 A. My university awarded me an what

20 they call a rain maker award a few years ago. I

21 received a couple of national book awards for the

22 book I mentioned earlier unnatural met respect to

23 lis from -- one from the principal geography
24 organization in the country, American Association
25 of Geographer as well as another organization,

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1 and then recently, I was -- I received the
2 Gilbert white public service honor for the
3 American Association of Geographies.

4 Q. And what is that that honor that you
5 mentioned?

6 A. That one is it's awarded to very
7 selective process where nominations go forward to
8 a committee within the association and they
9 select various honoraries for different awards in
10 the course of a year, so it's once a year this
11 award is given out if there's a recipient.

12 Q. And what about the rain maker award
13 you mentioned from LSU could you explain that?

14 A. Again, that's a process. There's a
15 process of selection that goes on within the
16 university administration that seeks to recognize
17 people in different areas of expertise for their
18 contributions in terms of bringing in funded
19 research grants that come in through the
20 university and then publishing the findings from

21 that research.

22 Q. Dr. Colten, could you explain in
23 general terms the methodology that you've
24 employed to analyze the historical geography of
25 Louisiana?

↑

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1 A. Certainly. And this goes beyond
2 Louisiana. The first step is really defining a
3 reasonable research question that gives you the
4 basis for the work that follows. Once the
5 research question is developed, you begin to
6 investigate where primary and secondary sources
7 are what the literature says about the topic,
8 where the gaps are in the literature what the
9 unanswered questions are that you might seek to
10 answer and you assemble credible authoritative
11 resources literature and other primary sources.
12 You analyze that typically in a conductive
13 fashion you can't do lab experiments in
14 historical geography and then you produce a
15 written report whether it be a book or article or
16 articles.

17 Q. And is that kept with the approach
18 you took in developing your report in this case?

19 A. Yes, it is.

20 Q. Is that approach consistent with the
21 generally accepted standards in the field of
22 historical geography?

23 A. Yes, I believe it is.

24 Q. Dr. Colten, have you ever testified
25 in court before as an expert in a redistricting

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1 case?

2 A. No.

3 Q. Have you offered expert reports or
4 opinions in other cases?

5 A. Yes, I have.

6 Q. About how many times?

7 A. I've been deposed in the
8 neighborhood of 25 times. I think court
9 testimony and other cases a handful of times,
10 three, four maybe.

11 Q. And have you offered reports in
12 cases where you didn't testify or were deposed?

13 A. Yes, quite a number.

14 Q. In what field were you qualified as
15 an expert in those cases?

16 A. As far as I recall, that was a

17 historical geography.

18 Q. And when was the first time you were
19 deposed as an expert in historical geography?

20 A. I believe that was '93. I can --
21 yes. 1993.

22 Q. And what's the most recent time
23 you've offered expert testimony as a historical
24 geography prior to today?

25 A. Last year.

↑

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1 Q. Was your expert testimony accepted
2 by the court in each of those cases to the best
3 of your recollection?

4 A. Yes.

5 Q. And are you aware of any instance in
6 which your testimony or opinion as an historical
7 geographer has been included by a court?

8 A. No. I'm not.

9 MS. KEENAN:

10 Your Honor, at this point, the
11 plaintiffs offer Dr. Colten as an expert
12 in the historical geography of Louisiana.
13 /SKWRAO.

14 As we stated, Your Honor, no

15 objection.

16 THE COURT:

17 Okay. Dr. Colten will be accepted
18 by the court to give opinion testimony in
19 the historical geography of Louisiana.

20 You may proceed.

21 BY MS. KEENAN:

22 Q. Dr. Colten, could you turn to tab***
23 of the binder in front of you which is
24 plaintiff's Exhibit 129?

25 A. Yes.

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1 Q. What is this document?

2 A. This is my preliminary expert report
3 submitted last year.

4 Q. And what was your assignment in
5 preparing this initial report?

6 A. I was asked to assemble quantitative
7 and qualitative information to try to map out and
8 understand the location of communities of
9 interest within several specific sections of the
10 state.

11 Q. And would you please before we get
12 into that report, would you please turn to Tab 3,

13 which is plaintiff's Exhibit 131?

14 A. Yes.

15 Q. What is that document?

16 A. That is a supplement to my initial
17 expert report.

18 Q. And what was your assignment in
19 preparing this report?

20 A. This was supplemental. I was asked
21 to review the legislative Senate and House
22 districts and compare the boundaries of those
23 districts in terms of their geographic
24 correspondence to historical communities of
25 interest.

↑

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1 Q. Okay. Now, before we get too much
2 farther into your opinions, could you clarify how
3 you are using the term communities of interest as
4 you used it in your reports. I'm not asking for
5 any sort of legal definition.

6 A. When I was asked to participate in
7 this case, I turned first to a number of
8 geographers who had done work on redistricting
9 and specifically the topic of communities of
10 interest. And I found their definition

11 corresponded with that of a broader groups, but I
12 typically look at a community of interest as a
13 group of people with comparable, similar social
14 cultural, economic political interests within a
15 given territory.

16 Q. And how do you identify communities
17 with shared cultural histories or interests?

18 A. I'm sorry.

19 Q. How do you identify communities that
20 have shared cultural histories or interest?

21 A. Thank you. One of the basic ways of
22 doing this is I investigate first, the long-term
23 process of settling how these people have come --
24 how people have document be in a given place,
25 what is the continuity of their presence in that

↑

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1 place, have there been interactions with other
2 groups, have they sustained group identity over
3 time and remain an a coherent group with shared
4 interests.

5 Q. Where in the state did you try to
6 identify those historical communities?

7 A. I'm sorry. What was it?

8 Q. I'm sorry. Where in the state did

9 you try to identify those shared communities?

10 A. In the -- the initial report there
11 is a map that can help us see that, but it was
12 basically the upper Red River Parishes which is
13 basically from Natchitoches or excuse me, from
14 Alexandria northward to the northwest corner.
15 The state I was asked to look at Acadiana which
16 is a large triangular area that radiates from
17 Avoyelles to the north which is more central
18 Louisiana down to the map of the Sabine river in
19 the southwest down into lower Lafourche Parish
20 and parts of the lower Mississippi River. I was
21 also asked to look at the river parishes meaning,
22 the Mississippi River parishes and I -- I chose
23 to look at those parishes mostly on the Westbank
24 from Pointe Coupee Parish down to Jefferson
25 Jefferson Parish although, some of those parishes

↑

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1 straddled the river.

2 Q. Are you referring to the map that
3 you included in your report at page 4 of
4 plaintiff's Exhibit 129?

5 A. Yes, I am.

6 Q. Would you recognize a copy of that

7 map if we showed it on the screen?

8 A. Yes.

9 Q. Okay. We are going to call up
10 plaintiff's demonstrative 26 which is just an
11 enlarged copy of the map included on page 4 of
12 that report of Dr. Colten.

13 MR. FARR:

14 Your Honor, I just want to state I
15 have no objection to this exhibit, but I
16 may have an objection to other
17 demonstrative exhibits we just received
18 this morning.

19 THE COURT:

20 Okay.

21 /SKWRAO.

22 This exhibit is actually in the
23 report unlike the others we are going to
24 be looking at.

25 THE COURT:

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1 All right.

2 BY MS. KEENAN:

3 Q. So could you talk us through which
4 area you described is on the demonstrative you

5 see in front of you?

6 A. Yes. The -- what I have labeled
7 here and with the more or less stippled pattern
8 is the upper Red River region which includes
9 Caddo and Bossier DeSoto and Red River
10 Natchitoches and Rapides Parishes, Caddo Parishes
11 which is a grate toe that's the Red River
12 Parishes. Now, we are going to go to Acadiana
13 which starting in the center of the state at
14 Avoyelles moving to the southwest Evangeline Jeff
15 Davis, Calcasieu, Cameron, Vermillion, Acadia,
16 St. Landry, Pointe Coupee, Iberville, St. Martin,
17 Iberia, Assumption, St. James, St. John the
18 Baptist, St. Charles, Lafourche and Terrebonne.

19 Q. And what about the river parishes,
20 where are they on this map?

21 A. I included this in the assignment
22 Pointe Coupee, West Baton Rouge, Iberville
23 Ascension, Assumption, St. James, St. John the
24 Baptist and St. Charles.

25 Q. How does identifying communities

↑

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1 based on the shared culture communities that you
2 just talked about, differ from identifying

3 communities based on political boundaries like
4 you see here?

5 A. Parish boundaries are typically
6 assigned by government bodies, communities of
7 interest are more genetic, they are more
8 evolutionary. They arise based on long-term
9 patterns of where people live and where they came
10 from and how they go about pursuing livelihoods
11 and practicing their lives.

12 Q. So I want to walk through each of
13 the areas you just discussed in a little more on
14 detail starting from north to south. Let the
15 record reflect that I'm now showing the witness
16 plaintiff's one which is the demonstrative map of
17 Shreveport and Bossier Parishes?

18 THE COURT:

19 Is in your objection.

20 MR. FARR:

21 Can I state my objection,

22 Your Honor?

23 THE COURT:

24 Please.

25 MR. FARR:

↑

1 Yes, Your Honor. Dr. Colten's
2 report in this case, originally the report
3 was 25 pages long. This morning we got
4 17 pages of a demonstrative exhibits one
5 of which I've already agreed can come into
6 evidence because it is in the expert
7 report. These other maps were not
8 included in the expert report. We have no
9 idea when they were made, we have no idea
10 who made them. It is impossible having
11 received these maps today for defense to
12 have an adequate opportunity to study them
13 to be able to cross examine Dr. Colten on
14 them to defer whether or not there's
15 additional information on these maps that
16 is not included in his report and
17 Your Honor, I have to confess you probably
18 have a better handle on this than I do,
19 but I always get confused between
20 demonstrative active and real exhibits,
21 but whatever demonstrative exhibit is
22 this, crosses the line this is 16, 17 maps
23 that railroad delivered today that we have
24 never seen before cross the -- the line
25 from a demonstrative exhibit to an



1 amendment to a report this is essentially
2 giving Dr. Colten to enhance and amend his
3 report without the defense having a chance
4 to study this information to be able to
5 effectively cross examine him.

6 /STPHAO.

7 May I explain, Your Honor?

8 THE COURT:

9 You may respond.

10 MS. KEENAN:

11 One point of clarification, just for
12 the record, these were not sent this
13 morning. They were sent last night, so
14 it's agreeing: So it's not just not like
15 we sent them today. /SOEBGD though
16 Your Honor, none of these are intended to
17 be offered in evidence. We are not the --
18 these are maps taken in the shape files
19 that were introduced in this case. All we
20 are going to show if I can make an offer
21 of proof which the demonstrate exhibits
22 which we won't be offering into evidence.

23 THE COURT:

22 a statement I made. I'm told we received
23 these last night. The reason why I
24 thought it was this morning is because I
25 was asleep when we received these maps.

↑

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1 THE COURT:

2 They were received at 6:00 p.m.

3 MR. FARR:

4 Thank you. Your ruling, I
5 understand it. But I have to say that
6 these maps could have been produced
7 earlier if they were going to be used as
8 demonstrative exhibits. And I have to say
9 it's quite difficult for me to look at
10 these maps now and try to figure out what,
11 if anything, is on these maps that's in
12 his report because as you know this is not
13 easy stuff looking at these maps there's a
14 lot of stuff you can throw onto a map that
15 may not be obvious to you when you have
16 just a few minutes to look at it, so I
17 appreciate your ruling, Your Honor. We
18 accept it, but I do want to make that
19 objection.

20 THE COURT:

21 I understand and it's Mr. Far.

22 /SKWRAO.

23 Yes, sir. I'm sorry.

24 THE COURT:

25 Do you need to stay seated, there

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1 was permission asked for one of the

2 lawyers to remain seated.

3 MR. FARR:

4 Yes, sir. I'm the one that's got a

5 few medical problems.

6 THE COURT:

7 You may remain seated.

8 MR. FARR:

9 I like to stand when I'm addressing

10 the court if -- if you'll let me sit while

11 asking questions I will be grateful to

12 you.

13 THE COURT:

14 I will be more than happy to oblige.

15 Carry on.

16 THE ATTORNEY:

17 Q. So let the record reflect, that I'm

18 showing the plaintiff demonstrative one. It's
19 just a map of the Shreveport and Bossier Parish.
20 The -- the -- is this a parish that you analyzed
21 in I /-PT when you /TRAOURP trying to show that
22 there were communities that shared cultural
23 histories?

24 A. Yes, I did.

25 Q. And can you walk through the

155

1 historical communities that you identified in the
2 Shreveport and Bossier Parishes?

3 A. Yes. Northwest Louisiana, which
4 includes Bossier and Caddo Parish, was originally
5 indigenous lands and in the 1830s and major log
6 jam on the river was broken by Captain Sheave and
7 this area became the destination for Anglo
8 settlers who had not been in this part of the
9 state in any large numbers so we began to have
10 this migration and settlement of Anglo planters
11 who came in seeking fortunes raising cotton using
12 slave labor for the work on the plantations.

13 This work was carried out largely on the flood
14 plane in the area closest to the river relatively
15 flat land. Bulk scale plantation occurred so you

16 had in Shreveport and Bossier there on the river
17 actually a majority of African-Americans came to
18 be assembled in the plantations along this --
19 this part of the river with a lesser number of --
20 of Anglos for the most part. Shreveport became
21 an important port exporting cotton down river and
22 you begin to have within the city distinct
23 neighborhoods growing and evolving. In the early
24 20th century, the traditional agricultural
25 committees was really disrupted with the

↑

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1 discovery of oil in Caddo Parish and we began to
2 see a rash of new migrants coming into the state,
3 the growth of Shreveport itself. We also began
4 to see -- well, I'm sorry. Let me step back. In
5 the wake of the civil war, there was
6 ***emancipation and the enslaved people were
7 released and we begin to see a confidentiality of
8 racial violence, Caddo became known as bloody
9 Caddo because of a large number of murders by
10 whites against blacks. We began to see the
11 evolution of Jim you laws even with emancipation
12 the blacks for a time period during
13 reconstruction, those rights were gradually

14 restricted and removed. Shreveport also became
15 the low can you tell us for any formally enslaved
16 workers moving to the city moving to town and you
17 began to have a considerable number of blacks
18 living in town with this memory of enslavement
19 they tended to live in compact neighbors because
20 very segregation policies and their poverty and
21 just being recently freed so you have very
22 disaggregated neighborhoods. Within Shreveport
23 as a 20th century rolled in -- in Shreveport,
24 well, Caddo and Bossier both had incredibly high
25 numbers of lynchings. There was racial tension and

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1 overt racial violence with the discovery of oil
2 there was a rash of small scale black farm owners
3 in the oil producing areas dubbed oil city who
4 turned to white lawyers for guidance a how to
5 manage their new found wealth and in many cases
6 they were basically robbed of their -- of their
7 potential wealth by unethical attorneys. So you
8 have this historical pattern of racial violence,
9 racial deception racial discrimination that was
10 also carried out in terms of educational
11 situations. Poorer, poorer educational

12 facilities for African-Americans, the red lining
13 was evident in Shreveport and areas of
14 opportunity for residential movement of blacks
15 was very limited to areas where they could secure
16 funding or buy properties out right. So this was
17 -- these series of events led to the development
18 of distinct communities that were self identified
19 and that then continued into the 19 -- late '60s
20 early '70s with desegregation. There were bitter
21 protests against integration of schools in the
22 Caddo, Bossier areas. We had going on before
23 then and after then white -- flight whites moving
24 to the suburbs leaving Caddo Parish heading to
25 Bossier Parish, so you'd this very, very racial

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1 likewise pattern of residents. It wasn't
2 necessarily a matter of explicit choice, but it
3 was a matter of defacto choice. There were no
4 other choices of where they lived. And so this
5 created a great deal of this further enhanced
6 community identity within the black community and
7 it's based on their shared history as much as
8 their skin color.

9 Q. So I'm going to show you plaintiff's

10 Exhibit 2, which is just a demonstrative map of
11 the same area of the state, but with an overlap
12 of the illustrative Exhibit 38.

13 Could you tell us how illustrative
14 district 38 -- I'm sorry, to correct the record,
15 illustrative Senate district 38 correlate to the
16 that you just discussed here or discussed in your
17 report?

18 A. Certainly, if you look at the area
19 where the roads converge where the small word
20 Shreveport is just slightly and borrow the left
21 of the city, this is the downtown core of the
22 city and just immediately to the west, that was
23 all what people call the counter public
24 neighborhood. The areas where black businesses
25 and black churches and black residents first set

↑

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1 up their -- their their neighborhood in
2 Shreveport. So this was a core. But by the --
3 by -- during the post war period, many began
4 moving out towards the neighborhood that's
5 labeled there as Caddo Heights and that was
6 further west towards the airport that you have a
7 green area with a big X on those to the west of

8 the district. So these were areas that presented
9 continuity in terms of the community members from
10 the old core as they moved further outward. So
11 this contains a shared community of interest.

12 Q. And just to confirm for the record,
13 are each of the communities that you just
14 discussed in the neighborhoods located within the
15 boundary of the Senate district 38 as you see it
16 in this map of the illustrative district?

17 A. Yes. The old core public
18 neighborhood as well as the areas where the large
19 import is and Caddo Heights word, those are areas
20 within that district that I was discussing.

21 Q. Okay. Let the record reflect that
22 I'm now showing the witness plaintiff's
23 demonstrative three. This is again, the same
24 area, but with an overlay of illustrative house
25 districts and I'm going to focus on HD 1 and 2?

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1 THE COURT:

2 One moment.

3 BY MS. KEENAN:

4 Q. Could you tell us how --

5 THE COURT:

6 He's got an objection.

7 /SKWRAO.

8 May the court please make an
9 ***objection. Thank you, Your Honor.

10 THE COURT:

11 Sustain the objection. I know we
12 are using the words illustrative maps, but
13 try to use the word illustrative aids.
14 They are terms of art, but have distinct
15 meaning and maybe that will help keep the
16 record straight.

17 MS. KEENAN:

18 Thank you, Your Honor. These are
19 maps of plaintiff's illustrative aids, so
20 I'll try to make that --

21 THE COURT:

22 Right. My appreciation is that
23 demonstrative evidence is committed and it
24 makes part of the record in a jury trial
25 you would send your demonstratives back

↑

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1 with the jury. Illustrative are not part
2 of the record.

3 /STPHAO.

4 Okay. Sure. So illustrative A is
5 the term you would like me to use?

6 THE COURT:

7 I'm sorry. It's going to be redid
8 you know can't to illustrative maps, but I
9 would like to make it more clear for the
10 record.

11 /STPHAO.

12 That's okay. This is just to make
13 it clear. This is the third illustrative
14 map that we are using and it's the same
15 map of the area with illustrative house
16 districts 1 and 2.

17 THE ATTORNEY:

18 Q. Could you tell us how illustrative
19 house districts 1 and 2 correlate to the
20 historical geography and the communities you just
21 discussed here and in your report?

22 A. Is this illustrative --

23 Q. Yes, this is illustrative?

24 A. -- districts?

25 Q. These are the illustrative house

↑

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1 districts 1 and 2, yes.

2 A. This shows the -- again, starting
3 where -- in district one where you see the word
4 Shreveport, the small Shreveport where the roads
5 converge, you see the -- just to the west of the
6 word Shreveport was the old counter public
7 neighborhood, the old core African-American
8 neighborhood, and this includes one of the first
9 extensions of African-Americans outward from that
10 -- that core district to the west. And district
11 two contains much of the continuation of that to
12 the south and the west towards the airport and
13 down towards Caddo Heights.

14 Q. And just to confirm that core
15 counter public space that you were just talking
16 about, is that within the boundaries of house
17 district 1 as you see it on this screen?

18 A. Yes.

19 Q. Okay. I want to move onto the next
20 area of the state. And so this time I'm going to
21 show the website an illustrate us aid that we
22 have titled just for our purposes of the tech.
23 Plaintiff's D-4. This shows Desoto Red River,
24 Natchitoches and some of the surrounding
25 parishes. Dr. Colten, are these areas that you



1 studied in your report and tried to identify
2 historically, communities within?

3 A. Yes, they are.

4 Q. Okay. And can you tell us how --
5 can you tell us about the historical communities
6 that you identified in this area of the state?

7 A. In many respects along the river,
8 there was a continuation of the flood plain and
9 again, in the 1830s after the clearing of the --
10 the log jam, this area attracted Anglo settlers,
11 but to the south at Natchitoches, Natchitoches
12 was perhaps, the first permanent settlement in
13 Louisiana settled in 1714 by the French. This
14 was an area that developed a very distinctive and
15 close knit community: French language, French
16 newspapers, legal documents in French continued
17 into the 1860s at least. So this was an area
18 that was really set apart from that wave of
19 Anglos that came in much later in the 1830s. And
20 -- and Natchitoches was an -- an area that also
21 had plantation agriculture. It was earlier than
22 the cotton boom and we see there was some rice
23 there was some Indigo and other crops. A little
24 cotton early on and just to the south of the

25 Natchitoches, there was an area that was settled

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1 by emancipated mixed race people who became known
2 as Creoles of color. Who lived in plantations
3 they were slave owners, they were planters. They
4 had economic and relationships with people and
5 with the white community in the area, so this was
6 a -- not that this was a -- you know, a Panicum,
7 but they didn't have voting rights, but they were
8 a group that had greater means and greater
9 influence in the locality. They persisted as a
10 very separate distinct community from Natchez in
11 part because of their racial composition. So
12 this was a historical feature not necessarily
13 just one race and this community still exists,
14 it's been there. Have been movies made about it
15 and it's now been recognized as a national
16 historic district and so these -- the areas along
17 the river were engaged in plantation agriculture
18 as you move outward from the river up into areas,
19 for example, around ***hall submit or inland in
20 Natchitoches Parish and towards Mansfield and
21 DeSoto Parish, you get into an area that was
22 primarily forested, but was being worked by small

23 scale farmers what we call yeoman farmers. They
24 may have been planting cotton, they may have had
25 a slave or two, but they were not planters in the

↑

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1 large scale that the cotton be on the river were,
2 but this was very different also integrated into
3 the local economy and these parishes that had a
4 mix of upland and wetland areas saw that as an
5 advantage and it was something that was
6 characteristic of the region and those people had
7 a shared interest as well.

8 Q. So I'm now going to show the witness
9 an illustrative aid that we have marked for the
10 tech as D-5. This is the map, of course, of the
11 same area, but it has an overlay of illustrative
12 and house district 23. Could you talk a little
13 bit about how illustrative house district 23
14 correlates to the historical geography and the
15 communities that you've just discussed here and
16 in your report?

17 A. Yes. The -- if we start in the --
18 in the Desoto Red River area, you see that this
19 area, the -- the district contains both the
20 upland and the lowland areas. If you look the

21 flood plain basically runs from the river, the
22 Red River, the blue squiggly line to the eastern
23 edge of DeSoto Parish. That's basically the
24 flood plain and the flood plain was basically in
25 Red River, but DeSoto Parish touched that so you

↑

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1 had within this you did a cross section from east
2 to west say, from contain river to Martin you
3 have the uplands you have the flood plain and you
4 have the uplands again, the forested area. So
5 this was a balance of those territories. As you
6 look further down into Natchitoches Parish,
7 again, you see within Natchitoches Parish you see
8 both uplands and flood plain area and the most
9 distinctive feature here is that Natchitoches the
10 -- many of the resident much of the city of
11 Natchitoches is within one single district.

12 Q. We will talk a little bit more about
13 Natchitoches in just a minute. Before we get
14 there, I'm go to show you another illustrative
15 aid. This is D-8. Oh, no. We will get to
16 Natchitoches now. Let's cue up D-8. This is an
17 illustrative aid that Zooms in on the city of
18 Natchitoches, but with the same overlay of

19 illustrative house district 23 that you were just
20 talking about with the court. You were talking
21 about how the city of Natchitoches was treated in
22 HB 23. Could you explain a little bit further?

23 A. Yeah. This map shows much greater
24 detail than the last one and certainly the one
25 that we worked with previously on the DRA site,

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1 but this shows that what's important to note here
2 is that where you have a fairly dense street grid
3 pattern in Natchitoches, that is basically the
4 populated and residential commercial area of city
5 almost all of that is within the city of
6 Natchitoches and that area to the north central
7 part of Natchitoches which is in district 22, is
8 largely unpopulated and the area within the city
9 limits of Natchitoches that dark section that
10 radiates to the south into 25, that's largely
11 rural area as well. So this keeps -- 23 keeps
12 Natchitoches basically together within one
13 effective municipality.

14 Q. Okay. I'm now going to show you
15 what's been marked as D-6. This is an
16 illustrative aid of the Desoto Red River in

17 Natchitoches Parish as we were just discussing,
18 but this time with an overlay of enacted house
19 districts 5, 7 and 25.

20 Could you talk a little bit about
21 how the enacted house districts in this area
22 correlate to the historical geography and
23 communities you discussed here and in your
24 report?

25 A. Yes. This really separates the

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1 Desoto from its connection with the river and the
2 flood plain and Red River to the east. So this
3 -- between districts 5 and 7. This really
4 creates a stark boundary between those two
5 parishes that in many respects had a comparable
6 sort of history. One thing I forgot to mention
7 on this. These two parishes were particularly
8 noteworthy in terms of post reconstruction
9 violence against black communities to the black
10 communities both in rural and urban areas had a
11 strong sense of identity and this separates those
12 communities that had that similar historical
13 past. And we see, Natchitoches is really the
14 city is basically taken out from Natchitoches

15 Parish and put into grant -- into district 22
16 which is mainly in Grant Parish.

17 Q. I'm going to show you another
18 illustrative aid that Zooms back in on
19 Natchitoches, this is plaintiff's D-9. And
20 again, this is that same zoom on the city of
21 Natchitoches with an overlay of 28 and enacted 22
22 and enacted HD 25 which you were just talking
23 about.

24 Could you talk a little bit more
25 about how these districts treat the community you

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1 discuss in Natchitoches?

2 A. Yes. You can see that the northwest
3 section of Natchitoches is in district 25 and the
4 bulk of the city is in district 22. But this
5 really carves up the city of Natchitoches. And
6 and actually there's a section of it that's --
7 that's put into district 13 as well. But it's --
8 it just carves up the city and it places it in
9 two separate districts.

10 Q. So now, I want to talk about the
11 next area you examined in your report. Let the
12 record reflect that I'm now showing the witness

13 D-10. This is an illustrative aid of the
14 overlapping Acadiana and river parish area that
15 he identified in his report in the map on page 4
16 of plaintiff's Exhibit 129.

17 Looking at this illustrative aid,
18 could you tell us a little bit about the
19 historical communities you identified within this
20 area of the state?

21 A. Well, let's start with Acadiana.
22 The Acadians were recruited by the Spanish in the
23 -- in the 1760s to come to Louisiana because in
24 part, they were devoted catholics and had a great
25 resentment to the British who had compiled them

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1 and driven them out of what the British called
2 Nova Scotia. They came and settled in areas
3 south of Baton Rouge along the river near the
4 town of St. Gabriel which is element dead center
5 in this map and they settled along the river.
6 They remained there for some time, but they were
7 small scale farmers. They weren't large
8 plantation owners. They didn't engage in large
9 scale rice or even later in sugar planting which
10 didn't really begin eventually in 1790s. Over

11 time, and some of them also moved into areas in
12 St. Martin Parish near the town of St.
13 Martinville. Others found their way down the
14 river into Lafourche Parish so this -- these were
15 kind of the core areas of initial Acadia
16 settlement in St. Gabriel in Lafourche Parish and
17 in St. Martin Parish along Bayou Teche. With the
18 arrival of Anglo planters in the 19th century,
19 many Acadians were bought out. They moved some
20 of them into the Atchafalaya Basin in Iberville,
21 Assumption, Iberia, St. Martin, St. Landry and
22 then some moved even further west into the
23 prairies, which is a very, very different
24 environmental setting that later became a
25 principal area for rice production in the area of

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171

1 Crowley ain't reign those communities and further
2 west particularly as midwestern farmers were
3 approved to come in and practice large scale
4 agriculture. So you have Acadians spread
5 throughout this area from Avoyelles and Pointe
6 Coupee all the way down river to St. Charles.
7 Those funding the Mississippi declined in
8 population over time, but other parts of the

9 state, particularly St. Martinville, they really
10 grew in number. The Acadians were very, very
11 ***/EUPB far population in the early days of
12 their settlement in the state they retained the
13 French language and Catholicism unlike neighbors
14 to the north. They were small scale farmers not
15 -- most of them big scale, some of them did
16 practice large scale agriculture, but for the
17 most part, they retained their identity and even
18 when their identify was challenged in the 1960s
19 it was kind of revival of ***day judge identity
20 and efforts to revive the French language in the
21 schools in Louisiana and they retained this group
22 of sense of identity. Another group within that
23 Acadia that territory are a group of what we call
24 Creoles of color. They were Africa-Americans
25 some of ***Mullates who were sent by French

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1 landowner along the river to manage their
2 livestock in the prior part of the parish. A lot
3 of this took place around the city around the
4 region of St. Landry and further west St. Landry
5 Parish and city of Opelousas, so this was another
6 group that worked on the plantations, lived on

7 the ranches of the Spanish and French added
8 diversity to this region, but they also retained
9 a very, very powerful sense of identity and even
10 today they still practice trail rides, harking
11 back to their traditional practices from previous
12 generations as rancher and they are still very
13 much an identifiable population in -- within
14 Acadiana, but they are not Cajuns.

15 Q. Now, you talked about the population
16 that you described in Acadiana on this map.

17 Could you take a look in the binder in front of
18 you on -- at the map on page 4?

19 A. Yeah.

20 Q. Is it fair to say that the area
21 depicted in this illustrative aid includes some
22 of the area that's also shaded as river parishes
23 in the map on page 4 of your report?

24 A. Yes, it does.

25 Q. And could you explain the historical

173

1 geography in the river parishes as you identified
2 it in your report in this area of the state?

3 A. Yes. This -- this area from Pointe
4 Coupee Parish down river to Jefferson Parish was

5 again, an area flood plain agriculture settled
6 initially by the French who employed many
7 enslaved laborers to do the back breaking work.
8 It also contained back swamp areas, but it was
9 here you had in many cases a majority
10 African-Americans working on these plantations
11 even after the end of the civil war after
12 emancipation the sugar producing districts of the
13 state were very different than areas that
14 produced cotton. They really demanded highly
15 skilled labor to run the sugar mills to many of
16 the Africa-Americans were sought at and paid
17 better than they might have been having other
18 opportunities and they remained on these
19 plantations. Also many in some cases, landowners
20 gave some slaves little slivers of land that
21 maybe all through these small narrow linear
22 villages that in many ways became adjacent to
23 petrochemical plants so in this area you had a
24 history of slavery, you had a history of slave
25 insurrection, and -- and then all the other



1 discrimination that goes along with a minority
2 community in this part of the world over time and

3 then the ultimate burden of -- of exposure to
4 industrial emissions and so this was an area
5 where again, that history of insurrection has
6 been captured in the spirit of these communities
7 now and there's a selection for the slave
8 insurrection. This -- this was of the birth
9 places the environmental justice movement in the
10 country basically formed within the
11 African-American community because of their
12 inordinate exposure to pollution and noise and
13 other things.

14 Q. And now, I'm going to show the
15 witness what's been marked for the tech as D-11.
16 This is an illustrative aid of that same area we
17 just saw with an overlay of illustrative seven
18 districts and particularly, I'd like to focus on
19 2 and 17 consistent with how these illustrative
20 house districts 2 and 17 correlate to the
21 historical geography and communities that you
22 discussed here and in your report?

23 A. Yeah. 17 reflects one thing that I
24 didn't mention and that's that West Feliciana and
25 east -- and East Feliciana and Baton Rouge are

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1 basically parishes with more of an Anglo
2 tradition, a cotton economy, but the 17 for the
3 most part stays on the West Bank of the river and
4 includes people who are growing sugar cane from
5 Pointe Coupee all the way down into Iberville as
6 well as communities that were in the back swamp
7 areas places like gross at the time, Maringouin,
8 and so this -- this -- this keeps one strong
9 community together for the most part. District 2
10 likewise, well, district 2 in contrast I should
11 say straddles the river. It encompasses both
12 sides of the river because at point moving
13 downstream from Plaquemine you really have
14 comparable populations on both sides of the river
15 a similar economic history, similar settle
16 history, similar communities of interest on both
17 sides of the river all the way down to and beyond
18 St. Charles.

19 Q. And just to confirm when you say a
20 similar economic history and what you identified
21 in illustrative aid two here, can you describe at
22 what history is?

23 A. It was a history of sugar cane
24 plantations since about 17 -- or since about 1800
25 with enslaved labor as I mentioned before.



1 Q. Okay. Let's move onto the next area
2 of the state that you examined. Let the record
3 reflect, I'm showing the witness what's been
4 marked for the tech as D-12. This is an
5 illustrative aid of Baton Rouge and the
6 surrounding area.

7 Dr. Colten, is this one of the areas
8 that you examined in your -- your reports?

9 A. Yes, it is.

10 Q. And could you tell us about the
11 historical communities that you identified in
12 this area of the state?

13 A. Well, Baton Rouge even though it has
14 a French name, was largely an Anglo settlement
15 for many years it was part of British west
16 Florida or Spanish west Florida and then part of
17 the British territory home in this -- in this
18 part of the world. And the British called it
19 Richmond. There wasn't that many French who
20 lived in Baton Rouge. There was a small number,
21 but it's more of a protestant city than areas to
22 the west. It had -- it became a destination for
23 freed slaves after the end of the civil war by

24 which time it had already become the state
25 capital, so it was growing it was a fairly small

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1 city even in 1900, but it was growing and it
2 tended to grow first to the north, the what's
3 labeled here as the Baton Rouge refinery what's
4 now the ExxonMobil refinery and that was built in
5 the early 20th century and it attracted largely a
6 white working class population who lived in the
7 mill gate community just outside. So you have an
8 extension of white population to the north, you
9 had a white population extending to the south and
10 west towards LSU and out directly to the west and
11 within the core of the city there was a fairly --
12 there was fairly small areas. An area that is
13 called here it's another somebody of the bottom
14 it's an area on south of downtown Baton Rouge.
15 It was primarily the of a African-American
16 residential district afternoon. And then the
17 city graduates was inching its way eastward along
18 Florida and Government Streets. Florida is the
19 US 190 labeled as U.S. 190 on this map. In the
20 1940s, the first major bridge was completed
21 across the Mississippi River and extended to the

22 south and east what's labeled here as Airline
23 Highway. And with that highway, additional
24 neighborhoods were constructed in the '60s and
25 '70s pushing the city further eastward. It was

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1 also at this time period that in the '60s and
2 '70s, we begin to get integration. We begin to
3 get a strong push Baton Rouge east white flight.
4 There's an old sub burns moving further out and
5 east, and it was during this phase of development
6 that we see a lot of the mill workers near the
7 ExxonMobil moving further out and much of that
8 area near the mills became an Africa-American
9 neighborhood, so this is a process of
10 neighborhood turn over that was going on. And we
11 had a series of new subdivisions that were
12 platted and approved by the city and the parish
13 that enabled the city to add new residential
14 neighborhoods and each new neighborhood was more
15 or less constituted more or less an arc a semi
16 circle of development that one was built another
17 to the east of that -- another to the east of
18 that and so the city was growing eastward out
19 towards the Amite river and out towards Denham

20 Springs and then toward the south and east
21 towards New Orleans.

22 Q. Okay. I'm going to show you another
23 illustrative aid this is D-13. Again, a map of
24 the same area, but this time with an overlay of
25 the illustrative house districts. I'm going to

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1 read into the record some of the house districts
2 that are shown in this illustrative aid. It
3 includes illustrative house districts 29, 67, 61,
4 68, 69, 70, 65, 101, and a couple in the
5 surrounding area. Dr. Colten, could you tell us
6 how these illustrative house districts correlate
7 to the historical geography and communities you
8 discussed here in and in your report.

9 A. Let me start with 67 which is the
10 one closest to the river. It includes the area
11 immediately adjacent to the Baton Rouge refinery
12 which was originally working class whites. But
13 by the 1980s, 1990s, it was becoming an
14 Africa-American neighborhood. We also see at the
15 far southern end of this district 77 going there
16 which was an area that was initially intended for
17 a whole group of apartment complexes, were built

18 there that were completed during the big oil bust
19 and the developers found that they needed -- that
20 they were able to fill them by renting them to
21 African-Americans so you had both these areas
22 near the refinery and around guard year were area
23 where African-Americans left the city and moved
24 out to more suburban locations. District 61 also
25 represents another phase, a very early phase of

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1 movement out from the city, schools, commercial
2 districts built at comparable times so you had
3 sort of historical geography the chronology here.
4 Is -- this is an area that was added more or less
5 at one time 68 represents the push of the city
6 out towards Airline Highway 69 another arc beyond
7 that 101 another arc beyond that and then 65 is
8 more of a linear movement outwards towards
9 central city that was established to have a
10 separate school district, so this really quite
11 convincingly mimics that addition of these
12 different additions over time.

13 Q. So a couple of follow-up questions.
14 At one point I believe you said district 77, were
15 you referring to district 67 here on the aid?

16 A. I started -- if I said 77, I
17 apologize. I meant 67 which was the first one I
18 discussed. It includes the refinery and guard
19 year.

20 Q. Okay. Thank you. And you've talked
21 a little bit about sort of the way that these
22 arcs formed at the same time, I believe was the
23 thing you just said. I'd like you to explain a
24 little bit from the historical geography
25 perspective about how the communities within

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1 these arcs relate to each other based on what you
2 talked about in your report?

3 A. Yes. Many of these people that were
4 moving to these sub -- subareas bought homes,
5 raised their families there and spent the bulk of
6 their life there. While they were there, the
7 city responded, the parish responds with building
8 schools in those areas people built churches so
9 you developed communities within these
10 territories. And and that's a fairly consistent
11 pattern you see in these neighborhoods as they
12 extended eastward.

13 Q. Okay. I'm know going to show you

14 another illustrative aid marked for the tech as
15 D-14. This is the same area again, but in this
16 case*** the house districts, it overlays the
17 enacted house districts just for the record, the
18 record some of those include 29, 67, 61, 68, 69,
19 70, 101, 65 as well as the surrounding area.

20 Dr. Colten, can you tell us how the
21 enacted house districts that you see in this area
22 correlate to the historical geography and the
23 communities that you've discussed here and in
24 your report?

25 A. I think the -- let's talk about 29.

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1 Much of it follows the river on the west side of
2 the river, but it also leaps across the river and
3 includes the areas to the east of the Baton Rouge
4 refinery shown here. The area west of the river
5 was in a different administrative unit, a
6 different parish. There was a very different
7 population one of the marks of distinction was
8 that the bars stayed open later because there was
9 more of a catholic influence which was more
10 tolerant of later night drinking on the east
11 side. Baton Rouge was more of a Baptist city and

12 so these really the two -- the areas on the east
13 and West Bank of district 29 were really quite
14 different in terms of their composition both
15 historically and recently.

16 The 67 includes ***Gardere??? Guard
17 /KWREER, but also includes some largely white
18 areas the south side of Baton Rouge. 70, 68, 69
19 are more or less radial -- more or less a radial
20 line extending out from the center of the city
21 south to the east straddling old barriers like
22 Airline Highway as does 61. 61 straddles Airline
23 Highway which once it was open it really -- we
24 saw a real acceleration of development on the
25 east side. So it -- these districts really don't

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1 comport or don't mesh particularly well with the
2 historical geography of the growth of
3 Baton Rouge.

4 Q. Okay. And I'd like to move onto the
5 last area of the state that you examined. Let
6 the record reflect that I'm showing the witness
7 what's been marked for the tech as D-15. This is
8 an illustrative aid of Jefferson and Orleans
9 Parishes as well as some other surrounding area.

10 Is this one of the areas that you studied in your
11 reports?

12 A. Yes, it is.

13 Q. Okay. And can you tell us about the
14 historical communities that you identified in
15 this area of the state?

16 A. Now, I touched on some of them
17 earlier, but this is -- most of the area from
18 Destrehan down river through Algiers, on both
19 sides of the river at least initially in the
20 French old was settled by, French planters, the
21 Eastbank really developed ahead of the Westbank
22 for those of you not from Louisiana, the area
23 south of the river is the Westbank and the area
24 to the north of the river is the Eastbank. So as
25 -- as New Orleans grew up river, much of the area

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1 that's labeled garden district uptown, much of
2 that area was settled by Anglos and we began to
3 see the disappearance of the old traditional
4 sugar cane plantations with African-American
5 labor that doesn't mean African-Americans
6 disappear or wealthy Creoles disappear, but that
7 was ***characterized more on the Anglo settlement

8 on the Westbank. Agriculture persisted a bit
9 longer as it did up river, but by the 1940s, we
10 began to see a wholesale transformation of
11 Jefferson Parish on the Eastbank. New Orleans
12 was growing, and by 1950 was beginning to push
13 into Metairie, later ultimately into Kenner after
14 Hurricane Zeta Betsy in this '65, there was an
15 acceleration of this desegregation prompted even
16 more rapid white flight from New Orleans to
17 Metairie and Kenner. On the -- on the Westbank
18 on the south side of the river, we see a series
19 of highly segregated residential communities that
20 were being built in Gretna and Marrero and
21 Westwego and in particular neighborhoods that
22 were designated for people of different color, so
23 it was a highly deliberate segregation of
24 populations that replaced agriculture, but these
25 were residential areas for working class people



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1 working in the new mills, the ship building
2 facilities and on the docks on the Harvey Canal
3 and other places upon the Westbank, so this was
4 very much a working class laboring population on
5 this side so very different of the population in

6 uptown and garden district in New Orleans

7 immediately across the river.

8 Q. And you talked a little bit about
9 this. Sorry, go back by the microphone. You
10 talked a little bit about this earlier when we
11 were looking at a different map that captured
12 part of these parishes as well, but upstream from
13 New Orleans and Jefferson Parish, could you talk
14 a little bit about the shared experience of
15 residents in I think Destrehan is a city you
16 mentioned closer to the St. Charles side of the
17 line?

18 A. It was upstream in some of the sugar
19 planting areas that for many years even the
20 Spanish had been concerned with slave
21 insurrection. The slave population out numbered
22 the white population and the Spanish period into
23 the early US period after Louisiana parish in
24 1803, but it was -- and here it was here the
25 first often the largest slave insurrection

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1 occurred in 1807. Slaves marked downstream to
2 New Orleans and they were repulsed brutally and
3 viciously and as they approached Kenner, so this

4 slave insurrection again, is now celebrated as an
5 act of defiance. In these areas you also see
6 just back from the river large green areas which
7 enable you to see these marsh areas and swamp
8 areas, these were areas that were -- were
9 destinations for escaped slave which is an
10 fundamental part of slave existence in this area.
11 So they escaped and established what they called
12 maroon colonies in the back swamps so these are
13 things that added to this group identity as did
14 segregation and housing as a whole host of other
15 such as poor quality housing schools and the
16 like.

17 Q. So I'm now going to show the witness
18 another illustrative aid marked for the tech as
19 D-16. This is an illustrative aid about the same
20 area we just discussed with an overlay of the
21 illustrative Senate districts and in particular
22 I'd like to focus on illustrative district 19.
23 Can you tell us how illustrative Senate district
24 19 correlates to the historical geography and the
25 communities that you discussed here and in your

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1 report?

2 A. By extending over both sides of
3 the river for a large portion above -- above well
4 above Harahan, it includes people who were
5 resident in the area or had ancestors who were
6 resident in the area during the period of
7 enslavement. These areas have experienced
8 exposure to industrial pollution, they are part
9 of the group that celebrate the anniversary of
10 the slave insurrection so there's a real strong
11 sense of community within these areas in that
12 area above Harahan where it straddles the river.
13 As you move further downstream, across from
14 Harahan down, down to the bottom or to the south
15 of the river where Waggaman is, these areas that
16 area is more of a working class community,
17 neighborhoods of labor classes become more and
18 more African-American over time, so these areas
19 also have a strong sense of identity and the
20 extension far down to the south includes some of
21 these areas that were exposed to flooding before
22 the post Hurricane Betsy ***perk levees were put
23 in so these areas on the back swamp side of these
24 communities have seen they have been exposed to
25 flooding in more recent years and that's another



1 part of their social memory of existence in this
2 area.

3 Q. And finally, I'd like to show the
4 witness what's been marked for the tech as D-17.
5 This is an illustrative aid of the same area, but
6 this time with an overlay of the enacted Senate
7 districts in the area. But to focus this time on
8 enacted Senate district 5.

9 Could you tell us how that district
10 correlate to the historical geography and
11 communities of interest that you've just
12 discussed here and in your report?

13 A. Well, the the extension of district
14 5 to the West Bank of the river will inures the
15 historical geography of this settle history the
16 cultural history of this region by including
17 neighborhoods in Jefferson Parish and Orleans
18 Parish. It tends to disrespect the judicial or
19 jurisdictional lines that were placed, different
20 cities, different parishes even.

21 Q. And what about that community in
22 Jefferson Parish that you were just discussing
23 that appears in in enacted SD 5, how does it
24 compare to the surrounding Jefferson Parish

25 communities in enacted Senate district 8?

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1 A. Repeat the question please.

2 Q. Sure. So the part of Jefferson
3 Parish that appears in enacted SD 5 how does it
4 compare to the surrounding territory in Jefferson
5 Parish that's placed in enacted Senate district
6 8?

7 A. The -- the -- well, Senate district
8 or district 8 loses a big chunk of its -- its
9 territory with that extension of five moving into
10 it and -- and then that causes discontinuity.

11 THE ATTORNEY:

12 Okay. Thank you. I have no further
13 questions for Dr. Colten at this time.
14 Your Honor, I did want to put one more
15 thing into the record about the
16 illustrative aid just to make sure it's
17 clear. All of these illustrative aids
18 were produced from shape files and
19 materials from Mr. Cooper's back up files
20 that were produced to the defendants. I
21 just wanted to make sure I had put the
22 origin of these illustrative aids into the

23 record. Thank you, Your Honor.

24 THE COURT:

25 Cross?

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1 MR. FARR:

2 May I proceed, Your Honor?

3 THE COURT:

4 You may.

5 MR. FARR:

6 Thank you, Your Honor.

7 EXAMINATION BY MR. FARR:

8 Q. Dr. Colten, can you see the
9 attorney?

10 A. I can barely see. I can see, but I
11 would ask you to speak up, if you could, please.

12 Q. I will. Can you hear me now?

13 A. Barely.

14 Q. Can you hear me now?

15 A. I can hear you, but a little extra
16 volume wouldn't hurt.

17 Q. Okay. How's that?

18 A. Better.

19 Q. First, I'm going to ask you some
20 questions about this -- these illustrative maps.

21 When did you first see the maps that have been
22 described as illustrative maps today?

23 A. The illustrative maps I saw over a
24 year ago.

25 Q. Okay. So you had access to these

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1 maps over a year ago, but you did not include
2 them in your report?

3 A. The illustrative maps I had access
4 to for over a year, the illustrative aids I did
5 not.

6 Q. Okay. And counsel said there was a
7 shape file. Was that your shape file or was it
8 someone else's shape file?

9 A. I believe she said it was
10 Mr. Cooper's.

11 Q. Okay. And you've never talked to
12 Mr. Cooper, have you?

13 A. We exchanged some pleasantries in
14 the hall this afternoon or earlier today.

15 MR. FARR:

16 All right. Now, I want to ask you
17 about demonstrative Exhibit 14, if we
18 could put that up on the screen.

19 TRIAL TECH:

20 (Complied.)

21 BY MR. FARR:

22 Q. And I seem to recall that your
23 counsel said this was a map of the illustrative
24 districts in the Baton Rouge area?

25 MS. KEENAN:

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1 Objection, Your Honor.

2 Mischaracterizes the testimony. This is
3 the enacted districts just to avoid
4 confusion.

5 MR. FARR:

6 Which ones were these?

7 MS. KEENAN:

8 The ones you have on the screen,
9 these reflect the enacted districts. I
10 can tell from the district 29 the one in
11 the series immediately before that's
12 showing on the screen right now, this is
13 the illustrative districts just for
14 clarity.

15 MR. FARR:

16 Okay. So what we have on the map

17 now is Mr. Cooper's map.

18 MS. KEENAN:

19 This is the illustrative aid that
20 includes the illustrative districts that
21 were in Mr. Cooper's map. I'm sorry for
22 the terminology. I just want to be clear.

23 MR. FARR:

24 Okay. Thank you very much.

25 BY MR. FARR:

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1 Q. Now, Dr. Colten, you testified about
2 the communities of interest that were related to
3 these illustrative districts.

4 Is this the only way that you could
5 draw this -- this area of Baton Rouge to respect
6 the communities of interest that you talked about
7 because could those districts be configured in
8 different ways and still respect the communities
9 of interest that you've identified?

10 A. I suspect so. I mean, it was
11 probably an infinite number of ways you can draw
12 the boundaries.

13 Q. Okay. And your report doesn't look
14 into the impact of race and in drawing districts

15 did?

16 A. I'm sorry.

17 Q. You didn't talk about race in your
18 report?

19 A. I'm sorry. Did you say I didn't or
20 I did.

21 Q. Did not?

22 A. I did mention race.

23 Q. You did not -- you mentioned race?

24 A. I mentioned race.

25 Q. Okay. Did you -- did you look at

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1 how race may have effected how the lines were
2 drawn in Mr. Cooper's illustrative districts?

3 MS. KEENAN:

4 Objection, Your Honor, to the extent
5 he's asking the witness about Mr. Cooper's
6 intent. Your Honor has already excluded
7 testimony that goes to the intent of
8 Mr. Cooper and drawing his maps and we ask
9 that this witness not be called to offer
10 opinion testimony about that same improper
11 inference.

12 MR. FARR:

13 Well, Your Honor. He's testifying
14 about communities of interest that he
15 thinks went into the location of these
16 lines and I'm trying to inquire as to
17 whether he looked at other things that may
18 account for the location of the lines.

19 THE COURT:

20 Other things other than communities
21 of interest, I guess, I'm not -- I'm
22 having difficulty with the -- with your
23 question.

24 MR. FARR:

25 Well, my -- the point I'm trying to

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1 make, Your Honor, is that he didn't study
2 whether or not these -- he's admitted that
3 these districts are not the perfect and
4 only way to respect the community's of
5 interest in Baton Rouge and I'm asking him
6 if he looked at any other factors that
7 could have effected the way the lines were
8 drawn including the impact of race. I
9 don't see why that's not a fair question.

10 MS. KEENAN:

11 I don't think that was the question
12 that was asked.

13 THE COURT:

14 I didn't understand. I didn't
15 understand that that was the question.
16 I'm going to overrule the objection and
17 I'm going to ask that you rephrase your
18 question that was not the question that I
19 understood.

20 MR. FARR:

21 All right. Thank you, Your Honor.

22 BY MR. FARR:

23 Q. In your report, Dr. Colten, in this
24 area of the state in Baton Rouge, you did not
25 make a study on whether or not race could have

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1 impacted the location of the lines in
2 Mr. Cooper's illustrative districts?

3 MS. KEENAN:

4 Objection. I think this is in
5 addition to the objection I previously
6 raised. It's outside the scope of the
7 witness's testimony. He was never asked
8 about what things Mr. Cooper may have

9 considered in drawing the maps only
10 objectively how his field of study
11 correlates to the illustrative and enacted
12 districts at issue in this case. He was
13 never asked about Mr. Cooper's intent or
14 attempts in drawing his maps.

15 THE COURT:

16 I'm going to sustain the objection
17 asking Dr. Colten to give essentially
18 opinion testimony on whether race--
19 essentially what you are trying to get at
20 is whether race predominated in
21 Mr. Cooper's maps and that's an
22 inappropriate question for this particular
23 witness.

24 MR. FARR:

25 All right. Your Honor, thank you.

197

1 THE WITNESS:

2 Your Honor, if I may clarify
3 something.

4 THE COURT:

5 No, you may not. One lawyer one
6 witness.

7 BY MR. FARR:

8 Q. Dr. Colten, you've never testified
9 in court before about communities of interest?

10 A. That's correct.

11 Q. And you agree that there are
12 countless ways to define communities of interest?

13 A. There are many, many ways to define
14 communities of interest.

15 Q. I'm sorry.

16 A. And I -- there are many ways to
17 define communities of interest and I tried to
18 explain how I define those.

19 Q. Well, you can have your counsel ask
20 you that question. I just want you to -- I think
21 you've admitted there's many ways you can define
22 communities of interest, in fact, in your
23 deposition you said there's countless ways to
24 define communities of interest, did you not?

25 A. I don't recall exactly.

↑

198

1 Q. Okay. Do you agree today, that
2 there are countless ways to define communities of
3 interest?

4 A. Yes, but I used one.

5 MR. FARR:

6 All right. Can we turn to

7 Exhibit 129, page 4, please?

8 TRIAL TECH:

9 (Complied.)

10 MR. FARR:

11 And could you expand the map?

12 TRIAL TECH:

13 (Complied.)

14 BY MR. FARR:

15 Q. So, Dr. Colten, I think you've
16 testified about this map. Is it fair to say that
17 the shaded areas on this map were the areas that
18 you focused on in your report?

19 A. I'm sorry.

20 Q. The areas that are shaded in this
21 map are the areas you focused on in your report?

22 A. Yes.

23 Q. Those are the regions you looked at?

24 A. Those are the sections that I say I
25 looked at, yes.

↑

199

1 Q. And the areas that are in white, you
2 did not look at those areas for communities of

3 interest?

4 A. I did do a review of them at some
5 early stage, but not for communities of interest.

6 Q. Okay. And you didn't include
7 anything on the report about the communities of
8 interest in the areas of this map that are shaded
9 white?

10 A. Other than East Baton Rouge Parish.

11 Q. Okay. So you did not assess the
12 historical community interests for the entire
13 State of Louisiana?

14 A. That's correct.

15 Q. All right. Now, Dr. Colten I think
16 we agree there's 39 Senate districts in the
17 Senate plan; is that correct?

18 A. 39 Senate districts yes, I agree
19 with that.

20 Q. And in your report, you only
21 criticize two of the enacted Senate districts; is
22 that right?

23 A. I'd have to go back and look. I
24 don't remember that number.

25 MR. FARR:

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1 Can we pull up Dr. Colten's
2 deposition, please, page 38.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. FARR:

6 Q. Okay. Could you look at the
7 question beginning on line 10 and the way you
8 answered that question and does that refresh your
9 memory about whether you had only criticized two
10 of the enacted Senate districts?

11 A. What was the question -- what was
12 the question in reference to? It was to one of
13 my reports.

14 Q. I'm asking you in your report you
15 only criticize two -- two of the enacted Senate
16 districts?

17 A. In the supplemental I mention two, I
18 comment on one, two, three, four in the rebuttal,
19 so I've looked -- I commented explicitly on more
20 than two.

21 Q. All right. Well, let's turn to your
22 deposition page 38 line 10. I'm going to read
23 the question. You can read the answer. Okay.
24 So in the Senate plan it's my understanding that
25 there are 39 -- 30 to 39 Senate districts in

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201

1 Louisiana, and is it fair to say that you
2 criticized two of those districts. Could you
3 read your answer, please?

4 A. Of those I looked at yes, I didn't
5 look at all of them and you asked if fair to say
6 let's see. You --

7 Q. That's fine, Dr. Colten?

8 A. You asked if I criticized two of
9 those, not only two of those as you asked me just
10 now.

11 Q. Okay. But in your deposition you
12 said in your report you only criticized two
13 Senate districts.

14 MS. KEENAN:

15 Objection. That mischaracterizes
16 the witness's testimony. He answered the
17 question, but he never said he criticized
18 only two in the deposition. You can see
19 on the screen.

20 THE COURT:

21 The word "only" is not contained in
22 that deposition. I'll sustain the
23 objection. I get your point.

24 BY MR. FARR:

25 Q. Okay. Dr. Colten, in -- in your

202

1 study in had your report, you only criticize 7 of
2 the 105 enacted house districts; is that correct?

3 A. I don't recall right off the top of
4 my head. I'm sorry.

5 MR. FARR:

6 Okay. Can we turn to his deposition
7 again, page 46?

8 TRIAL TECH:

9 (Complied.)

10 MR. FARR:

11 Can we turn to page 45, please?

12 TRIAL TECH:

13 (Complied.)

14 BY MR. FARR:

15 Q. Right. Dr. Colten, I'm going to
16 start asking questions on page 45 and 46 and I'd
17 like you to give the answer that you gave in your
18 deposition. So on page 45, line 21, I asked am I
19 correct there's 105 house districts in Louisiana
20 legislature?

21 A. I responded, I don't do -- I hadn't

22 looked at that full list here today and I don't
23 recall right off the top of my head so I don't
24 know the number.

25 Q. All right. No problem. I have to

203

1 look -- look at -- look it up myself all the
2 time, but however many there are, you only
3 criticized six enacted districts; is that fair to
4 say your answer?

5 A. Of those I looked at, at which were
6 within the limited districts, those limited
7 regions.

8 Q. Okay. You only looked at six of
9 them; is that correct?

10 A. I respond, I think there's one, two,
11 three, four, five, six, seven I looked at more.

12 Q. But you only commented on seven?

13 A. That's correct.

14 Q. Okay. Now, the sections or regions
15 that you chose to study in your report, were
16 chosen by you in consultation with counsel for
17 the plaintiffs; is that correct?

18 A. Where are you quoting from?

19 Q. Well, I just am asking you; is that

20 correct? I'll go to your deposition if you don't
21 remember?

22 A. Would you repeat the question. I'm
23 sorry. I'm having a hard time hearing you.

24 Q. All right. The sections you chose
25 to study in your report, were chosen by you in

204

1 consultation with counsel for the plaintiffs?

2 THE COURT:

3 It's more of a statement than a
4 question. I think he's asking is that
5 correct.

6 THE WITNESS:

7 If he's asking if that's correct,
8 that's correct.

9 Q. Okay. And the sections you decided
10 to study encompassed the district in Mr. Cooper's
11 illustrative map; is that correct?

12 A. I'm sorry.

13 Q. The sections you decided to study
14 encompass the districts in Mr. Cooper's
15 illustrative map?

16 A. Well, they included districts in the
17 illustrative maps.

18 Q. Okay. And isn't it correct that you
19 looked at the communities within the regions
20 identified by plaintiff's counsel?

21 A. Yes.

22 Q. And would you also agree that an
23 expert can define regions different ways
24 depending on his purpose?

25 A. Yes. And I responded to that at the

205

1 request of counsel for what areas to study.

2 Q. Right. But I just -- yesterday you
3 can define regions that an -- an expert wants to
4 study depending upon the purpose; is that a yes
5 or no?

6 A. There are many ways to define
7 regions. I chose to fall within the guidance of
8 counsel and so there are many ways to do that.

9 MR. FARR:

10 Okay. Could you turn to
11 Dr. Colten's deposition page 32.

12 TRIAL TECH:

13 (Complied.)

14 BY MR. FARR:

15 Q. So I'm going to read the question,

16 Dr. Colten, and I want you to answer what you
17 answered in your deposition so in other words,
18 people can define communities of interest in
19 different ways.

20 MS. KEENAN:

21 Your Honor, I'm going to object at
22 this point. I'm not sure if this reading
23 from the deposition is intended at
24 impeachment, but to the -- if it is the
25 question that Mr. Farr is inferring, is

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1 not the question he asked Mr. Colten and
2 so I'm impeachment.

3 MR. FARR:

4 Then yes, I'm asking this as
5 background question.

6 THE COURT:

7 Is it the same question that you
8 asked the witness if not the impeachment
9 is really been a bit of a tore tore and
10 border or improper. Is it the same
11 question that you asked the question?

12 MR. FARR:

13 It will be the same yes, Your Honor,

14 when we go to the next page.

15 THE COURT:

16 All right. I'll overrule the
17 objection.

18 BY MR. FARR:

19 Q. Now, in other words, people can
20 define communities of interest in different ways,
21 is that your answer?

22 A. I respond in community interest in
23 the regions we are talking about are very
24 different.

25 MR. FARR:

↑

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1 Okay. Can people define regions.

2 Go to the next page, please.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. FARR:

6 Q. In different ways than you've done
7 in this expert report.

8 MS. KEENAN:

9 I'm going to object again,
10 Your Honor. If you look at the answer
11 that Dr. Colten provided, it's not

12 consistent with anything he said here
13 today because it's an improper impeachment
14 of the witness.

15 THE COURT:

16 It's been asked and answered. He
17 conceded in approximate probably the third
18 or fourth answer to your questions,
19 Mr. Farr, that there are different --
20 different defines for communities of
21 interest. Ask your next question, please?

22 MR. FARR:

23 Okay. But, Your Honor, we are
24 getting to the next question, if you let
25 me.

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1 THE COURT:

2 Ask your next question.

3 MR. FARR:

4 Okay. Can I go back to the -- the
5 previous page, please?

6 TRIAL TECH:

7 (Complied.)

8 MS. KEENAN:

9 Your Honor, I don't think he can

10 just read from the previous page, it's not
11 a question that he's asked the witness.
12 That's not how impeachment works.

13 MR. FARR:

14 Okay. I'll start over.

15 THE COURT:

16 Okay. The objection is sustained.

17 Impeachment is ask him the question, if he
18 denies the question consistent with his
19 deposition then you can confront him with
20 his deposition.

21 MR. FARR:

22 Thank you, Your Honor.

23 BY MR. FARR:

24 Q. Would you agree, Dr. Colten, that an
25 expert can define regions in different ways

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1 depending upon their purpose?

2 MS. KEENAN:

3 Your Honor, I'm going to object
4 asked and answered.

5 MR. FARR:

6 He did not answer that question,
7 Your Honor.

8 THE WITNESS:

9 I'm sorry. Are you reading from the
10 deposition again?

11 MR. FARR:

12 No. I'm asking the question again.

13 THE COURT:

14 I'm sorry. I have to rule on the
15 objection. The objection is overruled.
16 Ask your question again.

17 BY MR. FARR:

18 Q. Dr. Colten, would you agree that an
19 expert can define regions in different ways
20 depending on their purpose?

21 A. Yes. And I chose to follow the
22 guidance of counsel as I was assigned to study.

23 Q. Do you agree that you could define
24 the regions differently if you had a different
25 purpose?

↑

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1 A. As I've said yes, but I chose to
2 follow the guidance, the assignment that I was
3 given.

4 Q. Okay. Now, I think you said before,
5 Dr. Colten, that you never talked to Mr. Cooper?

6 A. I'm sorry.

7 Q. Before today, you've never talked
8 with Mr. Cooper?

9 A. That's correct.

10 Q. And I think you you said today,
11 you've never drawn a congressional or
12 redistricting map?

13 A. That's correct.

14 Q. And it's true that you've never used
15 a software program that Mr. Cooper used to draw
16 his illustrative plans?

17 MS. KEENAN:

18 Objection. Your Honor, we are
19 outside the scope of direct. Again, he
20 was never tendered as an expert in any of
21 these areas and did not testify about
22 drawing maps for the purposes of this
23 case.

24 THE COURT:

25 He's not a cart graph unless you

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1 have some reason for the relevance of that
2 question, it's denied.

3 MS. KEENAN:



4 Well, Your Honor, he's giving
5 explanations for why Mr. Cooper drew this
6 map and I believe I'm entitled to ask him
7 some background on what knowledge he has
8 of how Mr. Cooper drew this map and what
9 was -- was available to him.

10 MR. FARR:

11 May I respond, Your Honor.

12 THE COURT:

13 You may.

14 MR. FARR:

15 He's not done that. He's not
16 offered any testimony about what
17 Mr. Cooper was doing as an expert in
18 historical geography. He's talked about
19 communities that exist in the State of
20 Louisiana and the states he looked at and
21 about how those correlate to the various
22 issues in this case. He has never talked
23 about MR. Cooper's intent or moves.

24 THE COURT:

25 Sustained.

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1 BY MR. FARR:

2 Q. You've no personal knowledge of the
3 reasons why Mr. Cooper drew his map?

4 A. I'm sorry.

5 Q. You do not have any personal
6 knowledge of the reasons why Mr. Cooper drew his
7 map?

8 A. Only what I could infer from reading
9 his report.

10 Q. You made an attempt to determine
11 whether the enacted plan better satisfies the
12 communities of interest that you've identified in
13 some areas of the state than Mr. Cooper's plan?

14 A. That was not an objective of mine.

15 Q. And you were not asked to identify
16 the communities of interest in the state before
17 you agreed on the regions of plaintiff's counsel?

18 A. I'm sorry.

19 Q. You were not asked to define what
20 you thought were the communities of interest in
21 the entire State of Louisiana before you agreed
22 on the regions that you would study with
23 plaintiff's counsel?

24 A. That's correct.

25 MR. FARR:



1 No further questions, Your Honor.

2 THE COURT:

3 You tender? I'm sorry, sir. What
4 did you say? You tender the witness?

5 MR. FARR:

6 Yes, ma'am.

7 THE COURT:

8 Any redirect?

9 MS. KEENAN:

10 No further questions, Your Honor.

11 THE COURT:

12 You may step down, sir. Okay. This
13 is a good time for a short break. We will
14 be in recess until 3:00 o'clock.

15 THE BAILIFF:

16 All rise. Court is in recess.

17 (A short recess was taken at 2:41 p.m.)

18 THE BAILIFF:

19 All rise.

20 THE COURT:

21 Okay. Be seated. Call your next
22 witness.

23 John John.

24 Your Honor, next, the plaintiffs

25 call Dr. Blakeslee Gulpin.

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1 [!WITNESSNAME],
2 after having first been duly sworn by the
3 above-mentioned Court Reporter did testify as
4 follows:

5 THE CLERK:

6 Would you please state your name and
7 spell it for the record?

8 THE WITNESS:

9 It's Robert Blakeslee Gilpin. You
10 want me to spell the whole thing?

11 R-O-B-E-R-T, B-L-A-K-E-S-L-E-E,

12 G-I-L-P-I-N.

13 EXAMINATION BY MS. THOMAS:

14 Q. Judge, before we start I'd like --
15 if there's no objection, I'd just like to
16 speaker his report and CV for the record?

17 THE CLERK:

18 Could you state your name for the
19 record?

20 MR. ADCOCK:

21 I'm sorry. It's John Adcock on
22 behalf of the plaintiffs. I'd like to

23 move into the record what is Dr. Gilpin's
24 report and CV.
25 /SKWRAO.

↑

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1 No objection, Your Honor, and no
2 objection to Dr. Gilpin's qualifications.

3 THE COURT:

4 Okay. Plaintiff's Exhibit 124 is
5 admitted.

6 BY MR. ADCOCK:

7 Q. I'm going to skip over your
8 qualifications what you do for a living, Doctor.
9 We are going to go right to the heart of the
10 matter. Now, you wrote a report in this case,
11 correct?

12 A. I did.

13 Q. And what were you asked to do in
14 that report?

15 A. I was asked to look at the history
16 of racial discrimination particularly as it
17 related to voter disenfranchisement in the State of
18 Louisiana.

19 Q. And what sources did you use, did
20 you reference in drafting that report?

21 A. I used a pretty wide variety of
22 sources from primary historical documents to
23 historians writing about this long history of
24 racial discrimination and voter disfranchise as
25 well as court cases and court decisions.

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1 Q. Now, is that consistent with
2 generally how historians, the kind of sources
3 historians would look at in analyzing this kind
4 of data?

5 A. Yep. Totally in keeping with that.

6 Q. Now, what were your basic
7 conclusions in your report?

8 A. I -- again, I think it's hard for
9 any historian who studied the history of
10 Louisiana to come away with any other impression
11 than it is an overwhelming history of
12 discrimination against black people, once blacks
13 gained citizenship after the civil war against
14 black citizens and also the sort of overwhelming
15 and deliberate efforts to prevent them from
16 participating in the political process.

17 Q. Now, on without going too far back,
18 how did this discrimination against black voters

19 manifest itself after the civil war in Louisiana?

20 A. Well, most immediately after the
21 civil war, Louisiana law makers began to do what
22 many states in the former confederacy did was to
23 write black codes which were basically designed
24 to put black citizens back into a state of quasi
25 slavery, but following that especially following

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1 the package of the 14th and 15th amendments,
2 there was a pretty long period of quite explicit
3 political terror and violence remained directly
4 at black voters in order to prevent them from
5 participating in the political process and that
6 lasted approximately 20 years, 20 to 30 years.

7 Q. 20 to 30 years up until when we are
8 talking?

9 A. The late 1890s is when that period
10 of violence changed pretty dramatically and
11 switched over to a much more formal and legal
12 mechanism to prevent blacks from voting.

13 Q. Now, what was the story of voter
14 registration for black folks in Louisiana post
15 civil war up to 1900?

16 A. Well, Louisiana is actually one the

17 most celebrated states during reconstruction for
18 achieving such incredible heights of black voter
19 registration, so the peculiar of that
20 registration was actually in 1898 when it reached
21 45 percent of the black population which is
22 pretty unprecedented in other regions in the
23 south and that was really more than anything else
24 as a signal to white Louisiana is they had to
25 come up with new ways as move agriculture cannon

↑

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1 in a polling place and murder and terrorism to
2 something legally that was going to prevent
3 blacks from participating in the voting process.

4 Q. And so what are you referring to
5 these kind of?

6 A. So the most dispersed tack tack that
7 was struck upon was this thing called the
8 grandfather clause which was in -- in keeping
9 many of the themes that would come up over the
10 next century or more fairly ingenious ways to
11 legally prevent blacks from voting in this case,
12 the grandfather case was if your grandmother had
13 not been a voter in Louisiana, you could not be a
14 voter in Louisiana. That was a logically

15 possibility for black voters because their
16 grandmothers had been enslaved and so this was a
17 way to obliterate black voters in Louisiana to,
18 so 45 went to 5 percent or under 5 percent in two
19 years and down to 1 percent by 1900, so we are
20 talking about just absolutely evacuation of black
21 voters from the polls in the State of Louisiana.

22 Q. Was the grandfather clause the only
23 kind of electric mechanism in your view to
24 restrict the ability of registration of blacks to
25 vote around that time?

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1 A. As soon as -- as soon as method
2 began to fail, white Louisianians would come up
3 with a replacement and many historians have
4 written about this sort of, it's almost like
5 whackable. Once the grandfather clause was
6 granted illegal. Then it would be screams by
7 white Louisiana by blacks registering to vote
8 literacy became very common property requirements
9 these are on the heels of grandfather clause.
10 They are all a manner of strategies used by white
11 Louisianians to prohibit blacks from voting.

12 Q. And could you explain to the court

13 what a poll tax is?

14 A. That's simply requiring a citizen to
15 pay money when they are trying to register to
16 vote.

17 Q. And when generally was a poll tax
18 used in Louisiana, if any?

19 A. Oh, at election time.

20 Q. No. I know, but what years are we
21 talking about?

22 A. What period. We are talking about
23 basically, basically beginning in 1900, that is a
24 scheme that began to be used.

25 Q. Got you. And you write in your

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1 report about the kind of jelly bean test. Can
2 you explain what that is?

3 A. Yeah. I mean, that's a phrase
4 that's used to sort of refer to all of the
5 different schemes that were struck upon by white
6 Louisianians basically in the post 1898 period,
7 so they could be reduced and sometimes were used
8 as simple as having a jar of jelly beans next to
9 the white registrar of voter and they'd ask the
10 perspective black voter whether they could tell

11 them how many jelly beans were in the jar and
12 obviously, this was a task that most likely had
13 no answer and certainly could not be
14 independently verified, but it was a way to
15 prevent blacks from registering to vote.

16 Q. And these were tests usually used
17 against black folk understand not white folks, is
18 that what we are talking about?

19 A. Yes,, very selective and obviously
20 discriminatory.

21 Q. Got you. Can you tell the court
22 what an all white primary is and when it was in
23 effect if you know?

24 A. So the all white primary was first
25 used in the '40s and this was sort of as civil

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1 rights agitation began to sort of become a part
2 of American life and the all white primaries were
3 just again another scheme used especially in the
4 electoral situations to prevent blacks from
5 advancing black preferred candidates or
6 candidates of color.

7 Q. And what about -- can you explain
8 what a single shot voting is?

9 A. Single shot voting is used in multi
10 member elections where before there were an
11 single shot laws, minority citizens would try to
12 sort of aggregate their votes behind a single
13 candidate and instead, they were told to vote.
14 They had to vote for every candidate being run in
15 the election which meant that black candidates or
16 black preferred candidates were never being
17 elected that was the -- the and the means was ant
18 single shot voting.

19 Q. So let me understand this. So
20 you've got maybe four candidates for three
21 positions on the parish council in Union Parish?

22 A. Yep.

23 Q. And people want to use one vote and
24 not use their other two votes?

25 A. Yes.

222

1 Q. And they made that illegal, correct?

2 A. Exactly. So if you did vote for
3 just a single candidate, your vote would not be
4 -- it would be invalidated in that election.

5 Q. Got you.

6 A. And why would that

7 disproportionately prevent black folks from
8 obtaining office.

9 A. Well, this was a sort of I would
10 call it a means of resistance of trying to elect
11 candidates of their preference. The law was
12 written in order to make sure that that was not
13 possible.

14 Q. Uh-huh (affirmatively). Now, you
15 said that black voters were about 5 percent of
16 the electric vote in Louisiana in 1948. When the
17 Voting Rights Act was passed, what percentage of
18 the electric vote were they in 1965, do you know?

19 A. I'm not sure. I think it's in my
20 report, but I don't recall off the top of my
21 head.

22 Q. If I said 31 percent, does that
23 sound about right?

24 A. Yeah, that sounds accurate.

25 Q. In your opinion, what are the

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1 important aspects the voting right acts and how
2 it relates to the narrative of discrimination
3 voting in Louisiana?

4 A. Well, the Voting Rights Act quite

5 simply is a reaffirmation of promises made much
6 earlier in American history to preserve all
7 citizens equal opportunity to participate in the
8 democratic process. One of the sort of core
9 active properties of the voters rights act is to
10 alert people when that is not proceeding as it
11 should and by it should, the goal of Voting
12 Rights Act the goal of American democracy is many
13 of our citizens to participate as possible so
14 when there are efforts such as the ones we have
15 talked about in the last couple of minutes to
16 make sure that certain people were not able to
17 vote, those are things that are violating not
18 only the principles of American democracy, but
19 specifically the tenants of the Voting Rights
20 Act. So I mean, I often compare it to a check
21 engine light on democracy which is that it's
22 alerting people at least preclearance as it
23 existed when the Voting Rights Act was written to
24 something that's going -- onto something that's
25 amiss with that practice of democracy.

↑

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1 Q. And the preclearance retirement.
2 I'm sure the court knows that's where you have to

3 submit a voting change to the Department of
4 Justice, is that what you are referring to?

5 A. Yes.

6 Q. Okay. Now, what Voting Rights Act
7 violations do you speak is of in your report post
8 1965 in terms of objection letters or anything
9 like that?

10 A. Well, there are so many of them,
11 it's hard to single out just a single type even.
12 But I would say that the basic patterns that were
13 in place before the Voting Rights Act was passed
14 are very much present after it is in -- enforced.
15 Which is mainly at large voting, packing and
16 cracking of districts, basically all manner of
17 devices when one fails another one is put in
18 place to try and prevent especially black
19 Louisianians from participating in -- in the
20 Democrat process.

21 Q. Thank you. You also thought it was
22 important in your report to spend quite a bit of
23 time on Major Vidrine the case there. Can you
24 explain why that's significant to the court?

25 A. It's probably the most significant

↑

1 case in the history of Louisiana that
2 demonstrates the importance of preclearance.
3 Because Louisiana voters would likely never have
4 been made aware of the offenses and violations of
5 the Voting Rights Act were it not for
6 preclearance. What that case revealed it was a
7 redistricting case I mean, pardon my language
8 here, but the man in charge of redistricting said
9 we -- we already have a knicker mayor we don't
10 need any more knicker big shots so it was quite
11 explicitly concocted as a scheme to prevent
12 blacks from voting. And the -- the resulting
13 redistricting after the violation was discovered
14 was the first black member of Congress elected in
15 the State of Louisiana since 1870, so that if you
16 want to sort of understand the progress that the
17 VRA represented to this state Treen, is probably
18 the most glaring example of that progress, but
19 also of the sort of doing resistance to the
20 changes that the VRA was proposing.

21 Q. When you said the man in charge of
22 redistricting this was around 1981, was that in
23 the state legislature?

24 A. Yes, that was in the state
25 legislature.

↑

226

1 Q. Okay. Now, I want to move on more
2 into the present day.

3 What are -- can you give the court
4 an overview here, what are recent examples of
5 discrimination with regard to voting in Louisiana
6 that comes to mind?

7 A. I mean, at large, voting is ringing
8 a huge problem post '82 so we are just talking
9 post Treen. Most recently voter requirements
10 closing the polling places, in many ways, post
11 2013 is a very different landscape because
12 preclearance is no longer a part of this at least
13 of what we can know. But the practices that are
14 still in place and are most closely resemble the
15 things that were taking place before 2013 so the
16 same schemes to prevent black Louisianians's from
17 voting are being attempted over and over again.

18 Q. That's what I was going to ask you.
19 So just overall why is history important?

20 A. Oh, I see.

21 Q. In terms of understanding, but how
22 does it relate to present day practices?

23 A. Yeah. I mean, I think that there's

24 obviously many famous sayings of those that
25 ignore history tend to repeat it, but I think the

↑

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1 more specific reason why we look at things like
2 the long tree of racial discrimination and voter
3 /TK*PL in the State of Louisiana is to see what
4 were the patterns, what were the practices that
5 people were using, are those ends as in is the
6 goal of disenfranchising black voters still out
7 there without the check engine light of
8 preclearance without being made aware of this
9 through this mechanism, does it mean that our
10 engine is running fine. I would say that the
11 evidence is quite to the contrary that Louisiana
12 it still has an engine that is occasionally
13 malfunctioning and the purpose of that is to try
14 to remedy it and extend the privilege of voting
15 to as many of our citizens as we can.

16 MR. ADCOCK:

17 That's all I have for now, judge.

18 THE COURT:

19 Cross.

20 /SKWRAO.

21 Thank you, Your Honor.

22 CROSS-EXAMINATION BY FARR:

23 Q. Hi, Dr. Gilpin, how are you?

24 A. How are you?

25 Q. Good to see you in person. Sorry I

228

1 couldn't do your deposition in person. I much
2 prefer being with you here today. In your
3 report, and I think you just testified about the
4 Treen case?

5 A. Uh-huh (affirmatively).

6 Q. Does your report have any other
7 examples of court decisions where acts of the
8 legislature have been found to be discriminatory
9 since 1982?

10 A. I can't think of any.

11 Q. Okay. And as far as the legislature
12 is concerned, the legislature has not used
13 multimember districts since 1982?

14 A. As far as I'm aware, that sounds
15 accurate.

16 Q. Okay. So as far as legislative
17 districts, the legislature is not guilty of using
18 unusually large districts?

19 A. I don't believe so.

20 Q. And because they don't have
21 multimember districts, there's no ant single shot
22 law that's applied to elections for legislature?

23 A. No, I don't believe so.

24 Q. And does the Democrat party or the
25 Republican party in Louisiana have what's known

229

1 as candidate slating that essentially makes it
2 impossible for an African-American to receive a
3 nomination for their party for legislative race?

4 A. This is definitely not an area that
5 I'm an expert in so I can't comment to that.

6 THE ATTORNEY:

7 Okay. All right. Can we turn to
8 secretary of state Exhibit 35.

9 TRIAL TECH:

10 (Complied.)

11 THE COURT:

12 Is it already in evidence?

13 /SKWRAO.

14 It is, ma'am.

15 THE COURT:

16 Okay. Go ahead.

17 /SKWRAO.



18 I couldn't remember. Has it been
19 admitted? Okay. Thanks.

20 THE ATTORNEY:

21 Q. All right. Dr. Gilpin, are you
22 familiar with secretary of state Exhibit 35?

23 A. Yes, I am.

24 Q. And you cite that in your report?

25 A. I do.

230

1 Q. And is it fair to say that this is a
2 report by a majority of the commissioners who
3 serve on the Louisiana advisory committee on
4 civil rights?

5 A. That was my understanding, yes.

6 Q. So it's not a unanimous opinion,
7 right?

8 A. I think we went over this in
9 deposition, I'm not total -- I'm not sure.

10 Q. Okay. In your report, did you
11 identify any decisions where a court has found
12 discrimination in the location of polling places?

13 A. I don't believe so.

14 Q. And have you -- in your report, did
15 you cite any cases where a court has found that

16 Louisiana's laws in early voting discriminate
17 against black voters?

18 A. I don't believe so.

19 Q. And did you report, cite any cases
20 polling the legislature guilty of discrimination
21 on largely related to the voting accessibility?

22 A. Well, I think the Delta when you are
23 getting to the legislature, what it didn't do as
24 much as what it did do.

25 Q. Okay. Well, that's a fair point,

231

1 but my question is: Are there any court
2 decisions hold an act of a legislature as being
3 discriminatory on voting accessibility issues?

4 A. I don't believe so.

5 Q. And is there ever been a decision by

6 --

7 THE REPORTER:

8 I'm sorry. I didn't get his answer.

9 THE WITNESS:

10 I don't believe so.

11 THE ATTORNEY:

12 Q. Has there ever been a decision by
13 the court finding that the voter law has been

14 discriminatory?

15 A. I don't believe so.

16 Q. Has there ever been a decision by a
17 court finding since 1982, I won't /TKEUS /#350U9
18 your history which is compelling of things in the
19 past, but since 1982, has any court made a
20 decision that Louisiana's registration laws
21 discriminate against blacks?

22 A. After 19 -- you are drawing a firm
23 line in '82?

24 Q. Yes, sir.

25 A. I don't believe so.

↑

232

1 Q. In your report, Dr. Gilpin, you
2 testified about Louisiana acts 636; do you
3 remember that?

4 A. Uh-huh (affirmatively).

5 Q. Could you tell the court what that
6 act was all about?

7 A. I remember it, but I don't remember
8 exactly what it was.

9 Q. Let me see if I can refresh your
10 memory.

11 A. Okay.

12 Q. Did that law allow those who had not
13 incarcerated for the previous five years to
14 regain their right to vote regardless of their
15 provision of parole status?

16 A. Yes. Yes. That's correct.

17 Q. And would you agree that that law
18 disproportionately benefited black voters because
19 the incarceration rates in Louisiana?

20 A. That was the intended benefit, yeah.

21 THE ATTORNEY:

22 No further questions, Your Honor.

23 THE COURT:

24 Any redirect?

25 MR. ADCOCK:

↑

233

1 Just a few, judge.

2 BY MR. ADCOCK:

3 Q. Now, counsel asked you whether you
4 discuss any cases in your report that find
5 discrimination in certain scenarios. Do you
6 remember that?

7 A. Yes, I do.

8 Q. Now, when -- you are forming a
9 narrative about what happened in history, do

10 historians only look at court cases?

11 A. No. And I mean, I think that's one
12 of the main problems with the lines that are
13 being drawn here not only in regards to time, but
14 also in regards to what entity is involved with
15 what offense. One, I think the more glaring
16 lessons from the history of Louisiana is not just
17 that the legislature has not been found guilty of
18 doing something, but that it has not been found
19 guilty of doing something positive or doing
20 something to remedy these situations. The
21 evidence in my report I think is overwhelming to
22 anyone of how persistent and dogged the efforts
23 of this disenfranchised voting hack that is not
24 consistent from '82, it is something consistent
25 up to present day the question for the

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1 legislature is why they aren't doing things to
2 out law these practices no matter where they
3 arise if it's in Bossier City city council or if
4 it's in a school district on the Westbank, it
5 doesn't matter where we are talking about. It's
6 the fact that these practices persist is really a
7 sort of horrible thing that the VRA is really

8 designed to alert Louisianians to not in a
9 punitive context that's what the check engine
10 light is for, it's your engine you got to repair
11 it. If you don't, your democracy is going to
12 fall apart.

13 MR. ADCOCK: All right. No more
14 questions, judge.

15 THE COURT:

16 Okay. You may step down,
17 Dr. Gilpin. You have another witness?
18 Next witness.

19 MR. ADCOCK:

20 Do we have a problem? Do we have a
21 witness?

22 Her her.

23 No we have a witness, she's in the
24 bathroom.

25 THE COURT:

235

1 Call your next witness, please.

2 MR. ADCOCK:

3 I just wanted to address two
4 evidentiary things really quick. We have
5 a the witness here if I can do that really

6 quick judge I apologize.

7 THE COURT:

8 What are they?

9 /STPHAO.

10 I entered in the report PX 124. I
11 want to also enter in PX 125 which is
12 Dr. Gilpin's CV. It is in part in the,
13 but that's the objection.

14 /SKWRAO.

15 No objection, Your Honor.

16 THE COURT:

17 All right. 125 is admitted.

18 /STPHAO.

19 And if I -- Your Honor, I'm sorry
20 about this, but I think that I know that
21 opposing counsel stipulated that the
22 experts qualifications, I don't know if I
23 tendered him as an expert in Louisiana
24 history.

25 THE COURT:

↑

236

1 You did not.

2 /STPHAO.

3 Okay. I'd like to tender him now

4 based on the testimony and the evidence in
5 the record and his report and the
6 stipulation.

7 THE COURT:

8 Mr. Farr?

9 MR. FARR:

10 We agree.

11 THE COURT:

12 If your opposing counsel wasn't so
13 professional, you would have had a problem

14 MR. ADCOCK:

15 Thank you, judge.

16 THE COURT:

17 Dr. Gilpin is a recognized expert in
18 Louisiana history and the court recognizes
19 him as such as well.

20 MS. THOMAS:

21 Hello, Your Honor. Alora Thomas for
22 the plaintiffs and we will be calling
23 Mr. Bill Cooper.

24 [!WITNESSNAME],

25 WITNESS ADDRESS, ^ WITNESS CITY, LOUISIANA

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1 WITNESS ZIP, after having first been duly sworn

2 by the above-mentioned Court Reporter did testify
3 as follows:

4 /STPHAO.

5 Your Honor, may I approach the
6 witness I have a couple binders for him

7 THE COURT:

8 As long as the opposing counsel has
9 seen them, yes.

10 MS. THOMAS:

11 Yes. I gave them to opposing
12 counsel.

13 /SKWRAO.

14 Yes, Your Honor, we have a copy.

15 MS. THOMAS:

16 And I have a copy for the court if
17 the court is interested.

18 THE COURT:

19 Well, if you are going to refer to
20 his reports and maps, I have them.

21 MS. THOMAS:

22 We will be referring to his reports
23 and maps. I know that the witness likes
24 to have paper copies. There are also a
25 number of exhibits attached to his reports



1 which are in the binders we will be using
2 the screen also, but --

3 THE COURT:

4 I mean, give them -- certainly give
5 them to Mr. Cooper to assist him in his
6 opinion testimony and obviously, I don't
7 have a binder as fat as yours so maybe I
8 don't have everything, but I've got his
9 reports and the maps that are attached to
10 his reports.

11 MS. THOMAS:

12 Thank you, Your Honor. So at the
13 outset with the practice of today, we
14 would like to move in Exhibit 20 through
15 88 which are Mr. Cooper's corrected report
16 and the attached exhibits there to.
17 /SKWRAO.

18 No objection, Your Honor.

19 THE COURT:

20 Plaintiffs Exhibits 20 through 88
21 are admitted.

22 MS. THOMAS:

23 And then in addition to those 89
24 through 115, which are Mr. Cooper's

25 rebuttal reports and exhibits there to.

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1 THE COURT:

2 Is there any objection?

3 /SKWRAO.

4 No objection, Your Honor.

5 THE COURT:

6 Admitted.

7 MS. THOMAS:

8 Thank you, Your Honor.

9 EXAMINATION BY MS. THOMAS:

10 Q. Good afternoon, Mr. Cooper. Could
11 you please introduce yourself to the court?

12 A. Good afternoon. My name is William
13 S. Cooper.

14 Q. And what is your profession?

15 A. I provide consulting services
16 relating to GIS mapping and analysis of census
17 data to various organizations around the country.
18 The bulk of my work is actually related to
19 redistricting, but I do some other smaller
20 projects mainly for non-profits here and there.
21 I occasionally also work for local governments
22 with respect to redistricting.

23 Q. And can you briefly describe your
24 educational background?

25 A. I have a B A in economics from

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1 Davison College in North Carolina.

2 Q. And can you -- sorry. Please strike
3 that.

4 Have you testified as an expert
5 witness in the past?

6 A. Yes. I believe I have testified in
7 about 55 cases at trial and roughly the same --
8 in the same number, 55 or so, by way of
9 deposition or declaration and probably 95 percent
10 of all those cases have related to redistricting
11 and the vast majority of those another 95 percent
12 of the 95 percent have been Section 2 cases.

13 Q. And have any of your cases involved
14 state redistricting plans?

15 A. Yes. I've testified I believe in
16 nine cases or seven cases at trial involving
17 state redistricting and another two by way of
18 deposition or declaration.

19 Q. And have any of your cases involved
20 Louisiana?

21 A. Yes. Not state level redistricting
22 other than the congressional redistricting. I
23 testified in -- I believe it was May of 2022, in
24 Baton Rouge on the congressional plan. The other
25 times I've testified in federal court in

241

1 Louisiana have related to local election plans,
2 once for I think the first case that I testified
3 at federal court here in Baton Rouge involved the
4 city of St. Francisville in West Feliciana
5 Parish. I also testified in a lawsuit involving
6 the 30 second judicial district in Terrebonne
7 Parish in 2017 I believe, also in federal court
8 here in Baton Rouge. In other instances, I've
9 provided declarations and or depositions going
10 back into the early '90s on Section 5 matters as
11 well as a Section 2 case or so. Those -- that
12 testimony has always been deposition not by --
13 not at trial.

14 Q. And have any of the cases you've
15 worked on in Louisiana happened outside of the
16 voting context?

17 A. That is true. I have testified in
18 federal court as recently as August on a school

19 desegregation case in St. Martin Parish. That
20 was actually the third time I've testified in
21 that case and I believe it's now been resolved.
22 I testified in that case in 2021 and again in
23 2022 at trial. That's the only other school
24 desegregation case in Louisiana that I testified
25 in. I have provided a declaration in another

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1 one.

2 Q. And what areas of the state has your
3 work involved?

4 A. Well, frankly, I've been involved in
5 almost every region of the state. In the early
6 '90s, in the Section 5 matters, I testified in or
7 rather was involved in casing and visited the
8 parishes of West Carroll, East Carroll, Madison,
9 Tensas and then a little bit later in the early
10 '90s, I testified in cases involving Iberville,
11 Pointe Coupee and a couple of other parishes. I
12 think in both instances I was deposed by the
13 former attorney general Buddy Caldwell in Monroe,
14 Louisiana. I have mentioned St. Francisville
15 which of course, was trial testimony. I provided
16 assistance on a Section 5 letter to the DOJ that

17 was put together by attorneys at the southern
18 regional office of the OCLU in the early 2010s
19 involving the city of Lake Charles. And those
20 would have been -- oh, and I was also involved in
21 Bossier Parish and actually testified that was
22 the Bossier Parish school board case that went to
23 supreme court and I did testify in that case, but
24 that was at the U.S. district court in
25 Washington, D.C. around 1994, so --

↑

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1 Q. And you testified earlier that you
2 have testified in Section 2 cases, correct?

3 A. Yes.

4 Q. And what is the nature of your
5 testimony in Section 2 cases in the past?

6 A. It's almost always related to I
7 think always related to testifying with respect
8 to the /SKWRAOUFTS one inquiry preventing an
9 illustrative plan and I've always been recognized
10 or by the court as an expert in redistricting in
11 demographics because I always include
12 demographics with my declarations including not
13 just basic census demographics, but also
14 socioeconomic statistics that relate to

15 Section 5.

16 Q. And since the start of this most
17 current redistricting cycle in 2020, how many
18 cases have you served as an expert witness?

19 A. Eight. I think in my declaration
20 I've listed seven, but since my declaration and
21 even rebuttal declaration was filed in August, I
22 have testified in another one in Galveston
23 county, Texas in the early part of August also.

24 Q. And does one of those cases include
25 the Alabama case known as Merrell V medical began

244

1 that recently went to supreme court?

2 A. Yes. That was a case I testified in
3 in January of 2022.

4 Q. And are you aware of the outcome of
5 the case?

6 A. Yes. The plaintiffs prevailed in
7 that case. That case also went to the supreme
8 court and my work in that case was reviewed and
9 cited favorably by the supreme court.

10 THE COURT:

11 By the chief justice.

12 THE WITNESS:

13 Exactly.

14 MS. THOMAS:

15 Thank you, Your Honor.

16 BY MS. THOMAS:

17 Q. So if we could briefly take a look
18 at exhibit Plaintiff Exhibit 21, which I believe
19 is your CV?

20 A. Yes.

21 Q. And Do you have a copy in front of
22 you?

23 A. Yes.

24 Q. And this is a true and accurate
25 representation of your CV?

↑

245

1 A. Yes. As it relates to the date of
2 May 31, 2023.

3 Q. Have there been changes since that
4 date?

5 A. Well, yes. I -- I did testify in
6 federal court as I mentioned in Galveston county.
7 In fact, the judge in the Galveston county case
8 led off the quote from me in his opinion that's
9 probably never happened before and probably never
10 will again, and as I mentioned the St. Martin

11 parish school board case was also a case that
12 transpired in I think July of 2023, and I file
13 declarations in our cases. I don't know whether
14 I can speak to those or not, but I filed a
15 declaration in a DeSoto Parish redistricting case
16 and I have not been deposed in that case, but
17 that's another Louisiana locality I've been
18 involved in in recent six.

19 MS. THOMAS:

20 If we could turn to page 7 of
21 Plaintiff Exhibit 21 and then if we could
22 highlight the section called Louisiana and
23 it should be on your screen now,
24 Mr. Cooper.

25 TRIAL TECH:

246

1 (Complied.)

2 BY MS. THOMAS:

3 Q. Is this an example of some of your
4 work in Louisiana?

5 A. Yes. Those are the five cases where
6 I've actually testified at trial.

7 Q. Thank you. At this time,
8 plaintiff's would like to tender Mr. Cooper as an

9 expert in demographics and redistricting and
10 census data?

11 THE COURT:

12 Any objection?

13 /SKWRAO.

14 No objection, Your Honor.

15 THE COURT:

16 No cross on the tender?

17 /SKWRAO.

18 No, Your Honor.

19 THE COURT:

20 All right. Mr. Cooper will be
21 accepted to give testimony in demographics
22 census data and redistricting.

23 BY MS. THOMAS:

24 Q. Mr. Cooper, when were you retained
25 by plaintiffs?

↑

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1 A. Well, I was initially retained as
2 part of a multi state letter of engagement from
3 the ACLU in the early winter, January, maybe of
4 2020 right before the pandemic broke out.

5 Q. And when did you actually begin
6 working on this case?

7 A. Specifically working with 2020
8 census data in late February of 2022.

9 Q. And what were you asked to do when
10 you were began your work?

11 A. I was asked to investigate the
12 January one inquiry whether or not it would be
13 possible to create one or more additional House
14 or Senate seats in the Louisiana legislature
15 above and beyond those districts that would have
16 been in the final enacted plan.

17 Q. And how did you approach answering
18 this question?

19 A. I obtained the census data from the
20 census bureau's website the PL 9471 file I also
21 purchased and utilized a data file that is
22 produced by the caliber corporation the makers of
23 Mapitude for redistricting which is a software I
24 use and then obtained what I thought was the
25 enacted version of the state house and state

↑

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1 Senate plan in early March of 2022 subsequent to
2 that I learned that I actually only had a
3 committee plan and so I did have to make some
4 adjustments to my declaration further down the

5 road to take into account that a little miss cue.
6 So I was basically relying on data from the --
7 from the legislature and data from the census
8 bureau and the cap per corporations Mapitude for
9 redistricting software and I also apart from that
10 all that sort of related to 2020 census I looked
11 at social you economic data based on the 2015,
12 2019 American community survey that I had
13 obtained in December of 2021.

14 Q. So just pausing on the socioeconomic
15 data, did you end up using the socioeconomic data
16 that you purchased -- that you collected?

17 A. Yes. I used that socioeconomic data
18 to gain a better understanding a little more
19 insight into some of the localities where I was
20 considering whether or not it might be possible
21 to draw an additional majority, minority
22 district.

23 Q. And in what format did you have the
24 socioeconomic data?

25 A. Well, it was originally downloaded

↑

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1 from the census bureau website for the American
2 community survey. I was in a comma format. I

3 took that and uploaded it into Microsoft access
4 and then produced a series of charts and tables
5 comparing contrasting the socioeconomic status of
6 African-Americans and Latinos and non Hispanic
7 whites at the parish and municipal level and
8 place level not incorporated places across the
9 state, so I basically did all the parishes and
10 all the municipalities all the places that were
11 black as memory serves I believe we did look at
12 East Carroll Parish in my previous appearance in
13 this court in the congressional plan and that was
14 the same set of charts that I would be relying
15 upon in this case.

16 Q. And did you turn over this data to
17 the defense expert when you submitted your
18 reports?

19 A. Yes.

20 MS. THOMAS:

21 Okay. If we could pull up Plaintiff
22 Exhibit 20 and I'd like to go to page 23,
23 paragraph 51.

24 TRIAL TECH:

25 (Complied.)



1 BY MS. THOMAS:

2 Q. Did you also identify this data in
3 your report?

4 A. Yes. You can still down load all of
5 that information at that link. I understand that
6 maybe some websites government related websites
7 may not allow you to download that due to
8 blockage, but you can -- you can get it off your
9 cell phone probably.

10 MS. THOMAS:

11 If we could pull up now what has
12 been marked plaintiff's Exhibit 163.

13 TRIAL TECH:

14 (Complied.)

15 MS. THOMAS:

16 And if we could just scroll through
17 the first couple of pages.

18 TRIAL TECH:

19 (Complied.)

20 BY MS. THOMAS:

21 Q. This is part of what is a very long
22 exhibit of over 4,000 pages which we have broken
23 into two to be uploaded into the court system and
24 previously exchanged with counsel. Is this a
25 depiction of the socioeconomic data that you had?



1 A. Yes. It's each municipality or each
2 parish any way would have about 64 pages of
3 charts and tables some of the municipalities due
4 to popular begin issues may not have all of the
5 data issued, but for the most part, these should
6 run 50 to 60 pages one set of charts and the
7 corresponding table reflected in the charts.

8 THE COURT:

9 Counsel, I'm sorry. What was the
10 exhibit number was it 164?

11 MS. THOMAS:

12 Is 163, Your Honor.

13 THE COURT:

14 163, thank you.

15 BY MS. THOMAS:

16 Q. And so the record is clear, if you
17 click so the link in your report you would be
18 taken to the site with this information, correct?

19 A. With that information except instead
20 of having one big file several thousand pages you
21 go click on the parish and get the number and get
22 the report for that parish or that municipality
23 without having a thousand page to go through

24 although, I think you could probably just do it
25 by find and search on doe bee and get to it as

↑

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1 well.

2 MS. THOMAS:

3 At this point, plaintiff's would
4 like to move in 163. I know defense
5 counsel in the past had an objection.

6 THE COURT:

7 Counsel?

8 /SKWRAO.

9 I thought we already moved it in as
10 part of all the other exhibits, so no
11 objection.

12 MS. THOMAS:

13 Just so the record is clear, this is
14 not an exhibit to his report this is the
15 data that he used.

16 THE COURT:

17 What she moved previously was
18 Plaintiff's 20 through 88 and 89 through
19 115 and this is like she said, not an
20 exhibit to his report.

21 /SKWRAO.

22 I apologize, Your Honor. I thought
23 this was one of the exemplars it is an
24 exhibit to his report. No objection.

25 THE COURT:

253

1 Okay. P 163 is admitted.

2 Suzie.

3 Exhibits 163 A and B, is that right?

4 MS. THOMAS:

5 Yes, Your Honor. We would like to
6 move into 163 A and B which is how it's
7 been uploaded to the court's system.

8 THE COURT:

9 So ordered.

10 BY MS. THOMAS:

11 Q. Now, going back to the work that you
12 consulted as part of your work in this case, did
13 you look at any prior legislative plans in
14 Louisiana?

15 A. I did look at to a certain extent.
16 I looked at the 2011 bench mark plan and of
17 course, the prior plans being the enacted plans
18 so I certainly looked at the enacted plans as of
19 the 2020 redistricting cycle. I did have access

20 to earlier congressional plans, but I don't
21 recall actually looking at state legislative
22 plans that predated the 2011 benchmark plan.

23 Q. And after you looked at this data,
24 did you come to a conclusion about the original
25 question you were asked about jingles one?

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1 A. Yes. Unquestionably an additional
2 majority black districts can be created in
3 Louisiana at least three new Senate districts and
4 at least six new house districts there would be,
5 you know, various ways they could be constructed.
6 Just simply an illustrative plan it is not
7 submitted as an a proposed remedial plan.

8 Q. And did you record your opinion in a
9 report?

10 A. Yes.

11 MS. THOMAS:

12 If we could pull up Plaintiff

13 Exhibit 20.

14 TRIAL TECH:

15 (Complied.)

16 BY MS. THOMAS:

17 Q. And you have it before you also

18 Mr. Cooper. Is this a true and accurate copy of
19 your report?

20 A. Yes.

21 Q. Did you file any previous versions
22 of this report?

23 A. Yes. I filed a version of this
24 report in 2022 which had the Ron us lines for the
25 enrolled house and enrolled Senate a most

↑

255

1 unfortunate oversight on my part. The
2 differences are really quite minor and the
3 defendants spent an un Godly amount of time
4 comparing and contrasting the actual plan with
5 2022. I don't understand their point there, but
6 in any event yes, this is the update that is the
7 final report and it incorporates the actual 2023
8 House and Senate plans.

9 Q. And did you file a final corrected
10 version in September of this year?

11 A. Yes. I made it to correct one
12 figure that mistakenly I left in from my earlier
13 report because I did make some minor changes to
14 the illustrative plan in '23 versus the
15 illustrative plan I presented in 2022.

16 Q. And you've appended exhibits to
17 Plaintiff Exhibit 20. What was the purpose of
18 these exhibits?

19 A. The exhibits just show the maps in
20 more detail or additional demographic
21 information. There are also a number of
22 automated reports from the Mapitude software that
23 would include plan metrics such as compactness
24 municipal politicals identification of which
25 counties are -- or which districts are in which

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256

1 parishes, so those are those are listed in my
2 declaration by the exhibit number in my -- in my
3 declaration so it won't actually deliver you to
4 the right tab on the exhibit book. I used an
5 alphabetical alignment of exhibits so my
6 alphabetical alignment of exhibits goes from A to
7 -- A to Z and maybe beyond.

8 Q. Did you also submit a rebuttal
9 report in this case?

10 A. Yes, I did. There were a number of
11 misstatements, miss accuracies, astonishing flaws
12 in the reports filed by the three experts in this
13 -- in this the litigation so I did file a

14 rebuttal.

15 Q. Now, by three experts you mean you
16 looked at three of the defense experts; is that
17 correct?

18 A. Yes.

19 Q. And do you recall which expert
20 reports you?

21 A. Yes.

22 Q. Reviewed?

23 A. Yes. Dr. Murray, Mr. Trendy and
24 Dr. Johnson.

25 Q. Did you review the reports of any

↑

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1 other defense experts?

2 A. I don't think so.

3 MS. THOMAS:

4 And if we could pull up Plaintiff

5 Exhibit 89.

6 TRIAL TECH:

7 (Complied.)

8 BY MS. THOMAS:

9 Q. And if I do could take a look at the
10 exhibit that you have before you, 89 it should be
11 in your second binder.

12 A. Oh.

13 Q. In Volume II.

14 A. Okay. I am now at Exhibit 89.

15 Q. Is this a true and accurate copy of
16 your rebuttal report?

17 A. Yes.

18 Q. You also appended exhibits to your
19 rebuttal report. What were those exhibits?

20 A. Again, many of the exhibits attached
21 to my rebuttal report mirror the same exhibits
22 that I -- that I had with my initial report, but
23 examined some of the issues raised by the
24 defendants's experts so I have got a more
25 extensive report on measures of compactness for

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1 the adopted enrolled plans as well as for the
2 illustrative plans instead of just looking at two
3 or three compactness scores I looked at all 12
4 that are available from Mapitude for
5 redistricting. I looked at splits of
6 municipalities, some of that was discussed by the
7 experts splits of planning districts, splits of
8 -- of metropolitan fiscal areas so you know, it's
9 basically an extension of my initial report with

10 more detail directly contradicting some of the
11 misstatements and inaccuracies in the -- the
12 experts for the defendants. There's one section
13 here that's like it's a hundred pages of -- of a
14 split report responding to a misunderstanding or
15 misstatement of fact from Dr. Murray, and also I
16 think may address something that doctor Johnson
17 questioned which is the extent to which census
18 block roads are split in the illustrative plans
19 and I actually fewer census block groups are
20 split in the illustrative plans than in the
21 enacted plans.

22 Q. And after reviewing all the
23 materials in your rebuttal report, did any of
24 your initial conclusions change?

25 A. Absolutely not.

↑

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1 Q. Your Honor, I can move onto my next
2 section or we could take a break I know we are
3 nearing the end of the day?

4 THE COURT:

5 How much direct exam do you have?

6 MS. THOMAS:

7 At least an hour maybe 90 minutes.

8 THE COURT:

9 Okay. We will take a break for the
10 day. We had agreed on a nine to four
11 schedule so everybody to get some suitable
12 rest for commencing the following day so
13 we will be in recess until 9:00 a.m.

14 Thank you, I'm sorry to hold you over, but
15 -- that's the way it is.

16 THE BAILIFF:

17 All rise. The court is in recess.

18 (The trial was concluded at 3:59 p.m. until
19 tomorrow.)

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1 REPORTER'S PAGE

2 I, CHERIE' E. WHITE, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(B)

6 of the Louisiana Code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the record;

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talkovers; that same is the
13 proper method for the court reporter's
14 transcription of a proceeding, and that dashes
15 (--) do not indicate that words or phrases have
16 been left out of this transcript; also, that any
17 words and/or names which could not be verified
18 through reference material have been denoted with
19 the phrase "(spelled phonetically)."

20

21

22 CHERIE' E. WHITE, CCR (LA NO. 96002)

23 CSR (TX NO 10720)

24 CSR (MS NO. 1514)

25 RPR (NATIONAL NO. 839452)

↑

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1 REPORTER'S CERTIFICATE

2

3 This certification is valid only for a

4 transcript accompanied by my original signature
5 and original seal on this page.

6 I, CHERIE' E. WHITE, Certified Court
7 Reporter, in and for the State of Louisiana, do
8 hereby certify that this trial as hereinbefore
9 set forth in the foregoing ___ pages; that this
10 testimony was reported by me in the stenotype
11 reporting method, was prepared and transcribed by
12 me or under my personal direction and
13 supervision, and is a true and correct transcript
14 to the best of my ability and understanding; that
15 I am not related to counsel or the parties
16 herein, nor am I otherwise interested in the
17 outcome of this matter.

18

19

20 CHERIE' E. WHITE, CCR (LA NO. 96002)

21 CSR (TX NO. 10720)

22 CSR (MS NO. 1514)

23 RPR (NATIONAL NO. 839452)

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Attachment 3A

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL * CIVIL ACTION
*
VERSUS * NO. 3:22-178-SDD
*
KYLE ARDOIN, ET AL * NOVEMBER 29, 2023
*
* * * * * * * * * * * * * * * MORNING SESSION

DAY 2
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
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WILLIAM S. COOPER

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(NOVEMBER 29, 2023)

(CALL TO THE ORDER OF COURT)

THE COURT: GOOD MORNING.

BE SEATED.

OKAY. I BELIEVE MR. COOPER WAS ON THE STAND.

MR. STRACH: YOUR HONOR, MAY I ADDRESS THE COURT?

THE COURT: YES, MR. STRACH, YOU MAY.

MR. STRACH: I JUST WANTED TO GIVE THE COURT A HEADS-UP UPDATE ABOUT ADMINISTRATIVE/TIMING ISSUE.

THE COURT: OKAY.

MR. STRACH: SO WE WERE INFORMED YESTERDAY AFTERNOON THAT THE PLAINTIFFS WOULD PROBABLY WRAP UP THEIR CASE EARLY THIS AFTERNOON, I GUESS. FRANKLY, WE WERE THINKING IT WOULD BE THURSDAY AFTERNOON. SO WE'VE BEEN SCRAMBLING AROUND, SCROUNGING UP OUR WITNESSES. WE'VE BEEN ABLE TO SECURE PRESIDENT CORTEZ FOR THIS AFTERNOON. WE'VE GOT A COUPLE OF WITNESSES ON THE WEST COAST THAT WE'VE ASKED TO GO AHEAD AND JUMP ON A PLANE AND GET OUT HERE SO WE CAN PUT THEM UP THIS WEEK INSTEAD OF NEXT WEEK, BUT THAT DOESN'T MEAN WE MIGHT NOT COME UP SHORT A COUPLE OF AFTERNOONS THIS WEEK, JUST BECAUSE WE ARE TRYING TO ROUND UP ALL OF OUR WITNESSES, SOME OF WHOM COULD ONLY TESTIFY TILL NEXT WEEK.

THE BOTTOM LINE, WE CERTAINLY WON'T GO PAST WEDNESDAY. I THINK EVEN IF WE COME UP SHORT WITH SOME WITNESSES A FEW AFTERNOONS THIS WEEK, I DON'T THINK OUR CASE

09:03 1 WILL EVEN GO PAST MONDAY. SO I DON'T THINK WE ARE GOING TO --
2 I DON'T THINK IT'S GOING TO IMPINGE ON ANY TIME THE COURT'S
3 ALREADY SET ASIDE, BUT I WANTED TO GIVE YOU THE HEADS-UP THAT
4 WE ARE DOING THE BEST WE CAN.

5 **THE COURT:** OKAY.

6 **MR. STRACH:** AND WE'RE GOING TO TRY TO --

7 **THE COURT:** ALL RIGHT. IF THIS WERE A JURY TRIAL,
8 I'D PROBABLY LOSE MY MIND RIGHT NOW, BUT IT'S NOT. AND SO WE
9 ARE NOT IMPOSING ON CITIZENS TO WAIT AROUND WHILE WITNESSES
10 COME IN. SO WE WILL JUST DO -- DO THE BEST YOU CAN. I'M SURE
11 YOU ARE DOING THE BEST YOU CAN, AND WE WILL MOVE STEADILY, AS
12 STEADILY AS WE CAN.

13 **MR. STRACH:** OKAY. THANK YOU, JUDGE. IT APPRECIATE
14 IT.

15 **THE COURT:** ALL RIGHT. THANK YOU FOR THE
16 INFORMATION.

17 ANYTHING FROM THE PLAINTIFFS?

18 **MS. KEENAN:** NO. I THINK WE CAN SORT IT OUT OUTSIDE
19 OF COURT. WE JUST -- WE WOULD APPRECIATE -- WE HAVE RECEIVED
20 NO NOTICE ABOUT THE WITNESSES WHO ARE HOPPING ON A PLANE. WE
21 DON'T KNOW ANYTHING ABOUT WHICH WITNESSES MAY OR MAY NOT BE
22 PRESENTED TODAY, OTHER THAN PRESIDENT CORTEZ. SO IF THERE ARE
23 FOLKS WHO MAY BE COMING IN AS EARLY AS TODAY, WE WOULD
24 APPRECIATE THE SAME NOTICE THAT WE HAVE EXTENDED TO DEFENDANTS
25 ABOUT WHICH WITNESSES WILL BE TESTIFYING THE NEXT DAY.

09:04 1 BUT, OF COURSE, WE CAN -- THIS IS ATTORNEY BACK AND FORTH. WE
2 DON'T NEED TO ADDRESS IT WITH THE COURT.

3 **THE COURT:** AND, MR. STRACH, I MEAN, I AM -- THEY
4 HAVE BEEN VERY FORTHCOMING. LOOK, I UNDERSTAND THAT ORDER OF
5 TESTIMONY AND ALL THAT IS WORK PRODUCT. YEAH, YEAH, YEAH, GOT
6 IT.

7 **MR. STRACH:** YES.

8 **THE COURT:** THEY HAVE BEEN VERY FORTHCOMING WITH THE
9 ORDER OF THEIR WITNESSES TO ALLOW YOU-ALL TO PREP, AND I WOULD
10 EXPECT THAT YOU WOULD DO THE SAME.

11 **MR. STRACH:** WE ARE CERTAINLY GOING TO DO THAT.

12 **THE COURT:** ALL RIGHT.

13 **MR. STRACH:** PRESIDENT CORTEZ IS ALL WE ARE GOING TO
14 HAVE THIS AFTERNOON.

15 **THE COURT:** OKAY.

16 **MR. STRACH:** AND THEN THIS EVENING, WE WILL NOTIFY
17 THEM ABOUT THE ORDER FOR TOMORROW.

18 **THE COURT:** ALL RIGHT. THANK YOU.

19 OKAY. MR. COOPER MAY RESUME THE WITNESS STAND.

20 MS. THOMAS, YOU MAY RESUME YOUR EXAMINATION.

21 **MS. THOMAS:** JUST BEFORE WE START WITH MR. COOPER --
22 MY WATER WAS CONFISCATED ON THE WAY IN. IF SOMEONE COULD BRING
23 MR. COOPER A WATER. I THINK WE ARE TRYING TO GET WATER IN,
24 AND WHEN IT IS IN THE COURTHOUSE, IF I'M ALLOWED TO JUST
25 APPROACH AND GIVE IT TO HIM.

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THE COURT: YES.

MS. THOMAS: OH, HERE WE GO.

THE COURT: THANK YOU.

MS. THOMAS: THANK YOU.

THE COURT: ALL RIGHT.

MS. THOMAS: MAY I APPROACH?

THE COURT: YOU MAY.

MS. THOMAS: THANK YOU.

THE COURT: YOU'RE WELCOME.

WHAT WERE YOU TRYING TO CARRY IN YOUR WATER THAT
GOT IT CONFISCATED?

MS. THOMAS: IT WAS JUST -- THEY WERE OPEN. I DON'T
KNOW. THIS WAS THE FIRST TIME.

THE COURT: OH, I MEAN, IT'S LIKE TSA, MAN. YOU
CAN'T BRING IN OPEN WATER BOTTLES.

MS. THOMAS: I'M SORRY, YOUR HONOR.

THE COURT: IT'S THE FEDERAL GOVERNMENT.

MS. THOMAS: THERE WAS A CLOSED ONE. BUT I HAD AN
OPEN ONE, AND BOTH WERE CONFISCATED ON MY WAY IN.

THE COURT: OKAY. CARRY ON.

WILLIAM S. COOPER

10:32 1

WILLIAM S. COOPER,

2 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION CONTINUED

4 BY MS. THOMAS:

5 Q. GOOD MORNING, MR. COOPER.

6 A. GOOD MORNING.

7 Q. SO I'D LIKE TO ASK YOU A COUPLE OF QUESTIONS. ARE YOU
8 FAMILIAR WITH A TERM "BLOCK EQUIVALENCY FILE"?

9 A. YES. I USE BLOCK EQUIVALENCY FILES FREQUENTLY.

10 Q. AND WHAT IS A BLOCK EQUIVALENCY FILE?

11 A. IT'S JUST A FILE EXPORTED FROM GIS SOFTWARE, AND IT
12 REFLECTS THE BLOCK LEVEL CONFIGURATION OF A REDISTRICTING PLAN,
13 OR SOME OTHER KIND OF DISTRICT, NOT NECESSARILY A REDISTRICTING
14 DISTRICT, A SCHOOL ZONE OR SOMETHING OF THAT NATURE.

15 Q. AND WHAT HAPPENS WHEN YOU UPLOAD A BLOCK EQUIVALENCY FILE
16 INTO A GIS SOFTWARE?

17 A. YOU CAN GET AN IMMEDIATE VIEW OF THE VOTING PLAN IN
18 QUESTION.

19 Q. DID YOU CREATE BLOCK EQUIVALENCY FILES FOR YOUR
20 ILLUSTRATIVE MAPS HERE?

21 A. I DID. AND THEY WERE GIVEN TO THE DEFENDANTS.

22 Q. OKAY. DID YOU CREATE A BLOCK EQUIVALENCY FILE FOR THE
23 ILLUSTRATIVE SENATE PLAN?

24 A. YES.

25 Q. IF WE COULD PULL UP WHAT HAS BEEN MARKED AS PLAINTIFF

WILLIAM S. COOPER

09:07 1 EXHIBIT 116.

2 THE COURT: AND HAS THAT BEEN PREADMITTED? I AM NOT
3 LOOKING BACK AT MY NOTES.

4 MS. THOMAS: THAT HAS NOT BEEN PREADMITTED.

5 THE COURT: OKAY.

6 MS. THOMAS: I AM ADMITTING IT NOW.

7 BY MS. THOMAS:

8 Q. DO YOU RECOGNIZE THIS FILE?

9 A. YES. TO ACTUALLY SEE THE BLOCK NUMBER IN ITS CORRECT
10 FORMAT, YOU HAVE TO LOAD THAT UP AS A COMMA-SEPARATED VALUE
11 TEXT FILE. YOU CAN DO THAT FROM WITHIN EXCEL SO YOU DON'T GET
12 THE EXPONENTIALS THERE.

13 Q. OKAY. BUT IS THIS HOW THE FILE IS DOWNLOADED INTO EXCEL?

14 A. YEAH.

15 MS. THOMAS: AT THIS POINT WE'D LIKE TO MOVE IN
16 PLAINTIFFS' EXHIBIT 116.

17 MR. TUCKER: NO OBJECTION.

18 THE COURT: ADMITTED.

19 BY MS. THOMAS:

20 Q. DID YOU ALSO CREATE A BLOCK EQUIVALENCY FILE FOR YOUR
21 ILLUSTRATIVE HOUSE PLAN?

22 A. YES.

23 Q. IF WE COULD PULL UP PLAINTIFF EXHIBIT 117.

24 A. YES. AND YOU CAN SEE THAT'S THE HOUSE PLAN BECAUSE
25 THERE'S A DISTRICT 46 THERE.

WILLIAM S. COOPER

09:08 1 Q. OKAY.

2 MS. THOMAS: AT THIS POINT WE WOULD ALSO LIKE TO MOVE
3 IN PLAINTIFF EXHIBIT 117.

4 MR. TUCKER: NO OBJECTION.

5 THE COURT: ADMITTED.

6 BY MS. THOMAS:

7 Q. NOW, WHEN WORKING ON THE MAPS THAT ARE REPRESENTED IN THE
8 TWO BLOCK EQUIVALENCY FILES THAT WE'VE JUST ENTERED, DID YOU
9 RECEIVE ANY FEEDBACK FROM THE OTHER EXPERTS IN THIS CASE
10 THROUGH COUNSEL?

11 A. I DID GET SOME FEEDBACK DURING THE TIME I WAS WORKING ON
12 THE FINAL 2023 ILLUSTRATIVE PLAN, OR MAYBE JUST PRIOR TO IT.
13 I'D DONE AN EARLIER PLAN IN 2022. AND SO MINOR MODIFICATIONS
14 WERE MADE AS A RESULT OF SOME DISCUSSIONS WITH THE PLAINTIFFS'
15 ATTORNEYS.

16 Q. OKAY. AND DID YOU HAVE AN UNDERSTANDING OF WHICH EXPERTS
17 WERE PROVIDING FEEDBACK?

18 A. YES.

19 Q. AND WHO WERE THOSE EXPERTS?

20 A. I BELIEVE THE ONLY EXPERT THAT ACTUALLY CHIMED IN ON THIS
21 WAS DR. COLTEN, WHO IS A RESIDENT OF LOUISIANA, AND OBVIOUSLY
22 KNOWS THE STATE QUITE WELL, GIVEN HIS PRESENTATION YESTERDAY.

23 Q. DO YOU RECALL WHETHER YOU RECEIVED ANY FEEDBACK FROM ANY
24 OTHER EXPERTS ABOUT THE PERFORMANCE OF YOUR DISTRICTS?

25 A. IN TERMS OF THE PERFORMANCE OF THE DISTRICTS, I DID HAVE

WILLIAM S. COOPER

09:09 1 SOME COMMUNICATION FROM YOU THAT IT WOULD BE PREFERABLE TO MAKE
2 MINOR CHANGES TO A COUPLE OF HOUSE DISTRICTS IN EAST BATON
3 ROUGE.

4 Q. DID YOU RECEIVE ANY FEEDBACK THROUGH COUNSEL FROM THE
5 PLAINTIFFS IN THIS CASE?

6 A. I DID, AGAIN, THROUGH YOU.

7 Q. GOING TO THE MAPS THAT YOU DREW, IF WE COULD PULL UP WHAT
8 IS PLAINTIFFS' EXHIBIT 20, FIGURE 1 ON PAGE 9.

9 A. YES.

10 Q. SO STARTING -- I BELIEVE YOU TESTIFIED YESTERDAY THAT YOU
11 STARTED WITH THE CENSUS DATA. WHAT DOES THIS FIGURE SHOW US?

12 A. WELL, THIS FIGURE JUST SHOWS YOU THE TOTAL POPULATION OF
13 LOUISIANA ACCORDING TO THE 2000 TO 2010 AND 2020 DECENNIAL
14 CENSUSES. AND IT'S BROKEN OUT WITH TOTAL POPULATION, AND THEN
15 BY RACE AND ETHNICITY -- OR AT LEAST SOME OF THE ETHNICITIES
16 ALL THE WAY DOWN THE CHART.

17 Q. AND WHAT DOES THIS CHART TELL US ABOUT WHAT HAPPENED TO
18 THE POPULATION FROM 2020 [SIC] TO 2010 TO 2020?

19 A. WELL, YOU CAN SEE THAT THE STATE HAS INCREASED A LITTLE
20 BIT IN POPULATION IN TERMS OF TOTAL POPULATION. AND YOU CAN
21 ALSO SEE IF YOU GO DOWN TO THE BOTTOM ROW, THE "ANY PART BLACK"
22 CATEGORY, YOU CAN SEE THAT IT TOO HAS INCREASED IN TOTAL
23 POPULATION AS WELL AS A SLIGHT INCREASE IN THE PERCENTAGE ANY
24 PART BLACK FROM 32.86 PERCENT IN 2000 TO 33.13 PERCENT IN 2020,
25 A SLIGHT INCREASE.

WILLIAM S. COOPER

09:11 1 THE BIG CHANGES WERE THAT THE NON-HISPANIC WHITE
2 POPULATION, WHICH WAS ALMOST 2.8 MILLION IN 2000 HAS NOW FALLEN
3 TO ABOUT 2.6 MILLION IN 2020. SO UNDER THE 2000 CENSUS, THE
4 NON-HISPANIC WHITE POPULATION MADE UP ABOUT 62.5 PERCENT OF THE
5 TOTAL POPULATION IN THE STATE AND THAT HAS NOW DROPPED TO
6 ROUGHLY 55.8 PERCENT. I'M ROUNDING. THOSE ARE ACTUALLY
7 CARRIED OUT TO THE HUNDREDTH POINT IN THE CHART ITSELF.

8 Q. AND IF I COULD ASK YOU, WHY DID YOU USE THE "ANY PART
9 BLACK" MEASURE?

10 A. BECAUSE THAT IS THE ACCEPTED STANDARD NOW IN SECTION 2
11 CASES WHEN EXAMINING THE RACIAL COMPOSITION OF A STATE OR A
12 DISTRICT. THAT GOES BACK TO *ASHCROFT V. GEORGIA* IN I THINK
13 2002, A SUPREME COURT RULING.

14 Q. I WOULD NOW LIKE TO TURN TO PAGE 17, FIGURE 7 OF THE SAME
15 EXHIBIT.

16 WHAT DOES THIS FIGURE SHOW US?

17 A. OKAY. THIS IS A SIMILAR TABLE THAT BREAKS OUT THE
18 POPULATION CHANGES AT THE REGIONAL LEVEL IN LOUISIANA SINCE
19 2000 WHERE THERE'S BEEN A LOT MORE CHANGE IN DYNAMIC
20 REPERCUSSIONS, DEPENDING UPON WHICH PART OF THE STATE YOU'RE
21 IN. YOU CAN SEE THAT TO A LARGE DEGREE, ALL OF THESE
22 METROPOLITAN STATISTICAL AREAS, MSAS, WHICH ARE DEFINED BY THE
23 CENSUS BUREAU AND THE OFFICE OF MANAGEMENT AND BUDGET, HAVE
24 SHOWN A SIGNIFICANT POPULATION GROWTH SINCE THE YEAR OF 2000,
25 WITH THE EXCEPTION OF NEW ORLEANS, AND THAT IS IN MANY WAYS A

WILLIAM S. COOPER

09:13 1 REFLECTION OF HURRICANE KATRINA, BECAUSE THERE WAS A BIG DROP
2 IN THE POPULATION BETWEEN 2000 AND 2010. IT'S COMING BACK A
3 BIT. THE NEW ORLEANS MSA DID GAIN SOME POPULATION BETWEEN 2010
4 AND 2020. BUT STILL, SINCE THE YEAR 2000, THE POPULATION LOSS
5 HAS BEEN ALMOST 5 PERCENT OR ABOUT 66,000 PEOPLE.

6 ELSEWHERE THERE'S BEEN BIG GROWTH. THERE WAS A BIG
7 CHANGE IN BATON ROUGE. IT'S GROWN BY 141,000 PERSONS, A
8 20 PERCENT GROWTH OVER THAT 20-YEAR PERIOD.

9 OTHER AREAS HAVE ALSO GROWN QUITE A BIT, INCLUDING
10 PLACES LIKE HAMMOND AND ALSO LAFAYETTE, ALMOST 15 PERCENT.

11 Q. AND WHY DID YOU BREAK THE CENSUS DATA DOWN BY METROPOLITAN
12 AREA?

13 A. WELL, IT WAS CLEAR TO ME WHEN I STARTED WORKING ON THIS
14 CASE AND THE CONGRESSIONAL CASE -- AND I HAD ACTUALLY LOOKED AT
15 SOME DATA FROM AN EARLIER CONGRESSIONAL CASE THAT WAS DISMISSED
16 IN LATE 2019, I THINK. I'D SEEN THAT THERE WERE BIG CHANGES AT
17 THE REGIONAL LEVEL, AND THAT TELLS ME THAT MAYBE BECAUSE OF
18 THESE CHANGES, PERHAPS THERE WOULD BE AN OPPORTUNITY TO CREATE
19 SOME ADDITIONAL MAJORITY-BLACK HOUSE OR SENATE DISTRICTS. SO I
20 HAD THIS AT MY SIDE AS I WAS BEGINNING TO WORK ON THE POTENTIAL
21 ILLUSTRATIVE HOUSE AND SENATE PLANS.

22 Q. IF WE COULD TURN NOW TO PAGE 18, FIGURE 8 IN THE SAME
23 EXHIBIT.

24 A. YES. THIS SHOWS THE BLACK POPULATION CHANGE IN THE STATE
25 AT THE MSA LEVEL. AND HERE AGAIN, YOU CAN SEE THAT THERE'S

WILLIAM S. COOPER

09:15 1 BEEN CONSISTENT GROWTH EVERYWHERE EXCEPT IN NEW ORLEANS AND THE
2 RURAL AREAS OF THE STATE. AND THE BATON ROUGE AREA HAS SEEN A
3 25 PERCENT INCREASE IN BLACK POPULATION. IN ABSOLUTE TERMS,
4 ALMOST 64,000 PEOPLE. SO JUST ALONE, THE BLACK POPULATION
5 GROWTH IN THE BATON ROUGE MSA WOULD AMOUNT TO ALMOST TWO HOUSE
6 DISTRICTS. AND THERE'S BEEN A SIGNIFICANT GROWTH IN LAFAYETTE
7 AND IN LAKE CHARLES IN PERCENTAGE TERMS ANY WAY. AND ALSO EVEN
8 IN SHREVEPORT WHERE THE WHITE POPULATION HAS FALLEN. WE'LL SEE
9 THAT ON THE NEXT CHART.

10 BUT WITH RESPECT TO THE BLACK POPULATION, IT'S UP BY
11 11.4 PERCENT OR ALMOST 17,000 PERSONS.

12 Q. IF WE COULD NOW TURN TO PAGE 20, FIGURE 10.

13 A. YES. HERE YOU SEE ALMOST ALL RED. THIS SHOWS THE
14 POPULATION CHANGE FOR THE WHITE POPULATION IN THE STATE OVER
15 THAT 20-YEAR PERIOD. AND ASIDE FROM HAMMOND, WHICH IS ACTUALLY
16 TANGIPAHOA PARISH BASICALLY, AND MAYBE ANOTHER ONE, THERE'S
17 BEEN POPULATION LOSS. IT'S BEEN FAIRLY STABLE, OF COURSE, IN
18 LAFAYETTE, BUT ELSEWHERE IT'S DROPPED IN EVERY SINGLE -- IN
19 EVERY SINGLE MSA AND EVEN IN THE RURAL AREAS.

20 AND I DO NOTE ON THIS CHART -- BECAUSE THIS GETS KIND
21 OF CONFUSING, THAT THE CENSUS BUREAU MADE A -- KIND OF A FAIRLY
22 SIGNIFICANT MISTAKE IN THE WAY THEY COUNTED PEOPLE IN WEST
23 FELICIANA PARISH. THEY IDENTIFIED ALL OF THE PRISONERS AT
24 ANGOLA INSTEAD OF -- WELL, THEY IDENTIFIED -- THEY MISMATCHED
25 BLACKS AND WHITES AT THE ANGOLA FACILITY. SO THAT INSTEAD OF

WILLIAM S. COOPER

09:17 1 CALLING OR COUNTING ROUGHLY 4,000 OF THOSE WHO ARE IMPRISONED
2 AT ANGOLA -- THERE ARE 5,000 IMPRISONED AS BLACK, THEY WERE
3 COUNTED AS WHITE, AND THAT CENSUS ERROR HASN'T BEEN CORRECTED.
4 SO THIS PARTICULAR CHART I'M SHOWING AN INCREASE OF 13,240
5 PERSONS IN BATON ROUGE PARISH THAT ARE WHITE. BUT IF YOU
6 DISCOUNT FOR THIS ERROR, THEN THE ACTUAL POPULATION INCREASE
7 THAT IS WHITE IN THE BATON ROUGE MSA IS 9,240 PERSONS. SO IT'S
8 A -- THE OFFICIAL COUNT IS ACTUALLY OVERCOUNTING THE WHITE
9 POPULATION IN THE BATON ROUGE MSA.

10 AND THE BATON ROUGE MSA IS RATHER LARGE
11 GEOGRAPHICALLY, AND DOES EXTEND OUT INTO -- EVEN ALMOST INTO
12 PARTS OF ACADIANA.

13 Q. OKAY. STICKING WITH THIS FIGURE, WHAT HAPPENED TO THE
14 WHITE POPULATION IN NEW ORLEANS?

15 A. THE WHITE POPULATION IN NEW ORLEANS FELL BY ALMOST 117,000
16 PERSONS OR ROUGHLY 6 PERCENT.

17 Q. AND IF WE COULD GO BACK TO FIGURE 8 ON PAGE 18.

18 HOW DOES WHAT HAPPENED TO THE WHITE POPULATION IN NEW
19 ORLEANS COMPARE TO WHAT HAPPENED TO THE BLACK POPULATION IN NEW
20 ORLEANS?

21 A. THE BLACK POPULATION ALSO FELL IN ABSOLUTE NUMBERS BY A
22 SMALLER AMOUNT, BUT IT DID FALL.

23 Q. AND YOU SAID "BY A SMALLER AMOUNT," BY HOW MUCH SMALLER OF
24 AN AMOUNT?

25 A. I'D HAVE TO GO BACK AND SEE THE OTHER CHART. BUT COULD I

WILLIAM S. COOPER

09:19 1 SEE -- WELL, I CAN LOOK AT, FIGURE 9.

2 Q. IF WE COULD GO BACK TO FIGURE 10 ON PAGE 20?

3 A. YEAH. ROUGHLY HALF. I MEAN, IT'S -- THE POPULATION LOSS
4 FOR THE BLACK POPULATION IN NEW ORLEANS MSA WAS ABOUT 58,000,
5 AND THE WHITE POPULATION WAS ABOUT 116,000. SO THERE'S BEEN
6 DEEPER POPULATION LOSS BY THE NON-HISPANIC WHITE POPULATION IN
7 THE NEW ORLEANS MSA VIS-À-VIS THE BLACK POPULATION.

8 Q. NOW, GETTING BACK TO YOUR MAP DRAWING PROCESS, I BELIEVE
9 WE'VE DISCUSSED A LITTLE BIT GIS SOFTWARE. DO YOU USE GIS
10 SOFTWARE WHEN YOU'RE DRAWING A MAP?

11 A. YES. I USE MAPTITUDE FOR REDISTRICTING, WHICH I THINK IS
12 PROBABLY THE PRIMARY SOFTWARE USED FOR REDISTRICTING PURPOSES
13 AT THE STATE LEGISLATIVE LEVEL AND IS ALSO, OF COURSE, USED BY
14 MANY LOCAL GOVERNMENTS AROUND THE COUNTRY AND BY MANY EXPERTS
15 WHO TESTIFY IN REDISTRICTING CASES.

16 Q. AND WHAT DID YOU USE THE SOFTWARE TO DO?

17 A. TO DEVELOP THE ILLUSTRATIVE PLANS AND TO ANALYZE THE
18 ENACTED PLANS.

19 Q. NOW, YESTERDAY YOU TESTIFIED THAT YOU WERE TRYING TO
20 DEVELOP A *GINGLES 1* COMPLIANT MAP. IS THAT RIGHT?

21 A. YES.

22 Q. AND WHAT IS YOUR UNDERSTANDING OF THE REQUIREMENTS FOR A
23 *GINGLES 1* COMPLIANT MAP?

24 A. WELL, IT MUST ADHERE TO TRADITIONAL REDISTRICTING
25 PRINCIPLES. IN OTHER WORDS, IT IS GENERALLY UNDERSTOOD THAT IF

WILLIAM S. COOPER

09:20 1 ONE IS DRAWING A VOTING DISTRICT, THAT VOTING DISTRICT NEEDS TO
2 BE REASONABLY COMPACT, A REASONABLE SHAPE; IT MUST BE
3 CONTIGUOUS, UNLESS THERE'S WATER INVOLVED; IT NEEDS TO RESPECT
4 COMMUNITIES OF INTEREST. OF COURSE, IT NEEDS TO MEET
5 ONE-PERSON, ONE-VOTE REQUIREMENTS.

6 AND HERE IN LOUISIANA IT'S UNDERSTOOD THAT DISTRICTS
7 CAN BE PLUS OR MINUS 5 PERCENT IN STATE LEGISLATIVE PLANS. SO
8 ABOVE ALL -- OR THOSE ARE THE FACTORS, ALONG WITH THE
9 NON-DILUTION OF MINORITY VOTING STRENGTHS THAT ONE MUST TAKE
10 INTO CONSIDERATION AS A TRADITIONAL REDISTRICTING PRINCIPLE.

11 ALSO IN THE BACKGROUND, ALTHOUGH IT'S OFTEN NOT
12 LISTED AS A TRADITIONAL REDISTRICTING PRINCIPLE, IS THE NEED TO
13 PAY ATTENTION WHERE THE INCUMBENTS LIVE AND TO TRY TO AVOID
14 PAIRING INCUMBENTS. SO THAT'S -- EXCUSE ME. THAT'S WHAT I DID
15 IN THIS PLAN. I, AS FAR AS I KNOW, DID NOT PAIR ANY OF THE
16 INCUMBENTS WHO WERE TERM LIMITED IN EITHER THE ILLUSTRATIVE
17 PLAN OR THE -- FOR THE HOUSE OR THE SENATE. BUT I DON'T HAVE
18 INFORMATION ON THE RECENT ELECTION, SO I'M NOT SURE ABOUT THAT.

19 Q. ALL RIGHT. THANK YOU.

20 WHEN WORKING ON DRAWING YOUR MAPS, DID YOU CONSIDER
21 RACE?

22 A. I WAS AWARE OF RACE. ONE HAS TO BE AWARE OF RACE TO
23 ADHERE TO TRADITIONAL REDISTRICTING PRINCIPLES AND COMPLY WITH
24 THE VOTING RIGHTS ACT.

25 Q. AND HOW DID YOU CONSIDER RACE IN DRAWING YOUR MAPS?

WILLIAM S. COOPER

09:22 1 A. I HAD INFORMATION AT THE PRECINCT LEVEL THAT I WAS LOOKING
2 AT AND IDENTIFIED PRECINCTS THAT WERE ROUGHLY 30 PERCENT BLACK
3 OR MORE, WHICH MADE IT POSSIBLE TO THEN BEGIN TO RECONFIGURE
4 DISTRICTS AND CREATE THE ADDITIONAL MINORITY/MAJORITY
5 DISTRICTS. I DID NOT USE BLOCK-LEVEL DATA, AND I THINK SOME OF
6 THE OTHER EXPERTS HERE HAVE PRODUCED MAPS THAT ARE TOTALLY
7 FOREIGN TO ME. I DON'T WORK WITH BLOCK-LEVEL DATA, EXCEPT
8 MAYBE IN CONGRESSIONAL PLANS. OCCASIONALLY I HAVE TO SPLIT A
9 PRECINCT, SO I DO LOOK AT THE BLOCKS. BUT I'M NOT DRAWING BY
10 RACE LOOKING AT THE BLOCKS. I'M MAINLY LOOKING AT POPULATION
11 TOTALS SO THAT I CAN GET WITHIN PLUS OR MINUS ONE PERSON FOR A
12 CONGRESSIONAL PLAN AND THAT'S IT.

13 I MEAN, I'M DRAWING THESE MAPS AT THE PRECINCT LEVEL.
14 AND SO THE MAPS THAT THE OTHER EXPERTS ARE SHOWING HERE TODAY
15 ARE NOT SOMETHING I WAS LOOKING AT. THEY SEEM TO BE OVERLY
16 OBSESSED WITH RACE.

17 Q. DID RACE PREDOMINATE YOUR DRAWING OF THE MAPS HERE?

18 A. NO, IT DID NOT. IT WAS ONE OF SEVERAL FACTORS. I WAS
19 CONSTANTLY BALANCING TRADITIONAL REDISTRICTING PRINCIPLES. IF
20 I PRIORITIZED ANYTHING AT ALL, IT WAS TO AVOID PAIRING
21 INCUMBENTS, AND THAT DOES MAKE A DIFFERENCE WHEN YOU'RE DRAWING
22 A PLAN BECAUSE INCUMBENTS CAN LIVE ALL OVER THE PLACE AND SO
23 THAT BECOMES A FACTOR.

24 Q. NOW, WHEN DISCUSSING *GINGLES 1*, ARE YOU FAMILIAR WITH THE
25 *GINGLES 1* COMPACTNESS REQUIREMENT?

WILLIAM S. COOPER

09:23 1 A. YES. IT'S A VERY GENERAL TERM THAT DISTRICTS SHOULD BE
2 SUFFICIENTLY NUMEROUS AND GEOGRAPHICALLY COMPACT.

3 Q. AND HOW DID YOU SET ABOUT COMPLYING WITH THE COMPACTNESS
4 REQUIREMENT?

5 A. PRIMARILY I JUST VISUALLY LOOKED AT THE DISTRICTS AS I WAS
6 DRAWING THE PLAN AND ATTEMPTED TO ALWAYS HAVE A DISTRICT IN
7 FRONT OF ME THAT WAS REASONABLE. I WOULD ALSO OCCASIONALLY
8 CHECK THE COMPACTNESS SCORES THAT ARE BUILT INTO THE MAPTITUDE
9 FOR A REDISTRICTING MODULE. SO I HAD THAT AS ANOTHER CHECK.

10 Q. OKAY. SO PAUSING FOR A MINUTE ON THE COMPACTNESS SCORES.
11 I WOULD LIKE TO PULL UP WHAT HAS BEEN ADMITTED YESTERDAY AS
12 PLAINTIFFS' EXHIBIT 55. AND I BELIEVE THIS IS K-2 IN YOUR
13 REPORT.

14 IT SHOULD ALSO BE ON YOUR SCREEN, MR. COOPER.

15 A. OH, YES. OKAY. YES.

16 Q. OKAY.

17 A. THOSE ARE COMPACTNESS SCORES GENERATED BY MAPTITUDE WITH A
18 MEAN AVERAGE AT THE TOP LINE, AND THEN BELOW FOR THE NEXT
19 COUPLE OF PAGES YOU SEE THE SCORES FOR THE INDIVIDUAL
20 DISTRICTS.

21 Q. OKAY. AND THE FIRST COLUMN IN THIS EXHIBIT IS TITLED
22 "REOCK." WHAT IS "REOCK"?

23 A. "REOCK" IS ONE WAY TO MEASURE COMPACTNESS, AND IT'S AN
24 AREA-BASED SCORE THAT IS DERIVED BY SIMPLY DRAWING A CIRCLE
25 AROUND THE AREA OF THE DISTRICT, AND THEN WITH FURTHER

WILLIAM S. COOPER

09:25 1 MATHEMATICAL PERMUTATIONS, YOU GET A SCORE BETWEEN ZERO AND
2 ONE, WHERE ONE WOULD BE A PERFECT CIRCLE. DISTRICTS ARE NEVER
3 PERFECT CIRCLES OR HARDLY EVER. AND MOST DISTRICTS I THINK IN
4 MY EXPERIENCE GENERALLY FALL IN A RANGE BETWEEN OF .20 AND .40
5 OR 50; RARELY DO YOU SEE ANYTHING MUCH HIGHER THAN THAT.

6 Q. AND WHAT IS THIS NEXT MEASURE TITLED "POLSBY-POPPER"?

7 A. THAT IS A PERIMETER-BASED MEASURE THAT, AGAIN, INVOLVES
8 DRAWING A CIRCLE AROUND THE DISTRICT, AND THEN YOU MEASURE THE
9 PERIMETER OF THE DISTRICT. AND, AGAIN, WITH A FEW MORE
10 MATHEMATICAL CALCULATIONS TO GET A SCORE.

11 POLSBY-POPPER SCORES ARE ALMOST INVARIABLY LOWER THAN
12 REOCK SCORES JUST BECAUSE OF THE NATURE OF THE CALCULATION.
13 AND SO THAT'S THE SECOND CHECK. AND THOSE TWO, REOCK AND
14 POLSBY-POPPER, ARE THE TWO MOST COMMONLY-REFERENCED COMPACTNESS
15 SCORES BY EXPERTS AND STATE LEGISLATURES.

16 I ALSO INCLUDED ANOTHER SCORE HERE CALLED THE
17 AREA/CONVEX HULL. THAT IS SIMILAR TO POLSBY-POPPER IN THAT IT
18 IS A PERIMETER BASED SCORE THAT ALSO INCORPORATES AREA TO A
19 CERTAIN EXTENT BECAUSE IT DISCOUNTS FOR SOME ODD-SHAPED
20 DISTRICTS THAT ARE PERHAPS ODD SHAPED BECAUSE THEY ARE RIVER
21 BANKS AND MUNICIPALITIES THAT HAVE ODD SHAPES. IT'S A WAY TO
22 TAKE POINTS FROM THE PERIMETER, EXPAND THEM OUT, AND THEN DRAW
23 A POLYGON AROUND THOSE POINTS, AND THEN DRAW THE CIRCLE AROUND
24 THE POLYGON. AND SO YOU GET A HIGHER SCORE FOR THE AREA/CONVEX
25 HULL TYPICALLY. AND IT'S A -- IT'S A WAY TO TAKE INTO ACCOUNT

WILLIAM S. COOPER

09:27 1 SOME AREAS THAT APPEAR TO HAVE VERY LOW SCORES UNDER
2 POLSBY-POPPER, BUT PERHAPS FOR A GOOD REASON IF YOU ARE
3 FOLLOWING THE MISSISSIPPI RIVER OR FOLLOWING A MUNICIPAL
4 BOUNDARY, WHICH OFTENTIMES CAN BE ODD SHAPED.

5 Q. SO WHY DID YOU USE OR REPORT ALL THREE TESTS HERE?

6 A. WHY DID I?

7 Q. YES.

8 A. BECAUSE THAT'S JUST THREE DIFFERENT WAYS TO LOOK AT
9 COMPACTNESS SCORES. MAPTITUDE FOR REDISTRICTING ACTUALLY
10 GENERATES A DOZEN OF THOSE, MAYBE 13. AND IN RESPONSE TO THE
11 DEFENDANTS' EXPERTS IN MY REBUTTAL REPORT, I ACTUALLY PRODUCED
12 THE SCORES -- ALL THE SCORES THAT ARE PRODUCED IN MAPTITUDE.
13 AND SO THOSE CHARTS ARE IN MY REBUTTAL DECLARATION.

14 AND BASICALLY THE SENATE PLAN IS UNQUESTIONABLY MORE
15 COMPACT, THE ILLUSTRATIVE SENATE PLAN THAN THE ENACTED SENATE
16 PLAN.

17 THE HOUSE PLAN FOR THE ENACTED AND ILLUSTRATIVE PLANS
18 ARE ABOUT THE SAME IN TERMS OF COMPACTNESS. SO THERE IS NO
19 REAL COMPACTNESS ISSUE HERE AT ALL.

20 Q. AND DO YOU LOOK AT MULTIPLE COMPACTNESS SCORES WHEN YOU'RE
21 DRAWING YOUR MAP?

22 A. I OCCASIONALLY LOOK AT COMPACTNESS SCORES. I DON'T -- I'M
23 NOT CONSTANTLY LOOKING AT IT ON THE SCREEN, THOUGH. IT'S JUST
24 IF I'M CURIOUS AS TO WHETHER IT'S A DISTRICT THAT HAS A
25 REASONABLY HIGH OR LOW COMPACTNESS MEASURE, I'LL TAKE A LOOK AT

WILLIAM S. COOPER

09:28 1 IT. BUT MORE OFTEN THAN NOT, I'M JUST DOING A VISUAL ANALYSIS.

2 Q. AND WHY DO YOU RUN THESE TESTS AT THE END OF YOUR MAP
3 DRAWING PROCESS ON COMPACTNESS?

4 A. JUST FOR THE RECORD SO THAT IT'S CLEAR WHAT THESE SCORES
5 SHOW. SO I ALWAYS WOULD INCLUDE AN EXHIBIT SHOWING THE
6 MEASURES OF COMPACTNESS REPORT FROM MAPTITUDE.

7 Q. DID DR. MURRAY DISCUSS -- SORRY. STRIKE THAT.

8 I'LL START OVER. DID YOU REVIEW -- I BELIEVE YOU
9 TESTIFIED YESTERDAY THAT YOU REVIEWED DR. MURRAY'S REPORT. IS
10 THAT CORRECT?

11 A. I DID REVIEW HIS REBUTTAL REPORT, YES.

12 Q. AND DO YOU RECALL WHETHER HE DISCUSSED YOUR COMPACTNESS
13 MEASURES?

14 A. HE DISCUSSED THE COMPACTNESS MEASURES. HE'S USING A
15 DIFFERENT SOFTWARE PROGRAM. AND SO HE HAD SLIGHTLY DIFFERENT
16 FINAL NUMBERS, BUT NOTHING OF CONSEQUENCE. AND I DON'T -- I
17 DON'T HAVE -- I THINK HE WAS USING A PYTHON OR MAYBE RGIS, AND
18 I DON'T HAVE THAT SOFTWARE. SO I CAN'T REALLY VOUCH FOR THE
19 ACCURACY OF HIS REPORT IN THAT SENSE IN TERMS OF COMPACTNESS.
20 BUT THE DIFFERENCES ARE DE MINIMIS REALLY.

21 HE COMPLAINED ABOUT MY DECISION TO JUST ROUND THINGS
22 TO THE HUNDREDTHS INSTEAD OF TO THE THOUSANDS POINT OR
23 SOMETHING. I DON'T KNOW. BUT MAPTITUDE JUST GENERATES THESE
24 NUMBERS AT THE HUNDREDTH POINT. IT GOES NO FURTHER. AND IF
25 THERE'S A DIFFERENCE OF A COUPLE HUNDREDTHS POINTS, IT'S NOT

WILLIAM S. COOPER

09:30 1 GOING TO MATTER IN THE END.

2 Q. AND DID YOU RECORD YOUR OPINIONS OF DR. MURRAY'S ANALYSIS
3 IN YOUR REBUTTAL REPORT, WHICH HAS ALREADY BEEN ADMITTED AS
4 EXHIBIT 89?

5 A. YES.

6 MR. TUCKER: YOUR HONOR, WE OBJECT TO ANY TESTIMONY
7 IN PLAINTIFFS' CASE-IN-CHIEF ABOUT THE REBUTTAL REPORTS OF DR.
8 MURRAY. IF THE PLAINTIFFS WANT TO ADDRESS THAT, THAT CAN BE
9 ADDRESSED IN THEIR REBUTTAL CASE OR AT LEAST IN THE
10 ALTERNATIVE, PLAINTIFFS IF THEY WANT TO DO -- WHAT WE HAD ONE
11 JUDGE REFER TO AS A PREBUTTAL AND ADDRESS THOSE NOW AND THEY
12 SHOULDN'T BE PERMITTED TO THEN LATER ALSO ADDRESS THEM AGAIN IN
13 THEIR REBUTTAL CASE.

14 THE COURT: DO YOU WANT TO RESPOND, MS. THOMAS?

15 MS. THOMAS: YES, YOUR HONOR. MR. COOPER IS HERE
16 FROM OUT OF TOWN. HE HAS BEEN GIVING HIS TIME. THE REBUTTAL
17 REPORTS HAVE ALREADY BEEN ADMITTED WITHOUT OBJECTION OF
18 OPPOSING COUNSEL. FOR COURT EFFICIENCY, IT MAKES MUCH MORE
19 SENSE FOR MR. COOPER TO GIVE ALL OF HIS TESTIMONY AND NOT TO
20 STAY HERE FOR DAYS, ESPECIALLY WHEN THEIR WITNESSES AREN'T
21 AVAILABLE AND BE CALLED BACK.

22 MR. TUCKER: YOUR HONOR, IF PLAINTIFFS ARE
23 REPRESENTING THAT THEY ARE NOT TO GOING TO CALL HIM AGAIN IN
24 THEIR REBUTTAL CASE, THEN WE HAVE NO OBJECTION.

25 THE COURT: I THINK THAT'S HIS ISSUE. HE DOESN'T

WILLIAM S. COOPER

09:31 1 WANT YOU TO GET TWO BITES AT THE APPLE.

2 MS. THOMAS: HE'S NOT COMING BACK.

3 THE COURT: ALL RIGHT. THEN I'LL ALLOW THE QUESTION.

4 MR. TUCKER: THANK YOU, YOUR HONOR.

5 THE COURT: YOU'LL WITHDRAW YOUR OBJECTION, I ASSUME?

6 MR. TUCKER: I WITHDRAW THE OBJECTION.

7 THE COURT: THANK YOU.

8 MS. THOMAS: ALL RIGHT. SO I BELIEVE THE OBJECTION
9 WAS WITHDRAWN AND THE WITNESS HAD ALREADY ANSWERED THE QUESTION
10 PRIOR TO THE OBJECTION.

11 THE COURT: I DON'T KNOW IF THE WITNESS ANSWERED THE
12 QUESTION BECAUSE I WAS TRYING TO LISTEN TO THE OBJECTIONS. SO
13 IF YOU WANT TO GET IT TO MAKE SURE IT'S ON THE RECORD, YOU MAY
14 ASK IT AGAIN.

15 MS. THOMAS: OKAY.

16 BY MS. THOMAS:

17 Q. WERE YOUR OPINIONS OF MR. MURRAY'S COMPACTNESS' ANALYSIS
18 REFLECTED IN YOUR REBUTTAL REPORT, WHICH IS MARKED AS EXHIBIT
19 89?

20 A. WELL, THE POINT IS THERE'S REALLY NO MEANINGFUL DISPUTE
21 BETWEEN MYSELF AND MR. MURRAY, DR. MURRAY, ON COMPACTNESS. THE
22 REST OF HIS REPORT I HAVE MAJOR ISSUES WITH, BUT I THINK HE
23 WOULD AGREE THAT THE DIFFERENCES IN THE COMPACTNESS SCORES ARE
24 DE MINIMIS.

25 Q. OKAY. DID YOU REVIEW DR. TRENDE'S REPORT?

WILLIAM S. COOPER

09:32 1 A. I DID.

2 Q. AND DID DR. TRENDE'S REPORT PURPORT TO ANSWER THE *GINGLES*
3 1 COMPACTNESS QUESTION?

4 A. IT PURPORTS TO ANSWER THAT. IT'S TOTALLY MISPLACED IN
5 THIS CASE. IT HAS NOTHING TO DO WITH TRADITIONAL REDISTRICTING
6 PRINCIPLES. THE METHODOLOGY HE EMPLOYS IS JUST NOT APPROPRIATE
7 FOR A *GINGLES 1* CASE. IT IS NOT A REQUIREMENT THAT THE
8 MINORITY POPULATION BE DETERMINED BY THE MOMENT OF INERTIA
9 METHODOLOGY. IT IS WAY OFF BASE. I CAN'T SAY THAT ENOUGH.
10 IT'S SORT OF LIKE -- I DON'T KNOW. IT'S THE REDISTRICTING
11 EQUIVALENT, WHICH IS DESIGNED -- AND IT'S DESIGNED TO FAIL JUST
12 LIKE COUNTING BEANS IN A JAR IS DESIGNED TO FAIL FOR VOTER
13 REGISTRATION. IT'S MISPLACED AND IT SHOULD NEVER BE ACCEPTED
14 AND AS AN APPROPRIATE WAY TO DETERMINE WHETHER ONE CAN DRAW A
15 *GINGLES 1* COMPLIANT DISTRICT AND MEET THE COMPACTNESS
16 REQUIREMENT.

17 Q. IN YOUR 55 CASES IN WHICH YOU'VE TESTIFIED IN VOTING, ARE
18 YOU AWARE OF ANY OTHER EXPERT USING MR. TRENDE'S ANALYSIS?

19 A. NO, I'M NOT. AND, YOU KNOW, I LOOKED AT THE -- MR. TRENDE
20 WAS THE SPECIAL MASTER FOR THE VIRGINIA REDISTRICTING
21 COMMISSION, AND HE DIDN'T -- AS BEST I CAN TELL, HE DIDN'T
22 REPORT A MOMENT OF INERTIA COMPACTNESS TEST FOR ANY OF THE
23 DISTRICTS HE DREW IN PLACES LIKE --

24 **MR. TUCKER:** OBJECTION, YOUR HONOR. MR. TRENDE'S
25 TESTIMONY ABOUT WHAT HE MAY OR MAY NOT HAVE DONE IN ANOTHER

WILLIAM S. COOPER

09:34 1 CASE DOESN'T SEEM RELEVANT TO WHAT HE DID IN THIS CASE.

2 **THE COURT:** DO YOU WANT TO RESPOND?

3 **MS. THOMAS:** WELL, CERTAINLY IT'S RELEVANT AS WE
4 OUTLINED IN OUR *DAUBERT* MOTION ABOUT THE PROVIDENCE OF USING
5 THIS MEASURE TO DEFINE COMPACTNESS AS IT IS DEFINED IN *GINGLES*
6 *1*. AND MR. COOPER IS OUR *GINGLES 1* EXPERT WHO HAS PREVIOUSLY
7 TESTIFIED THAT HE REVIEWED MR. TRENDE'S WORK, AND THIS IS HIS
8 OPINION ABOUT MR. TRENDE'S WORK GIVEN MR. COOPER'S OWN
9 EXPERIENCE AND KNOWLEDGE OF BOTH EXPERTS IN GENERAL. AND I
10 BELIEVE IT'S NOW DR. TRENDE, BUT IT WAS MR. TRENDE AT THE TIME
11 OF WRITING THE REPORT -- DR. TRENDE'S WORK.

12 **THE COURT:** THE COURT IS GOING TO OVERRULE THE
13 OBJECTION. THE COURT -- THIS IS HELPFUL TO THE TRIER OF FACT
14 TO UNDERSTAND THE DIFFERENT METHODOLOGIES AND TO ALSO GAIN SOME
15 AWARENESS AND UNDERSTANDING OF WHAT THE ACCEPTED METHODOLOGIES
16 IN THE FIELD ARE. THE OBJECTION IS OVERRULED.

17 **BY MS. THOMAS:**

18 **Q.** GOING BACK TO OUR LINE OF QUESTIONING. DR. TRENDE
19 PURPORTS TO ANSWER THE QUESTION OF WHETHER THE MINORITY
20 POPULATION IS SUFFICIENTLY COMPACT. DO YOU BELIEVE YOUR
21 ANALYSIS ANSWERS THIS QUESTION?

22 **A.** YES, I DO. AND I BELIEVE HIS ANALYSIS DOES NOT.

23 **Q.** AND HAVE COURTS ACCEPTED YOUR ANALYSIS ON WHETHER THE
24 MINORITY POPULATION IS SUFFICIENTLY COMPACT AS DEFINED IN
25 *GINGLES 1* IN THE PAST?

WILLIAM S. COOPER

09:36 1 A. YES.

2 Q. NOW WE'VE SPENT SOME TIME EARLIER DISCUSSING TRADITIONAL
3 REDISTRICTING PRINCIPLES. DO YOU RECALL THAT?

4 A. PARDON?

5 Q. WE SPENT SOME TIME EARLIER DISCUSSING TRADITIONAL
6 REDISTRICTING PRINCIPLES. DO YOU RECALL THAT?

7 A. YES.

8 Q. OKAY. AND DO YOU RECALL WHETHER THE STATE HAD PUBLISHED
9 WHICH TRADITIONAL REDISTRICTING PRINCIPLES SHOULD BE
10 PRIORITIZED IN MAP DRAWING IN LOUISIANA?

11 A. YES, IN WHAT IS KNOWN AS JOINT RULE 21. THAT WAS POSTED
12 ON THE LEGISLATURE'S WEBSITE IN EARLY 2022, I THINK.

13 Q. ALL RIGHT. I WOULD LIKE TO PULL UP WHAT HAS BEEN
14 PREADMITTED AS JOINT EXHIBIT 56.

15 AND DO YOU RECOGNIZE THIS DOCUMENT?

16 A. YES.

17 Q. WHAT IS IT?

18 A. IT IS JOINT RULE 21, AS BEST I CAN TELL.

19 Q. AND DID YOU CONSULT JOINT RULE 21 WHEN DRAWING YOUR MAPS?

20 A. I DID REVIEW IT, YES.

21 Q. AND DID THE METHODOLOGY YOU USED TO DRAW YOUR MAPS ALIGN
22 WITH JOINT RULE 21?

23 A. I BELIEVE IT DOES.

24 Q. DOES JOINT RULE 21 INCLUDE COMPLIANCE WITH THE VOTING
25 RIGHTS ACT?

WILLIAM S. COOPER

09:37 1 A. IT DOES.

2 Q. AND DOES JOINT RULE 21 INCLUDE A CONTIGUITY REQUIREMENT?

3 A. IT DOES.

4 Q. AND WHAT IS "CONTIGUITY"?

5 A. THAT ALL PIECES OF THE DISTRICT NEED TO MEET UP AT SOME
6 POINT.

7 Q. AND HOW DID YOU ACCOUNT FOR CONTIGUITY IN YOUR MAP
8 DRAWING?

9 A. MAPTITUDE HAS A CHECK, A LITTLE MODULE THAT YOU CAN JUST
10 PRESS A BUTTON; IT'LL TELL YOU IF THERE'S NOT A CONTIGUOUS
11 DISTRICT IN FRONT OF YOU.

12 Q. AND DOES JOINT RULE 21 ACCOUNT FOR EQUAL POPULATION?

13 A. IT DOES. IT ALLOWS FOR -- I THINK MAYBE -- IN MY REPORT I
14 MAY HAVE SUGGESTED THAT THERE WAS NO CLARITY AS TO EXACTLY WHAT
15 RANGE THE STATE IS USING. BUT I BELIEVE THEY DID ACTUALLY SAY
16 SOMEWHERE IN JOINT RULE 21 THAT PLUS OR MINUS 5 PERCENT WAS THE
17 ACCEPTED RANGE, AND THAT'S A TYPICAL RANGE FOR A TYPICAL STATE
18 LEGISLATIVE PLAN. SOME ARE TIGHTER ON THAT.

19 BUT IN LOUISIANA IT'S PLUS OR MINUS 5 PERCENT AND
20 THAT'S A GOOD IDEA BECAUSE LOUISIANA'S GOT COMPLEX GEOGRAPHY,
21 AND SO IT DOES MAKE IT EASIER TO DRAW THE LEGISLATIVE PLANS.

22 Q. AND DID YOU USE THE PLUS OR MINUS 5 PERCENT WHEN DRAWING
23 YOUR MAPS?

24 A. YES.

25 Q. DO YOU RECALL WHETHER DR. MURRAY CRITIQUED YOUR

WILLIAM S. COOPER

09:38 1 ONE-PERSON, ONE-VOTE ANALYSIS?

2 A. YES. HE SEEMS TO BE A FISH OUT OF WATER IN THIS CASE. HE
3 DIDN'T EVEN SEEM TO KNOW HOW TO CALCULATE WHAT IS UNDERSTOOD TO
4 BE TOTAL DEVIATION. HE TOOK AN AVERAGE, AND THEN CLAIMED
5 BECAUSE HE TOOK THE AVERAGE OF ALL OF THE DEVIATIONS THAT
6 SOMEHOW OR ANOTHER MY PLAN DIDN'T ADHERE TO THE ONE-PERSON,
7 ONE-VOTE REQUIREMENT OR THAT MY NUMBERS WERE WRONG ANY WAY.
8 AND HE, IN FACT, IS WRONG AND I'M RIGHT. HE DID THAT
9 THROUGHOUT HIS REPORT, AND IN EVERY INSTANCE, AS BEST I CAN
10 TELL, HE'S WRONG, I'M RIGHT.

11 Q. AND DID YOU RECORD YOUR THOUGHTS ON DR. MURRAY'S
12 ONE-PERSON, ONE-VOTE, ALSO KNOWN AS EQUAL POPULATION ANALYSIS
13 IN YOUR REBUTTAL REPORT?

14 A. YES. AND COULD I SAY ONE THING ABOUT HIS REPORT AND THE
15 OTHER EXPERT'S REPORT? THEY ARE CORRECT THAT I HAD USED
16 MISTAKENLY A COMMITTEE PLAN FROM 2022 INSTEAD OF THE FINAL
17 ENACTED PLAN FROM 2022 HOUSE AND SENATE. AND SO THEY SPENT,
18 YOU KNOW, I DON'T KNOW HOW MUCH TIME DETERMINING HOW THOSE
19 PLANS DIFFERED IN THEIR REPORTS, AND I HAVE NO COMPLAINT WITH
20 THEIR ASSESSMENT THERE. I USED THE WRONG PLAN. IT'S REAL
21 SIMPLE, AND I FIXED THAT IN THE 2023 DECLARATION I FILED.

22 Q. OKAY. GOING BACK TO RULE 21, DID IT HAVE ANY GUIDELINES
23 ABOUT DIVISION SPLITS?

24 A. ABOUT DIVISION SPLITS?

25 Q. YES.

WILLIAM S. COOPER

09:40 1 A. YOU MEAN IN TERMS OF -- YOU MEAN IN TERMS OF PRECINCTS AND
2 MUNICIPALITIES?

3 Q. YES, SIR.

4 A. YES. YES.

5 Q. OKAY. AND WHAT WERE THOSE GUIDELINES?

6 A. TO THE EXTENT POSSIBLE, PRECINCTS SHOULD BE KEPT WHOLE.
7 AND TO THE EXTENT POSSIBLE, MUNICIPALITIES, BOUNDARIES SHOULD
8 BE KEPT WHOLE. OFTEN IT ISN'T POSSIBLE, BUT I THINK THERE
9 ARE -- I'M NOT LOOKING AT THE ACTUAL LANGUAGE, BUT THAT'S THE
10 CRUX OF IT.

11 Q. OKAY. AND DID YOU FOLLOW THIS GUIDANCE WHEN DRAWING YOUR
12 MAPS?

13 A. YES.

14 Q. DID YOU ALSO REVIEW THE REPORT OF DR. JOHNSON?

15 A. I DID.

16 Q. AND DID DR. JOHNSON DISCUSS YOUR SPLITS IN HIS ANALYSIS?

17 A. I THINK HE DID.

18 Q. OKAY. AND DID YOU RECORD YOUR OPINION OF DR. JOHNSON'S
19 ANALYSIS IN YOUR REBUTTAL REPORT?

20 A. I DID. AND I STAND BY THAT.

21 Q. SO WE DISCUSSED A FEW TRADITIONAL REDISTRICTING CRITERIA
22 THAT WERE PRESENTED IN RULE 21. DID YOU CONSIDER ANY OTHER
23 TRADITIONAL REDISTRICTING CRITERIA WHEN DRAWING YOUR MAPS?

24 A. WELL, I THINK RULE 21 ON THE WHOLE BASICALLY ENCOMPASSES
25 ALL OF WHAT I WOULD CONSIDER TO BE THE TRADITIONAL

WILLIAM S. COOPER

09:41 1 REDISTRICTING PRINCIPLES, BUT AS I MENTIONED, I WAS PAYING
2 ATTENTION TO WHERE THE INCUMBENTS LIVED.

3 Q. IN DRAWING YOUR -- ARE YOU FAMILIAR WITH THE TERM
4 "COMMUNITIES OF INTEREST"?

5 A. YES.

6 Q. AND I BELIEVE YOU'VE ALREADY TESTIFIED THAT THAT WAS ONE
7 THING THAT YOU CONSIDERED WHEN DRAWING YOUR MAP. IS THAT
8 CORRECT?

9 A. THAT'S CORRECT.

10 Q. AND HOW DID COMMUNITIES OF INTEREST PLAY A ROLE IN YOUR
11 MAP DRAWING?

12 A. WELL, I HAVE IN MY REPORT VARIOUS REGIONS OF THE STATE
13 THAT I WAS EXAMINING AS I WAS DRAWING THE DISTRICTS. I LOOKED
14 AT THE CULTURAL REGIONS LIKE ACADIANA, WHICH IS ACTUALLY
15 DEFINED BY THE STATE LEGISLATURE, AND ALSO HAD IN ONE OF THE
16 EXHIBITS OR ONE OF THE FIGURES IN MY DECLARATION, I SHOW WHAT
17 IS CONSIDERED TO BE THE DELTA, ROUGHLY 12 PARISHES IN THE
18 NORTHEAST PART OF THE STATE, AND AT LEAST ONE DEFINITION FOR
19 THE RIVER PARISHES AND A TIGHTER DEFINITION FOR I GUESS WHAT IS
20 CALLED THE CAJUN HEARTLAND AND, OF COURSE, THE FLORIDA
21 PARISHES. SO I WAS LOOKING AT THOSE AS REGIONS THAT I SHOULD
22 TRY TO KEEP TOGETHER TO THE EXTENT POSSIBLE.

23 I ALSO LOOKED AT OTHER REGIONS THAT ARE IMPORTANT,
24 LIKE THE PLANNING DISTRICTS THAT ENCOMPASS ALL OF THE PARISHES
25 IN CADDO. I DIVIDED I THINK INTO EIGHT DIFFERENT PLANNING

WILLIAM S. COOPER

09:43 1 DISTRICTS STATEWIDE, AND THEN I LOOKED AT METROPOLITAN
2 STATISTICAL AREAS AS ANOTHER WAY TO LOOK AT REGIONS IN THE
3 STATE AND, OF COURSE, PARISHES AND MUNICIPALITIES.

4 AND, AGAIN, THE OTHER EXPERTS IN THIS REPORT DON'T
5 SEEM TO UNDERSTAND THAT I USED MUNICIPALITIES WHEN DOING A
6 CALCULATION AT THE SPLITS. I DID NOT INCLUDE -- I INCORPORATED
7 PLACES AS THEY SEEM TO IMPLY. THEY'RE JUST COMPLETELY WRONG
8 THERE. DR. MURRAY IS WRONG, AND DR. JOHNSON IS WRONG ON THAT
9 SCORE AS WELL.

10 I DON'T THINK DR. TRENDE EVEN BOTHERED TO LOOK AT
11 ANYTHING OTHER THAN THE MOMENT OF INERTIA TO DECLARE THAT
12 SEVERAL OF THE DISTRICTS THAT ARE DEEMED MAJORITY-MINORITY
13 DISTRICTS THAT I'VE DRAWN ARE SOMEHOW OR ANOTHER NOT COMPACT,
14 WHICH, OF COURSE, IS ERRONEOUS BUT MISPLACED.

15 Q. DID CORE RETENTION PLAY ANY ROLE IN YOUR MAP DRAWING?

16 A. YES. I WAS AWARE OF CORE RETENTION. AND IN MY
17 DECLARATION -- I DON'T HAVE THE PARAGRAPH IN FRONT OF ME, BUT
18 IT -- I ACTUALLY DO A CALCULATION TO SHOW HOW MANY -- WHAT --
19 THE PERCENTAGE OF THE POPULATION THAT IS KEPT TOGETHER GOING
20 FROM THE ENACTED PLANS TO THE ILLUSTRATIVE PLANS. AND I THINK
21 IN THE ENACTED HOUSE PLAN ABOUT 74 PERCENT OF THE POPULATION,
22 IT STILL STAYS TOGETHER FROM ONE PLAN TO ANOTHER. AND IN THE
23 SENATE PLAN, I BELIEVE IT'S 78 PERCENT.

24 SO THERE'S -- THE ORIGINAL ENACTED PLAN, I BELIEVE,
25 WHEN YOU COMPARE IT AGAINST THE 2011 PLAN, HAD SCORES IN THE

WILLIAM S. COOPER

09:45 1 LOW 80S. SO I WAS NOT THAT FAR FROM WHAT THE STATE DID IN
2 OBSERVING CORE RETENTION AS WHEN THEY WERE DRAWING THE ENACTED
3 PLAN VERSUS THE 2011 ILLUSTRATIVE -- VERSUS THE 2011 BENCHMARK
4 PLANS.

5 Q. IF WE COULD -- I BELIEVE YOU JUST SAID YOU HAD SOME PARTS
6 OF YOUR REPORT THAT DISCUSSED YOUR CORE RETENTION METRICS. IF
7 WE COULD PULL UP WHAT IS MARKED AND ALREADY ADMITTED AS
8 PLAINTIFF EXHIBIT 57, WHICH I BELIEVE IS EXHIBIT L-2.

9 COULD YOU DESCRIBE THIS REPORT TO US, PLEASE?

10 A. YES. THIS REPORT IS HOW I DERIVED THE CORE RETENTION
11 PERCENTAGES I JUST REPORTED. IF YOU TAKE, FOR EXAMPLE,
12 ILLUSTRATIVE HOUSE -- THIS IS ILLUSTRATIVE HOUSE DISTRICT PLAN
13 FROM THE 2023 VERSION. AND YOU CAN SEE THAT THE BULK OF THE
14 POPULATION IN HOUSE DISTRICT 1 CAME FROM ENROLLED DISTRICT 1,
15 AND THAT'S WITH THE GRAY LINE.

16 SO I GET THE CALCULATION OF -- I THINK IT'S ROUGHLY
17 74 PERCENT CORE RETENTION BY JUST ADDING UP ALL OF THESE GRAY
18 SHADED ROWS BECAUSE THOSE ARE THE ROWS WHERE THE BULK OF THE
19 POPULATION IN ANY GIVEN DISTRICT HAS BEEN DRAWN TO INCLUDE PART
20 OF ANOTHER DISTRICT IN THE ENROLLED PLAN. SO YOU CAN SEE THERE
21 ARE THREE DISTRICTS THAT ARE PART OF THE ILLUSTRATIVE HOUSE
22 DISTRICT 1. ILLUSTRATIVE HOUSE DISTRICT 1 IS DRAWN FROM
23 ENROLLED DISTRICTS 1, 2, AND 4. BUT 45 PERCENT OF THE
24 POPULATION COMES FROM ILLUSTRATIVE -- FROM ENROLLED DISTRICT 1.

25 AND THEN IF YOU LOOK AT HOUSE DISTRICT 2, YOU CAN SEE

WILLIAM S. COOPER

09:47 1 THAT 78 PERCENT OF HOUSE DISTRICT 2 IN THE ILLUSTRATIVE PLAN
2 COMES FROM ENROLLED DISTRICT 2.

3 SO IN THAT FASHION YOU CAN GO DOWN THROUGH ALL 105
4 DISTRICTS TO SEE WHERE THE BULK OF THE POPULATION IS COMING, IF
5 THERE IS ANY CHANGE AT ALL. I DID MANAGE TO KEEP 40 DISTRICTS
6 INTACT WITH NO CHANGES IN THE ILLUSTRATIVE HOUSE PLAN OUT OF
7 105.

8 Q. AND I BELIEVE YOU'RE USING THE TERM "ENROLLED PLAN," AND I
9 MAY SOMETIMES USE THE TERM "ENACTED PLAN," BUT THEY MEAN THE
10 SAME THING. IS THAT CORRECT?

11 A. YES.

12 Q. OKAY. NOW, IF WE COULD TURN TO WHAT HAS BEEN ADMITTED AS
13 PLAINTIFF EXHIBIT 76.

14 AND WHAT DOES THIS EXHIBIT SHOW US, MR. COOPER?

15 A. WELL, THIS IS THE SAME THING, EXCEPT IT'S FOR THE SENATE
16 PLAN. AND HERE AGAIN YOU CAN SEE FOR ILLUSTRATIVE SENATE
17 DISTRICT 1, 96 PERCENT OF THE POPULATION IN THAT DISTRICT CAME
18 FROM ENROLLED OR ENACTED DISTRICT 1.

19 Q. NOW, WE'VE DISCUSSED A NUMBER OF REDISTRICTING CRITERIA.
20 DID YOU PRIORITIZE ONE REDISTRICTING CRITERIA OVER THE OTHER
21 WHEN DRAWING YOUR MAPS?

22 A. ABSOLUTELY NOT. I WAS CONSTANTLY BALANCING, CONSTANTLY
23 BALANCING.

24 Q. AND USING THE TRADITIONAL REDISTRICTING PRINCIPLES, HOW
25 DID YOU GO ABOUT ASSESSING WHETHER ADDITIONAL MINORITY

WILLIAM S. COOPER

09:48 1 DISTRICTS COULD BE DRAWN?

2 A. CAN YOU REPEAT THAT?

3 Q. USING THE TRADITIONAL REDISTRICTING PRINCIPLES, HOW DID
4 YOU GO ABOUT ASSESSING WHETHER ADDITIONAL MINORITY DISTRICTS
5 COULD BE DRAWN?

6 A. WELL, IT WAS A PROCESS. I LOOKED AT DIFFERENT
7 CONFIGURATIONS AND FINALLY SETTLED ON THE ILLUSTRATIVE PLAN
8 THAT I'VE DRAWN. BUT, YOU KNOW, IT'S NOT SOMETHING YOU SIT
9 DOWN AND DO IN AN AFTERNOON. IT'S A PROCESS THAT TAKES SEVERAL
10 DAYS, IF NOT MORE. THESE LEGISLATIVE PLANS ARE COMPLICATED.

11 Q. AND WHAT WOULD YOU DO IF YOU COULD NOT DRAW A DISTRICT
12 WHILE ADHERING TO TRADITIONAL REDISTRICTING PRINCIPLES?

13 A. WELL, THEN I DIDN'T DRAW THAT DISTRICT.

14 Q. I'D LIKE TO NOW GO BACK TO PLAINTIFF EXHIBIT 20, PAGE 29,
15 FIGURE 13.

16 WHAT DOES THIS FIGURE SHOW US?

17 A. WELL, THIS FIGURE JUST SHOWS WHERE I DREW THE ADDITIONAL
18 SENATE DISTRICTS. SO I DREW ONE IN CADDO AND BOSSIER PARISH,
19 SENATE DISTRICT 38. I DREW A SECOND ONE IN EAST BATON ROUGE IN
20 -- I'M SORRY -- IN EAST BATON ROUGE AND PART OF WEST FELICIANA
21 AND WEST BATON ROUGE AND IBERVILLE, AND THAT'S SENATE DISTRICT
22 17. AND THEN I DREW ANOTHER ONE IN THE NEW ORLEANS MSA AND
23 THAT'S FIGURE -- DISTRICT 19, IN THE SOUTHEAST PART OF THE
24 STATE.

25 Q. I'D LIKE TO NOW MOVE TO FIGURE 16 ON PAGE 35.

WILLIAM S. COOPER

09:50 1 WHAT DOES THIS FIGURE SHOW US?

2 A. THIS FIGURE SHOWS THE PERCENTAGE OF THE VOTING-AGE
3 POPULATION THAT IS IN A MAJORITY DISTRICT THAT IS OF THE SAME
4 RACE AS THE POPULATION IN THE ROWS. SO YOU CAN SEE THAT FOR
5 THE BLACK VOTING-AGE POPULATION IN THE STATE SENATE UNDER THE
6 2020 PLAN, JUST 53 PERCENT OF -- OR MAYBE CLOSER TO 54 PERCENT,
7 OF THE BLACK VOTING-AGE POPULATION LIVES IN A MAJORITY-BLACK
8 DISTRICT COMPARED TO 84.4 PERCENT OF THE WHITE POPULATION,
9 WHICH LIVES, IN FACT, IN A MAJORITY WHITE VOTING-AGE POPULATION
10 DISTRICT UNDER THE ENACTED OR ENROLLED SENATE PLAN.

11 IN SOME WAYS THIS IS SORT OF A PRELIMINARY
12 INDICATOR, A PRIMA FACIA INDICATOR OF CRACKING AND PACKING. IF
13 YOU SEE THIS HUGE GAP -- WHILE IT DOESN'T PROVE THAT THERE'S
14 PACKING OR CRACKING, IT DRAWS ONE'S ATTENTION TO IT. IT REALLY
15 DOES, BECAUSE -- AND YOU CAN SEE WHY THE BLACK POPULATION IN
16 THE STATE IS VERY CONCERNED ABOUT HOW THE DISTRICT LINES WERE
17 DRAWN IN THE 2022 ENACTED PLAN WHEN ONLY HALF OF THEM LIVE IN A
18 MAJORITY-BLACK DISTRICT, BUT ALMOST 85 PERCENT OF THE WHITE
19 POPULATION LIVES IN A MAJORITY-WHITE DISTRICT. IT'S REALLY
20 STRIKING. AND EVEN AFTER I'VE DRAWN THE ILLUSTRATIVE SENATE
21 PLAN, THERE'S STILL A MISMATCH THERE.

22 BUT AT LEAST UNDER THE ILLUSTRATIVE SENATE, ABOUT
23 61 PERCENT OF THE BLACK VOTING-AGE POPULATION WOULD LIVE IN A
24 MAJORITY-BLACK DISTRICT, AND THE WHITE-MAJORITY DISTRICTS WOULD
25 HAVE A -- SEE A SIMILAR DROP IN THE REVERSE DIRECTION SO THAT

WILLIAM S. COOPER

09:52 1 ONLY 78 PERCENT WOULD LIVE IN A MAJORITY-WHITE SENATE DISTRICT.

2 Q. DID --

3 A. SO THERE'S STILL A 17 PERCENTAGE POINT GAP. THAT GAP CAN
4 PROBABLY NEVER BE ELIMINATED NECESSARILY BECAUSE YOU HAVE TO
5 COMPLY WITH THE TRADITIONAL REDISTRICTING PRINCIPLES AS YOU'RE
6 DRAWING THE PLANS. SO YOU CAN'T DRAW CRAZY DISTRICTS JUST TO
7 END UP WITH TWO DISTRICTS IN PARITY IN TERMS OF VOTING-AGE
8 POPULATION.

9 Q. AND DID DR. MURRAY DISCUSS THIS FIGURE IN HIS REPORT?

10 A. YES. AND HE GOT IT TOTALLY WRONG. I MEAN, I DON'T KNOW,
11 MAYBE HE DIDN'T READ MY DECLARATION. BUT HE JUST ADDED UP ALL
12 OF THE -- ALL OF THE PERCENTAGES OF THE STATE SENATE PLAN THAT
13 WERE MAJORITY BLACK, AND THEN ARRIVED AT A MEAN AVERAGE. AND
14 THEN IF YOU READ HIS INITIAL REPORT, HE, YOU KNOW, HAD TO GO IN
15 THERE AND THEN CLAIM THAT HE WAS CORRECTING MY MISTAKE WHEN
16 THERE WAS NEVER A MISTAKE AT ALL. HE MISREAD OR DIDN'T EVEN
17 UNDERSTAND THE POINT THAT I WAS TRYING TO MAKE WITH THIS CHART,
18 WHICH I CONSIDER TO BE VERY IMPORTANT ACTUALLY.

19 Q. SO LET'S WALK THROUGH SOME OF YOUR SENATE DISTRICTS. IF
20 WE COULD NOW PULL UP WHAT IS ON PAGE 37, FIGURE 18 OF EXHIBIT
21 20.

22 A. YES.

23 Q. OKAY. WHAT DOES THIS FIGURE SHOW?

24 A. THIS ZOOMS IN ON NORTHWEST LOUISIANA. AND YOU CAN SEE IN
25 THE FIGURE IN THE BRIGHT RED OUTLINE THE ADDITIONAL MAJORITY

WILLIAM S. COOPER

09:53 1 BLACK DISTRICT THAT I DREW FOR THE BOSSIER-SHREVEPORT MSA,
2 SENATE DISTRICT 38. CURRENTLY THERE IS ONLY ONE IN THAT AREA,
3 SENATE DISTRICT 39, EVEN THOUGH THAT PART OF THE STATE HAS THE
4 HIGHEST PERCENTAGE OF AFRICAN AMERICANS OF ANY OF THE MSAS.

5 Q. AND IF WE COULD NOW TURN TO THE NEXT PAGE AND LOOK AT
6 FIGURE 19.

7 HOW DOES FIGURE 19 DIFFER FROM FIGURE 18?

8 A. WELL, FIGURE 19 JUST OVERLAYS THE ADDITIONAL DISTRICT THAT
9 I DREW, WHICH IS SHOWN IN RED LINES ONTO A MAP OF THE ENACTED
10 PLAN FOR THE 2022 -- FROM THE 2022 SENATE PLAN.

11 Q. AND FOCUSING ON THIS DISTRICT, HOW DID YOU DETERMINE THAT
12 A NEW ILLUSTRATIVE DISTRICT COULD BE DRAWN IN THIS PART OF THE
13 STATE?

14 A. WELL, IT WAS FAIRLY CLEAR TO ME THAT SENATE DISTRICT 39
15 WAS PACKED. I THINK IT'S -- I DON'T HAVE THE NUMBERS IN FRONT
16 OF ME. BUT I THINK IT WAS APPROACHING 70 PERCENT BLACK. AND I
17 THEN CONSIDERED WHETHER ADDITIONAL POPULATION IN THE CADDO
18 PARISH, BOSSIER CITY AREA COULD BE JOINED WITH SOME OF THAT
19 BLACK POPULATION FROM SENATE DISTRICT 29 TO CREATE A SECOND
20 DISTRICT IN THE AREA, AND IT TURNED OUT TO BE QUITE EASY. IT'S
21 A VERY COMPACT DISTRICT. IT INCLUDES PART OF CADDO PARISH AND
22 PART OF BOSSIER PARISH.

23 Q. YOU WERE PRESENT ON MONDAY AT THE SEALED TESTIMONY OF MR.
24 MCCLANAHAN. CORRECT?

25 A. YES.

WILLIAM S. COOPER

09:55 1 Q. AND ALSO PREVIOUS TO THAT SEALED TESTIMONY, YOU HAD BEEN
2 GIVEN THE ADDRESSES OF NAACP MEMBERS. CORRECT?

3 A. YES.

4 Q. AND DID YOU REVIEW THE LOUISIANA NAACP'S SECOND
5 SUPPLEMENTAL RESPONSE TO THE SECRETARY OF STATE'S INTERROGATORY
6 NO. 3?

7 A. YES.

8 Q. AND WERE YOU ABLE TO TAKE THOSE ADDRESSES AND GEOCODE
9 THEM?

10 A. YES.

11 Q. AND WHAT WAS THE RESULT OF YOUR GEOCODING?

12 A. WELL, I WAS ABLE TO THEN PRODUCE MAPS FOR THE COURT, I
13 THINK, THAT SHOW THAT THEY ARE NAACP MEMBERS IN ALL OF MY
14 ILLUSTRATIVE DISTRICTS. AND THEY ALSO WERE PREVIOUSLY IN WHITE
15 MAJORITY DISTRICTS I BELIEVE.

16 MR. TUCKER: YOUR HONOR, WE OBJECT. WE OBJECT. THIS
17 IS OUTSIDE THE SCOPE OF HIS EXPERT REPORT.

18 MS. THOMAS: MAY I BE HEARD?

19 THE COURT: YOU MAY.

20 MS. THOMAS: OKAY. UNTIL THE MAGISTRATE JUDGE RULED
21 ON THE QUESTION OF NAACP MEMBERSHIP, THIS WAS NOT AN ISSUE IN
22 THE CASE. AS SOON IT WAS AN ISSUE, THE PLAINTIFF PROMPTLY
23 PROVIDED THOSE ADDRESSES TO DEFENSE COUNSEL ON MONDAY,
24 NOVEMBER 6TH.

25 ON TUESDAY, NOVEMBER 7TH, MR. TUCKER REQUESTED

WILLIAM S. COOPER

09:56 1 THAT HE BE ABLE TO SHARE THOSE ADDRESSES WITH HIS EXPERT, MR.
2 JOHNSON -- DR. JOHNSON. THAT WAS AFTER DR. JOHNSON SIGNED THE
3 CONFIDENTIALITY ORDER. THOSE WERE PROMPTLY PROVIDED TO DR.
4 JOHNSON. SO THERE IS NO PREJUDICE HERE, IN THAT THEIR EXPERT
5 HAS THE SAME INFORMATION AS MR. COOPER. THEY HAVE BEEN TOLD
6 NUMEROUS TIMES THAT WE HAVE ALSO GEOCODED THOSE ADDRESSES.
7 THEY WERE TOLD IN THE INTERROGATORY RESPONSES. THEY WERE TOLD
8 IN MR. MCCLANAHAN'S TESTIMONY. AND WE BELIEVE THAT IT IS
9 APPROPRIATE FOR OUR OWN EXPERT TO DO THE SAME ANALYSIS THAT
10 THEIR EXPERT HAS DONE AND GEOCODE THE ADDRESSES WITH THE NAACP
11 MEMBERS. AND DR. JOHNSON CAN GIVE HIS OWN REBUTTAL TESTIMONY
12 ON THE GEOCODING IF HE FINDS ANY DISCREPANCY.

13 **MR. TUCKER:** YOUR HONOR, THERE'S ASSUMPTIONS THAT
14 WHAT DR. JOHNSON MAY OR MAY NOT TESTIFY TO IS, YOU KNOW, IN OUR
15 CASE-IN-CHIEF ISN'T APPROPRIATE.

16 **THE COURT:** DID THEY WITH A CONFIDENTIALITY AGREEMENT
17 GIVE YOU THE -- GIVE DR. JOHNSON THE ADDRESSES OF THE VARIOUS
18 NAACP MEMBERS THAT MR. MCCLANAHAN DISCLOSED UNDER SEAL?

19 **MR. TUCKER:** WE RECEIVED THE ADDRESSES THROUGH THE
20 INTERROGATORY RESPONSES. BUT I THINK MY ISSUE HERE IS THERE
21 COULD HAVE BEEN A SUPPLEMENT TO MR. COOPER'S REPORTS. THEY
22 COULD HAVE SUPPLEMENTED THE REPORTS WITH THESE MAPS, WITH THIS
23 ADDITIONAL INFORMATION, AND THEY FAILED TO DO THAT.

24 **THE COURT:** OKAY. WELL, IN THE INTEREST OF JUSTICE,
25 YOUR OBJECTION IS OVERRULED. AGAIN, I DO TAKE -- AS THE COURT

WILLIAM S. COOPER

09:58 1 NOTED IN ITS REVIEW OF THE MAGISTRATE JUDGE'S RECOMMENDATIONS,
2 STANDING HAS ALWAYS BEEN AN ISSUE. SO IT HAS BEEN KNOWN THAT
3 ORGANIZATIONAL AND/OR ASSOCIATIONAL STANDING OF THE NAACP -- OR
4 IT SHOULD HAVE BEEN KNOWN WAS AT ISSUE. HOWEVER, BECAUSE OF
5 THE WAY THAT THE CASE DEVELOPED AND THE ORDER -- FRANKLY, THE
6 LATENESS OF THE ORDER OF THE MAGISTRATE JUDGE TO COMPEL THOSE
7 ADDRESSES, THERE WAS NOT SUFFICIENT TIME FOR THE EXPERTS TO
8 RESPOND IN WRITING. AND SO IN THIS PARTICULAR INSTANCE,
9 BECAUSE THE DEFENSE EXPERT WAS GIVEN THE SAME INFORMATION AND
10 SIGNED A PROTECTIVE ORDER OR A CONFIDENTIALITY AGREEMENT TO USE
11 THAT INFORMATION AS HE MIGHT, THERE'S NO PREJUDICE, AND THE
12 COURT WILL ALLOW THE QUESTION.

13 **MS. THOMAS:** THANK YOU, YOUR HONOR.

14 AND WE HAVE NO OBJECTION TO DR. JOHNSON
15 TESTIFYING ON HIS OWN GEOCODING.

16 **THE COURT:** SO NOTED.

17 **BY MS. THOMAS:**

18 **Q.** ALL RIGHT. SO I AM NOW GOING TO PUT ON THE SCREEN WHAT
19 IS ILLUSTRATIVE AID 18 FOR THE PLAINTIFFS.

20 WHAT DOES THIS ILLUSTRATIVE AID REPRESENT?

21 **A.** THIS SHOWS THE GEOCODED ADDRESS OF ONE OF THE NAACP
22 MEMBERS WHO LIVES IN SENATE DISTRICT 39.

23 **Q.** AND IF WE COULD JUST ZOOM INTO THE RED SECTION.

24 **A.** AND HERE YOU SEE THE OTHER NAACP MEMBER WHO LIVES IN
25 SHREVEPORT IN SENATE DISTRICT -- I'D HAVE TO ZOOM OUT AND SEE.

WILLIAM S. COOPER

10:00 1 BUT HE ALSO LIVES OR SHE ALSO LIVES IN THE NEW MAJORITY OR
2 ADDITIONAL MAJORITY ILLUSTRATIVE DISTRICT 38. AND I DIDN'T SEE
3 THE NUMBER AGAIN, BUT THAT'S OKAY.

4 Q. ALL RIGHT.

5 A. THIRTY-EIGHT. THAT'S THE OLD 38, YEAH. SO THEY LIVE IN
6 THE OLD 38 AND THE ADDITIONAL NEW ILLUSTRATIVE 38.

7 Q. AND IF WE COULD GO BACK TO FIGURE 19 ON PAGE 38.

8 THE ONLY DIFFERENCE BETWEEN THE ILLUSTRATIVE AID THAT
9 WE JUST LOOKED AT AND THIS FIGURE IN YOUR REPORT IS THE "X"
10 MARKING WHERE AN NAACP MEMBER LIVES. CORRECT?

11 A. YES. IT'S AN ASTERISK, A LARGE ASTERISK. BUT, YES.

12 Q. OKAY. IF WE COULD NOW MOVE TO PAGE 39, FIGURE 20 OF
13 EXHIBIT 20.

14 WHAT DOES THIS FIGURE SHOW?

15 A. THIS SHOWS THE ILLUSTRATIVE SENATE DISTRICT I DREW IN THE
16 METROPOLITAN BATON ROUGE AREA. IT WOULD INCLUDE PARTS OF EAST
17 BATON ROUGE, WEST BATON ROUGE, POINTE COUPEE, AND IBERVILLE.

18 AND I THINK I MISSPOKE A COUPLE OF MINUTES AGO AND
19 SAID PART OF IT WAS IN WEST FELICIANA, BUT IT'S ACTUALLY IN
20 POINTE COUPEE.

21 Q. OKAY.

22 A. IT'S ILLUSTRATIVE SENATE DISTRICT 17.

23 Q. AND IF WE COULD NOW MOVE TO THE NEXT PAGE, PAGE 40, FIGURE
24 21.

25 WHAT DOES THIS FIGURE SHOW?

WILLIAM S. COOPER

10:01 1 A. THIS SIMPLY OVERLAYS THE ILLUSTRATIVE SENATE DISTRICT 17
2 ONTO WHAT IS A MAP OF THE ENACTED PLAN. AND YOU CAN SEE IN THE
3 ENACTED PLAN SENATE DISTRICT 17 COVERS A MUCH LARGER GEOGRAPHIC
4 AREA, STRETCHING FROM ST. LANDRY PARISH ALL THE WAY OVER TO ST.
5 HELENA AND SOUTH INTO IBERVILLE. SO IT'S A LARGER GEOGRAPHIC
6 AREA, AND IT'S MAJORITY WHITE.

7 Q. AND HOW DID YOU DETERMINE THAT A NEW SENATE ILLUSTRATIVE
8 DISTRICT COULD BE DRAWN IN THIS PART OF THE STATE?

9 A. BY EXAMINING THE POPULATION DISTRIBUTION AND TAKING INTO
10 CONSIDERATION TRADITIONAL REDISTRICTING PRINCIPLES.

11 Q. I WOULD NOW LIKE TO HAVE PUT ON THE SCREEN WHAT IS
12 PLAINTIFF ILLUSTRATIVE AID NO. 19, AND IF WE COULD JUST ZOOM IN
13 ON THE RED PART WITH 17.

14 WHAT DOES THIS ILLUSTRATIVE AID SHOW?

15 A. THIS SHOWS THAT THERE IS AN NAACP MEMBER IN NEW ROADS,
16 WHICH IS IN POINTE COUPEE PARISH. UNDER THE ILLUSTRATIVE PLAN,
17 THAT PERSON IS IN THE NEW ILLUSTRATIVE DISTRICT 17 AND WAS
18 PREVIOUSLY IN THE WHITE MAJORITY IN -- OR STILL IS ENACTED
19 SENATE DISTRICT 17.

20 Q. OKAY. NOW LET'S GO BACK TO PLAINTIFF EXHIBIT 20, PAGE 41,
21 FIGURE 22.

22 WHAT DOES THIS FIGURE SHOW?

23 A. THIS SHOWS ILLUSTRATIVE SENATE DISTRICT 19 IN THE NEW
24 ORLEANS MSA AREA IN JEFFERSON AND ST. CHARLES.

25 Q. AND IF WE COULD MOVE TO THE NEXT PAGE.

WILLIAM S. COOPER

10:03 1

WHAT DOES FIGURE 23 SHOW?

2 A. THIS SHOWS THE ENACTED PLAN IN THE SAME AREA WITH A RED
3 OUTLINE SHOWING THE ILLUSTRATIVE DISTRICT 19.

4 Q. AND HOW DID YOU DETERMINE THAT A NEW DISTRICT COULD BE
5 DRAWN IN THIS PART OF THE STATE?

6 A. AGAIN, THROUGH EXAMINING THE DISTRIBUTION OF THE
7 POPULATION AND APPLYING TRADITIONAL REDISTRICTING PRINCIPLES
8 AND CONSIDERING POPULATION SHIFTS THAT WE DISCUSSED EARLIER
9 TODAY, I DETERMINED THAT AN ADDITIONAL SENATE DISTRICT COULD BE
10 DRAWN IN THAT AREA.

11 Q. NOW, IF WE COULD PUT UP WHAT IS PLAINTIFFS' ILLUSTRATIVE
12 AID 20.

13 AND WHAT DOES THIS ILLUSTRATIVE AID SHOW?

14 A. THIS SHOWS THAT THERE IS AN NAACP MEMBER WHO LIVES IN
15 ILLUSTRATIVE SENATE DISTRICT 19, WHICH WOULD BE THE NEW
16 MAJORITY-BLACK DISTRICT, AND ALSO LIVES IN A WHITE-MAJORITY
17 DISTRICT UNDER THE 2022 SENATE.

18 Q. I WOULD NOW LIKE TO TURN TO PAGE 43 OF THE SAME EXHIBIT,
19 FIGURE 24, PLEASE.

20 WHAT DOES THIS FIGURE SHOW?

21 A. THIS FIGURE, LIKE THE PREVIOUS FIGURE WE LOOKED AT A FEW
22 MOMENTS AGO WITH RESPECT TO THE SENATE DISTRICTS, SHOWS THE NEW
23 MAJORITY-BLACK DISTRICTS THAT CAN BE DRAWN IN THE STATE.

24 THERE'S SIX OF THEM. THERE ARE TWO IN THE NORTHWEST: ONE IN
25 CADDO PARISH IN THE BOSSIER CITY AREA; A SECOND ONE IN DESOTO,

WILLIAM S. COOPER

10:05 1 RED RIVER, AND NATCHITOCHEs; A THIRD ONE IN CALCASIEU IN THE
2 LAKE CHARLES AREA. AND THEN THREE ADDITIONAL DISTRICTS IN THE
3 EAST BATON ROUGE AREA, INCLUDING PARTS OF THE BATON ROUGE MSA
4 AND ASCENSION AND IBERVILLE PARISHES. THAT'S THE HOUSE
5 DISTRICT 60. THE OTHER DISTRICTS ARE IN EAST BATON ROUGE AND
6 ARE VERY SMALL AND COMPACT AND YOU REALLY CAN'T SEE THE RED
7 THERE.

8 AND THE GREEN AREAS ARE THE EXISTING -- OR WHAT WOULD
9 BE ILLUSTRATIVE MAJORITY-BLACK DISTRICTS THAT I'VE DRAWN IN
10 AREAS THAT ALREADY DO HAVE IN SOME CONFIGURATION A
11 MAJORITY-BLACK DISTRICT.

12 Q. OKAY. I'D LIKE TO LOOK NOW AT FIGURE 27 ON PAGE 48.

13 WHAT DOES THIS FIGURE SHOW?

14 A. WELL, AGAIN, IT'S A PRIMA FACIE INDICATOR THAT THERE IS
15 SOME CRACKING AND PACKING IN THE STATE HOUSE PLAN. JUST A
16 LITTLE BIT OVER THE HALF OF THE VOTING-AGE POPULATION IN THE
17 STATE THAT IS BLACK, LIVES IN A MAJORITY BLACK VOTING-AGE
18 DISTRICT COMPARED TO 83.4 PERCENT OF THE WHITE POPULATION,
19 NON-HISPANIC WHITE POPULATION, THAT LIVES IN A MAJORITY-WHITE
20 HOUSE DISTRICT.

21 AND AS YOU CAN SEE AFTER DRAWING THE ILLUSTRATIVE
22 HOUSE PLAN, I WAS ABLE TO, IN EFFECT, PUT A MORE FOLKS INTO A
23 MAJORITY-BLACK HOUSE DISTRICT SO THAT IN THE END, THE
24 ILLUSTRATIVE HOUSE PUT 61.1 PERCENT OF THE BLACK VOTING-AGE
25 POPULATION IN A MAJORITY-BLACK DISTRICT. AND IN THE SAME VEIN,

WILLIAM S. COOPER

10:07 1 THE WHITE POPULATION WOULD DROP FROM 83.4 TO 77.4 PERCENT IN
2 MAJORITY-WHITE DISTRICTS.

3 Q. DID DR. MURRAY DISCUSS THIS EXHIBIT?

4 A. WELL, I THINK HE DID. AND, AGAIN, HE SAID I MADE A
5 MISTAKE, AND THAT I -- MY NUMBERS WERE ALL WRONG, AND THAT'S
6 BECAUSE HE JUST ADDED UP THE BLACK VAP IN THE MAJORITY-BLACK
7 DISTRICTS AND TOOK A MEAN AVERAGE. SO HIS TABLES ARE TOTALLY
8 WRONG.

9 Q. SO NOW LET'S WALK THROUGH SOME OF YOUR HOUSE DISTRICTS.
10 IF WE COULD NOW PUT UP PAGE 50, FIGURE 29.

11 WHAT DOES THIS FIGURE SHOW?

12 A. THIS WOULD SHOW THE NEW HOUSE DISTRICT IN SHREVEPORT MSA.
13 IT IS HOUSE DISTRICT 1, AND IT EXTENDS FROM SHREVEPORT TO THE
14 NORTH END OF THE PARISH.

15 Q. AND IF WE COULD NOW TURN TO THE NEXT PAGE.

16 WHAT DOES FIGURE 30 SHOW?

17 A. THIS OVERLAYS THE RED LINE OF THE ILLUSTRATIVE HOUSE
18 DISTRICT 1 ONTO THE 2022 HOUSE PLAN, THE ENACTED PLAN. AGAIN,
19 IT GOES FROM THE SHREVEPORT AREA NORTH TO THE ARKANSAS LINE.
20 IT'S, YOU KNOW, MAYBE 40 MILES. DR. TRENDE WOULD HAVE YOU
21 BELIEVE THAT THOSE POPULATIONS OUTSIDE OF SHREVEPORT ARE SO
22 DIFFERENT THAT THEY CERTAINLY COULD NOT BE COMPOSED OF A
23 COMPACT MINORITY COMMUNITY. IT JUST DEFIES COMMON SENSE. IT'S
24 JUST -- WELL, HE'LL EXPLAIN.

25 Q. AND HOW DID YOU DETERMINE THAT A NEW ILLUSTRATIVE HOUSE

WILLIAM S. COOPER

10:09 1 DISTRICT COULD BE DRAWN IN THIS PART OF THE STATE?

2 A. IT WAS VERY EASY REALLY. I MEAN, IT PRACTICALLY DRAWS
3 ITSELF. IN FACT, IT'S A LOT LIKE EXISTING SENATE DISTRICT 1
4 THAT THE STATE DREW IN THAT AREA -- I'M SORRY -- SENATE
5 DISTRICT 38. IT, TOO, GOES UP TO THE ARKANSAS LINE.

6 Q. I'D LIKE TO NOW PUT UP --

7 A. I SAID SENATE DISTRICT 38. I MEANT SENATE DISTRICT 39.

8 Q. I WOULD NOW LIKE TO PUT ONTO THE SCREEN PLAINTIFF
9 ILLUSTRATIVE AID NO. 21.

10 WHAT DOES THIS ILLUSTRATIVE AID DEMONSTRATE IN THE
11 RED LINE?

12 A. THE RED LINE THERE IS PART OF THE NEW MAJORITY-BLACK HOUSE
13 DISTRICT 1, AND YOU CAN SEE THAT THERE IS A NAACP MEMBER WHO
14 LIVES IN THAT DISTRICT.

15 Q. AND WHAT IS SHOWN -- I'M NOW GOING TO GO BACK TO EXHIBIT
16 20, PAGE 52, FIGURE 31.

17 A. THIS IS THE ADDITIONAL HOUSE DISTRICT I DREW IN THE
18 NATCHITOCHE AREA, INCLUDING NATCHITOCHE PARISH, PART OF IT
19 ANYWAY, ALL OF RED RIVER AND PART OF DESOTO PARISH. THIS
20 DISTRICT EXISTED UNDER THE BENCHMARK PLAN. AND FOR REASONS
21 THAT I STILL DON'T KNOW, IT WAS ELIMINATED IN THE ADOPTED PLAN.
22 THIS IS SORT OF REMINISCENT OF WHAT HAPPENED OVER IN GALVESTON
23 COUNTY WHERE THE TEXAS -- GALVESTON COUNTY TEXAS GOVERNING BODY
24 DECIDED TO ELIMINATE A MAJORITY-BLACK DISTRICT FOR NO GOOD
25 REASON. HERE THEY ARE DOING THE SAME THING. ACTUALLY IN THE

WILLIAM S. COOPER

10:11 1 GALVESTON COUNTY, IT'S A COALITION DISTRICT, BUT BLACK LATINO.
2 HERE IT'S JUST A MAJORITY-BLACK DISTRICT THAT THEY ELIMINATED,
3 EVEN THOUGH ONE COULD HAVE EASILY HAVE BEEN DRAWN AS YOU SEE
4 HERE.

5 Q. IF WE COULD NOW TURN TO PAGE 53, FIGURE 32.

6 WHAT DOES THIS EXHIBIT SHOW?

7 A. THIS SHOWS THE BOUNDARIES FOR THE ILLUSTRATIVE HOUSE
8 DISTRICT 23 THAT I HAVE DRAWN OVERLAYING THE 2022 ENROLLED
9 HOUSE PLAN.

10 Q. IF WE COULD NOW -- BEFORE I DO THAT, WERE YOU PRESENT AT
11 REVEREND HARRIS'S TESTIMONY ON MONDAY?

12 A. YES. VERY COMPELLING.

13 Q. AND DO YOU RECALL WHERE REVEREND HARRIS TESTIFIED THAT HE
14 LIVED?

15 A. I THINK HE LIVES IN NATCHITOCHEs. RIGHT?

16 Q. IF WE COULD PULL UP ILLUSTRATIVE AID 22.

17 WHAT DOES THIS ILLUSTRATIVE AID SHOW?

18 A. THIS SHOWS THAT THERE IS A PLAINTIFF IN NATCHITOCHEs
19 LIVING IN ILLUSTRATIVE HOUSE DISTRICT 23 AND ALSO IN ENACTED
20 HOUSE DISTRICT 25, WHICH IS MAJORITY WHITE.

21 Q. IF WE COULD NOW GO BACK TO EXHIBIT 20, FIGURE 33, PAGE 54.

22 IF WE COULD -- IF YOU COULD TELL US WHAT THIS FIGURE
23 SHOWS?

24 A. WELL, THIS SHOWS THE ADDITIONAL HOUSE DISTRICT I DREW IN
25 THE LAKE CHARLES AREA IN THE CYAN COLOR. THAT WOULD BE HOUSE

WILLIAM S. COOPER

10:13 1 DISTRICT 38.

2 Q. AND IF WE COULD NOW MOVE TO FIGURE 34, PAGE 55.

3 WHAT DOES THIS FIGURE SHOW?

4 A. THIS OVERLAYS THE ADDITIONAL HOUSE DISTRICT THAT I DREW IN
5 LAKE CHARLES ONTO A MAP OF THE ENROLLED HOUSE.

6 Q. IF WE COULD NOW HAVE ON THE SCREEN ILLUSTRATIVE AID NO.
7 23.

8 WHAT DOES THIS ILLUSTRATIVE AID SHOW?

9 A. THIS SHOWS THAT THERE IS AN NAACP HOUSE MEMBER WHO LIVES
10 IN AN AREA OF EXISTING MAJORITY BLACK 34, WHO WOULD BE DRAWN
11 INTO A NEW MAJORITY BLACK-HOUSE DISTRICT 38.

12 THE BLUE LABELS ON THESE MAPS INDICATE THAT THOSE ARE
13 MAJORITY-BLACK DISTRICTS, AND THE BLACK LABELS INDICATE THAT
14 THEY ARE MAJORITY-WHITE DISTRICTS. I MAY NOT HAVE CLARIFIED
15 THAT AT THE OUTSET OF ALL THIS.

16 Q. AND IF SOMEONE WANTED TO CONFIRM ON THE BACK END WHICH
17 EXISTING DISTRICTS ARE MAJORITY BLACK, DO YOU HAVE AN EXHIBIT
18 IN YOUR REPORT THAT WOULD CONFIRM THOSE NUMBERS?

19 A. YES.

20 Q. AND IF SOMEONE WANTED TO CONFIRM ON THE BACK END WHICH NEW
21 ILLUSTRATIVE DISTRICTS ARE MAJORITY BLACK, DO YOU HAVE AN
22 EXHIBIT IN YOUR REPORT THAT WOULD CONFIRM THOSE NUMBERS?

23 A. YES.

24 Q. AND WOULD THOSE EXHIBITS BE THE AUTHORITATIVE EVIDENCE OF
25 WHICH DISTRICTS ARE MAJORITY BLACK AND WHICH DISTRICTS ARE NOT?

WILLIAM S. COOPER

10:15 1 A. YES.

2 Q. I'D LIKE TO -- IS -- ARE WE ON -- IF WE COULD NOW MOVE --
3 OH, SORRY. YES. IF WE COULD NOW MOVE TO EXHIBIT 20, FIGURE
4 35, PAGE 56.

5 WHAT DOES THIS FIGURE SHOW?

6 A. THIS SHOWS THE ADDITIONAL MAJORITY-BLACK DISTRICT, HOUSE
7 DISTRICT 60 THAT I DREW IN THE BATON ROUGE MSA, BUT IN
8 PRIMARILY IN THE PARISHES OF ASCENSION AND IBERVILLE.

9 Q. AND IF WE COULD NOW MOVE TO FIGURE 36, PAGE 57.

10 WHAT DOES THIS EXHIBIT -- WHAT DOES THIS FIGURE SHOW?

11 A. THIS SHOWS THE OUTLINE OF THE ADDITIONAL DISTRICTS THAT I
12 DREW, HOUSE DISTRICT 60, BUT IT OVERLAYS THE 2022 PLAN. AND
13 YOU CAN SEE THAT WHILE THERE ARE PARTS OF THAT DISTRICT THAT
14 ARE IN A MAJORITY BLACK-HOUSE DISTRICT 58, THE AREA UP IN
15 IBERVILLE AROUND DONALDSONVILLE AND WHITE CASTLE IS A MAJORITY
16 WHITE DISTRICT 60.

17 Q. AND HOW DID YOU DETERMINE THAT A NEW ILLUSTRATIVE DISTRICT
18 COULD BE DRAWN IN THIS PART OF THE STATE?

19 A. WELL, I EXAMINED THE POPULATION AND WITH SOME
20 EXPERIMENTATION, IT WAS CLEAR THAT YOU COULD GET A NEW DISTRICT
21 IN THIS PART OF BATON ROUGE MSA.

22 Q. IF WE COULD NOW PULL UP PLAINTIFF ILLUSTRATIVE AID NO.
23 24.

24 OKAY. AND LOOKING AT THIS MAP, I SEE THAT THERE IS
25 AN ASTERISK DOWN NEAR WHAT IS LABELED 60. DO YOU KNOW WHAT

WILLIAM S. COOPER

10:17 1 THIS ASTERISK REPRESENTS?

2 A. YES. IT'S AN NAACP MEMBER WHO LIVES IN THE ENACTED HOUSE
3 DISTRICT 60.

4 MR. TUCKER: YOUR HONOR, WE OBJECT. I BELIEVE THIS
5 WAS THE NAACP MEMBER THAT WITHDREW THEIR WAIVER OF THE
6 PRIVILEGE, AND THAT INFORMATION DID NOT COME IN DURING MR.
7 MCCLANAHAN'S TESTIMONY.

8 MS. THOMAS: I'M GOING TO TRY TO CLEAN THIS UP. I
9 BELIEVE THAT THERE -- THE TESTIMONY IS INCORRECT AS FAR AS THIS
10 BEING AN NAACP MEMBER. SO MAY I BE ALLOWED TO TRY TO CLEAN UP
11 THE ANSWER AND TO SEE IF WE CAN RESOLVE MR. TUCKER'S QUESTIONS?

12 THE COURT: I AM GOING TO GRANT THE OBJECTION.

13 MS. THOMAS: OKAY.

14 THE COURT: AND LET YOU TRY TO CLEAN UP.

15 MS. THOMAS: OKAY.

16 BY MS. THOMAS:

17 Q. DO YOU RECALL THE TESTIMONY OF DR. NAIRNE YESTERDAY -- ON
18 MONDAY?

19 A. YES, I DO.

20 Q. AND DO YOU RECALL WHERE DR. NAIRNE LIVES?

21 A. SHE LIVES IN NAPOLEONVILLE.

22 Q. OKAY. AND DOES THE DEMONSTRATIVE OR ILLUSTRATIVE AID IN
23 FRONT OF YOU HAVE AN ASTERISK FOR NAPOLEONVILLE?

24 A. YES. YES.

25 Q. AND IS IT YOUR UNDERSTANDING THAT THE ASTERISK IN FRONT OF

WILLIAM S. COOPER

10:18 1 YOU REPRESENTS DR. NAIRNE?

2 A. YES. SORRY. I THOUGHT SHE WAS AN NAACP MEMBER. I
3 MISSPOKE.

4 Q. I THINK THE RECORD STANDS FOR ITSELF OF WHETHER DR. NAIRNE
5 IS AN NAACP MEMBER.

6 SO LOOKING AT THE ASTERISK, IT'S NOT WITHIN THE RED
7 OUTLINE. IS THAT CORRECT?

8 A. IT IS NOT. IT IS IN THE MAJORITY WHITE-HOUSE DISTRICT 60.
9 AND IT WOULD BE IN A MAJORITY-BLACK DISTRICT UNDER THE
10 ILLUSTRATIVE PLAN. HOWEVER, IT WOULD BE IN MAJORITY-BLACK
11 HOUSE DISTRICT 58.

12 Q. THANK YOU.

13 JUST GOING BACK FOR A SECOND, BECAUSE I'M NOT SURE IF
14 I ASKED THIS QUESTION. IF WE COULD GO BACK TO FIGURE 34 ON
15 PAGE 55.

16 HOW DID YOU DETERMINE THAT A NEW ILLUSTRATIVE
17 DISTRICT COULD BE DRAWN IN THIS PART OF THE STATE?

18 A. WELL, THE BLACK POPULATION HAS GROWN IN THIS AREA, AS WE
19 DISCUSSED EARLIER TODAY, AND THE PRESENT DAY HOUSE DISTRICT 34
20 IS SOMEWHAT PACKED. I THINK THE PERCENTAGE -- I DON'T HAVE IT
21 FRONT OF ME. I THINK IT'S APPROACHING 70 PERCENT BLACK. AND
22 SO I WANTED TO SEE IF MAYBE THERE WOULD BE ANOTHER POTENTIAL
23 DISTRICT IN THE LAKE CHARLES MSA AREA, AND INDEED THERE IS.
24 YOU CAN CREATE A SECOND DISTRICT THERE.

25 Q. ALL RIGHT. WE CAN TAKE THIS DOWN FOR A SECOND.

WILLIAM S. COOPER

10:20 1 I'D LIKE TO NOW MOVE TO EAST BATON ROUGE. HOW MANY
2 TOTAL NEW DISTRICTS DID YOU DRAW IN THE EAST BATON ROUGE AREA
3 FOR THE HOUSE?

4 A. I DREW THREE NEW DISTRICTS IN EAST BATON ROUGE.

5 Q. AND DID YOU DISCUSS THREE DISTRICTS IN YOUR REPORT?

6 A. YES.

7 Q. OKAY. LET'S LOOK AT PLAINTIFF EXHIBIT 40, AND IF WE COULD
8 JUST FOR THE SAKE OF THE WITNESS BEING ABLE TO READ, ZOOM IN ON
9 THE FIRST -- ON THE TOP HALF OF THE EXHIBIT.

10 OKAY. WHAT DOES PLAINTIFF EXHIBIT 40 SHOW?

11 A. WELL, THIS IS THE TABLE THAT WE WERE REFERENCING
12 PREVIOUSLY THAT SHOWS THE POPULATION TOTALS FOR THE LOUISIANA
13 STATE HOUSE BY TOTAL POPULATION AND BY VOTING AGE BY RACE AND
14 ETHNICITY.

15 Q. AND IS THIS -- WHEN YOU SAY "LOUISIANA STATE HOUSE," IS
16 THIS YOUR ILLUSTRATIVE MAP OR IS THIS THE ENACTED MAP?

17 A. THAT'S THE ENACTED MAP. AND I'VE ALSO INCLUDED THE
18 CITIZEN VOTING-AGE POPULATION AND REGISTERED BLACK VOTERS IN
19 THOSE DISTRICTS. THE REST OF THAT CHART IS DIRECTLY FROM THE
20 DECENNIAL CENSUS.

21 Q. AND I NOTICED THAT A COUPLE OF THE -- OR MORE THAN A
22 COUPLE -- SOME OF THE COLUMNS FOR "ANY PART BLACK" IS
23 HIGHLIGHTED IN GREEN. WHAT DOES THE GREEN HIGHLIGHT INDICATE?

24 A. THOSE ARE THE MAJORITY-BLACK DISTRICTS.

25 Q. OKAY. NOW, IF WE COULD PULL UP EXHIBIT 66 FOR PLAINTIFFS

WILLIAM S. COOPER

10:22 1 AND ZOOM IN ON THE TOP HALF.

2 OKAY. WHAT DOES THIS EXHIBIT SHOW?

3 A. THIS SHOWS THE MAJORITY-BLACK DISTRICTS IN THE
4 ILLUSTRATIVE PLAN THAT I DREW IN 2023. IN THIS PARTICULAR
5 EXHIBIT, I HAD ACTUALLY -- I ALSO IDENTIFIED WHERE THERE WERE
6 CHANGES COMPARED TO 2022.

7 BUT THE MAIN POINT IS THERE ARE ACTUALLY 35 MAJORITY
8 BLACK-HOUSE DISTRICTS IN THE ILLUSTRATIVE PLAN THAT I DREW
9 COMPARED TO 29 IN THE ENACTED SENATE PLAN.

10 Q. IF WE COULD GO BACK TO PLAINTIFF EXHIBIT 20, FIGURE 38 ON
11 PAGE 59. I BELIEVE IT'S PAGE 59, FIGURE 38. YES. THANK YOU.

12 WHAT DOES THIS FIGURE SHOW?

13 A. THIS SHOWS ILLUSTRATIVE HOUSE DISTRICT 65, WHICH I HAVE
14 IDENTIFIED AS ONE OF THE NEW MAJORITY-BLACK DISTRICTS. IT
15 INCLUDES PART OF THE MUNICIPALITY OF CENTRAL, ALONG WITH PARTS
16 OF EAST BATON ROUGE PARISH, AND ALSO EXTENDS INTO
17 MUNICIPALITIES OF BROWNSVILLE AND MERRYDALE. THIS IS THE
18 ENACTED PLAN, SO THE RED LINES OVERLAY. THE RED LINES ARE THE
19 NEW HOUSE DISTRICT, AND THE ENACTED PLAN IS THE BASE MAP HERE.
20 SO YOU CAN SEE HOW IN THE ENACTED MAP THAT AREA WAS SPLIT INTO
21 FOUR OR FIVE DIFFERENT HOUSE DISTRICTS, IN EFFECT, CRACKING THE
22 BLACK POPULATION.

23 Q. IF WE COULD LOOK AT FIGURE 39 ON PAGE 60.

24 WHAT DOES THIS FIGURE SHOW?

25 A. THIS SHOWS THE NEW ILLUSTRATIVE HOUSE DISTRICT 68. AN

WILLIAM S. COOPER

10:24 1 ADDITIONAL DISTRICT CAN BE DRAWN IN BATON ROUGE.

2 Q. AND I NOTICED -- I BELIEVE YOU TESTIFIED EARLIER THAT THE
3 BLUE BOXES REPRESENT MAJORITY-BLACK DISTRICTS?

4 A. YES.

5 Q. AND WHAT COLOR IS THE BOX FOR 68?

6 A. WELL, IT'S BLUE, SO IT IS A -- IT IS A MAJORITY-BLACK
7 DISTRICT.

8 Q. AND WHAT COLOR IS THE BOX FOR 69?

9 A. SIXTY-NINE IS ALSO MAJORITY BLACK. IT IS ANOTHER DISTRICT
10 THAT IS IN -- THAT I HAVE DRAWN THAT COULD ALSO BE CONSIDERED
11 ONE OF THE ADDITIONAL MAJORITY-BLACK DISTRICTS.

12 Q. AND DID YOU DISCUSS 69 AS A NEW MAJORITY-BLACK DISTRICT IN
13 YOUR REPORT?

14 A. I DID NOT BECAUSE THE INCUMBENT IN 69 IS ACTUALLY THE
15 PRESENT INCUMBENT OF HOUSE DISTRICT 101. BUT IT IS IN A SENSE
16 ALSO ONE OF WHAT COULD BE CONSIDERED AS A NEW MAJORITY-BLACK
17 DISTRICT. THERE ARE FOUR DISTRICTS THAT WE'RE LOOKING AT HERE
18 AND ONLY THREE OF THEM CAN BE CONSIDERED TO BE ADDITIONAL
19 MAJORITY-BLACK DISTRICTS BECAUSE IN ORDER TO MINIMIZE THE
20 NUMBER OF HOUSE DISTRICTS THAT ARE CONTAINED IN EAST BATON
21 ROUGE PARISH, I ELIMINATED HOUSE DISTRICT 62, WHICH EXTENDS UP
22 INTO WEST FELICIANA. CURRENTLY THERE ARE 12 DISTRICTS IN THE
23 HOUSE PLAN THAT CONVERGE ON EAST BATON ROUGE PARISH IN WHOLE OR
24 IN PART, AND I HAVE REDUCED THAT NUMBER TO EIGHT IN THE
25 ILLUSTRATIVE PLAN.

WILLIAM S. COOPER

10:26 1 Q. AND IF WE COULD JUST BRIEFLY GO BACK TO PLAINTIFF
2 EXHIBIT 40 AND IF WE COULD GO TO THE SECOND PAGE, PLEASE, AND
3 ZOOM IN ON THE TOP HALF.

4 SO I BELIEVE YOU'VE NOW TESTIFIED ABOUT DISTRICT 65,
5 68, AND 69. CORRECT?

6 A. YES.

7 Q. AND LOOKING AT THIS EXHIBIT, ARE THOSE INDICATED AS
8 MAJORITY-BLACK DISTRICTS IN THE CURRENT PLAN, THE ENACTED PLAN?

9 A. NO.

10 Q. NOW IF WE COULD GO BACK TO EXHIBIT 66 AND IF WE COULD GO
11 TO THE LAST PAGE, TOP HALF.

12 NOW, LOOKING AT EXHIBITS -- I MEAN, SORRY. IF WE
13 COULD -- NOW LOOKING AT DISTRICTS 65, 68, AND 69, ARE THOSE
14 INDICATED AS MAJORITY-BLACK DISTRICTS IN YOUR ILLUSTRATIVE
15 PLAN?

16 A. YES.

17 Q. IF WE COULD NOW PUT ON THE SCREEN ILLUSTRATIVE AID 25.

18 WHAT DOES THIS ILLUSTRATIVE AID SHOW?

19 A. THIS SHOWS THE NAACP MEMBERS IN THE EAST BATON ROUGE
20 PARISH AREA, AND YOU CAN SEE THERE ARE FIVE THAT WERE
21 IDENTIFIED WHEN I GEOCODED.

22 Q. IS THERE AN -- WAS A MEMBER IDENTIFIED IN ILLUSTRATIVE
23 DISTRICT 65?

24 A. YES.

25 Q. WAS A MEMBER IDENTIFIED IN ILLUSTRATIVE DISTRICT 69?

WILLIAM S. COOPER

10:27 1 A. YES.

2 Q. WAS A MEMBER IDENTIFIED IN ILLUSTRATIVE DISTRICT 68?

3 A. YES.

4 Q. NOW, I'D LIKE TO ZOOM IN ON THE TWO DOTS NEAR THE BORDER
5 OF 69.

6 OKAY. WERE YOU PRESENT IN THE TESTIMONY OF REVEREND
7 LOWE ON MONDAY?

8 A. YES.

9 Q. AND WERE YOU PRESENT IN THE TESTIMONY OF DR. WASHINGTON ON
10 MONDAY?

11 A. YES.

12 Q. DO YOU RECALL WHICH DISTRICTS THEY CURRENTLY RESIDE?

13 A. WELL, I THINK THEY --

14 Q. DO YOU WANT US TO ZOOM OUT A BIT?

15 A. WELL, CAN YOU ZOOM OUT? YEAH.

16 Q. OKAY.

17 A. THEY CURRENTLY RESIDE IN, I BELIEVE, HOUSE DISTRICT 66.

18 Q. AND DO YOU RECALL WHICH ILLUSTRATIVE DISTRICTS THEY WOULD
19 RESIDE IN?

20 A. THEY WOULD RESIDE IN 69 UNDER THE ENACTED -- UNDER THE
21 ILLUSTRATIVE PLAN.

22 Q. IF WE COULD ZOOM BACK INTO THE TWO ASTERISKS THAT WE WERE
23 LOOKING AT.

24 A. OKAY.

25 Q. LOOKING CLOSER, DO YOU RECALL WHETHER DR. LOWE -- I'M

WILLIAM S. COOPER

10:29 1 SORRY -- REVEREND LOWE AND DR. WASHINGTON WOULD RESIDE IN 69 OR
2 ANOTHER DISTRICT?

3 A. ZOOM OUT OF HERE A BIT.

4 COULD YOU POINT TO THE ASTERISK AGAIN? I MEAN, THE
5 ASTERISK YOU'RE LOOKING AT ARE IN --

6 Q. I BELIEVE IF WE --

7 A. -- ILLUSTRATIVE HOUSE DISTRICT 69 -- RIGHT? -- WHICH IS
8 ANOTHER ONE IN HOUSE DISTRICT -- IN ILLUSTRATIVE HOUSE DISTRICT
9 101, I THINK.

10 Q. OKAY. DO YOU RECALL WHETHER THE ASTERISK THAT'S CURRENTLY
11 ON THE LINE IS IN 69 OR 101?

12 A. IT COULD BE IN 101, YEAH. I DON'T HAVE THESE MEMORIZED.
13 IT COULD WELL BE IN 101. THEY'RE BOTH IN THE SAME DISTRICT, I
14 THINK.

15 MS. THOMAS: OKAY. AT THIS POINT WE HAVE NO FURTHER
16 QUESTIONS, AND WE WILL PASS THE WITNESS.

17 THE COURT: OKAY. THIS IS A GOOD TIME FOR A BREAK.
18 LET'S TAKE A 20-MINUTE RECESS.

19 THE LAW CLERK: ALL RISE.

20 COURT IS AT RECESS.

21 (WHEREUPON, THE COURT WAS IN RECESS.)

22 THE COURT: BE SEATED.

23 MR. TUCKER, YOUR WITNESS.

24 MR. TUCKER: THANK YOU, YOUR HONOR.

25

WILLIAM S. COOPER

CROSS-EXAMINATION

10:54 1

2 **BY MR. TUCKER:**

3 **Q.** GOOD MORNING, MR. COOPER.

4 **A.** GOOD MORNING.

5 **Q.** IT'S NICE TO SEE YOU AGAIN.

6 **A.** IT IS IN BATON ROUGE RATHER THAN NEW YORK CITY.

7 **Q.** THAT'S RIGHT.

8 I'D LIKE TO HAVE YOU START BY TURNING TO PARAGRAPH 8
9 OF YOUR REPORT.

10 AND, FORREST, IF WE COULD PULL UP THAT, IT'S PL-20.

11 **A.** YES.

12 **Q.** AND IN PARAGRAPH 8 YOU STATE THAT "PLAINTIFFS IN THIS CASE
13 HAVE ASKED ME TO DETERMINE WHETHER THE AFRICAN-AMERICAN
14 POPULATION IN LOUISIANA IS 'SUFFICIENTLY LARGE AND
15 GEOGRAPHICALLY COMPACT' TO ALLOW FOR THE CREATION OF ADDITIONAL
16 MAJORITY-BLACK STATE HOUSE AND SENATE DISTRICTS BEYOND THOSE
17 ENACTED ON MAY 9, 2022, WITHOUT GOVERNOR EDWARDS'S SIGNATURE."
18 IS THAT CORRECT?

19 **A.** YES. I'M STILL NOT THERE. BUT I DO REMEMBER THAT
20 PARAGRAPH.

21 HANG ON. OKAY.

22 **Q.** ARE YOU THERE?

23 **A.** YEAH.

24 **Q.** SO IS THAT CORRECT?

25 **A.** THAT IS CORRECT.

WILLIAM S. COOPER

10:55 1 Q. AND THAT'S WHAT YOU SOUGHT TO DO IN THIS CASE. CORRECT?

2 A. YES. AND PROVIDE DEMOGRAPHIC INFORMATION AS WELL.

3 Q. IN HERE YOU DON'T STATE ANYWHERE THAT PLAINTIFFS ASKED YOU
4 TO DRAW MORE COMPACT DISTRICTS. CORRECT?

5 A. ASKED ME TO DRAW MORE COMPACT DISTRICTS THAN WHAT?

6 Q. I'M JUST SAYING YOU DON'T STATE IN PARAGRAPH 8 THAT THE
7 PLAINTIFFS ASKED YOU TO DRAW MORE COMPACT DISTRICTS, DO YOU?

8 A. MORE COMPACT THAN WHAT?

9 Q. MORE COMPACT THAN THE ENACTED MAP?

10 A. THEY DID NOT SPECIFICALLY ASK ME TO DRAW DISTRICTS THAT
11 WERE MORE COMPACT, NO, I DON'T THINK THEY DID.

12 Q. OR TO LOWER POLITICAL SUBDIVISION SPLITS? THAT'S NOT
13 CONTAINED IN PARAGRAPH 8 EITHER, IS IT?

14 A. NO. THAT'S JUST PART OF TRADITIONAL REDISTRICTING
15 PRINCIPLES. I MEAN, THAT WAS THE GENERAL REQUEST FROM THE
16 ATTORNEYS FOR THE PLAINTIFFS TO ANSWER THE GENERAL INQUIRY AND
17 TO DO THAT I HAD TO ADHERE TO TRADITIONAL REDISTRICTING
18 PRINCIPLES. SO I MADE A POINT OF TRYING TO DRAW REASONABLY
19 SHAPED COMPACT DISTRICTS AND TO MINIMIZE POLITICAL SUBDIVISION
20 SPLITS TO THE EXTENT POSSIBLE.

21 Q. I APPRECIATE THAT, MR. COOPER.

22 MY QUESTION IS: IN PARAGRAPH 8 YOU DON'T STATE
23 SPECIFICALLY THAT PLAINTIFFS ASKED YOU TO LOWER ANY POLITICAL
24 SUBDIVISION SPLITS. CORRECT?

25 A. THAT'S TRUE.

WILLIAM S. COOPER

10:56 1 Q. AND I WANT TO MAKE SURE WE'RE TALKING ON THE SAME PAGE,
2 TOO. IF I REFER TO "BVAP," DO YOU UNDERSTAND THAT TO BE BLACK
3 VOTING-AGE POPULATION?

4 A. ANY-PARTY BLACK VOTING-AGE POPULATION, CORRECT.

5 Q. AND YOU DEFINE "MAJORITY BLACK" IN THIS CASE TO BE
6 "50 PERCENT PLUS ONE BVAP." IS THAT CORRECT?

7 A. THAT IS AS DEFINED IN THE *STRICKLAND* CASE I BELIEVE THAT
8 IS NOW SORT OF ACCEPTED AS THE STANDARD.

9 Q. THE ENACTED PLAN CONTAINS 29 MAJORITY-BLACK DISTRICTS AND
10 11 MAJORITY BLACK -- SORRY.

11 THE ENACTED PLAN CONTAINS 29 MAJORITY-BLACK DISTRICTS
12 IN THE HOUSE AND 11 MAJORITY-BLACK DISTRICTS IN THE SENATE.
13 CORRECT?

14 A. CORRECT.

15 Q. AND YOU DRAW TWO ILLUSTRATIVE PLANS HERE: ONE FOR THE
16 HOUSE, AND ONE FOR THE SENATE. CORRECT?

17 A. CORRECT.

18 Q. YOUR ILLUSTRATIVE PLAN FOR THE HOUSE CONTAINS 35
19 MAJORITY-BLACK DISTRICTS. CORRECT?

20 A. CORRECT.

21 Q. THAT'S SIX MORE THAN THE ENACTED PLAN?

22 A. CORRECT.

23 Q. AND YOUR ILLUSTRATIVE PLAN FOR THE SENATE CONTAINS 14
24 MAJORITY-BLACK DISTRICTS. CORRECT?

25 A. CORRECT.

WILLIAM S. COOPER

10:57 1 Q. THAT'S THREE MORE THAN THE ENACTED PLAN IN THE SENATE?

2 A. CORRECT.

3 Q. I'D LIKE TO NOW TURN TO FIGURE 5 ON PAGE 15 OF YOUR
4 REPORT.

5 I'LL MAKE SURE I GIVE YOU A CHANCE TO GET THERE THIS
6 TIME.

7 A. YES.

8 Q. SO LET ME KNOW WHEN YOU'RE THERE.

9 A. YES. I SEE IT ON THE SCREEN I GUESS.

10 Q. GREAT. SO AS I UNDERSTAND, THIS FIGURE REFLECTS THE
11 LOUISIANA VOTING-AGE POPULATION BY RACE AND ETHNICITY FROM 2000
12 TO 2020. IS THAT CORRECT?

13 A. IT DOES.

14 Q. AND THIS REFLECTS THAT THE OVERALL BVAP IN THE STATE OF
15 LOUISIANA FOLLOWING THE 2020 CENSUS WAS 31.25 PERCENT. IS THAT
16 CORRECT?

17 A. CORRECT.

18 Q. AND THAT WAS AN INCREASE OF ONLY 1.3 PERCENT SINCE 2000?

19 A. THAT IS CORRECT. THE ABSOLUTE NUMBERS WENT UP
20 CONSIDERABLY, BUT THE PERCENTAGE IS SLIGHTLY HIGHER.

21 Q. AND ONLY .78 PERCENT SINCE THE LAST DECADE?

22 A. I'M SORRY?

23 Q. AND ONLY .78 PERCENT SINCE THE LAST DECADE?

24 A. YES.

25 Q. AND I'D LIKE YOU TO TURN BACK NOW TO FIGURE 1 ON PAGE 9.

WILLIAM S. COOPER

10:58 1 AND AS I UNDERSTAND IT, THIS IS A SIMILAR TABLE BUT
2 NOW BASED UPON TOTAL POPULATION AND NOT VOTING-AGE POPULATION.
3 IS THAT CORRECT?

4 A. RIGHT.

5 Q. CORRECT?

6 A. CORRECT.

7 Q. AND HERE THIS REFLECTS THAT THE OVERALL BLACK POPULATION
8 INCREASED BY ONLY .33 PERCENT FROM THE PRIOR DECADE. IS THAT
9 RIGHT?

10 A. THAT IS CORRECT.

11 Q. NOW, AGAIN, WE TALKED ABOUT EARLIER THAT THE ENACTED PLAN
12 HAS 29 OF THE 105 HOUSE DISTRICTS AS MAJORITY BLACK. CORRECT?

13 A. YES.

14 Q. AND I'LL REPRESENT TO YOU, BECAUSE I KNOW YOU DON'T HAVE A
15 CALCULATOR ON YOU, THAT THAT IS 27.6 PERCENT. DO YOU HAVE ANY
16 REASON TO DISAGREE WITH THAT?

17 A. 27 -- OF ALL THE DISTRICTS YOU MEAN?

18 Q. CORRECT.

19 A. NOT OFF THE TOP OF MY HEAD, NO.

20 Q. YOU HAVE NO REASON TO DISPUTE THAT?

21 A. NO. I'LL TAKE YOUR WORD FOR IT.

22 Q. BY YOUR ILLUSTRATIVE PLAN HAS 35 OF THE 105 DISTRICTS AS
23 MAJORITY BLACK. CORRECT?

24 A. IT DOES.

25 Q. AND I THINK THAT'S MATH MAYBE WE CAN DO. I THINK THAT'S

WILLIAM S. COOPER

10:59 1 EXACTLY A THIRD, SO 33.33 PERCENT. IS THAT RIGHT?

2 A. YES.

3 Q. THE ENACTED SENATE PLAN HAS 11 OF THE 39 DISTRICTS AS
4 MAJORITY BLACK, WHICH, AGAIN, I'LL REPRESENT TO YOU IS
5 28.2 PERCENT. WILL YOU ACCEPT THAT?

6 A. YES.

7 Q. BUT YOUR ILLUSTRATIVE SENATE PLAN HAS 14 OF THE 39
8 DISTRICTS AS MAJORITY BLACK, WHICH I'LL REPRESENT TO YOU IS
9 35.9 PERCENT. WOULD YOU AGREE?

10 A. I DIDN'T DO THE MATH, BUT I'LL TAKE YOUR WORD FOR IT.

11 Q. SO WERE YOU ATTEMPTING TO DRAW A PERCENTAGE OF
12 MAJORITY-BLACK DISTRICTS IN THE ILLUSTRATIVE PLANS THAT WAS
13 EQUAL TO OR GREATER THAN THE STATE'S OVERALL BVAP?

14 A. NO. JUST IN SOME SAME -- YOU KNOW, IN A RANGE THAT WOULD
15 BE REFLECTIVE OF THE OVERALL BLACK POPULATION OF THE STATE. I
16 WAS NOT TRYING TO MAXIMIZE THE NUMBER OF BLACK-MAJORITY
17 DISTRICTS. ADDITIONAL ONES COULD HAVE BEEN DRAWN PROBABLY. SO
18 IT ENDED UP THAT I FELT LIKE 35 HOUSE DISTRICTS AND 14 SENATE
19 DISTRICTS WAS A REASONABLE PERCENTAGE.

20 Q. BUT YOU WANTED TO GET A --

21 A. IT MIGHT SLIGHTLY OVERREPRESENT THE BLACK POPULATION, JUST
22 AS THEY'VE BEEN SEVERELY UNDERREPRESENTED IN YEARS PAST.

23 Q. SO I THINK I HEARD YOU JUST AGREE THAT YOUR HOUSE AND
24 SENATE ILLUSTRATIVE PLANS CONTAIN A HIGHER PERCENTAGE OF
25 MAJORITY BVAP DISTRICTS THAN THE OVERALL BVAP PERCENTAGE IN THE

WILLIAM S. COOPER

11:01 1 STATE. CORRECT?

2 A. YES. BUT THAT MAY JUST -- I MEAN, IT MAY -- IF YOU JUST
3 LOOKED AT 13 AND 34, MAYBE THE PERCENTAGES WOULD BE DIFFERENT.
4 SO IT'S JUST -- IT'S SORT OF MARGINAL. IT'S NOT A -- THERE'S
5 NOT A SIGNIFICANT SUPER PROPORTIONAL PERCENTAGE OF
6 BLACK-MAJORITY DISTRICTS IN EITHER MY HOUSE PLAN OR SENATE
7 PLAN, PUT IT THAT WAY.

8 Q. IN ORDER TO CREATE THESE ADDITIONAL MAJORITY-BLACK
9 DISTRICTS, YOU HAD TO LOWER THE BVAP IN MANY EXISTING
10 MAJORITY-BLACK DISTRICTS, DIDN'T YOU?

11 A. YES, I REDUCED PACKING. SOME OF THESE DISTRICTS ARE IN
12 THE 70S OR HIGHER IN BLACK VOTING-AGE POPULATION.

13 Q. OKAY. I'D LIKE TO TURN NOW TO THE PREPARATION OF YOUR
14 ILLUSTRATIVE PLANS. MY UNDERSTANDING IS THAT IN DRAFTING YOUR
15 ILLUSTRATIVE PLANS, YOU BEGAN WITH THE ENACTED PLANS. CORRECT?

16 A. I DID. I HAD THE ENACTED PLANS, RIGHT.

17 Q. AND THEN YOU LOOKED TO AREAS THAT HAD POPULATION CHANGE
18 AND/OR HIGH BVAP WHERE YOU COULD POTENTIALLY DRAW ADDITIONAL
19 MAJORITY-BLACK DISTRICTS. CORRECT?

20 A. YES. I LOOKED AT THE MSA AREAS WHERE I EXPLAIN IN MY
21 DECLARATION THAT THERE'S BEEN A SIGNIFICANT AMOUNT OF
22 POPULATION SHIFTING OVER THE PAST 20 YEARS, FROM RURAL AREAS TO
23 URBAN AREAS. SO THAT IS A MAJOR FACTOR AND MAKES IT EASIER NOW
24 TO DRAW DISTRICTS ABOVE AND BEYOND 28 OR 29 THAT'S BEEN THE
25 NUMBER THAT THE STATE HAS HAD OVER THE PAST 20 OR 30 YEARS. I

WILLIAM S. COOPER

11:02 1 WAS ABLE TO INCREASE IT BY EXAMINING SOME OF THE URBAN AREAS
2 WHERE THERE'S BEEN A LARGE POPULATION INCREASE IN BLACK
3 POPULATION GOING FROM RURAL AREAS TO THE URBAN AREAS THAT
4 CORRESPONDINGLY DROPPED STATEWIDE IN THE WHITE POPULATION. SO
5 IT IS EASIER TO DRAW THOSE DISTRICTS NOW THAN IT MIGHT HAVE
6 BEEN 30 YEARS AGO.

7 Q. RIGHT. SO YOU WEREN'T JUST LOOKING AT POPULATION CHANGE
8 GENERALLY, YOU WERE SPECIFICALLY LOOKING AT AREAS WHERE THERE
9 WAS BLACK POPULATION GROWTH AND/OR WHITE POPULATION DECLINE.
10 CORRECT?

11 A. THAT'S GENERALLY TRUE, YES.

12 Q. AND IN PARTICULAR, YOU STARTED BY LOOKING AT THE AREAS OF
13 SHREVEPORT, BATON ROUGE, NEW ORLEANS, AND LAKE CHARLES.
14 CORRECT?

15 A. YES. I MAY HAVE LOOKED AT SOME OTHER AREAS LIKE MONROE
16 AREA MAYBE, BUT I SETTLED ON THOSE AREAS, RIGHT.

17 Q. AND, AGAIN, YOU WANTED TO UNPACK THE BLACK POPULATION IN
18 THESE AREAS TO SEE IF YOU COULD DRAW ADDITIONAL MAJORITY-BLACK
19 DISTRICTS?

20 A. I WANTED TO SEE IF I COULD DRAW ADDITIONAL MAJORITY-BLACK
21 DISTRICTS INDEPENDENT OF PACKING AND CRACKING, BUT THAT BECOMES
22 A FACTOR AS YOU'RE DRAWING A PLAN.

23 Q. AND I THINK AS WE DISCUSSED AT YOUR DEPOSITION, YOU WOULD
24 MOVE AROUND VTDS, OR VOTER TABULATION DISTRICTS, AND THEN
25 PERIODICALLY CHECK IN YOUR MAPTITUDE SOFTWARE WHAT THE BVAP WAS

WILLIAM S. COOPER

11:04 1 OF THE DISTRICT TO SEE IF YOU ACHIEVED A 50 PERCENT PLUS ONE
2 THRESHOLD. IS THAT CORRECT?

3 A. YES. I WOULD OCCASIONALLY LOOK, RIGHT. I MEAN, I LOOKED
4 AT -- I CONSIDERED THE 50 PERCENT THRESHOLD TO BE A FLOOR, NOT
5 A CEILING. YOUR EXPERTS, AND I'M SURE YOU, ASSUME THAT I WAS
6 TRYING TO MAX OUT THE BLACK POPULATION TO THE HIGHEST POSSIBLE
7 PERCENTAGE I COULD GET. AND IT WAS A FLOOR, BECAUSE I WAS
8 TRYING TO BALANCE ALL FACTORS, NOT JUST THE BLACK VOTING-AGE
9 POPULATION. I'M POSITIVE I COULD HAVE DRAWN DISTRICTS WITH
10 MUCH HIGHER BLACK VAPS, BUT I WAS TAKING INTO ACCOUNT OTHER
11 FACTORS. AND THE 50 PERCENT NUMBER THAT YOU'RE FOCUSED ON AND
12 YOUR EXPERTS SEEM TO BE FOCUSED ON IS A FLOOR, NOT A CEILING,
13 AND THEY DON'T SEEM TO UNDERSTAND THAT.

14 Q. YOU AGREED THAT THE ENACTED MAPS GENERALLY COMPLIED WITH
15 THE JOINT RULE 21 CRITERIA, AND THE PRIMARY MISSING INGREDIENT
16 WAS DILUTION OF MINORITY VOTE. CORRECT?

17 A. WELL, NO. THERE ARE SOME ISSUES RELATING TO COMPACTNESS
18 FOR SURE AS IT RELATES TO THE SENATE PLAN IN PARTICULAR. YOU
19 KNOW, WE COULD TURN AND LOOK AT SENATE DISTRICT 29, WHICH IS
20 MAJORITY BLACK. IF I HAD LEFT THAT DISTRICT IN MY PLAN, IN MY
21 ILLUSTRATIVE PLAN, THE COURT WOULD HAVE RULED IT AS A DISTRICT
22 THAT DIDN'T ADHERE TO TRADITIONAL DISTRICTING PRINCIPLES.

23 Q. AND I UNDERSTAND --

24 A. IT GOES FROM LIKE SOUTH --

25 Q. MR. COOPER.

WILLIAM S. COOPER

11:05 1 A. -- OF ALEXANDRIA, EVANGELINE PARISH, ALL THE WAY UP
2 TO WINN PARISH. IT'S A BIZARRE SHAPED DISTRICT AND I REMOVED
3 IT.

4 Q. MR. COOPER --

5 A. I -- I --

6 Q. -- WE'RE ON A CLOCK IN THIS CASE, SO I'D APPRECIATE IT IF
7 YOU WOULD JUST --

8 A. I CHANGED THE BOUNDARIES FOR THAT DISTRICT.

9 Q. -- ANSWER MY QUESTION.

10 THE COURT: DON'T INTERRUPT HIM. DON'T INTERRUPT
11 HIM. LET HIM FINISH HIS ANSWER, AND THEN YOU CAN ASK YOUR NEXT
12 QUESTION.

13 BY THE WITNESS:

14 A. SO ANYWAY, THAT'S AN EXAMPLE OF A DISTRICT THAT I JUST
15 COULD NOT ACCEPT AS A PLAN DRAWER. YOU MAY HAVE AN EXPLANATION
16 FOR THAT, BUT TO MY MIND, THERE'S NO WAY THAT I COULD HAVE EVER
17 DRAWN A DISTRICT LIKE THAT AND CLAIMED THAT IT ADHERED TO
18 TRADITIONAL REDISTRICTING PRINCIPLES OR MET THE *GINGLES 1*
19 INQUIRY.

20 Q. MR. COOPER, DO YOU RECALL BEING DEPOSED IN THIS CASE.
21 CORRECT?

22 A. I DO.

23 Q. AND AT THAT DEPOSITION YOU SWORE UNDER OATH TO TELL THE
24 TRUTH?

25 A. YES.

WILLIAM S. COOPER

11:06 1 Q. AND YOU DID TELL THE TRUTH AT THAT DEPOSITION. CORRECT?

2 A. I BELIEVE I DID.

3 Q. CAN WE PULL UP A COPY --

4 A. I COULD HAVE MADE A -- SOME SORT OF A MISSTATEMENT OR
5 SOMETHING. I'M PERFECTLY CAPABLE OF THAT.

6 Q. CAN WE PLEASE PULL UP MR. COOPER'S DEPOSITION TRANSCRIPT,
7 SPECIFICALLY ON PAGE 128, STARTING AT LINE 2.

8 SO I WANT TO READ TO YOU -- ON LINE 2, THE QUESTION
9 WAS:

10 "SO YOU TESTIFIED YOU STARTED GENERALLY WITH THE
11 ENACTED PLANS BY THE LEGISLATURE.

12 "DO YOU AGREE THAT THOSE PLANS GENERALLY MET
13 TRADITIONAL REDISTRICTING CRITERIA?

14 "ANSWER: NO.

15 "WHICH OF THE CRITERIA THEY DID NOT MEET?

16 "ANSWER: WELL, THE NON-DILUTION MINORITY VOTING
17 STRENGTH FOR ONE THING.

18 "ANY OTHERS" -- SORRY.

19 "QUESTION: ANY OTHERS?

20 "ANSWER: WELL, THAT'S -- AMONG OTHERS THERE ARE
21 UNNECESSARY PARISH AND MUNICIPALITY SPLITS COMPARED TO THE
22 ILLUSTRATIVE PLAN" --

23 **THE COURT REPORTER:** YOU NEED TO SLOW DOWN.

24 **MR. TUCKER:** SORRY.

25 **BY MR. TUCKER:**

WILLIAM S. COOPER

11:07 1 Q. "BUT THERE'S NO CLEAR BENCHMARK AS TO WHAT WOULD BE
2 ACCEPTABLE AND WHAT WOULD NOT BE ACCEPTABLE. IT'S JUST, IN MY
3 OPINION, THE PRIMARY MISSING INGREDIENT IN THE ENACTED HOUSE
4 AND SENATE PLANS AS IF THERE'S A FAILURE TO TAKE INTO ACCOUNT
5 MINORITY VOTING STRENGTHS."

6 DID I READ THAT CORRECTLY?

7 MS. THOMAS: OBJECTION, YOUR HONOR. THIS IS IMPROPER
8 IMPEACHMENT. HE HAS YET TO TESTIFY INCONSISTENTLY WITH WHAT
9 WAS JUST READ.

10 MR. TUCKER: I --

11 MS. THOMAS: AND I ALSO HAVE NOT BEEN GIVEN A FULL
12 COPY OF THE TRANSCRIPT, IF YOU INTEND TO USE IT FOR
13 IMPEACHMENT.

14 THE COURT: MR. TUCKER, WHERE IS THE INCONSISTENCY?

15 MR. TUCKER: I ASKED HIM THE VERY SPECIFIC QUESTION.
16 I'LL READ THE EXACT QUESTION BACK AGAIN.

17 AND YOU AGREE THE ENACTED MAPS GENERALLY COMPLY
18 WITH THE JOINT RULE 21 CRITERIA AND THE PRIMARY MISSING
19 INGREDIENT WAS DILUTION OF MINORITY VOTE.

20 MS. THOMAS: HE NEVER TESTIFIED --

21 MR. TUCKER: IT'S EXACTLY WHAT HE SAID IN HIS
22 DEPOSITION.

23 MS. THOMAS: HE NEVER TESTIFIED GENERALLY COMPLY
24 WITH --

25 THE COURT: MA'AM, LET HIM FINISH.

WILLIAM S. COOPER

11:07 1 **MR. TUCKER:** YOUR HONOR, IT SPECIFICALLY SAYS IN
2 HERE -- HIS TESTIMONY IS THAT THE PRIMARY MISSING INGREDIENT IN
3 THE ENACTED HOUSE AND SENATE PLANS WAS NOT TAKING IN ACCOUNT
4 MINORITY VOTING STRENGTHS. THAT'S THE IMPEACHMENT.

5 **MS. THOMAS:** AND THE QUESTION WAS NOT RELATED SOLELY
6 TO PRIMARILY. THE FIRST PART OF THE QUESTION WAS GENERALLY
7 COMPLY WITH RULE 21, AND HE NEVER GAVE THAT TESTIMONY.

8 **THE COURT:** IT'S BORDERLINE IMPROPER IMPEACHMENT, BUT
9 I AM GOING TO OVERRULE THE OBJECTION. I'M SURE MR. COOPER IS
10 MORE THAN ABLE TO EXPLAIN.

11 **BY MR. TUCKER:**

12 **Q.** SO DID I READ THAT CORRECTLY, MR. COOPER?

13 **A.** WELL, YOU DID READ IT BACK CORRECTLY. I BASICALLY AGREE
14 WITH MYSELF. THAT WAS JUST A GENERAL STATEMENT. YOU DIDN'T
15 ASK ME ABOUT SENATE DISTRICT 29 IN MY DEPOSITION. I FELT THE
16 NEED TO MAYBE MENTION SOMETHING ABOUT THAT PARTICULAR DISTRICT
17 TODAY.

18 **MR. TUCKER:** YOUR HONOR, I'D APPRECIATE IT IF THE
19 WITNESS WOULD BE DIRECTED TO SIMPLY ANSWER MY QUESTIONS.

20 **THE COURT:** MR. COOPER, IF YOU COULD ANSWER HIS
21 QUESTIONS. YOUR LAWYER WILL HAVE -- WILL GIVE YOU A CHANCE ON
22 REDIRECT TO GIVE FURTHER EXPLANATION.

23 CARRY ON, MR. TUCKER.

24 **THE WITNESS:** YES, YOUR HONOR.

25 **MR. TUCKER:** THANK YOU, YOUR HONOR.

WILLIAM S. COOPER

11:09 1 WE CAN TAKE THE DEPOSITION TRANSCRIPT DOWN.

2 BY MR. TUCKER:

3 Q. AND, MR. COOPER, DO YOU RECALL IN YOUR DEPOSITION THAT YOU
4 COULDN'T POINT TO ANY DISTRICT THAT YOU SPECIFICALLY DREW TO
5 IMPROVE COMPACTNESS. CORRECT?

6 A. I DON'T RECALL THAT, BUT I WAS NOT CONSTANTLY MONITORING
7 COMPACTNESS AS I WAS DRAWING THE PLAN. SO I WAS VISUALLY
8 OBSERVING, BUT I WAS NOT CHECKING THE REOCK AND POLSBY-POPPER
9 SCORES AS I WAS DRAWING THE PLAN EXCEPT ONLY ON OCCASION.

10 Q. SO EVEN SITTING HERE TODAY, YOU CAN'T POINT TO A SPECIFIC
11 DISTRICT IN YOUR ILLUSTRATIVE PLAN THAT YOU DREW TO IMPROVE
12 COMPACTNESS?

13 A. OH, YES, I CAN. IT'S CALLED SENATE DISTRICT 29. I WAS
14 APPALLED AT THAT DISTRICT.

15 Q. BUT YOU COULDN'T --

16 A. AND I CHANGED IT.

17 Q. BUT YOU COULDN'T RECALL THAT AT YOUR DEPOSITION?

18 A. WELL, I DON'T KNOW, MAYBE I DID. I'M PRETTY SURE I
19 MENTIONED SENATE DISTRICT 29 IN MY DEPOSITION, BUT MAYBE I
20 DIDN'T. MAYBE YOU DIDN'T ASK THE QUESTION IN THE FORMAT THAT
21 WOULD HAVE ALLOWED ME TO ANSWER THAT.

22 Q. CAN WE PLEASE PULL UP AGAIN MR. COOPER'S DEPOSITION
23 TRANSCRIPT AT PAGE 128?

24 AND I'LL START AT THE VERY BOTTOM, LINE 25.

25 "WHAT SPECIFIC CHANGES DID YOU MAKE IN YOUR" -- AND

WILLIAM S. COOPER

11:10 1 PLEASE FLIP TO THE NEXT PAGE -- "ILLUSTRATIVE PLANS TO IMPROVE
2 COMPACTNESS?

3 ANSWER, ON LINE 2: "I COULDN'T TELL YOU."

4 DID I READ THAT CORRECT?

5 A. WELL, THAT'S BECAUSE -- I THINK YOUR QUESTION IS: DID YOU
6 SET ABOUT TO DRAW COMPACT DISTRICTS WITH THAT AS THE VERY TOP
7 PRIORITY, AND I CANNOT SAY THAT THAT WAS NECESSARILY THE VERY
8 TOP PRIORITY. BUT I CAN SAY THAT IN TERMS OF MUNICIPAL AND
9 VTDS, I WAS TAKING THAT INFORMATION INTO ACCOUNT.

10 AND I'M ONLY POINTING OUT SENATE DISTRICT 29 BECAUSE
11 YOU'VE SORT OF FOCUSED ON COMPACTNESS HERE, AND I THINK THAT'S
12 A GOOD EXAMPLE OF A DISTRICT THAT I COULD NOT ACCEPT AS A PLAN
13 DRAWER. IT GOES FROM EVANGELINE PARISH ALL THE WAY UP INTO
14 WINN PARISH. THE BOUNDARIES ARE SIMPLY CRAZY. AND HAD I LEFT
15 THAT IN -- IT WAS A POISON PILL. IT WAS A SETUP SO THAT -- IT
16 MIGHT HAVE BEEN A SETUP, SO THAT IF THIS CASE EVER DID GO TO
17 TRIAL, YOU COULD GET RID OF IT -- THAT PARTICULAR SENATE
18 DISTRICT, MAINTAINING THAT EVEN THOUGH YOU'RE ADDING ONE OVER
19 HERE, YOU CAN TAKE THIS OTHER ONE AWAY BECAUSE IT DOESN'T
20 ADHERE TO TRADITIONAL REDISTRICTING PRINCIPLES.

21 Q. MR. COOPER, YOUR COUNSEL WILL HAVE AN OPPORTUNITY TO
22 REDIRECT YOU ON THIS. AGAIN, I'D APPRECIATE IT IF YOU WOULD
23 JUST ANSWER MY QUESTIONS.

24 MY QUESTION WAS: DID I READ THAT CORRECTLY FROM YOUR
25 DEPOSITION TRANSCRIPT?

WILLIAM S. COOPER

11:11 1 A. WHICH -- COULD YOU RE-READ IT? WHAT ARE YOU TALKING
2 ABOUT?

3 Q. WE CAN GO BACK.

4 A. EARLIER ON PAGE 2?

5 Q. ON PAGE 128, THE QUESTION WAS: "WHAT SPECIFIC CHANGES DID
6 YOU MAKE IN YOUR ILLUSTRATIVE PLANS TO IMPROVEMENT
7 COMPACTNESS?"

8 THE ANSWER WAS: "I COULDN'T TELL YOU."

9 DID I READ THAT CORRECTLY?

10 A. WELL, IN A SENSE YOU DID BECAUSE I WAS NOT -- I WAS NOT
11 REALLY --

12 THE COURT: HE JUST WANTS TO KNOW IF HE READ IT.
13 RIGHT?

14 THE WITNESS: YEAH, YOU READ IT RIGHT.

15 BY MR. TUCKER:

16 Q. THANK YOU.

17 A. ASSUMING IT WAS TRANSCRIBED CORRECTLY. I DON'T REMEMBER
18 THE EXACT EXCHANGE THERE.

19 Q. WELL, YOU HAD A CHANCE TO ISSUE AN ERRATA SHEET IN -- FOR
20 YOUR DEPOSITION. CORRECT?

21 A. I DID.

22 THE COURT: OKAY. LET'S MOVE ON. GO AHEAD.

23 BY MR. TUCKER:

24 Q. AND YOUR ILLUSTRATIVE PLANS DON'T DO ANYTHING TO IMPROVE
25 POPULATION EQUALITY, DO THEY?

WILLIAM S. COOPER

11:12 1 A. NO. I THINK IT'S ABOUT THE SAME.

2 Q. AND I THINK AS YOU TESTIFIED ON DIRECT, YOUR ILLUSTRATIVE
3 PLANS DON'T IMPROVE CORE RETENTION AS COMPARED TO THE ENACTED
4 PLANS. CORRECT?

5 A. IF YOU COMPARE THE ILLUSTRATIVE PLANS THAT I DREW
6 VIS-À-VIS, THE ENACTED PLANS THEN COMPARED TO THE CHANGES THAT
7 THE ENACTED PLAN MADE TO THE BENCHMARK PLAN, THAT ENACTED PLAN
8 IS A LITTLE BIT CLOSER TO THE BENCHMARK THAN THE CHANGES THAT I
9 MADE WITH RESPECT TO THE ILLUSTRATIVE PLAN.

10 Q. YOU MENTIONED A LITTLE BIT IN YOUR DIRECT EXAMINATION, AND
11 YOU TALK ABOUT IT IN YOUR REPORT, SOME SELF-IDENTIFIED CULTURAL
12 COMMUNITIES OF INTEREST. DO YOU RECALL THAT?

13 A. YES.

14 Q. BUT YOU DIDN'T CONSULT ANY OTHER EXPERT IN THIS CASE,
15 INCLUDING DR. COLTEN ON THESE COMMUNITIES OF INTEREST.
16 CORRECT?

17 A. NOT DIRECTLY, NO.

18 Q. IN FACT, YOU ONLY SAW DR. COLTEN'S REPORT IN THIS CASE
19 AFTER YOU HAD DRAWN YOUR ILLUSTRATIVE MAPS?

20 A. THAT'S TRUE, ALTHOUGH I DID GET SOME INPUT FROM THE
21 PLAINTIFFS' ATTORNEYS AS I WAS DRAWING THE 2023 PLAN.

22 Q. GREAT. ACTUALLY LET'S TALK ABOUT THAT A LITTLE BIT.

23 SO YOU INITIALLY DREW YOUR PLANS IN 2022. IS THAT
24 CORRECT?

25 A. CORRECT.

WILLIAM S. COOPER

11:13 1 Q. AT THE TIME YOU DREW THOSE PLANS IN 2022, DID YOU RECEIVE
2 ANY FEEDBACK FROM PLAINTIFFS' ATTORNEYS OR ANY OF THE EXPERTS
3 IN THIS CASE ABOUT THE DRAWING OF THOSE MAPS?

4 A. NO.

5 Q. SO THE FEEDBACK YOU RECEIVED WAS BETWEEN THE DRAWING OF
6 YOUR 2022 PLANS AND SOME CHANGES YOU MADE TO THE CURRENT PLANS
7 YOU'RE OFFERING AS ILLUSTRATIVE PLANS TODAY. CORRECT?

8 A. RIGHT. AND RELATIVELY MINOR CHANGES IN SO FAR AS THE
9 ILLUSTRATIVE PLANS ARE CONCERNED.

10 Q. AND I BELIEVE YOU TESTIFIED THAT THE CHANGES YOU
11 BELIEVED -- WELL, STRIKE THAT.

12 YOU DIDN'T ACTUALLY TALK TO DR. COLTEN. CORRECT?

13 A. I HAD NEVER SPOKEN TO OR MET DR. COLTEN UNTIL YESTERDAY,
14 AND WE DID HAVE A -- AS DR. COLTEN I THINK MAY HAVE MENTIONED
15 YESTERDAY, WE EXCHANGED PLEASANTRIES AND HAD NO DISCUSSION
16 ABOUT VOTING DISTRICTS AT ALL.

17 Q. AND SO ALL THE INFORMATION YOU RECEIVED FOR THE CHANGES
18 THAT WERE MADE BETWEEN YOUR 2022 AND 2023 PLANS WAS RECEIVED
19 FROM PLAINTIFFS' COUNSEL. CORRECT?

20 A. YES.

21 Q. AND ONE OF THE CHANGES YOU MENTIONED DURING YOUR
22 DEPOSITION, IF YOU RECALL, WAS MOVING DONALDSON [SIC] -- ALL OF
23 DONALDSON INTO A MAJORITY-BLACK DISTRICT. DO YOU RECALL THAT?

24 A. YES. I HAD PREVIOUSLY SPLIT DONALDSON ALONG A VTD
25 BOUNDARY. AND I MAY HAVE MISSPOKEN AT SOME POINT IN MY

WILLIAM S. COOPER

11:15 1 DEPOSITION, BUT THE POINT I SHOULD HAVE MADE WAS THAT I PUT ALL
2 OF THE TOWN OF DONALDSON IN A SINGLE DISTRICT, HOUSE DISTRICT
3 60.

4 Q. AND WAS THAT THE MINOR CHANGES YOU WERE REFERRING TO THAT
5 PERHAPS WERE RECEIVED FROM DR. COLTEN?

6 A. NO.

7 Q. WHAT WERE THE MINOR CHANGES YOU BELIEVED WERE RECEIVED
8 FROM DR. COLTEN?

9 A. THEY HAD TO DO MAINLY I THINK WITH THE BATON ROUGE AREA.
10 I DON'T THINK THAT -- I'M ALMOST A HUNDRED PERCENT CERTAIN THAT
11 THERE WAS NO DISCUSSION RELAYED TO ME FROM DR. COLTEN AS IT
12 PERTAINED TO HOUSE DISTRICT 60.

13 Q. SO I WANT TO TURN QUICKLY TO YOUR REBUTTAL REPORT, WHICH
14 IS PL-89, AND WE WILL PUT IT UP ON THE SCREEN FOR YOU.

15 A. OH, OKAY.

16 Q. IF WE COULD TURN TO PARAGRAPH 30, PLEASE, AND I WANT TO
17 REFER TO THE LAST SENTENCE OF PARAGRAPH 30 WHERE IT SAYS "I
18 ALSO MADE CHANGES TO IMPROVE THE PERFORMANCE OF THE DISTRICTS
19 FOR BLACK-PREFERRED CANDIDATES BASED UPON THE FEEDBACK COUNSEL
20 RECEIVED FROM DR. HANDLEY."

21 DID I READ THAT CORRECTLY

22 A. YES. A MINOR CHANGE TO THE HOUSE DISTRICT 65, 68 AREA, I
23 THINK.

24 Q. AND, AGAIN, THE PURPOSE OF THAT CHANGE WAS TO IMPROVE THE
25 PERFORMANCE OF A PARTICULAR DISTRICT. IS THAT RIGHT?

WILLIAM S. COOPER

11:17 1 A. YES, IMPROVE THE PERFORMANCE. THERE WAS NO DISCUSSION OF
2 BLACK VAP.

3 Q. BUT WHEN YOU SAY "IMPROVE THE PERFORMANCE," YOU MEAN
4 IMPROVE THE LIKELIHOOD THAT THAT DISTRICT WOULD ELECT A BLACK
5 CANDIDATE?

6 A. THAT WOULD BE THE REQUEST, RIGHT, AS I UNDERSTOOD THE
7 REQUEST ANY WAY. IT HAD NOTHING TO DO, THOUGH, WITH ENHANCING
8 THE BLACK VOTING-AGE POPULATION IN ANY ONE OF THOSE DISTRICTS.

9 Q. WELL, AS I UNDERSTAND IT --

10 A. IT WAS JUST TO RECONFIGURE IT.

11 Q. AS I UNDERSTAND IT, YOU DIDN'T ACTUALLY TALK TO DR.
12 HANDLEY. CORRECT?

13 A. I DID NOT.

14 Q. AND SO YOU DON'T KNOW THE PURPOSE FOR WHAT THE REQUESTED
15 CHANGE WAS. CORRECT?

16 A. WELL, IT WAS MY UNDERSTANDING THAT THE CONFIGURATION I HAD
17 IN, I GUESS, THE ILLUSTRATIVE 2022 PLAN MAY NOT HAVE HAD A
18 SUFFICIENT PROBABILITY IN TERMS OF THE ABILITY TO ELECT A BLACK
19 CANDIDATE. SO IT WAS SUGGESTED OR REQUESTED THAT I EXPERIMENT
20 WITH OTHER CONFIGURATIONS, AND I DIDN'T HAVE ELECTION DATA. SO
21 I TRIED ANOTHER CONFIGURATION AND PROVIDED IT TO THE ATTORNEYS.
22 AND, AGAIN, THAT MINOR CHANGE ADHERED TO TRADITIONAL
23 REDISTRICTING PRINCIPLES. AND I HAVE NO IDEA WHETHER IT
24 INCREASED THE BLACK VOTING-AGE POPULATION OR DECREASED IT. I
25 WAS NOT TRYING TO DO THAT. I WAS TRYING TO BALANCE OUT ALL THE

WILLIAM S. COOPER

11:18 1 FACTORS, BUT TO TAKE INTO ACCOUNT AN ALTERNATIVE CONFIGURATION
2 THAT WOULD HAVE PASSED MUSTER WITH DR. HANDLEY'S ANALYSIS.

3 Q. BUT YOU DON'T KNOW WHY HANDLEY BELIEVED IT WOULD OR WOULD
4 NOT PERFORM. CORRECT?

5 A. WELL, SHE DOES THE PERFORMANCE ANALYSIS AS PART OF *GINGLES*
6 *2 AND GINGLES 3*.

7 Q. BUT YOU DIDN'T SPEAK WITH HER?

8 A. NO, I DID NOT.

9 Q. SO SHE DIDN'T TELL YOU WHY SHE WANTED THAT CHANGED?

10 A. WELL, NO. IT WAS MY UNDERSTANDING THAT THAT THERE WAS AN
11 ISSUE ABOUT WHETHER OR NOT THAT DISTRICT WOULD HAVE A HIGH
12 LIKELIHOOD OF ELECTING A BLACK CANDIDATE BASED ON HISTORICAL
13 ELECTION DATA.

14 Q. BUT YOU DON'T KNOW WHY DR. HANDLEY FELT THAT WAY?

15 MS. THOMAS: OBJECTION.

16 BY THE WITNESS:

17 A. WELL, I MEAN, THAT WAS HER ANALYSIS. I DIDN'T TALK TO
18 HER. BUT, I MEAN, THAT -- SHE MADE THAT REQUEST TO THE
19 ATTORNEYS.

20 THE COURT: ASKED AND ANSWERED. SUSTAINED. HE'S
21 ALREADY ANSWERED IT.

22 GO AHEAD. NEXT QUESTION.

23 MR. TUCKER: WE CAN TAKE THAT EXHIBIT OFF THE SCREEN.
24 THANK YOU.

25 BY MR. TUCKER:

WILLIAM S. COOPER

11:19 1 Q. SO I WANT TO GO BACK TO TALKING ABOUT YOUR CULTURAL
2 COMMUNITIES OF INTEREST.

3 A. WELL, THEY'RE NOT MY CULTURAL COMMUNITIES OF INTEREST
4 EXACTLY, BUT GO AHEAD.

5 Q. WELL, I'M REFERRING TO THE CULTURAL COMMUNITIES OF
6 INTEREST YOU IDENTIFIED IN YOUR REPORT. FAIR?

7 A. OKAY.

8 Q. SO, AGAIN, JUST TO REVISIT, SO YOU DIDN'T SEE DR. COLTEN'S
9 REPORT UNTIL AFTER YOU DREW YOUR DISTRICTS IN THIS CASE.
10 CORRECT?

11 A. CORRECT.

12 Q. AND SO DR. COLTEN'S REPORT AND HIS OPINIONS ON COMMUNITIES
13 OF INTEREST DID NOTHING TO INFORM ON THE DRAWING OF THE
14 ILLUSTRATIVE PLANS HERE. CORRECT?

15 A. HIS REPORT ITSELF, NO.

16 Q. AND, AGAIN, YOU ONLY RECEIVED VERY MINOR COMMENTS AND MADE
17 MINOR CHANGES BASED UPON ANY FEEDBACK FROM DR. COLTEN IN THIS
18 CASE. CORRECT?

19 A. AGAIN, I BELIEVE THAT HIS REQUEST MAY HAVE FOCUSED MORE ON
20 BATON ROUGE THAN THE AREA IN, SAY, CADDO, BOSSIER CITY, OR
21 HOUSE DISTRICT 60 AS WE JUST SPOKE. I THINK IT WAS MORE
22 FOCUSED ON MAKING SOME MODIFICATIONS, FOR EXAMPLE, TO SENATE
23 DISTRICT 17 SO THAT IT WENT FURTHER SOUTH TO PICK UP PARTS OF
24 SOUTHERN UNIVERSITY, I THINK. THAT WOULD HAVE COME FROM PLANS,
25 THOUGH. THERE WERE VARIOUS SUGGESTIONS, AND I DIDN'T

WILLIAM S. COOPER

11:20 1 NECESSARILY TIE THEM TO ANY ONE INDIVIDUAL, WHETHER IT BE DR.
2 COLTEN OR A PARTICULAR PLAINTIFF.

3 OF COURSE, THE PLAINTIFFS WERE NEVER GIVEN -- THAT
4 INFORMATION FROM THE PLAINTIFFS WAS NEVER PROVIDED TO ME BY
5 NAME. I JUST KNEW THAT SOME PLAINTIFFS HAD EXPRESSED ALSO AN
6 INTEREST MAYBE IN INCLUDING PARTS OF SOUTHERN UNIVERSITY IN
7 SENATE DISTRICT 77.

8 Q. OKAY. I UNDERSTAND THAT.

9 SO PLAINTIFFS' COUNSEL NEVER EVEN SPECIFICALLY SAID
10 "THIS IS INFORMATION FROM DR. COLTEN. WE WANT YOU TO CONSIDER
11 IT." YOU JUST ASSUMED THAT?

12 A. WELL, I THINK THERE WAS -- I THINK -- YEAH. I THINK THAT
13 WAS THE CASE, THAT I DID LEARN THAT HE HAD SOME INTEREST ABOUT
14 MAYBE LINING THINGS UP BETTER WITH BATON ROUGE NEIGHBORHOODS.

15 Q. NOW, I WANT TO RETURN BACK TO YOUR REPORT. AGAIN, PL-20,
16 PLEASE, AT PARAGRAPH 27.

17 A. YES.

18 Q. AND THESE ARE CULTURAL COMMUNITIES OF INTEREST YOU
19 DISCUSSED IN YOUR REPORT. CORRECT?

20 A. YES, DRAWN FROM A VARIETY OF SOURCES, AND THEY ARE NOT
21 CAST IN STONE. OTHER PERSONS COULD HAVE EASILY MODIFIED THIS
22 IN SOME FASHION.

23 Q. DO YOU RECALL TESTIFYING IN YOUR DEPOSITION THAT THESE
24 PARTICULAR COMMUNITIES OF INTEREST WERE REALLY JUST IN THE
25 BACKGROUND AS YOU WERE DRAWING YOUR MAPS?

WILLIAM S. COOPER

11:22 1 A. YES. I DON'T EXACTLY RECALL THAT EXACT PHRASE, BUT THEY
2 WERE IN THE BACKGROUND. YES, I WAS AWARE OF THEM. AND TO THE
3 EXTENT THAT I COULD, I TRIED TO KIND OF STAY IN THAT ZONE.

4 Q. BUT YOU WEREN'T TRYING TO MINIMIZE HOW MANY TIMES YOU
5 SPLIT THESE VARIOUS COMMUNITIES OF INTEREST. CORRECT?

6 A. WELL, NO. I MEAN, YOU REALLY CAN'T BECAUSE THEY ARE
7 VARIOUS COMMUNITIES OF INTEREST AND VARIOUS CULTURAL REGIONS.
8 AND I WAS ALSO PAYING ATTENTION TO SPLITS OF MSAS, WHICH
9 INTERSECT AND CROSS THESE CULTURAL REGIONS. I WAS ALSO PAYING
10 ATTENTION TO PARISH LINES. I WAS ALSO PAYING ATTENTION TO
11 PLANNING DISTRICT BOUNDARIES. SO -- AND THE -- ALL OF THEM
12 KIND OF CRISSCROSSED ONE ANOTHER, BUT I WAS AWARE OF IT.

13 I MEAN, I KNEW WHERE ACADIANA WAS BASED ON THE
14 LOUISIANA LEGISLATURE DEFINITION OF 22 PARISHES, AND THEN I
15 ALSO REALIZED THERE'S A SUBSET OF PARISHES THAT MORE PROPERLY
16 REFLECT THE CAJUN HEARTLAND. SO I TOOK THAT INTO ACCOUNT.
17 BUT, SURE, THERE ARE SPLITS, AS YOUR PLAN, AS THE STATE'S PLAN
18 DOES, THESE REGIONS ARE SPLIT, BECAUSE YOU HAVE TO MAKE SOME
19 SPLITS, IF FOR NO OTHER REASON, JUST TO MEET ONE-PERSON,
20 ONE-VOTE.

21 Q. SO COMMUNITIES OF INTEREST IS A BROAD TERM. RIGHT?

22 A. IT IS A BROAD TERM, VERY BROAD.

23 Q. AND SOMETIMES BY TRYING TO UNITE ONE COMMUNITY OF
24 INTEREST, YOU MAY HAVE TO DIVIDE ANOTHER?

25 A. THAT'S TRUE.

WILLIAM S. COOPER

11:23 1 Q. I WANT TO SHIFT A LITTLE BIT TO THE DISCUSSION OF YOUR
2 CONSIDERATION OF SOCIOECONOMIC DATA. I BELIEVE YOU STATE IN
3 YOUR REPORT -- AND I THINK YOU TESTIFIED MAYBE YESTERDAY --
4 THAT YOU CONSIDERED SOCIOECONOMIC DATA FROM THE 2019 AMERICAN
5 COMMUNITY SURVEY. IS THAT CORRECT?

6 A. 2015 TO 2019, A FIVE-YEAR ASC FOR MUNICIPALITIES AND
7 PARISHES, AND THEN FOR THE MSAS, OF WHICH THERE WERE REALLY
8 ONLY TWO, WHERE THE CENSUS BUREAU REPORTS IN AN EASILY
9 ACCESSIBLE SPREADSHEET THE PERCENTAGES. I LOOKED AT BATON
10 ROUGE MSA AND NEW ORLEANS MSA. SHREVEPORT AND SOME OF THE
11 OTHER MSAS IN THE STATE ARE A LITTLE MORE DIFFICULT TO GET TO.
12 SO I ONLY REPORTED AT THE MSA LEVEL BATON ROUGE FROM
13 THE 2019 ONE-YEAR SURVEY AND NEW ORLEANS FROM THE 2019 ONE-YEAR
14 SURVEY. AND I CUT IT AT 2019 INSTEAD OF ADDING IN 2020 OR 2021
15 BECAUSE OF THE -- BECAUSE OF THE PANDEMIC, THAT TENDS TO SKEW
16 THE SOCIOECONOMIC DATA. AND SO I'VE SORT OF DECIDED THAT 2019
17 IS BETTER AT THIS POINT IN TIME NEXT YEAR MAYBE STARTING -- IF
18 WE'RE BACK HERE NEXT YEAR, WE CAN LOOK AT 2022 OR 2023.

19 Q. THE DATA YOU RELIED UPON FROM THE AMERICAN COMMUNITY
20 SURVEY WAS ONLY AT THE PARISH AND MUNICIPAL LEVEL. CORRECT?

21 A. THAT'S RIGHT.

22 Q. YOU DID NOT HAVE SUCH DATA AT A SMALLER LEVEL OF
23 GEOGRAPHY?

24 A. I DID NOT RELY ON BLOCK-GROUP LEVEL DATA RELATING TO
25 SOCIOECONOMICS. AS I WAS DRAWING THE PLAN -- AND ONE REASON

WILLIAM S. COOPER

11:25 1 THAT I DON'T USE IT IS BECAUSE THERE IS A LARGE MARGIN OF ERROR
2 AT THE BLOCK-GROUP LEVEL. AND SO I PREFER JUST TO GAIN AN
3 UNDERSTANDING OF THE COMMUNITY I'M LOOKING AT BY LOOKING AT A
4 BIGGER PICTURE, WHICH IS THE COMMUNITY ITSELF, THAT WOULD
5 INCLUDE AN AGGREGATION OF BLOCK GROUPS AND BE A MORE RELIABLE
6 PERCENTAGE THAN JUST THE BLOCK-GROUP LEVEL DATA, WHICH IS MICRO
7 LEVEL AND WITH A RELATIVELY HIGH MARGIN OF ERROR.

8 Q. AND BECAUSE YOU DIDN'T HAVE THAT SMALL LEVEL OF GEOGRAPHY,
9 YOU COULDN'T LOAD IT INTO YOUR MAPTITUDE SOFTWARE. CORRECT?

10 A. NO. I COULD HAVE LOADED IT IN MY SOFTWARE. IN FACT, I
11 DID IN MY REBUTTAL REPORT. I SHOW BLOCK GROUPS STATEWIDE BASED
12 ON AN 185 PERCENT POVERTY LEVEL TO DEMONSTRATE THAT IN GENERAL
13 THE AREAS THAT I INCLUDED IN MY ILLUSTRATIVE PLAN IN THE
14 ILLUSTRATIVE DISTRICTS, HOUSE AND SENATE, ARE COMPRISED OF
15 BLOCK GROUPS WHERE THE OVERALL POPULATION, RACE NEUTRAL, NOT
16 JUST AFRICAN AMERICANS, BY ALL RACES, ARE BELOW 185 PERCENT
17 POVERTY. AND SO THOSE ARE IN MY REBUTTAL REPORT. YOU CAN SEE
18 THE BLOCK-GROUP SHADING INDICATING WHICH BLOCK GROUPS ARE
19 COMPRISED OF HOUSEHOLDS WHERE THE POPULATION IS MORE THAN
20 50 PERCENT UNDER 185 PERCENT POVERTY IF I CAN MAKE THAT --

21 Q. SO --

22 A. THAT'S A SPECIAL TABULATION PREPARED BY THE U.S. CENSUS
23 BUREAU FOR THE U.S. DEPARTMENT OF AGRICULTURAL AND THE SCHOOL
24 MEALS PROGRAM FOR CHILDREN, AND THAT RELATES TO THE SUMMER
25 FEEDING PROGRAM AND ALSO FOR CHILD AND ADULT CARE PROGRAMS. SO

WILLIAM S. COOPER

11:26 1 THOSE ARE AREAS THAT ARE IDENTIFIED AS BEING PLACES WHERE THE
2 FEDERAL GOVERNMENT CAN PROVIDE SUBSIDIES TO LOCAL GOVERNMENTS
3 OR TO COMMUNITY LEVEL ORGANIZATIONS, NON-GOVERNMENTAL
4 ORGANIZATIONS, TO PROVIDE SCHOOL -- TO PROVIDE AFTER-SCHOOL
5 NUTRITION OR SUMMER FOOD NUTRITION.

6 Q. I WAS ASKING SPECIFICALLY ABOUT THE ACS DATA.

7 A. IT'S ACS DATA. THAT'S ACS DATA.

8 Q. SO YOU'RE TESTIFYING TODAY THAT YOU LOADED ACS DATA INTO
9 MAPTITUDE?

10 A. WELL, I SURE DID.

11 Q. IS THAT YOUR TESTIMONY HERE TODAY?

12 A. I DID IN MY REBUTTAL REPORT, BUT NOT AS I WAS DRAWING THE
13 PLANS. I JUST DID THAT TO DEMONSTRATE THAT THE AREAS THAT I'VE
14 IDENTIFIED AS MAJORITY-BLACK DISTRICTS, THE ADDITIONAL
15 MAJORITY-BLACK DISTRICTS, ARE LARGELY ENCOMPASSED BY BLOCK
16 GROUPS WITH 185 PERCENT POVERTY RATE OF WHICH 50 PERCENT OF THE
17 HOUSEHOLDS ARE BELOW THAT LEVEL.

18 Q. CAN WE PLEASE PULL UP MR. COOPER'S DEPOSITION TRANSCRIPT
19 AGAIN? THIS TIME ON PAGE 90.

20 I WANT TO REFER YOU STARTING AT LINE 25.

21 "QUESTION: SO THEN YOU DIDN'T LOAD ANY SOCIOECONOMIC
22 DATA INTO THE MAPTITUDE SOFTWARE?"

23 GO DOWN TO THE NEXT PAGE.

24 "ANSWER: NOT, I DID NOT."

25 DID I READ THAT CORRECT?

WILLIAM S. COOPER

11:28 1 A. WELL, WHAT DID I JUST TELL YOU? I DID NOT, BECAUSE I WAS
2 THE DRAWING PLAN. BUT AS I WAS RESPONDING TO DR. MURRAY'S
3 REBUTTAL -- DR. MURRAY'S REPORT, WHICH CLAIMED THAT BLOCK
4 GROUPS AND NEIGHBORHOODS ARE THE SAME, WHEN THEY'RE REALLY NOT.
5 THEY ARE, MAYBE, PROXIES. I FELT THE NEED TO THEN GO ONE STEP
6 FURTHER AND SHOW THAT I DID UNDERSTAND WHAT BLOCK GROUPS ARE
7 AND THAT I DID DO A FAIRLY GOOD JOB OF INCLUDING AREAS THAT ARE
8 RELATIVELY LOWER INCOME IN THE HOUSE DISTRICTS THAT I CREATED
9 AND THE SENATE DISTRICTS -- THE SIX HOUSE DISTRICTS AND THE
10 THREE SENATE DISTRICTS. IT'S NOT A PERFECT MATCH, BECAUSE
11 THERE ARE AREAS IN THOSE MAPS THAT ARE ABOVE THAT HAVE -- DO
12 NOT HAVE 50 PERCENT OF THE POPULATION LIVING BELOW THE
13 185 PERCENT LEVEL. BUT IF YOU LOOK AT THOSE MAPS, IT COVERS A
14 LOT OF AREA. AND IT'S NOT JUST BLACK PERSONS, THAT'S RACE
15 NEUTRAL.

16 Q. MR. COOPER, I'M TRYING NOT TO CUT YOU OFF, BUT YOU NEED TO
17 TRY TO JUST STICK TO ANSWERING MY QUESTION.

18 AND SO I WANT TO UNDERSTAND THIS. YOU WERE DEPOSED
19 AFTER YOUR REBUTTAL REPORT IN THIS CASE. CORRECT?

20 A. I WAS. AND MAYBE I MISUNDERSTOOD THE QUESTION. I THOUGHT
21 THE QUESTION WAS DIRECTLY RELATED TO THE PLAN DRAWING PROCESS
22 ITSELF, AND AS I'VE JUST STATED TODAY, I DID NOT LOOK AT BLOCK
23 GROUP LEVEL DATA AS I WAS DRAWING THE PLAN.

24 Q. THE QUESTION WAS: "DID YOU LOAD ANY SOCIOECONOMIC DATA
25 INTO MAPTITUDE AT YOUR DEPOSITION?" AND YOUR ANSWER AT THAT

WILLIAM S. COOPER

11:29 1 TIME WAS "NO." AND YOU ARE NOW TELLING THE COURT THAT THAT
2 ANSWER WAS FALSE?

3 A. YOU KNOW, YOU SAW MY REBUTTAL REPORT. YOU MUST HAVE KNOWN
4 THAT I LOADED IT INTO THE SOFTWARE TO DO MY REBUTTAL REPORT,
5 DIDN'T YOU?

6 Q. MR. COOPER, MY QUESTION IS: ARE YOU TELLING THE COURT
7 TODAY THAT YOUR ANSWER AT YOUR DEPOSITION WAS FALSE?

8 A. NO. IT WAS TRUE. I DID NOT USE BLOCK-GROUP LEVEL DATA TO
9 DRAW THE PLAN, WHICH IS WHAT WE WERE DISCUSSING. BUT I DID USE
10 IT AS AN EXAMPLE TO REBUT SOME OF DR. MURRAY'S TESTIMONY.

11 Q. WHERE IN THE QUESTION --

12 MS. THOMAS: OBJECTION TO THE POINT THAT THIS IS
13 GETTING ARGUMENTATIVE.

14 THE COURT: OBJECTION IS SUSTAINED.

15 BY MR. TUCKER:

16 Q. WHERE IN THE QUESTION DOES IT ASK ANYTHING ABOUT WHEN OR
17 WHY YOU LOADED DATA INTO THE MAPTITUDE SOFTWARE?

18 THE COURT: THE OBJECTION WAS SUSTAINED.

19 BY MR. TUCKER:

20 Q. NOW, YOU GENERATED OR HAD THE ABILITY TO GENERATE A BUNCH
21 OF DIFFERENT REPORTS FROM THE ACS DATA. CORRECT?

22 A. YES.

23 Q. DIFFERENT REPORTS FOR EACH MUNICIPALITY AND EACH COUNT --
24 OR SORRY -- EACH PARISH. CORRECT?

25 A. EACH PARISH AND EACH MUNICIPALITY AND EVEN CENSUS

WILLIAM S. COOPER

11:30 1 DESIGNATED PLACE -- UNINCORPORATED PLACES THAT HAD AT LEAST
2 2,500 PEOPLE IN THEM AND WAS 10 PERCENT BLACK.

3 Q. BUT YOU DIDN'T ACTUALLY LOOK AT ALL OF THOSE REPORTS.
4 CORRECT?

5 A. OH, NO. THERE WAS HUNDREDS OF THEM.

6 Q. AND YOU DON'T STATE ANYWHERE IN YOUR REPORT WHICH ONES YOU
7 SPECIFICALLY REVIEWED. CORRECT?

8 A. I DO NOT.

9 Q. MR. COOPER, I WANT TO SHIFT GEARS A LITTLE BIT AND TALK
10 ABOUT COMPACTNESS. YOU DID NOT MEASURE THE COMPACTNESS OF THE
11 MINORITY POPULATION INSIDE EACH OF YOUR ILLUSTRATIVE DISTRICTS.
12 CORRECT?

13 A. I DID NOT, THAT'S NOT NECESSARY. THAT IS SOMETHING THAT
14 ONE DOES NOT NEED TO DO TO ANSWER THE *GINGLES 1* INQUIRY.

15 Q. ALL RIGHT.

16 A. THE MINORITY POPULATION DOES NOT HAVE TO MEET SOME SORT OF
17 INVENTED COMPACTNESS MEASURE BY DR. TRENDE. I UNDERSTAND THAT
18 COMPACTNESS MEASURE HAS BEEN OUT THERE FOR 60 YEARS, BUT IT'S
19 NEVER SHOWED UP IN ANY CASE I'VE EVER BEEN INVOLVED IN AND FOR
20 GOOD REASON BECAUSE IT HAS NOTHING TO DO WITH DRAWING A
21 REASONABLY COMPACT, REASONABLY SHAPED, ILLUSTRATIVE DISTRICT
22 WHERE THE BLACK POPULATION REPRESENTS A MAJORITY OF AT LEAST 50
23 PERCENT PLUS ONE. HAS NOTHING TO DO WITH IT.

24 Q. OKAY. SO IT DOESN'T --

25 A. AND I WANT TO HEAR YOU BRING DR. TRENDE IN HERE -- I WON'T

WILLIAM S. COOPER

11:32 1 BE HERE -- AND TELL THE COURT THAT SOMEBODY WHO HAPPENS TO LIVE
2 IN VIVIAN, INSTEAD OF BOSSIER PARISH, IS NOT PART OF A
3 REASONABLY COMPACT MAJORITY-BLACK DISTRICT.

4 **MR. TUCKER:** YOUR HONOR, AGAIN, WE'RE ON A CLOCK HERE
5 WITH BOTH PARTIES. I'D JUST ASK THE WITNESS TO BE REMINDED TO
6 ANSWER THE QUESTION. HIS COUNSEL WILL HAVE AN OPPORTUNITY TO
7 REDIRECT HIM.

8 **THE COURT:** YOU ASKED THE QUESTION, SO REMINDED.
9 GO AHEAD.

10 **MR. TUCKER:** WELL, I THINK HE ANSWERED IT, BUT THEN
11 HE WENT ON FOR SEVERAL MINUTES ABOUT ADDITIONAL THINGS WELL
12 BEYOND THE QUESTION THAT WAS ASKED.

13 **BY MR. TUCKER:**

14 **Q.** SO IT DID NOT MATTER TO YOU IF THE BLACK POPULATION WAS
15 LOCATED ACROSS DIFFERENT PARTS OF THE DISTRICT?

16 **A.** NOT REALLY, NO.

17 **Q.** AND IN YOUR REPORT YOU ONLY ANALYZE COMPACTNESS AT A
18 STATEWIDE LEVEL. CORRECT?

19 **A.** THAT'S NOT TRUE. I HAVE COMPACTNESS SCORES FOR EVERY
20 SINGLE ONE OF THE DISTRICTS THAT I'VE DRAWN.

21 **Q.** CORRECT. BUT IN YOUR REPORT -- I UNDERSTAND THERE'S AN
22 EXHIBIT TO YOUR REPORT WHERE YOU REPORT ON THE COMPACTNESS
23 SCORES DISTRICT BY DISTRICT, BUT YOU DON'T DO ANY ANALYSIS IN
24 YOUR REPORT OF DISTRICT BY DISTRICT COMPACTNESS. CORRECT?

25 **A.** WELL, IT'S IN THE EXHIBITS.

WILLIAM S. COOPER

11:33 1 MS. THOMAS: SORRY.

2 BY THE WITNESS:

3 A. ANYBODY CAN LOOK AT THAT.

4 THE COURT: JUST A MOMENT, SIR. YOUR LAWYER WANTS TO
5 OBJECT.

6 MS. THOMAS: OBJECTION. MISREPRESENTS WHAT MR.
7 COOPER HAS DONE. AS WE SAID IN OUR DIRECT, THE EXHIBITS ARE
8 PART OF HIS REPORT AND WERE TURNED OVER AT THE SAME TIME AS HIS
9 REPORT.

10 THE COURT: SO THE QUESTION IS: DID HE MAKE SOME
11 SORT OF ANALYTICAL STATEMENTS IN HIS ACTUAL WRITTEN REPORT?
12 I'LL ALLOW THE QUESTION.

13 MR. TUCKER: CORRECT.

14 THE COURT: IT'S KIND OF OBVIOUS.

15 BY MR. TUCKER:

16 Q. OTHER THAN JUST REPORTING THE SCORES, DID YOU DO ANY OTHER
17 ANALYSIS OF THOSE SCORES DISTRICT BY DISTRICT IN YOUR REPORT?

18 A. NO. I DID A SUMMARY. I DID A SUMMARY IN MY REPORT, AND
19 THEN POINTED IN MY -- IN THE PARAGRAPHS PRECEDING THAT
20 DISCUSSION IN MY DECLARATION, I POINTED THE READER TO AN
21 EXHIBIT WHICH HAD THE EXACT SCORES FOR ALL THE DISTRICTS.

22 Q. CAN WE TURN TO PL-20 AGAIN AND LOOK AT FIGURE 25 ON
23 PAGE 46?

24 AND IS FIGURE 25 THAT'S ON YOUR SCREEN WHAT YOU ARE
25 TALKING ABOUT ON THE REPORTING OF THE ANALYSIS YOU DID OF THE

WILLIAM S. COOPER

11:34 1 COMPACTNESS SCORES FOR THE HOUSE?

2 A. YES, THE SUMMARY TABLE.

3 Q. AND HERE THE MEAN REOCK AND POLSBY-POPPER SCORES ARE THE
4 SAME FOR BOTH YOUR ILLUSTRATIVE PLANS AND THE ENACTED PLANS.
5 CORRECT?

6 A. UNDER THE HOUSE PLAN. AS I'VE SAID, THERE'S VERY LITTLE
7 DIFFERENCE.

8 Q. SO YOU DIDN'T DO ANY SPECIFIC ANALYSIS IN YOUR REPORT OF
9 WHERE YOU DREW ADDITIONAL MAJORITY-BLACK DISTRICTS OF THE
10 COMPACTNESS SCORES OF THOSE DISTRICTS IN THOSE AREAS?

11 A. I DID NOT DISCUSS IN DETAIL THE COMPACTNESS SCORES OF THE
12 INDIVIDUAL DISTRICTS. I MADE VISUAL ASSESSMENTS THAT THE NEW
13 ADDITIONAL MAJORITY-BLACK DISTRICTS THAT I DREW WERE
14 SUFFICIENTLY COMPACT TO QUALIFY AS MEETING THE *GINGLES 1* PRONG.

15 Q. AND ARE YOU AWARE THAT YOU OFTEN LOWERED THE COMPACTNESS
16 SCORES IN DISTRICTS IN THE AREAS WHERE YOU CREATE ADDITIONAL
17 MAJORITY-BLACK DISTRICTS?

18 A. IT IS CONCEIVABLE THAT SOME OF THE ADJACENT SCORES DID
19 DROP. I DON'T KNOW OFF THE TOP OF MY HEAD. THAT MIGHT NOT --
20 THAT IS -- I DON'T BELIEVE A PROBLEM, BUT WE'LL SEE.

21 Q. CAN WE PULL UP THE IMPEACHMENT DOCUMENT, PLEASE?

22 SO, MR. COOPER, YOU TESTIFIED EARLIER THAT YOU
23 REPORTED ON THE DISTRICT BY DISTRICT COMPACTNESS SCORES AND
24 INCLUDED THOSE IN EXHIBITS TO YOUR REPORT. CORRECT?

25 MS. THOMAS: SORRY. I'M JUST GOING TO OBJECT ON

WILLIAM S. COOPER

11:36 1 FOUNDATION. I HAVE NO IDEA WHAT THIS DOCUMENT IS. THIS IS MY
2 FIRST TIME SEEING IT. I DON'T THINK COUNSEL HAS LAID THE
3 FOUNDATION FOR WHAT THIS DOCUMENT IS.

4 **MR. TUCKER:** YOUR HONOR, THIS IS JUST AN ILLUSTRATIVE
5 AID THAT IS BEING USED FOR IMPEACHMENT. IT'S A SUMMARY OF ALL
6 THE VARIOUS SCORES OR INFORMATION THAT ARE IN MR. COOPER'S
7 REPORTS OR THE EXHIBITS TO HIS REPORT. IT'S JUST BEING USED SO
8 HE CAN EASILY REFER TO SCORES. I'M HAPPY TO GIVE HIM BOTH
9 TABLES IF HE WANTS TO REVIEW IT THAT WAY. IT'S JUST A SIMPLER
10 WAY FOR HIM TO REVIEW THE INFORMATION.

11 **THE COURT:** I MEAN, WE'VE GOT SEVERAL THINGS GOING ON
12 HERE. FIRST OF ALL, YOU DON'T HAVE TO DISCLOSE YOUR
13 IMPEACHMENT. SO THAT YOU HAVE GOING FOR YOU.

14 BUT WHAT YOU HAVE GOING AGAINST YOU IS THAT THIS
15 IS A SUMMARY OF EXTENSIVE DATA, AND YOU ARE GOING TO
16 CROSS-EXAMINE HIM ON A SUMMARY THAT YOU DID AND YOU CALCULATED.
17 AND 1005 -- I THINK THAT'S THE CODE NUMBER -- TALKS ABOUT
18 SUMMARY EVIDENCE, AND YOU ARE SUPPOSED TO DISCLOSE IF YOU ARE
19 GOING TO USE SUMMARY EVIDENCE.

20 SO, YOU KNOW, HOW IS THIS FAIR? HOW IS IT FAIR
21 FOR YOU TO CROSS-EXAMINE HIM ON DATA THAT YOU SUMMARIZED FROM
22 AN EXHIBIT THAT'S I DON'T EVEN HOW MANY PAGES LONG?

23 **MR. TUCKER:** IF THE COURT WOULD PREFER AND THE
24 WITNESS PREFER, WE CAN -- IF WE JUST PULL UP PX -- OR SORRY,
25 PL-73 AND PL-74, WE CAN LOOK AT THOSE SIDE BY SIDE. THOSE ARE

WILLIAM S. COOPER

11:37 1 THE EXHIBITS TO HIS REPORT WHERE THESE NUMBERS COME FROM THAT I
2 WAS GOING TO DISCUSS WITH HIM.

3 THE COURT: COUNSEL, DO YOU WANT HIM TO DO THAT?

4 MS. THOMAS: I WOULD PREFER THAT, GIVEN --

5 MR. TUCKER: OKAY.

6 MS. THOMAS: -- THAT WE HAVE NOT SEEN THIS
7 ILLUSTRATIVE DOCUMENT BEFORE AND FOR THE REASONS THAT YOUR
8 HONOR HAS ARTICULATED.

9 THE COURT: ARE PL-72 AND 74 --

10 MR. TUCKER: I BELIEVE IT'S 73 AND 74, YOUR HONOR.

11 THE COURT: SEVENTY --

12 MR. TUCKER: AND THEY ARE ADMITTED.

13 THE COURT: NO. OKAY. I'M WITH YOU. BUT I DON'T
14 HAVE AN INDEPENDENT RECOLLECTION OF THEM. ARE THEY EXTENSIVE?
15 OR ARE THEY JUST TALKING ABOUT -- I MEAN, IS IT --

16 MR. TUCKER: THERE ARE -- THEY ARE ABOUT NINE PAGES
17 EACH, I THINK, AND I WAS JUST GOING TO SCROLL THROUGH THEM.

18 THE COURT: NINE OR 90?

19 MR. TUCKER: NINE.

20 THE COURT: NINE.

21 MR. TUCKER: THEY REPORT FOR EACH DISTRICT. THEY
22 REPORT THE COMPACTNESS SCORES FOR EACH DISTRICT. AND ONE
23 EXHIBIT IS FOR THE ENACTED PLAN, AND ONE EXHIBIT IS FOR THE
24 ILLUSTRATIVE PLAN.

25 THE COURT: SO --

WILLIAM S. COOPER

11:38 1 **MR. TUCKER:** I JUST WANT HIM TO COMPARE THE
2 COMPACTNESS SCORES. THAT'S ALL.

3 **THE COURT:** SO THE SUMMARY THAT YOU ARE OFFERING IS A
4 SUMMARY OF NINE PAGES?

5 **MR. TUCKER:** CORRECT.

6 **THE COURT:** I AM GOING TO ALLOW IT.

7 **MR. TUCKER:** THE SUMMARY?

8 **THE COURT:** YES.

9 **MR. TUCKER:** THANK YOU, YOUR HONOR.

10 **THE COURT:** OBJECTION'S OVERRULED.

11 **BY MR. TUCKER:**

12 **Q.** AND, MR. COOPER, IF YOU NEED TO REFER TO VERIFY ANY OF THE
13 NUMBERS, THEY ARE EXHIBITS 01 AND 02 TO YOUR REPORT, WHICH ARE
14 PX-70 -- OR SORRY, PL-73 AND PL-74.

15 **A.** WAIT. WHEN YOU SAY 73 AND 74 TAB?

16 **Q.** I DON'T KNOW WHAT YOU HAVE IN YOUR BINDERS IN FRONT ON
17 YOU. IF IT IS THE -- IF THEY ARE NUMBERED BY THE PLAINTIFFS'
18 EXHIBITS, IT SHOULD BE 73 AND 74.

19 **A.** OKAY. WELL, I'LL HAVE --

20 **Q.** I'LL GIVE YOU A CHANCE TO MAKE SURE WE'VE GOT THE RIGHT
21 DOCUMENTS IN FRONT OF YOU.

22 **A.** OKAY.

23 **Q.** AND SO JUST TO SET THE RECORD HERE, SO DO YOU RECOGNIZE
24 THAT PL-73 AND PL-74 ARE THE EXHIBITS TO YOUR REPORT THAT
25 REPORT THE COMPACTNESS SCORES FOR EACH DISTRICT IN THE ENACTED

WILLIAM S. COOPER

11:39 1 PLAN AND THE ILLUSTRATIVE PLAN FOR THE HOUSE?

2 A. YES.

3 Q. OKAY. AND WHAT I'VE DONE HERE IS I HAVE A SUMMARY OF SOME
4 OF THESE DISTRICTS BY REGION AND I BELIEVE THESE ARE SIMILAR TO
5 THE CLUSTERS THAT DR. HANDLEY USED. AND STARTING UP IN
6 SHREVEPORT IN THE CADDO AND BOSSIER PARISHES, THIS IS ONE AREA
7 WHERE YOU CREATE AN ADDITIONAL MAJORITY-BLACK DISTRICT.

8 CORRECT?

9 A. YES.

10 Q. AND THAT'S YOUR ILLUSTRATIVE HOUSE DISTRICT 1. CORRECT?

11 A. ILLUSTRATIVE HOUSE DISTRICT 1, YES.

12 Q. OKAY. NOW, ILLUSTRATIVE HOUSE DISTRICTS 2, 3, AND 4 ARE
13 MAJORITY BLACK, BUT SO ARE THOSE HOUSE DISTRICTS IN THE ENACTED
14 PLAN. CORRECT?

15 A. THEY ARE I BELIEVE MAJORITY BLACK IN THE HOUSE PLAN,
16 RIGHT.

17 Q. BUT THE COMPACTNESS SCORES OF HOUSE DISTRICT 2 AND HOUSE
18 DISTRICT 3 ARE REDUCED IN YOUR ILLUSTRATIVE PLANS. CORRECT?

19 A. THEY ARE LOWER, BUT CLEARLY WITHIN THE ACCEPTABLE RANGE.
20 I MEAN, I'VE LOOKED AT LOTS OF DIFFERENT PLANS, LOTS OF
21 DIFFERENT SCORES, AND WITH REOCK SCORES IN THE 30S ABSENT SOME
22 OTHER PROBLEM WITH THE PLAN, I SEE NO REASON TO COMPLAIN.

23 Q. AND TURNING BELOW TO CALCASIEU PARISH IN THE LAKE CHARLES
24 AREA, YOU CREATE A NEW MAJORITY-BLACK DISTRICT IN ILLUSTRATIVE
25 HOUSE DISTRICT 38. CORRECT?

WILLIAM S. COOPER

11:41 1 A. I DID.

2 Q. BUT IN DOING SO, YOU ARE REDUCING THE COMPACTNESS OF THE
3 EXISTING MAJORITY BLACK-HOUSE DISTRICT IN HD 34. CORRECT?

4 A. THESE ARE STILL -- THERE'S NO PROBLEM WITH THESE
5 COMPACTNESS SCORES. YOU CAN JUST LOOK AT THE MAP AND SEE IT'S
6 REASONABLE. I'M NOT -- YOU KNOW, SURE, I MEAN, I MAY HAVE
7 REDUCED THE COMPACTNESS A LITTLE BIT. SO WHAT?

8 Q. SO FOR THE RECORD, THAT'S A "YES"?

9 A. THAT IS -- THAT IS -- THE COMPACTNESS SCORE WAS REDUCED,
10 BUT IT IS CLEARLY WITHIN THE RANGE. IN MY EXPERIENCE, THESE
11 SCORES ARE NOT BAD AT ALL IN THE ILLUSTRATIVE PLAN AND THEY'RE
12 NOT BAD IN THE ENACTED PLAN EITHER. BUT COMPACTNESS SCORES ARE
13 NOT THE BE-ALL AND THE END-ALL. I'M BALANCING FACTORS LIKE
14 PARISH SPLITS, MUNICIPAL SPLITS, POPULATION EQUALITY, WHERE THE
15 INCUMBENTS LIVE.

16 AND I HAVE TO COMPLETELY EMPHASIZE THAT POINT; THAT I
17 WOULD SACRIFICE COMPACTNESS TO AVOID PAIRING INCUMBENTS BECAUSE
18 I KNOW THAT IS A NON-STARTER WITH THE LEGISLATURE, TO START
19 PAIRING INCUMBENTS UNLESS IT'S JUST ABSOLUTELY NECESSARY.

20 Q. WE COULD TAKE THE ILLUSTRATIVE AID DOWN NOW. THANK YOU.

21 ALL RIGHT, MR. COOPER. CAN YOU TURN NOW TO PAGE 50
22 OF YOUR REPORT, PL-20?

23 A. ALMOST THERE.

24 Q. TAKE YOUR TIME.

25 A. YES.

WILLIAM S. COOPER

11:42 1 Q. OKAY. AND ON PAGE 50 HERE YOU DISCUSS CREATING A NEW
2 MAJORITY-HOUSE DISTRICT IN ILLUSTRATIVE HOUSE DISTRICT 1.
3 CORRECT?

4 A. YES.

5 Q. AND THAT'S IN THE SHREVEPORT AREA?

6 A. YES.

7 Q. AND TO CREATE THIS NEW MAJORITY-BLACK DISTRICT, YOU MOVE
8 HOUSE DISTRICT 1 FURTHER SOUTH INTO SHREVEPORT TO PICK UP BLACK
9 POPULATION IN SHREVEPORT. CORRECT?

10 A. I THINK IF WE TURN OVER ON THE PAGE YOU SEE THAT THERE
11 WASN'T SO MUCH DIFFERENCE IN SHREVEPORT, A LITTLE BIT FURTHER
12 SOUTH, BUT I ALSO MODIFIED DISTRICT 1 SO THAT IT DIDN'T EXTEND
13 ALL THE WAY DOWN IN -- ALMOST INTO DESOTO PARISH.

14 Q. AND IN YOUR REPORT IN THIS SECTION, THERE'S NOTHING IN
15 HERE THAT MENTIONS REUNITING ANY PARTICULAR PARISH OR
16 MUNICIPALITY. CORRECT?

17 A. WHERE? WHERE?

18 Q. IN YOUR SECTION HERE ABOUT ILLUSTRATIVE HOUSE DISTRICT 1,
19 NOWHERE DO YOU DISCUSS A REPORT ON REUNITING ANY PARISHES OR
20 PARTICULAR MUNICIPALITIES. CORRECT?

21 A. WELL, I MEAN, THAT'S WHY -- THAT'S WHY ILLUSTRATIVE HOUSE
22 DISTRICT 1 IS JUST FINE BECAUSE IT DOESN'T DO ANYTHING OTHER
23 THAN -- OTHER THAN ENCOMPASS WHAT IS IN PRESENT DAY HOUSE
24 DISTRICT 1, AND THEN IT DOES EXTEND INTO BOSSIER CITY, WHICH
25 AS DR. COLTEN EXPLAINED YESTERDAY, IS AN AREA THAT USED TO BE

WILLIAM S. COOPER

11:44 1 PREDOMINATELY WHITE AND NOW WE'RE SEEING A LARGER
2 AFRICAN-AMERICAN POPULATION MOVE INTO THE BOSSIER PARISH AREA.
3 SO IT UNITES PARTS OF BOSSIER PARISH WITH SHREVEPORT.

4 Q. AND GIVEN YOUR OPINION ON THE TOPIC, I ASSUME THAT YOU
5 DIDN'T DO ANYTHING TO GO ABOUT DETERMINING THE COMPACTNESS OF
6 THE BLACK POPULATION WITHIN THE CONTOURS OF ILLUSTRATIVE HOUSE
7 DISTRICT 1?

8 A. NO. AND THAT'S RIGHT UPFRONT IN DR. TRENDE'S ANALYSIS.
9 IT'S TOPOLOGICAL GOBBLEDYGOOK. IT MAKES NO SENSE TO MAKE THAT
10 ARGUMENT. I REITERATE, REPEAT IT, IT IS DESIGNED TO FAIL. IT
11 IS A REDISTRICTING EQUIVALENT OF ASKING A PROSPECTIVE VOTER TO
12 TELL SOMEONE HOW MANY BEANS ARE IN A JAR. IT'S DESIGNED TO
13 FAIL. IF THAT METHODOLOGY WERE ACCEPTED, AT LEAST HALF OF THE
14 MAJORITY-BLACK DISTRICTS IN THE COUNTRY WOULD BE ELIMINATED IN
15 ONE FELL SWOOP. YOU KNOW IT; I KNOW IT; DR. TRENDE KNOWS IT.
16 AND IT DOESN'T MEAN ANYTHING BECAUSE THERE IS NO WAY IN THE
17 WORLD THAT SOMEBODY WHO LIVES IN SHREVEPORT IS IN ANY WAY
18 DIFFERENT THAN SOMEBODY WHO LIVES IN VIVIAN IF THEY'RE A
19 MEMBER OF THE BLACK COMMUNITY, HIGHLY UNLIKELY. OBVIOUSLY
20 THERE ARE DIFFERENCES IN PERSONAL FRIENDS AND THINGS. BUT
21 OVERALL THERE IS A STRONG CONNECTION. THEY LIVE IN THE SAME
22 PARISH; THEY GO TO THE SAME PARISH COUNCIL MEETINGS; THEY GO TO
23 THE SAME FOOTBALL GAMES. THEY ARE 30 MILES APART. THIS IS NOT
24 DRAWING A DISTRICT FROM, I DON'T KNOW, THE RIO GRANDE AROUND
25 REYNOSA, MEXICO, RIGHT ACROSS THE RIVER, ALL THE WAY UP INTO

WILLIAM S. COOPER

11:46 1 DOWNTOWN SAN ANTONIO. YOU GUYS LIKE TO POINT OUT THAT
2 PARTICULAR RULING TO DEMONSTRATE THAT THE BLACK POPULATION IS
3 DISPARATE. BUT COME ON, THIS IS 30 MILES. THIS IS NOT
4 300 MILES FROM THE RIO GRANDE TO DOWNTOWN SAN ANTONIO. IT'S 30
5 MILES. IT'S A 15-MINUTE DRIVE ALMOST.

6 **MR. TUCKER:** YOUR HONOR, MOVE TO STRIKE. THE
7 RESPONSE IS NON-RESPONSIVE.

8 **THE COURT:** DENIED.

9 **BY MR. TUCKER:**

10 **Q.** NOW I WANT TO TURN TO THE NATCHITOCHEES AREA IN YOUR
11 REPORT. IF YOU COULD GO ON PAGE 51.

12 **A.** YES.

13 **Q.** AND, AGAIN, YOU CREATE A MAJORITY-BLACK DISTRICT HERE
14 WHERE THERE'S NOT ONE IN THE ENACTED PLAN. IS THAT RIGHT?

15 **A.** THAT'S RIGHT. YOU DESTROYED IT. YOU ELIMINATED IT. IT'S
16 NOT UNLIKE GALVESTON COUNTY, FRANKLIN, MAYBE NOT. IT'S ALMOST
17 --

18 **Q.** MR. COOPER, I JUST ASKED YOU A SIMPLE QUESTION.

19 **A.** YEAH I KNOW, I KNOW.

20 **Q.** THANK YOU.

21 BUT THIS DISTRICT IN YOUR ILLUSTRATIVE PLAN IS JUST
22 BARELY OVER 50 PERCENT. IS THAT RIGHT?

23 **A.** SO IT'S *GINGLES 1* COMPLIANT, AND IT'S A LOVELY LOOKING
24 DISTRICT.

25 **Q.** AND, AGAIN, NOWHERE IN THIS SECTION ABOUT YOUR CREATION OF

WILLIAM S. COOPER

11:47 1 A NEW MAJORITY-BLACK DISTRICT IN THE NATCHITOCHEs AREA DO YOU
2 MENTION REUNITING ANY PARTICULAR CITY OR MUNICIPALITY.

3 CORRECT?

4 A. WELL, IT'S IMPLICIT. I REUNITE -- I BASICALLY JUST
5 REPRODUCED A PLAN THAT WAS ALREADY THERE BETWEEN 2011 AND 2020.
6 SO I'M JUST RENEWING THAT DISTRICT.

7 Q. YOU'RE REUNITING THE --

8 A. I DON'T KNOW WHY THAT DISTRICT WAS TAKEN AWAY, BUT THERE
9 WAS NO REASON TO DO SO.

10 Q. YOU ARE JUST MAKING THE DISTRICT MORE SIMILAR TO WHAT IT
11 WAS AFTER THE 2011 CENSUS, IS THAT WHAT YOU'RE SAYING?

12 A. BY AND LARGE. I MEAN, THERE ARE DIFFERENCES BECAUSE THE
13 POPULATION CHANGED, BUT IT'S UNITING NATCHITOCHEs, RED RIVER,
14 AND PART OF DESOTO PARISH INTO A SINGLE DISTRICT, JUST AS IT
15 WAS UNITED IN THE ENACTED HOUSE PLAN OF 2011. AND YOU HEARD
16 THAT TESTIMONY FROM THE REVEREND YESTERDAY ABOUT THE COMMUNITY
17 LINKS IN THAT AREA ALONG THE RED RIVER. AND DR. COLTEN TALKED
18 ABOUT IT, TOO.

19 Q. THE ENACTED PLAN KEEPS DESOTO PARISH WHOLE. CORRECT?

20 A. I'M NOT SURE. I'D HAVE TO LOOK BACK AT THE MAP, DOES IT?

21 Q. DO YOU HAVE ANY REASON TO DISPUTE THAT?

22 A. WELL, I'LL LOOK AT THE MAP AND DOUBLECHECK. IT DOES.

23 Q. AND YOUR ILLUSTRATIVE PLAN DIVIDES IT. CORRECT?

24 A. THE ILLUSTRATIVE PLAN DOES ONLY PICK UP PART OF DESOTO
25 PARISH, THAT'S RIGHT. IT INCLUDES THE MAJORITY BLACK CITY OF

WILLIAM S. COOPER

11:49 1 MANSFIELD AND PORTIONS OF THE PARISH THAT ARE PREDOMINATELY
2 BLACK.

3 FURTHER NORTH AROUND STONEWALL, THE POPULATION HAS
4 INCREASED IN RECENT YEARS. THERE'S BEEN SOME -- I WON'T CALL
5 IT WHITE FLIGHT, BUT SUBURBAN AREAS AROUND --

6 Q. MR. COOPER, MY SIMPLE QUESTION WAS WHETHER YOU DIVIDED --

7 A. -- STONEWALL THAT ARE PREDOMINATELY WHITE.

8 Q. MY SIMPLE QUESTION WAS WHETHER OR NOT THE ILLUSTRATIVE
9 PLAN DIVIDES DESOTO PARISH, AND YOU ANSWERED THE QUESTION YES.
10 CORRECT?

11 A. WELL, YES.

12 Q. THANK YOU.

13 THE COURT: MR. COOPER, TRY TO KEEP YOUR ANSWERS TO
14 THE QUESTIONS SO THAT WE CAN MAYBE GET OUT OF HERE TODAY.

15 THE WITNESS: YES, YOUR HONOR.

16 MR. TUCKER: THANK YOU, YOUR HONOR.

17 BY MR. TUCKER:

18 Q. AND NOW YOUR ILLUSTRATIVE PLAN INCLUDES THE TOWN OF CAMPTI
19 IN ILLUSTRATIVE HOUSE DISTRICT 23. IS THAT CORRECT?

20 A. YES.

21 Q. AND I BELIEVE IN YOUR DEPOSITION -- DO YOU RECALL SAYING
22 THAT YOU BELIEVE THAT CAMPTI AND NATCHITOCHESES WERE A PART OF
23 THE SAME COMMUNITY BECAUSE THEIR FOOTBALL TEAMS PLAY EACH OTHER
24 AND THEY WOULD SHOP AT THE SAME WALMART. DO YOU RECALL THAT
25 DISCUSSION?

WILLIAM S. COOPER

- 11:50 1 A. I DO.
- 2 Q. OKAY.
- 3 A. AND I BELIEVE THAT'S TRUE. AND I'M REINFORCED BY THE
4 REVEREND'S TESTIMONY YESTERDAY WHERE HE SPECIFICALLY TALKED
5 ABOUT FAMILY MEMBERS THAT LIVED IN CAMPTI, EVEN THOUGH HE LIVES
6 IN NATCHITOCHEs.
- 7 Q. BUT AT THAT TIME YOU DIDN'T KNOW WHERE THE WALMART EVEN
8 WAS IN THAT AREA. ISN'T THAT RIGHT?
- 9 A. WELL, I THINK I -- WHEN I WAS TALKING ABOUT WALMART, I WAS
10 TALKING ABOUT THE SHREVEPORT AREA.
- 11 Q. OKAY. WELL, DO YOU RECALL TALKING ABOUT WALMARTS IN THIS
12 AREA?
- 13 A. I THINK I TOLD YOU AT THE DEPOSITION THAT I HADN'T REALLY
14 LOOKED AT WHERE THE WALMARTS WERE IN THE NATCHITOCHEs AND RED
15 RIVER AREA.
- 16 Q. AND DO YOU EVEN NOW IF -- FIRST OF ALL, DO YOU EVEN KNOW
17 WHAT HIGH SCHOOL FOLKS IN CAMPTI WOULD GO TO?
- 18 A. OFF THE TOP OF MY HEAD, I CAN'T TELL YOU. BUT I CAN --
19 I'M ALMOST A HUNDRED PERCENT CONFIDENT, ALTHOUGH I CAN'T SAY
20 WITH CERTAINLY, THAT THERE ARE COMPETITIONS IN THAT AREA
21 BETWEEN THE LOCAL SCHOOLS.
- 22 Q. DO YOU EVEN KNOW --
- 23 A. I DON'T THINK THEY'RE GOING DOWN TO BATON ROUGE OR NEW
24 ORLEANS, EXCEPT FOR STATE CHAMPIONSHIPS.
- 25 Q. DO YOU EVEN KNOW IF NATCHITOCHEs AND THE HIGH SCHOOL THAT

WILLIAM S. COOPER

11:50 1 THE FOLKS IN CAMPTI GO TO ARE IN THE SAME FOOTBALL DIVISION?

2 A. I DON'T KNOW FOR A FACT, NO.

3 Q. COULD WE MOVE ON TO PAGE 53 OF YOUR REPORT?

4 AND THIS IS WHERE YOU DISCUSS YOUR ILLUSTRATIVE HOUSE
5 DISTRICTS IN THE LAKE CHARLES AREA. CORRECT?

6 A. YES.

7 Q. AND HERE YOU CREATE A SECOND MAJORITY-BLACK DISTRICT IN
8 ILLUSTRATIVE HOUSE DISTRICT 38?

9 A. CORRECT.

10 Q. AND TO DO SO, YOU ESSENTIALLY SPLIT THE BLACK POPULATION
11 IN LAKE CHARLES TO CREATE TWO MAJORITY-BLACK DISTRICTS HERE.
12 CORRECT?

13 A. THAT'S TRUE. PARTS OF LAKE CHARLES ARE NOW IN THE NEW
14 MAJORITY-BLACK HOUSE DISTRICT 38.

15 Q. AND THE ENACTED PLAN KEEPS LAKE CHARLES ALL IN ONE
16 DISTRICT. IS THAT RIGHT?

17 A. PROBABLY, BUT I DON'T KNOW. YOU KNOW, I'M NOT -- WELL,
18 MAYBE ALL IN ONE MAJORITY-BLACK DISTRICT MAYBE. BUT I THINK
19 LAKE CHARLES ITSELF IS SPLIT. CORRECT? BETWEEN SEVERAL OTHER
20 DISTRICTS. I MEAN, I DO HAVE AN EXHIBIT IN THERE SOMEWHERE
21 THAT ACTUALLY SHOWS THE MUNICIPALITIES IN EACH DISTRICT.

22 Q. WELL, WE CAN MOVE ON FROM THAT.

23 SO DO YOU RECALL THE BVAPS OF YOUR ILLUSTRATIVE HOUSE
24 DISTRICT 34 AND ILLUSTRATIVE HOUSE DISTRICT 38?

25 A. THEY WOULD BE SOMEWHERE IN THE LOW 50S, BUT I DON'T RECALL

WILLIAM S. COOPER

11:52 1 THE EXACT NUMBER.

2 Q. IF I TOLD YOU THEY WERE 50.8 PERCENT AND 50.3 PERCENT,
3 WOULD THAT SOUND ABOUT RIGHT?

4 A. THAT WOULD NOT SURPRISE ME. I'M ASSUME YOU'RE READING THE
5 RIGHT NUMBERS.

6 Q. AND SO, AGAIN, YOU REDUCED THE BVAP IN EXISTING HOUSE
7 DISTRICT 34 IN ORDER TO CREATE A NEW MAJORITY-BLACK DISTRICT IN
8 ILLUSTRATIVE HOUSE DISTRICT 38. CORRECT?

9 A. THAT'S TRUE. BUT IT'S MY UNDERSTANDING THAT A
10 PERCENTAGE -- A LOWER PERCENTAGE IN THAT AREA, IT WOULD STILL
11 ELECT A CANDIDATE OF CHOICE ACCORDING TO DR. HANDLEY'S
12 ANALYSIS.

13 Q. BUT YOU DIDN'T HAVE THAT ANALYSIS AT THE TIME YOU WERE
14 DRAWING YOUR MAPS. CORRECT?

15 A. I DID NOT.

16 Q. AND, AGAIN, IT'S SAFE TO ASSUME YOU DIDN'T DO ANYTHING TO
17 CONFIRM THE COMPACTNESS OF THE BLACK POPULATION WITHIN
18 ILLUSTRATIVE HOUSE DISTRICT 38. CORRECT?

19 A. THAT IS NOT PART OF THE GENERAL INQUIRY. IT COULD BECOME
20 A FACTOR IN CERTAIN SECTION 2 CASES. REMEMBER, THE I-85
21 DISTRICT IN NORTH CAROLINA? SURE. THERE'S A GOOD ARGUMENT
22 MAYBE THAT YOU CAN'T COMBINE BLACK FOLKS IN CHARLOTTE WITH
23 BLACK FOLKS IN RALEIGH, BUT THIS IS NOT I-85 DISTRICT. THIS IS
24 NOT THE *LULAC* CASE IN TEXAS. IT IS A VERY COMPACT AREA.

25 Q. ALL RIGHT. SWITCHING NOW FINALLY IN THE HOUSE TO THE

WILLIAM S. COOPER

11:53 1 BATON ROUGE AREA.

2 IF YOU COULD TURN, I THINK, TO THE NEXT PAGE OF YOUR
3 REPORT.

4 FORREST, CAN WE FLIP OVER TO PAGE 56 ACTUALLY?

5 AND, AGAIN, DO YOU RECALL TESTIFYING IN YOUR
6 DEPOSITION THAT YOU LOWERED THE BVAPS IN DISTRICTS IN BATON
7 ROUGE TO CREATE ADDITIONAL MAJORITY-BLACK DISTRICTS HERE? DO
8 YOU RECALL THAT?

9 A. WELL, THIS IS PART OF THE BATON ROUGE MSA. THIS DISTRICT
10 I BELIEVE PROBABLY COULD HAVE BEEN CREATED INDEPENDENT OF THE
11 DISTRICTS THAT I CREATED IN EAST BATON ROUGE PARISH. BUT -- SO
12 I'M NOT SURE IF YOU'RE -- ARE YOU REFERRING TO THE MSA OR TO
13 EAST BATON ROUGE PARISH AND THE CITY OF BATON ROUGE?

14 Q. THAT'S A FAIR POINT.

15 SO MY QUESTION WASN'T NECESSARILY SPECIFICALLY
16 REFERRING TO PAGE 56. IT WAS A MORE GENERAL QUESTION. IN THE
17 BATON ROUGE AREA, YOU WERE LOOKING TO UNPACK THE BLACK
18 POPULATION TO CREATE ADDITIONAL MAJORITY-BLACK DISTRICTS.
19 CORRECT?

20 A. SURE. EXTENDING IT TO IBERVILLE AND ASCENSION.

21 Q. THANK YOU FOR CLARIFYING.

22 SO LET'S -- SPECIFICALLY LOOKING AT HOUSE DISTRICT 60
23 -- OR YOUR ILLUSTRATIVE HOUSE DISTRICT 60, WHICH IS A NEW
24 MAJORITY-BLACK DISTRICT. CORRECT?

25 A. YES.

WILLIAM S. COOPER

11:54 1 Q. OKAY. AND I BELIEVE YOU STATE IN PARAGRAPH 132 OF YOUR
2 REPORT, TO CREATE THIS DISTRICT THE MUNICIPALITIES OF
3 DONALDSONVILLE, WHITE CASTLE, PLAQUEMINE ARE JOINED WITH ST.
4 GABRIEL AND GONZALES TO CREATE THIS NEW MAJORITY-BLACK
5 DISTRICT. CORRECT?

6 A. YES.

7 Q. IF WE COULD TURN TO PAGE 58, PLEASE.

8 AND THIS REFLECTS THE NEW ILLUSTRATIVE -- STRIKE
9 THAT.

10 THIS REFLECTS THE NEW MAJORITY-BLACK DISTRICT IN
11 ILLUSTRATIVE HOUSE DISTRICT 65. CORRECT?

12 A. YES.

13 Q. AND, AGAIN, IN PARAGRAPH 136 YOU INDICATE YOUR INTENTION
14 WAS TO UNPACK THE BLACK POPULATION IN NEIGHBORING HOUSE
15 DISTRICT 29 AND HOUSE DISTRICT 63. CORRECT?

16 A. WELL, THAT'S THE BOTTOM LINE IMPACT IN TERMS OF THE BLACK
17 VAP. I WAS NOT NECESSARILY FOCUSED ON -- AT THE VERY OUTSET OF
18 LOOKING AT THE NUMBERS BEYOND JUST GENERALLY KNOWING THAT
19 SEVERAL OF THOSE DISTRICTS HAD HIGH BLACK POPULATIONS.

20 Q. AND YOU ALSO WERE LOOKING TO UNPACK THE BLACK POPULATION
21 IN HOUSE DISTRICT 62 AND 65. CORRECT?

22 A. I WASN'T SO MUCH LOOKING AT THEM. THIS IS JUST THE
23 BOTTOM-LINE END RESULT.

24 Q. THAT'S WHAT YOU HAD TO DO CREATE THE NEW MAJORITY-BLACK
25 DISTRICT HERE?

WILLIAM S. COOPER

11:56 1 A. THAT'S THE ULTIMATE IMPACT, YES.

2 Q. BUT YOU DIDN'T JUST UNCRACK THE BLACK POPULATION IN HOUSE
3 DISTRICT 62. RIGHT? YOU ELIMINATED IT AS A MAJORITY-BLACK
4 DISTRICT ALTOGETHER. CORRECT?

5 A. THE PLAINTIFFS IN THIS CASE WANTED TO HAVE MORE WHOLE
6 DISTRICTS IN EAST BATON ROUGE PARISH. AND ONE WAY TO DO THAT
7 WAS TO SHIFT HOUSE DISTRICT 62 INTO EAST BATON ROUGE SO THAT
8 INSTEAD OF HAVING 15 DIFFERENT DISTRICTS IN EAST BATON ROUGE
9 PARISH, I WAS ABLE TO REDUCE IT TO 12, WHILE AT THE SAME TIME
10 CREATING TWO ADDITIONAL HOUSE DISTRICTS IN THAT AREA.

11 Q. AND, AGAIN, JUST A SIMPLE "YES" OR "NO" QUESTION. YOU
12 DIDN'T DO ANYTHING TO DETERMINE THE COMPACTNESS OF THE BLACK
13 POPULATION WITHIN ILLUSTRATIVE HOUSE DISTRICT 68?

14 A. WE KEEP GOING OVER THIS. THAT'S JUST SIMPLY NOT
15 NECESSARY. THIS IS A *GINGLES 1* CASE, AND IT INVOLVES
16 DEMONSTRATING THAT YOU CAN DRAW A DISTRICT THAT IS REASONABLY
17 COMPACT, SUFFICIENTLY NUMEROUS TO ENCOMPASS A POPULATION THAT
18 IS MAJORITY BLACK, AND THAT'S WHAT I'VE DONE.

19 Q. AND I UNDERSTAND YOUR POSITION, AND I'LL JUST MAKE THIS
20 SIMPLE SO WE WON'T HAVE TO KEEP GOING OVER THIS, BUT YOU DIDN'T
21 EVALUATE THE COMPACTNESS OF THE BLACK POPULATION OR YOU --
22 STRIKE THAT.

23 YOU DIDN'T DO ANYTHING TO EVALUATE THE COMPACTNESS OF
24 THE BLACK POPULATION WITHIN ANY OF YOUR ILLUSTRATIVE HOUSE
25 DISTRICTS. CORRECT?

WILLIAM S. COOPER

11:57 1 A. ABSOLUTELY NOT, BECAUSE IT IS ABSOLUTELY NOT NECESSARY.
2 YOU'RE SURELY NOT GOING TO ARGUE THAT SOMEHOW OR ANOTHER THE
3 BLACK POPULATION IN ILLUSTRATIVE HOUSE DISTRICTS 65, 68, AND 69
4 ARE DISPARATE POPULATIONS. I SUPPOSE YOU WILL.

5 Q. FINALLY, CAN WE TURN TO PAGE 60 OF THE REPORT?

6 AND THIS REFLECTS WHERE YOU CREATE A NEW ILLUSTRATIVE
7 HOUSE DISTRICT IN 68. CORRECT?

8 A. YES.

9 Q. BUT, AGAIN, IN PARAGRAPH 139 YOU STATE THAT HOUSE DISTRICT
10 68 -- ILLUSTRATIVE HOUSE DISTRICT 68 UNPACKS EXISTING HOUSE
11 DISTRICT 61 AND UNCRACKS BLACK POPULATION IN A MAJORITY-WHITE
12 HOUSE DISTRICT 68, 69, AND 70. CORRECT?

13 A. YES. BUT I'M BASICALLY JUST READING OFF OF THE CORE
14 CONSTITUENCY REPORT IN MY DECLARATION TO GET THOSE NUMBERS IN
15 THE EXHIBIT. I WAS NOT SETTING OUT TO UNCRACK AND UNPACK
16 SPECIFIC DISTRICTS OTHER THAN IN GENERAL. IN A GENERAL WAY I
17 WAS, BUT I WAS NOT DEAD SET ON DOING ONE THING OR ANOTHER AS I
18 WAS DRAWING THE DISTRICTS. I JUST WANTED TO SEE IF THEY COULD
19 BE DRAWN, AND I WAS TRYING TO DRAW COMPACT AND REASONABLY
20 SHAPED DISTRICTS. AND THE END RESULT WAS 139. AND YOU CAN GO
21 TO THE EXHIBIT, THE CORE CONSTITUENCY EXHIBIT AND SEE THAT THAT
22 WAS THE CASE.

23 Q. ALL RIGHT. IF WE CAN QUICK SHIFTLY TO THE ILLUSTRATIVE
24 SENATE PLAN NOW, AND WE'LL START IN THE SHREVEPORT AREA. IF
25 YOU COULD TURN BACK TO PAGE 36 OF YOUR REPORT.

WILLIAM S. COOPER

11:59 1 A. WHICH PAGE?

2 Q. SORRY. I SAID PAGE 36, BUT I DON'T THINK THAT'S CORRECT.
3 GIVE ME ONE SECOND.

4 A. MAYBE 37?

5 Q. CORRECT, 37. THANK YOU.

6 AND HERE YOU DISCUSS A NEW MAJORITY-BLACK SENATE
7 DISTRICT THAT YOU CREATE IN THE NORTHWEST PART OF THE STATE.
8 CORRECT?

9 A. YES.

10 Q. AND THAT'S ILLUSTRATIVE SENATE DISTRICT 38?

11 A. YES.

12 Q. AND YOU PARTIALLY CONTAIN BOTH SHREVEPORT AND BOSSIER CITY
13 IN THIS NEW SENATE DISTRICT. CORRECT?

14 A. YES.

15 Q. IF WE COULD TURN TO PAGE 38 AND 39 OF THE REPORT.

16 HERE YOU DISCUSS THE CREATION OF A NEW MAJORITY-BLACK
17 DISTRICT IN ILLUSTRATIVE SENATE DISTRICT 17. IS THAT RIGHT?

18 A. YES.

19 Q. AND THIS IS A NEW SENATE DISTRICT IN THE BATON ROUGE AREA?

20 A. YES. IT'S IN THE BATON ROUGE MSA, BUT IT GOES BEYOND EAST
21 BATON ROUGE PARISH, OF COURSE. IT GOES INTO WEST -- IT TAKES
22 IN ALL OF WEST BATON ROUGE PARISH AND ALL OF POINTE COUPEE AND
23 MOST OF IBERVILLE.

24 Q. AND YOU MAKE SOME PRETTY SUBSTANTIAL CHANGES IN THIS AREA,
25 PARTICULARLY TO SENATE DISTRICT 17. CORRECT?

WILLIAM S. COOPER

12:00 1 A. WELL, YES. SENATE DISTRICT 17 GOES FROM ST. LANDRY PARISH
2 IN THE HEART OF THE CAJUN COUNTRY, ALL THE WAY OVER TO ST.
3 HELENA AND FLORIDA PARISHES. IT'S A HUGE GEOGRAPHICALLY LARGE
4 AREA. AND IT DOES FRAGMENT THE BLACK VOTING STRENGTH IN THAT
5 PART OF THE STATE. IT'S MAJORITY WHITE -- WHEN IT'S VERY EASY
6 TO DRAW A VERY REASONABLY SHAPED, MUCH MORE COMPACT DISTRICT AS
7 I'VE DRAWN IN ILLUSTRATIVE DISTRICT 17.

8 Q. AND I THINK AS YOU TALK ABOUT IN PARAGRAPH 97, YOU
9 PREDOMINANTLY ANCHOR THIS NEW SENATE DISTRICT IN EAST BATON
10 ROUGE. CORRECT?

11 A. WELL, IT'S IN -- THERE IS SIGNIFICANT POPULATION FROM EAST
12 BATON ROUGE PARISH IN THIS DISTRICT. I HAVE THE -- THERE'S AN
13 EXHIBIT THAT ACTUALLY SHOWS THE BREAKOUT. SO I DON'T KNOW THE
14 POPULATION PERCENTAGES.

15 Q. SURE. BUT I'M USING YOUR OWN WORDS FROM THE REPORT. IN
16 PARAGRAPH 97 YOU SAY IT'S ANCHORED IN EAST BATON ROUGE.
17 CORRECT?

18 A. WELL, YEAH. IT IS IN EAST BATON ROUGE, AND IT DOES EXTEND
19 -- POINTE COUPEE AND WEST BATON ROUGE HAVE POPULATIONS THAT
20 ARE, I THINK, YOU KNOW, 25,000 OR SO, EACH ONE OF THOSE.

21 Q. AND ANCHORING IT IN EAST BATON ROUGE, AS YOU STATE, ALLOWS
22 YOU TO DRAW BLACK POPULATION IN FROM PACKED SENATE DISTRICT 15.
23 CORRECT?

24 A. I THINK SO. THERE IS SOME PACKING INVOLVED IN SENATE
25 DISTRICT 15, RIGHT. IT'S 74 PERCENT BLACK VOTING AGE.

WILLIAM S. COOPER

12:02 1 Q. SO IS THE ANSWER TO MY QUESTION "YES"?

2 A. WELL, YES. AGAIN, THIS IS JUST KIND OF A BOTTOM-LINE
3 SUMMARY THAT I'M TAKING DIRECTLY FROM ONE OF THE EXHIBITS
4 SHOWING CORE CONSTITUENCIES.

5 Q. AND UP ABOVE YOU SAY YOU AVOID EXTENDING ILLUSTRATIVE
6 SENATE DISTRICT 17 WEST INTO WHAT WOULD BE PREDOMINATELY WHITE
7 COMMUNITIES. IS THAT CORRECT?

8 A. WELL, IT WOULD BE EXTENDING WEST INTO EAST FELICIANA,
9 WHICH IS MAJORITY WHITE, I BELIEVE. ST. HELENA IS ACTUALLY
10 MAJORITY BLACK. BUT I WAS REALLY TRYING TO MAKE IT MORE OF A
11 MISSISSIPPI DISTRICT, A MISSISSIPPI RIVER DISTRICT, AND I THINK
12 REALLY REFLECTING A COMMUNITY OF INTEREST, WHICH IS KIND OF
13 UNIQUE TO THIS PART OF THE STATE IN A WAY AND REALLY SORT OF
14 UNIQUE WHEN YOU LOOK AT IT NATIONALLY. I MEAN, IT'S GOT A --
15 YOU KNOW, IT'S GENERALLY KNOWN AS EITHER THE CHEMICAL QUARTER
16 OR CANCER ALLEY. THERE ARE REAL HEALTH ISSUES THERE RELATING
17 TO FOLKS WHO LIVE IN EITHER HOUSE DISTRICT -- IN SENATE
18 DISTRICT 17 AND --

19 MR. TUCKER: YOUR HONOR, I MOVE TO STRIKE AS
20 NON-RESPONSIVE AND OUTSIDE THE SCOPE OF HIS REPORT.

21 THE COURT: MR. COOPER, LET'S STAY TO THE TASK AT
22 HAND, PLEASE.

23 THE WITNESS: OKAY. SORRY.

24 MR. TUCKER: OKAY.

25 THE COURT: MOVE ONTO THE NEXT QUESTION.

WILLIAM S. COOPER

12:03 1

MR. TUCKER: OKAY.

2

BY MR. TUCKER:

3

Q. SO FINALLY -- LASTLY, JUST LOOKING ON PAGE 41 AND 42 OF YOUR REPORT, THIS IS WHERE YOU SHOW THE CREATION OF A NEW MAJORITY-BLACK DISTRICT IN THE NEW ORLEANS AREA. CORRECT?

6

A. YES.

7

Q. AND THAT'S ILLUSTRATIVE SENATE DISTRICT 19?

8

A. YES.

9

Q. AND, ONCE AGAIN, IN PARAGRAPH 101 YOU STATE THAT WHAT YOU ARE DOING HERE IS YOU ARE UNCRACKING SENATE DISTRICT 19 TO NOW MAKE IT A MAJORITY-BLACK DISTRICT. IS THAT RIGHT?

10

11

12

A. YES. JUST REPORTING FROM THE END RESULT AS SHOWN IN ONE OF THE EXHIBITS.

13

14

MR. TUCKER: YOUR HONOR, IF I MAY HAVE JUST A MINUTE TO CONFER WITH MY COLLEAGUES?

15

16

THE COURT: YOU MAY.

17

BY MR. TUCKER:

18

Q. THANK YOU VERY MUCH MR. COOPER. I HAVE NO FURTHER QUESTIONS.

19

20

MR. TUCKER: I TENDER THE WITNESS, YOUR HONOR.

21

THE COURT: MS. THOMAS, ANY REDIRECT?

22

MS. THOMAS: VERY SHORT, YOUR HONOR.

23

REDIRECT EXAMINATION

24

BY MS. THOMAS:

25

Q. ALL RIGHT. IT'S ALMOST AFTERNOON. I BELIEVE IT IS

WILLIAM S. COOPER

12:04 1 AFTERNOON.

2 GOOD AFTERNOON, AGAIN, MR. COOPER.

3 A. GOOD AFTERNOON.

4 MS. THOMAS: THIS WILL BE VERY BRIEF, YOUR HONOR.

5 BY MS. THOMAS:

6 Q. YOU WERE ASKED SOME QUESTIONS ABOUT YOUR USE OF
7 TRADITIONAL REDISTRICTING PRINCIPLES IN YOUR REDISTRICTING
8 PROCESS BY MR. TUCKER. DO YOU RECALL THAT?

9 A. YES.

10 Q. IF WE COULD PULL UP PLAINTIFF EXHIBIT 20, PAGE 27,
11 PARAGRAPH 68, STARTING AT PARAGRAPH 68.

12 A. YES.

13 Q. IS THIS A PART OF YOUR REPORT WHERE YOU OUTLINE THE ROLE
14 THAT TRADITIONAL REDISTRICTING PRINCIPLES PLAYED IN YOUR MAP
15 DRAWING PROCESS?

16 A. YES.

17 Q. AND IT WAS DISCLOSED AND SHARED WITH DEFENDANTS?

18 A. WELL, YES. I MEAN, THESE ARE THE TRADITIONAL
19 REDISTRICTING PRINCIPLES THAT ALL PLANNERS -- THAT ALL PLAN
20 DRAWERS SHOULD CONSIDER WHEN DEVELOPING AN ELECTION DISTRICT,
21 WHETHER YOU'RE DRAWING A PLAN AT THE LOCAL LEVEL OR A
22 CONGRESSIONAL DISTRICT.

23 Q. IF WE COULD MOVE TO PAGE 6, PARAGRAPH 15.

24 YOU WERE ASKED SOME QUESTIONS ABOUT YOUR LINE DRAWING
25 IN NATCHITOCHEs. DO YOU RECALL THAT?

WILLIAM S. COOPER

12:05 1

A. YES.

2

Q. DOES THIS PART OF YOUR REPORT DISCUSS WHAT YOUR INTENTION TO MAKE HD 23 WHOLE AGAIN?

3

4

A. YES, IT DOES. IT SPELLS IT OUT.

5

Q. OKAY. I BELIEVE THERE WERE -- THERE WAS A BIT OF

6

CONTENTIOUS TESTIMONY AND BACK-AND-FORTH ABOUT YOUR PREVIOUS

7

DEPOSITION TESTIMONY IN REGARDS TO SOCIOECONOMIC FACTORS. DO

8

YOU RECALL THAT?

9

A. YES. I THINK WE DID HAVE SOME EXCHANGES THERE. I DIDN'T

10

MEAN IT TO BE CONTENTIOUS, BUT I DON'T WANT TO SELL MYSELF

11

SHORT BEFORE SOME OF THESE ATTORNEYS WHO LIKE TO PICK ON ME.

12

Q. IF WE COULD --

13

THE COURT: NOBODY FEELS SORRY FOR YOU.

14

GO AHEAD.

15

MS. THOMAS: YES, I BELIEVE MR. COOPER CAN HANDLE

16

HIMSELF.

17

BY MS. THOMAS:

18

Q. IF WE COULD PULL UP MR. COOPER'S DEPOSITION TRANSCRIPT AND

19

GO TO PAGE 101, STARTING AT LINE 24.

20

I BELIEVE THAT YOU WERE ASKED QUESTIONS ABOUT WHETHER

21

YOU DISCLOSED IN YOUR DEPOSITION TRANSCRIPT THAT YOU -- IN YOUR

22

DEPOSITION THAT YOU HAD, IN FACT, UPLOADED SOCIOECONOMIC DATA

23

TO YOUR -- TO MAPTITUDE AS PART OF YOUR REBUTTAL PROCESS. DO

24

YOU RECALL THAT EXCHANGE WITH MR. TUCKER TODAY?

25

A. YES.

WILLIAM S. COOPER

12:06 1 **Q.** IF YOU COULD READ THIS PART OF YOUR DEPOSITION, STARTING
2 WITH MR. TUCKER'S QUESTION ON PAGE 101, LINE 24, GOING ALL THE
3 WAY DOWN THE PAGE TO THE FOLLOWING PAGE, 102 TO LINE 24.

4 **MR. TUCKER:** YOUR HONOR, OBJECTION. THIS TESTIMONY
5 HAS NOTHING TO DO WITH WHETHER OR NOT HE UPLOADED THE DATA TO
6 HIS MAPTITUDE SOFTWARE.

7 **MS. THOMAS:** IT, IN FACT, DOES IF HE IS GIVEN THE
8 OPPORTUNITY TO READ IT.

9 **THE COURT:** GIVE ME A CHANCE TO READ IT. HE DOES
10 ADDRESS UPLOADING OR CONSIDERING SOCIOECONOMIC DATA IN HIS
11 REBUTTAL.

12 **MR. TUCKER:** I UNDERSTAND. THAT WASN'T THE QUESTION.
13 THE QUESTION WAS WHETHER HE LOADED IT INTO HIS MAPTITUDE
14 SOFTWARE.

15 **THE COURT:** BUT IT SHOWS THAT YOUR IMPEACHMENT OF HIM
16 WAS NOT REALLY IMPEACHMENT.

17 OBJECTION IS OVERRULED.

18 **MS. THOMAS:** WELL, WE BELIEVE THERE'S A DIFFERENCE
19 BETWEEN HAVING IT IN THE MAPTITUDE SOFTWARE, AND THEN SOMEHOW
20 GENERALLY CONSIDERING IT. THAT WAS THE POINT, BUT I
21 UNDERSTAND, YOUR HONOR.

22 **THE COURT:** OKAY. THANK YOU.

23 OVERRULED.

24 **BY MS. THOMAS:**

25 **Q.** DOES THIS REFRESH YOUR RECOLLECTION OF ABOUT WHETHER YOU

WILLIAM S. COOPER

12:08 1 DISCUSSED WITH MR. TUCKER AT YOUR DEPOSITION THIS PARTICULAR
2 SOCIOECONOMIC DATA?

3 A. YES. AND PROBABLY WITH MORE CLARITY THAN WHAT I SAID
4 TODAY. I DO WANT TO POINT OUT THAT I THINK I JUST MENTIONED A
5 185 PERCENT POVERTY LEVEL WITHOUT NOTING THAT THAT ONLY
6 INCLUDED HOUSEHOLDS WITH CHILDREN.

7 Q. OKAY. AND THEN YOU HAD AN EXCHANGE TOWARDS THE END OF
8 YOUR TESTIMONY WITH MR. TUCKER ABOUT COMPACTNESS AS DEFINED BY
9 *GINGLES 1*. DO YOU RECALL THAT?

10 A. YES.

11 Q. AND I BELIEVE YOU AND I ALSO DISCUSSED COMPACTNESS. DO
12 YOU RECALL THAT?

13 A. YES.

14 Q. AND WHEN I ASKED YOU IN YOUR DIRECT TESTIMONY ABOUT
15 WHETHER YOU THOUGHT YOUR ANALYSIS MET *GINGLES 1*, DO YOU RECALL
16 WHAT YOUR ANSWER WAS?

17 A. WELL, I SAID YES, I HOPE.

18 Q. OKAY. AND IS IT YOUR TESTIMONY THAT BY DRAWING COMPACT
19 DISTRICTS THAT THE MINORITY POPULATION IS COMPACT?

20 A. SAY THAT AGAIN.

21 Q. IS IT YOUR TESTIMONY THAT BY DRAWING COMPACT DISTRICTS
22 AROUND A MINORITY POPULATION THAT A MINORITY POPULATION IS
23 COMPACT?

24 A. YEAH. IT'S *IPSO FACTO* COMPACT.

25 Q. OKAY. AND SO WHEN YOU WERE -- IN YOUR CROSS WHEN YOU WERE

WILLIAM S. COOPER

12:09 1 DISCUSSING THE COMPACTNESS OF THE MINORITY POPULATION, WAS YOUR
2 DISCUSSION ABOUT THE WAY IN WHICH MR. TRENDE DEFINES POPULATION
3 COMPACTNESS?

4 A. COULD YOU -- I'M SORRY. I GOT LOST AGAIN.

5 Q. OKAY. IN THE CROSS TESTIMONY WHEN YOU WERE ASKED ABOUT
6 THE COMPACTNESS OF THE MINORITY POPULATION, WAS YOUR TESTIMONY
7 TARGETED TOWARDS MR. TRENDE'S DEFINITION?

8 A. I HAD SOME COMMENTS ABOUT MR. TRENDE'S DEFINITION, WHICH I
9 BELIEVE TO BE DEEPLY FLAWED.

10 Q. OKAY. AND IN DOING YOUR *GINGLES 1* ANALYSIS AROUND
11 FIGURING OUT IF THE MINORITY POPULATION IS COMPACT, DO YOU USE
12 THE COMPACTNESS SCORES THAT WE'VE DISCUSSED EARLIER TODAY?

13 A. ABSOLUTELY.

14 Q. AND HAS THAT ANALYSIS BEEN ACCEPTED BY COURTS AS PART OF
15 *GINGLES 1*?

16 A. IT HAS OVER AND OVER AND OVER AND OVER AGAIN.

17 Q. NO FURTHER QUESTIONS.

18 **THE COURT:** OKAY. THANK YOU, MR. COOPER.

19 YOU MAY STEP DOWN.

20 OKAY. IT'S 12:15 -- OR WELL, NOT QUITE 12:15.

21 WE WILL BE IN RECESS UNTIL 1:30.

22 **THE LAW CLERK:** ALL RISE.

23 COURT IS IN RECESS.

24 **(WHEREUPON, THE COURT WAS IN RECESS.)**

25 * * *

CERTIFICATE

I, SHANNON THOMPSON, CCR, OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA, CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT, TO THE BEST OF MY ABILITY AND UNDERSTANDING, FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

Shannon Thompson

SHANNON THOMPSON, CCR
OFFICIAL COURT REPORTER

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Attachment 3B

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL : CIVIL ACTION
VERSUS : NO. 3:22-178-SDD
KYLE ARDOIN, ET AL : NOVEMBER 29, 2023

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DAY 3 (AFTERNOON SESSION)
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
BY: MEGAN C. KEENAN, ESQ.
BY: SARAH E. BRANNON, ESQ.
BY: DAYTON CAMPBELL-HARRIS, ESQ.
915 15TH STREET, NW
WASHINGTON, DC 20005

NAACP LEGAL DEFENSE & EDUCATION FUND, INC.
BY: VICTORIA WENGER, ESQ.
BY: SARA ROHANI, ESQ.
BY: STUART C. NAIFEH, ESQ.
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NEW YORK, NEW YORK 10006

COZEN O'CONNOR
BY: JOSEPHINE M. BAHN, ESQ.
1200 19TH STREET, NW, THIRD FLOOR
WASHINGTON, DC 20036

COZEN O'CONNOR
BY: ROBERT S. CLARK, ESQ.
ONE LIBERTY PLACE
1650 MARKET STREET, SUITE 2800
PHILADELPHIA, PENNSYLVANIA 19103

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A P P E A R A N C E S (CONTINUED)

**COZEN O'CONNOR
BY: AMANDA GIGLIO, ESQ.
3 WORLD TRADE CENTER, 55TH FLOOR
NEW YORK, NEW YORK 10007**

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HARVARD LAW SCHOOL
BY: T. ALORA THOMAS, ESQ.
6 EVERETT STREET, SUITE 4105
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**ADCOCK LAW, LLC
BY: JOHN N. ADCOCK, ESQ.
3110 CANAL STREET
NEW ORLEANS, LOUISIANA 70119**

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CAPACITY AS SECRETARY OF STATE:**

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**SECRETARY OF STATE'S OFFICE
BY: CHARLTON J. MEGINLEY, ESQ.
8585 ARCHIVES AVENUE
BATON ROUGE, LOUISIANA 70809**

FOR THE DEFENDANT, CLAY SCHEXNAYDER:

**BAKER & HOSTETLER, LLP
BY: KATE MCKNIGHT, ESQ.
BY: ROBERT J. TUCKER, ESQ.
BY: PATRICK LEWIS, ESQ.
200 CIVIC CENTER DRIVE, SUITE 1200
COLUMBUS, OHIO 43215**

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A P P E A R A N C E S (CONTINUED)

**BAKER HOSTETLER, LLP
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811 MAIN STREET, SUITE 1100
HOUSTON, TEXAS 77002**

**FOR THE INTERVENOR, THE STATE OF LOUISIANA BY AND
THROUGH ATTORNEY GENERAL JEFF LANDRY:**

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**LOUISIANA DEPARTMENT OF JUSTICE
BY: ANGELIQUE D. FREEL, ESQ.
BY: JEFFREY M. WALE, ESQ.
BY: AMANDA M. LAGROUE, ESQ.
1885 NORTH THIRD STREET
BATON ROUGE, LOUISIANA 70804**

**REPORTED BY: NATALIE W. BREAUX, RPR, CRR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
(225) 389-3565**

**PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE**

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I N D E X

PLAINTIFFS WITNESS:

| TRACI BURCH | PAGE |
|---|-------------|
| VOIR DIRE EXAMINATION BY MS. WENGER | 6 |
| DIRECT EXAMINATION BY MS. WENGER | 11 |
| CROSS-EXAMINATION BY MR. LEWIS | 74 |
| REDIRECT EXAMINATION BY MS. WENGER | 105 |

01:32p

1 (NOVEMBER 29, 2023 AFTERNOON SESSION)

2 PROCEEDINGS

3 THE COURT: BE SEATED.

4 NEXT WITNESS, PLEASE.

5 MS. WENGER: GOOD AFTERNOON, YOUR HONOR.

6 VICTORIA WENGER WITH LDF.

7 PLAINTIFFS CALL DR. TRACI BURCH.

8 (WHEREUPON, TRACI BURCH, BEING DULY SWORN,
9 TESTIFIED AS FOLLOWS.)

10 MS. WENGER: YOUR HONOR, I'D ASK TO APPROACH
11 THE WITNESS TO PROVIDE A FOLDER CONTAINING THREE
12 DOCUMENTS PREMARKED AS PLAINTIFFS' EXHIBITS 126, 127,
13 128, AND SOME WATER.

14 THE COURT: ARE THERE OBJECTIONS TO 126, 127
15 OR 128? ARE THOSE THE EXPERT REPORTS?

16 MR. LEWIS: YOUR HONOR -- PATRICK LEWIS FOR
17 THE LEGISLATIVE INTERVENORS -- THOSE ARE THE REPORTS
18 AND THE C.V. WE DO NOT OBJECT, SUBJECT TO -- I
19 BELIEVE THE SECOND REPORT IS THE SURREBUTTAL IN
20 RESPONSE TO ANOTHER EXPERT, SO I THINK WE WOULD WANT
21 THE SAME AGREEMENT THAT WE HAD WITH MR. COOPER; THAT
22 IF SHE'S PERMITTED TO TESTIFY IF PLAINTIFFS' CASE-
23 IN-CHIEF IN REBUTTAL TO DEFENSE EXPERTS, THAT SHE
24 TESTIFY ONCE AND NOT COME BACK AGAIN IN REBUTTAL.

25 THE COURT: DO WE HAVE THAT AGREEMENT?

01:35p

1 THIS REPORT. IT'S A COPY OF THE C.V. THAT I PROVIDED
2 WITH THIS REPORT.

3 Q DR. BURCH, WHAT IS YOUR EDUCATIONAL
4 BACKGROUND?

5 A SO I FINISHED MY UNDERGRADUATE WORK AT
6 PRINCETON IN POLITICS, WHICH IS WHAT THEY CALL
7 POLITICAL SCIENCE, WITH A MINOR IN AFRICAN-AMERICAN
8 STUDIES. AND MY PH.D. IS IN GOVERNMENT AND SOCIAL
9 POLICY FROM HARVARD. AND GOVERNMENT IS WHAT THEY
10 CALL POLITICAL SCIENCE THERE AND SOCIAL POLICY IS A
11 SEPARATE DEPARTMENT.

12 Q EXCELLENT. AND JUST FOR THE COURT'S
13 AWARENESS AND THE RECORD, I'LL BE USING AN
14 ILLUSTRATIVE AID SLIDE DECK THAT'S BEEN MARKED WITH
15 CITATIONS THAT CORRESPOND TO THE MATERIALS YOU'LL BE
16 REVIEWING, DR. BURCH. THIS WAS PROVIDED TO
17 DEFENDANTS LAST NIGHT.

18 DR. BURCH, WHAT IS YOUR CURRENT OCCUPATION?

19 A SO CURRENTLY I AM BOTH ASSOCIATE PROFESSOR
20 OF POLITICAL SCIENCE AT NORTHWESTERN AND A RESEARCH
21 PROFESSOR AT THE AMERICAN BAR FOUNDATION.

22 Q HOW LONG HAVE YOU BEEN TEACHING?

23 A I'VE BEEN AT NORTHWESTERN AND THE BAR
24 FOUNDATION SINCE 2007.

25 Q IN YOUR SCHOLARSHIP DO YOU HAVE ANY

01:36p

1 PARTICULAR FOCUS?

2 A YES. SO I WRITE TYPICALLY IN THE FIELD OF
3 POLITICAL BEHAVIOR WITH A FOCUS IN POLITICAL
4 PARTICIPATION. AND THAT INCLUDES THINGS LIKE
5 BARRIERS TO VOTING AS WELL AS OTHER KINDS OF
6 PARTICIPATION LIKE PROTESTS. AND I ALSO DO WORK IN
7 RACE AND ETHNIC POLITICS AND PUBLIC POLICY AND IN
8 CRIMINAL JUSTICE POLICY AS WELL.

9 Q HAVE YOU BEEN PUBLISHED IN PEER-REVIEWED
10 BOOKS OR JOURNALS?

11 A YES. I'VE WRITTEN BOTH AS SOLO AND A
12 CO-AUTHORED BOOK AS WELL AS SEVERAL ARTICLES IN
13 PEER-REVIEWED JOURNALS.

14 Q HAVE YOU RECEIVED ANY AWARDS OR RECOGNITIONS
15 IN YOUR FIELD?

16 A YES. SEVERAL. SO FOR MY DISSERTATION I
17 RECEIVED SEVERAL AWARDS INCLUDING BEST DISSERTATION
18 AWARD FROM HARVARD AS WELL AS BEST DISSERTATION
19 AWARDS IN THE FIELD OF AMERICAN GOVERNMENT FROM THE
20 AMERICAN POLITICAL SCIENCE ASSOCIATION AND SEVERAL
21 OTHERS FOR MY DISSERTATION AS WELL.

22 FOR MY BOOK, "TRADING DEMOCRACY FOR
23 JUSTICE," I RECEIVED THE RALPH BUNCHE AWARD FROM THE
24 AMERICAN POLITICAL SCIENCE ASSOCIATION AS WELL AS
25 AWARDS FROM THE LAW IN COURTS AND URBAN SECTION AS

01:37p

1 WELL. I'VE ALSO RECEIVED SOME RESEARCH GRANTS.

2 Q DR. BURCH, HAVE YOU TESTIFIED AS AN EXPERT
3 BEFORE IN LITIGATION?

4 A YES.

5 Q DOES THAT INCLUDE IN VOTING RIGHTS CASES?

6 A YES.

7 Q ROUGHLY HOW MANY CASES HAVE YOU TESTIFIED IN
8 AS OF THE SUBMISSION OF YOUR ORIGINAL EXPERT REPORT?

9 A I THINK SIX, COUNTING ONE WHERE THE FINAL
10 TESTIMONY WAS A DEPOSITION AND ALSO A PRELIMINARY
11 INJUNCTION HEARING.

12 Q AND HAVE YOU ACTED AS AN EXPERT IN ANY MORE
13 CASES SINCE?

14 A YES. SEVERAL.

15 Q VOTING RIGHTS CASES AS WELL?

16 A YES.

17 Q ANY CASES UNDER SECTION 2 OF THE VOTING
18 RIGHTS ACT?

19 A YES. INCLUDING ONE IN GALVESTON, GEORGIA.
20 AND THOSE ARE THE TWO THAT I'M THINKING ABOUT RIGHT
21 NOW.

22 Q WERE ANY OF THE MATTERS THAT YOU'VE WORKED
23 IN IN THE PAST REGARDING STATE LEGISLATIVE
24 REDISTRICTING PLANS?

25 A YES. THE GEORGIA CASE WAS.

01:38p

1 Q HAVE YOU BEEN ADMITTED AS AN EXPERT IN ALL
2 OF THE CASES IN WHICH YOU HAVE TESTIFIED?

3 A YES.

4 Q HAVE THERE BEEN ANY ADDITIONAL CHANGES TO
5 YOUR C.V. OR QUALIFICATIONS SINCE THEY WERE SUBMITTED
6 FOR THIS CASE?

7 A YES. SO, FOR INSTANCE, I KNOW -- I THINK
8 THERE IS AN ADDITIONAL PUBLICATION THAT HAS COME OUT
9 SINCE, INCLUDING -- THERE IS ACTUALLY TWO. ONE CAME
10 OUT YESTERDAY. SO I HAVEN'T HAD A CHANCE TO UPDATE
11 FOR THAT ONE ESPECIALLY.

12 Q SO PRIMARILY JUST PUBLICATIONS AND MORE
13 CASEWORK?

14 A YES.

15 Q EXCELLENT.

16 MS. WENGER: YOUR HONOR, I WOULD LIKE TO
17 MOVE TO HAVE DR. BURCH ADMITTED AS AN EXPERT WITNESS
18 IN RACIAL DISCRIMINATION, POLITICAL PARTICIPATION,
19 AND BARRIERS TO VOTING.

20 MR. LEWIS: NO OBJECTION, YOUR HONOR.

21 THE COURT: WITHOUT ANY CROSS ON THE TENDER,
22 DR. BURCH WILL BE PERMITTED TO GIVE OPINION TESTIMONY
23 ON RACIAL DISCRIMINATION -- WHAT WAS THE POLITICAL?
24 POLITICAL --

25 MS. WENGER: POLITICAL PARTICIPATION.

01:39p

1 THE COURT: -- PARTICIPATION AND BARRIERS TO
2 VOTING.

3 MS. WENGER: THANK YOU.

4 DIRECT EXAMINATION

5 BY MS. WENGER:

6 Q DR. BURCH, DID YOU SUBMIT ANY REPORTS AS
7 PART OF YOUR WORK IN THIS CASE?

8 A YES; TWO.

9 Q CAN YOU DESCRIBE WHAT THOSE WERE?

10 A SO ONE WAS AN INITIAL EXPERT REPORT AND THEN
11 A SUPPLEMENT IN RESPONSE TO DR. ALFORD'S REPORT.

12 Q ALL RIGHT. LET'S START BY LOOKING AT WHAT
13 IS MARKED AS PLAINTIFFS' EXHIBIT 126, YOUR INITIAL
14 EXPERT REPORT. DO YOU HAVE THAT IN FRONT OF YOU?

15 A I DO.

16 Q EXCELLENT. AND IS THAT THE REPORT THAT YOU
17 SUBMITTED IN THIS CASE INITIALLY?

18 A YES.

19 Q ARE YOU BEING PAID AS PART OF YOUR
20 PARTICIPATION IN THIS CASE?

21 A I AM. \$300 AN HOUR.

22 Q IS YOUR COMPENSATION CONTINGENT OR TIED TO
23 YOUR OPINIONS IN THIS REPORT?

24 A NO.

25 Q WHAT DID YOU SET OUT TO EVALUATE IN YOUR

01:40p

1 EXPERT REPORT, DR. BURCH?

2 A SO I WAS ASKED TO LOOK AT THE LOUISIANA
3 LEGISLATURE'S PASSAGE OF SB 1 AND HB 14 WITH RESPECT
4 TO THE TOTALITY OF THE CIRCUMSTANCES AS IT RELATES TO
5 SECTION 2 OF THE VOTING RIGHTS ACT. AND I WAS ASKED
6 TO LOOK AT SENATE FACTORS 5, 6, 7, 8 AND 9.

7 Q WHAT METHODOLOGIES DID YOU APPLY FOR THIS
8 ANALYSIS?

9 A SO I LOOKED AT TYPICAL STANDARD METHODS THAT
10 WE USE IN POLITICAL SCIENCE, SUCH AS REVIEWING THE
11 SCHOLARLY LITERATURE, ANALYZING DEMOGRAPHIC AND
12 CENSUS DATA, LOOKING AT HISTORICAL RECORDS AND
13 GOVERNMENT REPORTS AND DATA, NEWS, LEGISLATIVE
14 PROCEEDINGS. I ALSO LOOKED AT PUBLIC OPINION SURVEYS
15 AS WELL.

16 Q AT A HIGH LEVEL, CAN YOU EXPLAIN THE FOCUS
17 OF EACH OF THE SENATE FACTORS YOU WERE ASKED TO
18 ASSESS, STARTING WITH SENATE FACTOR 5?

19 A YES. SO SENATE FACTOR 5 SPECIFICALLY REFERS
20 TO THE EXTENT TO WHICH MINORITY GROUP MEMBERS BEAR
21 THE EFFECTS OF DISCRIMINATION IN AREAS SUCH AS
22 EDUCATION, EMPLOYMENT AND HEALTH, WHICH HINDER THEIR
23 ABILITY TO PARTICIPATE EFFECTIVELY IN THE POLITICAL
24 PROCESS. AND I WAS ASKED TO CONSIDER THAT
25 SPECIFICALLY FOR BLACK LOUISIANIANS.

01:41p

1 AND SENATE FACTOR 6 IS THE USE OF OVERT OR
2 SUBTLE RACIAL APPEALS IN POLITICAL CAMPAIGNS. SENATE
3 FACTOR 7 LOOKS AT THE EXTENT TO WHICH MEMBERS OF THE
4 MINORITY GROUP HAVE BEEN ELECTED TO PUBLIC OFFICE IN
5 THE JURISDICTION. SENATE FACTOR 8 IS ABOUT A LACK OF
6 RESPONSIVENESS ON THE PART OF ELECTED OFFICIALS TO
7 THE PARTICULARIZED NEEDS OF THE MINORITY GROUP
8 MEMBERS. AND SENATE FACTOR 9 IS WHETHER THE POLICY
9 UNDERLYING THE CHANGE, STANDARD, OR PRACTICE IS
10 TENUOUS.

11 Q THANK YOU, DR. BURCH.

12 LET'S GO THROUGH YOUR ANALYSIS OF EACH OF
13 THESE FACTORS, STARTING WITH FACTOR 5 REGARDING THE
14 EFFECTS OF DISCRIMINATION HERE IN LOUISIANA.

15 WHAT WERE YOUR SPECIFIC AREAS OF FOCUS IN
16 ANALYZING THE PRESENCE OF SENATE FACTOR 5 IN THE
17 STATE?

18 A SO FOR SENATE FACTOR 5, IT'S NOT EXHAUSTIVE
19 BUT -- IN THE LIST THAT'S DISCUSSED SPECIFICALLY.
20 BUT I WANTED TO MAKE SURE THAT I TALKED ABOUT THE
21 KINDS OF AREAS THAT WERE IN THE POLITICAL SCIENCE
22 LITERATURE AS AFFECTING VOTER TURNOUT. AND SO I
23 FOCUSED ON EDUCATION, SOCIOECONOMIC STATUS, SEVERAL
24 MEASURES OF THAT INCLUDING EMPLOYMENT AS WELL AS
25 INCOME -- MEDIAN HOUSEHOLD INCOME AND THE LIKE,

01:42p

1 RACIAL RESIDENTIAL SEGREGATION, HEALTH AND CRIMINAL
2 JUSTICE.

3 THE REPORTER: CRIMINAL?

4 THE WITNESS: JUSTICE.

5 BY MS. WENGER:

6 Q DR. BURCH, LET'S BEGIN BY TALKING ABOUT
7 EDUCATION. IF YOU CAN TURN YOUR ATTENTION TO THE
8 ILLUSTRATIVE AID ON YOUR SCREEN, WHICH REPRODUCES
9 HERE FIGURE 1 ON PAGE 7 OF YOUR REPORT, WHAT DOES
10 THIS CHART DISPLAY?

11 A SO THIS CHART IS LOOKING AT EDUCATIONAL
12 ATTAINMENT BY RACE IN LOUISIANA. AND IT'S JUST FOR
13 ADULTS AGES 25 AND OLDER, BECAUSE WE WANT TO GIVE
14 PEOPLE A CHANCE TO, IF THEY'RE GOING TO GO TO
15 COLLEGE, MAYBE TO KIND OF FINISH IT. AND THE SOURCE
16 IS FROM THE AMERICAN COMMUNITY SURVEY ONE-YEAR
17 ESTIMATES THAT COME FROM THE CENSUS BUREAU.

18 AND YOU CAN SEE HERE THAT THE DIFFERENT
19 LEVELS OF EDUCATION ARE RIGHT ACROSS THE BOTTOM OF
20 THE CHART, AND LATINOS ARE HERE. BUT IN PARTICULAR,
21 WHITE PEOPLE ARE LISTED IN GOLD AND BLACK PEOPLE ARE
22 IN THE PURPLE BARS. AND THE IMPORTANT TAKE-AWAY FROM
23 THIS CHART IS THAT YOU CAN SEE THAT AT THE LOWER
24 LEVELS OF EDUCATION -- SPECIFICALLY LESS THAN HIGH
25 SCHOOL -- BLACK PEOPLE ARE MUCH MORE LIKELY THAN

01:43p

1 WHITE PEOPLE IN LOUISIANA TO HAVE NOT COMPLETED HIGH
2 SCHOOL. IN FACT, IF YOU JUST KIND OF COMPARE ACROSS
3 THE PURPLE BARS, YOU CAN SEE THAT MORE -- THERE ARE
4 MORE BLACK PEOPLE IN LOUISIANA WHO HAVEN'T FINISHED
5 HIGH SCHOOL THAN THERE ARE WHO HAVE FINISHED COLLEGE.

6 IN COMPARISON, AMONG WHITE PEOPLE IN
7 LOUISIANA, THERE ARE FEWER OF THEM WHO ARE
8 CONCENTRATED IN THOSE LOWER EDUCATIONAL ECHELONS.
9 AND MANY MORE -- A LARGER PERCENTAGE OF THE GROUP --
10 HAS COMPLETED A BACHELOR'S DEGREE OR HIGHER.

11 Q THANK YOU, DR. BURCH.

12 AND JUST FOR CLARITY OF THE RECORD, THE
13 CORRESPONDING FIGURES IN YOUR REPORT ARE MONOCHROME
14 BUT HAVE BEEN REPRODUCED WITH COLORS IN THE SLIDE
15 JUST FOR EASE OF VISUALIZING THE DATA THAT YOU ARE
16 DISCUSSING HERE.

17 TURNING TO THE NEXT SLIDE, THIS REPRODUCES
18 TABLE 1 FROM PAGE 7 OF YOUR REPORT. WHAT DOES THIS
19 TABLE CONVEY?

20 A SO THIS TABLE IS FROM THE 2020 CURRENT
21 POPULATION SURVEY VOTING AND REGISTRATION SUPPLEMENT,
22 WHICH IS ANOTHER SURVEY THAT'S PRODUCED BY THE CENSUS
23 BUREAU THAT'S SUPPOSED TO BE REPRESENTATIVE AT THE --
24 OF THE NATION AND AT THE STATE LEVEL. AND WHAT THEY
25 DO IS THE CENSUS BUREAU ASKS PEOPLE IF THEY VOTED IN

01:44p

1 THE 2020 GENERAL ELECTION.

2 AND WHAT I HAVE HERE IN THIS CHART IS -- FOR
3 EACH EDUCATIONAL LEVEL I HAVE WHITE TURNOUT AND I
4 HAVE BLACK TURNOUT. NOW, ONE OF THE THINGS THAT'S
5 READILY APPARENT FROM THIS CHART, IF YOU JUST READ
6 DOWN THE TABLE WITH WHITE TURNOUT, YOU CAN SEE THAT
7 WHITE TURNOUT INCREASES ALMOST UNIFORMLY IN TERMS OF
8 IT'S ALWAYS INCREASING WITH EDUCATIONAL ATTAINMENT.
9 SO THE RELATIONSHIP HERE -- AND THE SAME IS TRUE FOR
10 BLACK TURNOUT. SO THE RELATIONSHIP HERE BETWEEN
11 EDUCATIONAL ATTAINMENT AND VOTER TURNOUT, WHEN YOU
12 JUST LOOK AT THESE DIFFERENT LEVELS OF EDUCATION,
13 IT'S QUITE STARK.

14 SO THE ISSUE HERE, OF COURSE, IF WE RECALL
15 FROM THE PREVIOUS SLIDE, IS THAT BLACK PEOPLE ARE
16 CONCENTRATED IN THIS NO HIGH SCHOOL DIPLOMA LOWER --
17 IN HIGH SCHOOL DIPLOMA LOWER TURNOUT CATEGORIES;
18 WHEREAS WHITE PEOPLE ARE MORE LIKELY TO BE IN THESE
19 BACHELOR'S DEGREE AND GRADUATE SCHOOL CATEGORIES,
20 WHICH MAKES IT SO THAT THEY ARE -- THE WAYS THAT THE
21 GROUPS ARE ARRANGED IN THESE CATEGORIES KIND OF
22 SHAPES THE GAP IN TURNOUT. SO HERE YOU CAN CLEARLY
23 SEE THAT EDUCATIONAL ATTAINMENT INCREASES VOTER
24 TURNOUT, AND IT DOES SO FOR BOTH RACIAL GROUPS.

25 Q THANK YOU, DR. BURCH.

01:46p

1 TURNING TO THE NEXT SLIDE, CAN YOU WALK ME
2 THROUGH YOUR FINDINGS REGARDING PATTERNS OF
3 SEGREGATION IN LOUISIANA SCHOOLS?

4 A YES. SO HISTORICALLY THERE HAS BEEN
5 SEGREGATION IN LOUISIANA SCHOOLS. BUT THE DATA ALSO
6 SHOW THAT THERE IS STILL SOME EDUCATIONAL SEGREGATION
7 WITHIN LOUISIANA TODAY. SO ACCORDING TO PROPUBLICA'S
8 *MISEDUCATION* PROJECT, AS RECENTLY AS 2017 HALF OF
9 TRADITIONAL SCHOOL DISTRICTS IN LOUISIANA THAT WERE
10 AVAILABLE DEMONSTRATED HIGH LEVELS OF RACIAL
11 SEGREGATION WITHIN THE DISTRICT. AND THERE ARE NINE
12 OF THE 68 TRADITIONAL SCHOOL DISTRICTS IN LOUISIANA
13 THAT ARE MORE THAN 87 PERCENT NON-WHITE. SO EVEN
14 THOUGH WE KNOW ABOUT THE HISTORICAL SCHOOL
15 SEGREGATION THAT I TALK ABOUT AT LENGTH IN MY REPORT,
16 THIS IS ALSO A CONTINUING ISSUE.

17 Q TURNING TO THE NEXT SLIDE, REPRODUCING
18 FIGURE 2 FROM PAGE 8 OF YOUR REPORT, WHAT DOES THIS
19 CHART TELL US?

20 A SO THIS CHART LOOKS SPECIFICALLY AT EAST
21 BATON ROUGE PARISH, AND IT TALKS ABOUT A COMPARISON
22 BETWEEN, IN THE DOTTED LINES, THE ACTUAL WHITE AND
23 BLACK POPULATIONS OF THE PARISH. AND THE SOLID LINES
24 ARE THE SCHOOL POPULATIONS. AND YOU CAN SEE THAT
25 THERE IS KIND OF PARITY BETWEEN BLACK PEOPLE AND

01:47p

1 WHITE PEOPLE IN EAST BATON ROUGE PARISH. BUT IN THE
2 SCHOOL SYSTEM IT'S OVER -- EXCUSE ME -- OVER 70
3 PERCENT BLACK.

4 AND THE REASON FOR THAT IS FOR -- THERE ARE
5 SEVERAL REASONS FOR THAT. BUT ONE OF THEM, FOR
6 INSTANCE, IS SUCCESSION MOVEMENTS IN WHICH SOME
7 PARENTS CHOSE TO JUST ABANDON -- WHITE PARENTS CHOSE
8 TO ABANDON EAST BATON ROUGE PARISH FOR A DIFFERENT
9 SCHOOL DISTRICT.

10 Q THANK YOU, DR. BURCH.

11 TURNING TO THE NEXT SLIDE, THIS REPRODUCES
12 FIGURE 3 FROM PAGE 9 OF YOUR REPORT. WHAT CAN THIS
13 CHART TELL US?

14 A SO THIS CHART LOOKS AT TEST SCORES IN EIGHTH
15 GRADE IN 2019 FOR MATH IN LOUISIANA. AND IT LOOKS AT
16 IT BY RACE. SO AS YOU CAN SEE FROM THIS CHART, THE
17 WHITE CIRCLES REPRESENT WHITE STUDENTS IN EACH YEAR
18 AND THE CROSSES REPRESENT BLACK STUDENTS IN EACH
19 YEAR. AND THERE IS A PRETTY PERSISTENT 30'ISH POINT
20 GAP BETWEEN BLACK AND WHITE STUDENTS ACROSS TIME.
21 AND IN EACH -- AND IT LOOKS LIKE -- AT THE BOTTOM IT
22 SHOWS YOU WHETHER THAT'S A STATISTICALLY SIGNIFICANT
23 DIFFERENCE. AND THE DIFFERENCE IS SORT OF LIKE NOT
24 CHANGING OVER TIME. AND -- BUT THOSE GAPS IN TEST
25 SCORES ARE PERSISTENT.

01:49p

1 Q LET'S TURN TO THE NEXT SLIDE. REPRODUCING
2 HERE FIGURE 4 FROM PAGE 9 OF YOUR REPORT, WHAT CAN
3 THIS CHART TELL US?

4 A AGAIN, THE OUTCOMES FOR RACIAL GROUPS IN
5 LOUISIANA SCHOOLS ARE THIS TIME FOR EIGHTH GRADE
6 READING BY RACE. AND AGAIN, WHITE STUDENTS' OUTCOMES
7 ON TESTS ARE MUCH BETTER THAN BLACK STUDENTS'
8 OUTCOMES. AND THOSE, AGAIN, ARE ABOUT -- HOVERING
9 AROUND 25 TO -- 22 TO 25 POINTS IN EACH GIVEN YEAR.

10 Q DR. BURCH, I'D LIKE TO TURN TO YOUR
11 OVERARCHING OPINIONS ON EDUCATION DISPARITIES IN
12 LOUISIANA.

13 FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS
14 THESE MEASURES OF INEQUITY IN EDUCATIONAL ATTAINMENT
15 BASED ON RACE IN LOUISIANA?

16 A SO IN MY REPORT I TALK ABOUT BOTH THE
17 HISTORICAL AND THE KINDS OF CONTEMPORARY
18 DISCRIMINATION THAT LOUISIANIANS HAVE FACED -- BLACK
19 LOUISIANIANS HAVE FACED IN THE EDUCATIONAL SYSTEM.
20 AND I POINT OUT THAT, ESPECIALLY FOR THE HISTORICAL
21 DISCRIMINATION, IT'S NOT DISTANT HISTORY. MANY -- A
22 LARGE PROPORTION OF THE ELECTORATE THAT WAS AROUND TO
23 EXPERIENCE THESE LEGALLY SEGREGATED SCHOOLS ARE STILL
24 HERE AND VOTING IN LOUISIANA. AND THAT KIND OF HELPS
25 EXPLAIN SOME OF THOSE RACIAL DISPARITIES THAT I

01:50p

1 SHOWED YOU IN THE CHARTS.

2 THERE ARE RACIAL GAPS IN VOTER TURNOUT IN
3 LOUISIANA. AND VOTER TURNOUT VARIES BY EDUCATIONAL
4 ATTAINMENT IN THE WAYS THAT I SHOWED YOU, SUCH THAT
5 HIGHLY EDUCATED VOTERS ARE MORE LIKELY TO TURN OUT
6 THAN VOTERS WITH LOW EDUCATIONAL ATTAINMENT. AND
7 THAT CAN EXPLAIN SOME OF THE RACIAL GAP IN VOTER
8 TURNOUT IN LOUISIANA.

9 AND EDUCATION IS IMPORTANT -- AND I'M
10 SPENDING SO MUCH TIME ON IT -- BECAUSE FOR A
11 POLITICAL SCIENTIST IT'S ONE OF THE MOST FUNDAMENTAL
12 EXPLANATORY VARIABLES WITH RESPECT TO EXPLAINING HOW
13 AND WHEN PEOPLE VOTE AND PARTICIPATE IN POLITICS
14 GENERALLY. BECAUSE EDUCATION JUST MAKES IT EASIER
15 FOR PEOPLE TO NAVIGATE THE COST OF VOTING AND LIKE
16 ACQUIRING INFORMATION ABOUT THE CANDIDATES OR
17 LEARNING HOW TO REGISTER AND NAVIGATING THE PROCESS.
18 SO IT'S -- SO EDUCATION IS REALLY IMPORTANT. THERE
19 ARE GAPS THAT ARE CAUSED BY CONTEMPORARY AND
20 HISTORICAL DISCRIMINATION BY GOVERNMENT. AND
21 EDUCATION, AGAIN, IS FUNDAMENTAL TO VOTING.

22 Q LET'S MOVE ALONG TO YOUR ANALYSIS OF
23 EMPLOYMENT AND SOCIOECONOMIC INDICATORS.

24 DR. BURCH, WHAT WERE YOUR FINDINGS ABOUT
25 BLACK LOUISIANIANS' PERCEPTIONS OF THEIR

01:51p

1 OPPORTUNITIES RELATED TO HIRING, PAY, AND PROMOTIONS
2 HERE?

3 A SO I LOOKED AT THE 2021 LOUISIANA SURVEY FOR
4 THIS INFORMATION, WHICH IS A REPRESENTATIVE STUDY --
5 SURVEY OF PEOPLE IN LOUISIANA. AND I FOUND -- THE
6 STUDY FOUND THAT 74 PERCENT OF BLACK PEOPLE AGREE
7 THAT BLACK PEOPLE ARE TREATED LESS FAIRLY THAN WHITE
8 PEOPLE IN HIRING, PAY, AND PROMOTIONS AT WORK. AND
9 RESEARCH ACTUALLY SUPPORTS THAT CLAIM. A VARIETY OF
10 AUDIT STUDIES, WHICH HOLD CONSTANT ALL KINDS OF
11 FACTORS AND THEN SENDS IN LIKE TRAINED ACTORS TO
12 APPLY FOR JOBS OR SENDS IN RÉSUMÉS THAT ARE IDENTICAL
13 EXCEPT FOR EITHER THE NAME OR THE RACE OF THE
14 POTENTIAL APPLICANT, THEY SHOW THAT EMPLOYERS DO
15 DISCRIMINATE AGAINST RACIAL MINORITIES IN HIRING.

16 Q ALL RIGHT. LET'S TURN YOUR ATTENTION TO THE
17 NEXT SLIDE, WHICH REPRODUCES FIGURE 5 FROM PAGE 10 OF
18 YOUR REPORT.

19 DR. BURCH, WHAT DOES THIS CHART REFLECT?

20 A SO THIS CHART IS ALSO FROM THE AMERICAN
21 COMMUNITY SURVEY 2019 ONE-YEAR ESTIMATES. AND THIS
22 ONE IS LOOKING AT THE UNEMPLOYMENT RATE BY RACE FOR
23 LOUISIANA, JUST THE CIVILIAN LABOR FORCE, AGES 16 AND
24 OVER. AND YOU CAN SEE FOR BLACK UNEMPLOYMENT -- THAT
25 BLACK UNEMPLOYMENT IS HIGHER THAN WHITE UNEMPLOYMENT

01:52p

1 IN LOUISIANA IN THAT YEAR AND CONSISTENTLY TENDS TO
2 BE HIGHER.

3 Q ALL RIGHT. LET'S TURN TO THE NEXT SLIDE.
4 THIS REPRODUCES FIGURE 6 FROM PAGE 11 OF YOUR REPORT.
5 WHAT DOES THIS CHART DISPLAY?

6 A SO THIS CHART SWITCHES FROM INDIVIDUALS AND
7 LOOKS AT HOUSEHOLDS. AND SO THIS LOOKS AT THE MEDIAN
8 HOUSEHOLD INCOME IN LOUISIANA BY THE RACE OF THE
9 HOUSEHOLDER. AND HERE WE CAN SEE THAT BLACK
10 HOUSEHOLDS -- SORRY -- WHITE HOUSEHOLDS EARN OR HAVE
11 INCOMES THAT ARE TENS OF THOUSANDS OF DOLLARS HIGHER
12 AT THE MEDIAN THAN BLACK HOUSEHOLDS.

13 Q AND TURNING TO THE NEXT SLIDE, WHICH
14 REPRODUCES FIGURE 7 FROM PAGE 11 OF YOUR REPORT, WHAT
15 DOES THIS CHART DISPLAY?

16 A SO THIS CHART LOOKS AT FAMILY POVERTY IN
17 LOUISIANA, AGAIN, BY RACE OF THE HOUSE -- THE HEAD OF
18 THE HOUSEHOLD OF FAMILY. AND 2019 -- AND THIS IS THE
19 2019 AMERICAN COMMUNITY SURVEY AGAIN. AND AGAIN,
20 WHITE PEOPLE IN THIS CHART ARE IN GOLD AND BLACK
21 PEOPLE ARE IN PURPLE. AND THE DATA SHOW THAT BLACK
22 POVERTY IS MORE THAN DOUBLE, ALMOST TRIPLE THAT OF
23 WHITE POVERTY.

24 Q LET'S TURN TO THE NEXT SLIDE, REPRODUCING
25 FIGURE 8 FROM PAGE 12 OF YOUR REPORT.

01:54p

1 WHAT DOES THIS CHART DISPLAY?

2 A SO THIS CHART LOOKS, AGAIN, AT LOUISIANA
3 HOUSEHOLDS AND LOOKS AT HOUSEHOLDS THAT DON'T HAVE
4 ACCESS TO A VEHICLE BY RACE OF THE HOUSEHOLDER. AND
5 AGAIN, BLACK HOUSEHOLDS -- A SIGNIFICANT PERCENTAGE
6 OF BLACK HOUSEHOLDS DON'T HAVE ACCESS TO A CAR,
7 COMPARED WITH LESS THAN -- IT LOOKS LIKE ABOUT 5
8 PERCENT OF WHITE HOUSEHOLDS.

9 Q CAN YOU DISCUSS HOW THAT MIGHT IMPACT A
10 VOTER'S ACCESS?

11 A YES. SO IF YOU NEED TO GO TO A POLLING
12 PLACE OR GO TO REGISTER OR IF YOU'RE GOING TO, FOR
13 INSTANCE, REGISTER THROUGH MOTOR VOTER, IF YOU DON'T
14 HAVE A DRIVER'S LICENSE OR A CAR YOU'RE NOT GOING TO
15 NECESSARILY HAVE TO DO THAT. SO IT DEFINITELY --
16 HAVING A CAR DEFINITELY MAKES IT EASIER FOR PEOPLE TO
17 BE ABLE TO GO IN PERSON TO DO THINGS THEY MAY HAVE TO
18 DO IN ORDER TO VOTE.

19 Q ALL RIGHT, DR. BURCH. I'D LIKE TO TURN TO
20 YOUR OVERARCHING OPINIONS ON EMPLOYMENT DISPARITIES
21 IN LOUISIANA. FROM YOUR ACADEMIC ASSESSMENT, WHAT
22 EXPLAINS THESE MEASURES OF INEQUITY IN EMPLOYMENT IN
23 THE STATE?

24 A SO AS I SAY, THERE IS -- AND AS I SHOW --
25 THERE ARE MARKERS OF CONTEMPORARY AND HISTORICAL

01:55p

1 DISCRIMINATION BY GOVERNMENT AND BY MARKET
2 INSTITUTIONS AND ACTORS THAT ARE -- THAT ARE IN
3 LOUISIANA THAT ARE TAKING -- MAKING IT -- THESE
4 ECONOMIC DISPARITIES APPARENT.

5 AND WHAT'S INTERESTING ABOUT THEM IS THAT
6 THEY'RE -- EDUCATION IS KIND OF ALSO FEEDING INTO
7 THESE SOCIOECONOMIC INDICATORS AS WELL. SO
8 EDUCATIONAL ATTAINMENT KIND OF ALSO AFFECTS INCOME
9 AND OTHER -- ALL OF THESE OTHER SOCIOECONOMIC
10 INDICATORS. SO IF YOU THINK ABOUT THIS COMBINATION,
11 SO PEOPLE WITH WHITE COLOR OCCUPATIONS LIKE MANY OF
12 US IN THIS COURTROOM, IT MAKES -- IT MIGHT MAKE IT
13 EASIER FOR PEOPLE TO DEVELOP CIVIC SKILLS THAT CAN BE
14 USEFUL IN THINKING ABOUT HOW TO NAVIGATE
15 BUREAUCRACIES. AND IT ALSO MIGHT MAKE -- GIVE YOU
16 GREATER FREEDOM TO TAKE TIME OFF OF WORK WITHOUT
17 LOSING OR RISKING YOUR PAY OR HOURLY PAY. AND WORK
18 IS ALSO -- CAN BE AN IMPORTANT SITE FOR RECRUITMENT
19 INTO POLITICS AND ASKING PEOPLE TO BE MORE POLITICAL,
20 WHICH ALSO INCREASES VOTER TURNOUT.

21 SO THERE IS A NUMBER OF MECHANISMS IN THE
22 LITERATURE BY WHICH ALL OF THESE OTHER KINDS OF
23 SOCIOECONOMIC INDICATORS LIKE EMPLOYMENT AND INCOME
24 AND HAVING A VEHICLE CAN FEED INTO VOTING.

25 Q THANK YOU, DR. BURCH. LET'S MOVE TO YOUR

01:56p

1 ANALYSIS OF HOUSING DISPARITIES AND RESIDENTIAL
2 SEGREGATION IN LOUISIANA. TURNING YOUR ATTENTION TO
3 THE NEXT SLIDE, THIS REPRODUCES FIGURES 9 AND 10 FROM
4 PAGES 14 AND 15 OF YOUR REPORT RESPECTIVELY.

5 DR. BURCH, WHAT DO THESE MAPS DEPICT?

6 A SO THESE ARE HISTORICAL MAPS THAT WERE DRAWN
7 BY THE HOMEOWNERS LOAN CORPORATION. AND THEY WERE
8 USED BY THE FHA TO FIGURE OUT WHERE THEY WOULD MAKE
9 LOANS FOR MORTGAGES. AND THESE MAPS -- I HAVE TO
10 CHECK TO SEE. IT'S HARD FOR ME TO SEE AND RECALL THE
11 DATES HERE. BUT THESE WERE TYPICALLY IN THE LATE
12 '30s, EARLY '40s IN WHICH THESE MAPS WERE PRODUCED.

13 WHAT'S INTERESTING ABOUT THE MAPS THAT THE
14 FHA WAS USING FOR UNDERWRITING LOANS IS THAT THIS
15 COLOR CODING IS THE RUBRIC FOR WHERE IT WAS SAFE TO
16 MAKE MORTGAGE LOANS. AND THAT'S WHERE THEY DIRECTED
17 THE MONEY, VERSUS THE ONES WHERE THEY WERE NOT.

18 SO BLUE AND GREEN ARE I THINK A AND B, THOSE
19 GRADES. AND THOSE ARE GOOD PLACES TO MAKE MORTGAGE
20 LOANS; WHEREAS RED AND YELLOW ARE MARKS AS DECLINING
21 OR HAZARDOUS. THESE MAPS, AGAIN, THAT WERE USED BY
22 THE FEDERAL HOUSING ADMINISTRATION FOR MAKING LOANS,
23 THE WAY THAT THIS COLOR CODING TAKES PLACE IS
24 ARGUABLY ALMOST ALL ABOUT RACE.

25 THERE IS SOME INDICATION THAT IN THE NEW

01:58p

1 ORLEANS MAP THE FLOODING AND ELEVATION ALSO PLAY A
2 ROLE IN THESE GRADES. BUT THEN IF YOU LOOK AT WHAT
3 THE ACTUAL DESCRIPTIONS ARE OF SOME OF THESE RED ZONE
4 AREAS -- LIKE, FOR INSTANCE, I TALK ABOUT IN MY
5 REPORT AREA 35 IS DESCRIBED AS, QUOTE, COMPOSED OF
6 TWO-STORY DOUBLES, NEGRO ROW HOUSES AND RAISED
7 SINGLES. THIS AREA INCLUDES WHAT IS OFTEN REFERRED
8 TO AS THE IRISH CHANNEL AND IS ONE OF THE TOUGHEST
9 SECTIONS IN THE ENTIRE CITY. IT HAS A MIXED
10 POPULATION. SOME BLOCKS ARE MIXED WHITE AND COLORED,
11 SOME SOLID WHITE, SOME SOLID COLORED, AND PROPERTIES
12 ARE IN A VARYING CONDITION: FAIR, BAD AND
13 INDIFFERENT. IT IS A REGULAR CONGLOMERATION OF THE
14 WORST FEATURES FOUND IN THE CITY. AND IN SHREVEPORT,
15 ALL THE AREAS GRADED A OR B WERE 100 PERCENT WHITE,
16 WHILE ALL THE AREAS MARKED D OR HAZARDOUS OR RED HAD
17 SOME PROPORTION OF BLACK RESIDENTS.

18 Q DR. BURCH, FOR CLARITY OF THE RECORD, WHAT
19 IS THE FHA?

20 A SO THE FHA IS THE FEDERAL HOUSING
21 ADMINISTRATION. AND AT LEAST WITH RESPECT TO THESE
22 MAPS, THEY WERE TASKED WITH HELPING TO PROVIDE LOANS
23 TO -- UNDERWRITING LOANS SO THAT PEOPLE COULD GET
24 MORTGAGES.

25 Q AND WHAT IS THE HOMEOWNERS LOAN CORPORATION?

01:59p

1 A THE HOMEOWNERS LOAN CORPORATION IS THE
2 ORGANIZATION THAT MADE THESE MAPS FOR -- THAT THE FHA
3 USED IN DETERMINING WHERE IT WAS -- WHERE YOU COULD
4 MAKE THE -- WHICH LOANS THEY WOULD UNDERWRITE.

5 Q AND SPEAKING TO CONTEMPORARY TRENDS, ARE
6 THERE ANY OTHER EXAMPLES OF WAYS IN WHICH AID OR
7 OTHER MONETARY SUPPORT HAS NOT BEEN ABLE TO BE
8 INVESTED IN THOSE REDLINE COMMUNITIES?

9 A SO I THINK IT'S CLEAR THAT THERE -- THE DATA
10 SHOW THAT MANY OF THESE CITIES -- EXCUSE ME -- ARE
11 STILL SEGREGATED BY RACE. SO THERE IS BOTH CENSUS
12 DATA AND THE GEOGRAPHIC ANALYSIS OF CELL PHONE DATA
13 THAT DEMONSTRATE THAT MANY OF THE CITIES AND METRO
14 AREAS YOU CAN THINK OF IN LOUISIANA ARE STILL HIGHLY
15 SEGREGATED BY RACE. SO THE OTHER -- OTHERING &
16 BELONGING INSTITUTE CHARACTERIZED SEVERAL
17 METROPOLITAN AREAS IN THE STATE AS HIGH SEGREGATION,
18 INCLUDING THE NEW ORLEANS, METAIRIE, KENNER AREA,
19 BATON ROUGE, SHREVEPORT, BOSSIER CITY AND LAKE
20 CHARLES AS WELL.

21 Q IS THERE ANY INTERPLAY BETWEEN SEGREGATION
22 AND DISASTER RELIEF?

23 A YES. SO ONE OF THE ISSUES WITH RESPECT TO
24 HOW POLICIES ARE SHAPING BOTH WHERE PEOPLE LIVE AND
25 WHERE PEOPLE CAN LIVE IS WITH RESPECT TO DISASTER

02:01p

1 RELIEF. AND IT'S MUCH HARDER FOR -- FOR INSTANCE,
2 AFTER KATRINA IN 2005, MOST OF THE NEIGHBORHOODS THAT
3 SUSTAINED THE MOST DAMAGE WERE -- HAD A HIGHER BLACK
4 POPULATION THAN NEIGHBORHOODS THAT DIDN'T SUSTAIN A
5 LOT OF DAMAGE. BUT IT'S ALSO THE CASE THEN THAT
6 BLACK NEW ORLEANS RESIDENTS WERE MORE LIKELY TO BE
7 DISPLACED AND THEN HAD A HARDER TIME COMING BACK TO
8 THE CITY AND -- BECAUSE OF DELAYED TIMING OF DISASTER
9 RELIEF AND REBUILDING EFFORTS.

10 SO IT'S NOT JUST THE CASE THAT IT'S
11 CONTEMPORARY ISSUES WITH RESPECT TO POLICY SHAPING --
12 WHO CAN COME BACK AND WHO CAN LIVE WHERE -- THERE IS
13 ALSO SOME -- IN THE PAST THERE IS ALSO SOME
14 CONTEMPORARY POLICIES SUCH AS HOW DISASTER RELIEF IS
15 HANDLED AND WAS HANDLED AFTER NATURAL DISASTERS THAT
16 CAN SHAPE WHO GETS TO LIVE WHERE AND WHO CAN AFFORD
17 TO COME BACK.

18 Q THANK YOU, DR. BURCH.

19 LET'S TURN TO YOUR OVERARCHING OPINIONS ON
20 HOUSING DISPARITIES IN LOUISIANA. FROM YOUR ACADEMIC
21 ASSESSMENT, WHAT EXPLAINS THESE PATTERNS OF
22 SEGREGATION BASED ON RACE IN LOUISIANA IN THE PAST
23 AND TODAY?

24 A SO THERE ARE BOTH CONTEMPORARY AND
25 HISTORICAL FACTORS SUCH AS RACIAL DISCRIMINATION BY

02:02p

1 GOVERNMENT AND MARKET ACTORS THAT CAN SHAPE PATTERNS
2 OF RESIDENTIAL RACIAL SEGREGATION. AND RACIAL
3 RESIDENTIAL SEGREGATION IS IMPORTANT SIMPLY BECAUSE
4 THERE IS -- IT'S BEEN SHOWN TO AFFECT VOTING THROUGH
5 A NUMBER OF MECHANISMS. SEGREGATION HAS BEEN SHOWN
6 TO INCREASE -- DECREASE BLACK VOTER TURNOUT. AND
7 ALSO SEGREGATED BLACK AREAS, I CITE RESEARCH IN MY
8 REPORT THAT TALKS ABOUT HOW THOSE AREAS TEND TO HAVE
9 LESS ACCESS TO PUBLIC GOODS SUCH AS TRANSPORTATION OR
10 POLLING PLACES THAT MIGHT MATTER FOR VOTING. AND
11 RACIAL RESIDENTIAL SEGREGATION IS ALSO AN IMPORTANT
12 DETERMINATE, AS I TALK ABOUT IN MY REPORT, OF SOME OF
13 THE OTHER FACTORS THAT ALSO SHAPE VOTING, LIKE
14 ECONOMIC OUTCOMES AND HEALTH OUTCOMES AS WELL. SO
15 ALL OF THESE FACTORS ARE ALSO NOT SEPARATE BUT
16 INTERPLAY WITH ONE ANOTHER AS WELL.

17 Q LET'S DISCUSS YOUR FINDINGS ON HEALTH
18 DISPARITIES IN LOUISIANA. TURNING TO THE SLIDE ON
19 YOUR SCREEN WHICH REPRODUCES FIGURE 11 FROM PAGE 17
20 OF YOUR REPORT, WHAT CAN YOU TELL US ABOUT THIS
21 CHART?

22 A SO THIS IS A CHART TAKEN FROM THE CDC'S
23 CHRONIC DISEASE INDICATORS FOR LOUISIANA ADULTS. AND
24 IT LOOKS AT DISEASE MORTALITY AND RACE FOR SOME
25 DIFFERENT DISEASES WHICH TYPICALLY TEND TO BE LARGE

02:03p

1 -- HIGH SOURCES OF MORTALITY IN POPULATIONS. AND AS
2 YOU CAN SEE, AGAIN BLACK PEOPLE ARE THE PURPLE BARS
3 AND WHITE PEOPLE ARE THE GOLD BARS. AND FOR EACH OF
4 THESE DISEASES, BLACK PEOPLE ARE MORE LIKELY TO DIE
5 FROM THEM THAN WHITE PEOPLE.

6 INTERESTINGLY ENOUGH, THOUGH, AT LEAST FOR
7 CANCER, ONE OF THE THINGS THAT'S INTERESTING IS THAT
8 THE RATES OF GETTING CANCER BETWEEN BLACK AND WHITE
9 LOUISIANIANS ACTUALLY ISN'T THAT DIFFERENT. BUT
10 BLACK PEOPLE TEND TO JUST HAVE WORSE OUTCOMES WITH
11 RESPECT TO GETTING -- WITH RESPECT TO DYING FROM
12 CANCER.

13 Q TURNING TO THE NEXT SLIDE, REPRODUCING
14 FIGURE 12 FROM PAGE 17 OF YOUR REPORT, WHAT DOES THIS
15 CHART TELL US?

16 A SO THIS CHART LOOKS AT LIFE EXPECTANCY AT
17 BIRTH. AND THIS -- AND LIFE EXPECTANCY IS REALLY
18 JUST KIND OF A -- GIVES YOU A OVERARCHING SENSE OF
19 THE HEALTH OF A POPULATION. AND THIS IS FROM THE
20 LOUISIANA DEPARTMENT OF PUBLIC HEALTH. AND IT LOOKS
21 AT LIFE EXPECTANCY BETWEEN MEN AND WOMEN FOR THE TWO
22 DIFFERENT GROUPS.

23 AND AGAIN, WITH WHITE IN YELLOW AND BLACK IN
24 PURPLE, A LOT OF THESE HEALTH DISPARITIES AND OTHER
25 ISSUES TRANSLATE INTO JUST LONGER LIVES BY A NUMBER

02:04p

1 OF YEARS. SO WHITE MEN ARE EXPECTED -- AND WHITE
2 WOMEN ARE EXPECTED TO LIVE SEVERAL YEARS LONGER THAN
3 BLACK MEN AND WOMEN IN LOUISIANA.

4 Q TURNING TO THE NEXT SLIDE, REPRODUCING
5 FIGURE 13 FROM PAGE 18 OF YOUR REPORT, WHAT DO WE
6 LEARN FROM THIS CHART ABOUT ACCESS TO HEALTH
7 INSURANCE FOR BLACK LOUISIANIANS?

8 A SO SOME OF THESE FACTORS CAN BE EXPLAINED BY
9 SOME POLICIES. SO, FOR INSTANCE, LOUISIANIANS
10 WITHOUT HEALTH INSURANCE COVERAGE BY RACE, WE CAN SEE
11 HERE -- AGAIN, WITH BLACK IN PURPLE AND WHITE IN
12 YELLOW -- THERE ARE SLIGHTLY -- BLACK PEOPLE ARE
13 SLIGHTLY MORE LIKELY TO BE UNINSURED THAN WHITE
14 PEOPLE.

15 Q DR. BURCH, DO ENVIRONMENTAL FACTORS
16 CONTRIBUTE TO RACIAL HEALTH DISPARITIES IN LOUISIANA?

17 A YES. SO I CITE SEVERAL STUDIES THAT TALK
18 ABOUT THE ENVIRONMENTAL FACTORS THAT CAN SHAPE HEALTH
19 OUTCOMES. SO AS I JUST MENTIONED, KATRINA, NATURAL
20 DISASTERS ARE ONE AVENUE. AND ESPECIALLY WITH
21 KATRINA, BLACK PEOPLE WERE SIGNIFICANT -- IN ORLEANS
22 PARISH ACROSS ALL AGE GROUP CATEGORIES AGE 30 YEARS
23 AND OLDER, THEY WERE JUST MORE LIKELY TO HAVE DIED IN
24 THAT STORM THAN PEOPLE OF OTHER RACIAL GROUPS.

25 BUT ALSO THE WAY THAT CHEMICAL PLANTS ARE

02:06p

1 CITED, PARTICULARLY IN THE AREA OF THE STATE KNOWN AS
2 CANCER ALLEY, THAT CAN EXPOSE RESIDENTS TO HIGH
3 LEVELS OF AIR POLLUTION AND OTHER DANGERS. AND THOSE
4 HAVE BEEN SHOWN TO DETRIMENTALLY AFFECT HEALTH. SO
5 STUDIES IN THAT AREA HAVE LINKED HIGH LEVELS OF AIR
6 POLLUTION TO RESPIRATORY ILLNESSES LIKE CANCER, COVID
7 19, AND ASTHMA.

8 Q THANK YOU, DR. BURCH.

9 I'D LIKE TO TURN TO YOUR OVERARCHING
10 OPINIONS ON HEALTH DISPARITIES IN LOUISIANA. FIRST,
11 DR. BURCH, FROM YOUR ACADEMIC ASSESSMENT, WHAT
12 EXPLAINS THESE MEASURES OF INEQUITY IN HEALTHCARE AND
13 HEALTH OUTCOMES AND MORTALITY IN LOUISIANA THAT WE'VE
14 JUST DISCUSSED?

15 A SO I TALK ABOUT IN MY REPORT THE WAYS -- AND
16 I'VE TALKED TODAY -- ABOUT THE WAYS THAT HEALTH
17 DISPARITIES ARE SHAPED BY GOVERNMENT AND MARKET
18 POLICIES. AND THEY CAN AFFECT THE SITE OF
19 ENVIRONMENTAL HAZARDS AS WELL AS ACCESS TO HEALTHCARE
20 THAT CAN HAPPEN THROUGH HEALTH INSURANCE. BUT ALSO I
21 TALK ABOUT IN MY REPORT THE WAYS THAT ACCESS IS
22 SHAPED BY RACIAL RESIDENTIAL SEGREGATION.

23 SO ALSO, THE REASON THAT'S IMPORTANT IS
24 BECAUSE HEALTH, AS I ALLUDED TO EARLIER, IS AN
25 IMPORTANT PREDICTOR OF VOTER TURNOUT. SO THERE ARE

02:07p

1 LOTS OF REASONS THAT HEALTHY PEOPLE ARE MORE LIKELY
2 TO VOTE. BUT PART OF THAT IS JUST THAT IF YOU'RE
3 REALLY SICK, YOU DON'T HAVE THE TIME AND THE MONEY TO
4 GO VOTE OR ENGAGE IN POLITICS. IF YOU HAVE IMPAIRED
5 COGNITIVE FUNCTIONING OR PHYSICAL DISABILITY, IT
6 MIGHT MAKE VOTING MORE DIFFICULT. AND PEOPLE -- AND
7 LIKEWISE, PEOPLE WITH DISABILITIES ARE LESS LIKELY TO
8 VOTE. AND SOMETIMES THAT'S EXPLAINED BY PROBLEMS
9 WITH POLLING PLACE ACCESSIBILITY, BUT THERE MIGHT BE
10 OTHER KINDS OF ISSUES THAT THEY FACE THAT MAKES IT
11 HARDER FOR THEM TO VOTE AS WELL.

12 Q THANK YOU, DR. BURCH.

13 LET'S TURN FINALLY FOR SENATE FACTOR 5 TO
14 YOUR ANALYSIS OF DISPARITIES IN LOUISIANA'S CRIMINAL
15 LAW ENFORCEMENT AND PRISON SYSTEMS.

16 BEFORE WE DIVE INTO SOME OF THE QUANTITATIVE
17 DATA YOU CITE, CAN YOU PLEASE PROVIDE SOME INSIGHT
18 INTO THE HISTORIC ROOTS OF LOUISIANA'S CRIMINAL LAW
19 ENFORCEMENT IN PRISON SYSTEMS THAT FRAME YOUR
20 ANALYSIS?

21 A YES. SO I TALK IN MY REPORT AT FIRST ABOUT
22 THE HISTORY OF ANGOLA PLANTATION AND HOW IT BECAME
23 ANGOLA PENITENTIARY. AND ONE OF THE REALLY
24 INTERESTING PHENOMENA THAT I THINK SHAPE BOTH THAT
25 STORY, WHICH IS SO IMPORTANT TO ANGOLA ITSELF -- THEY

02:08p

1 HAVE IT ON THEIR WEBSITE AS KIND OF LIKE A LONG
2 HISTORY OF THE INSTITUTION. BUT THERE IS THIS REPORT
3 BY THE BUREAU OF JUSTICE STATISTICS THAT LOOKS OVER
4 TIME AT PRISON ADMISSIONS IN DIFFERENT STATES BY
5 RACE.

6 AND ONE OF THE MOST INTERESTING IDEAS THAT
7 COME FROM THIS CHART IS THAT IF YOU LOOK JUST AT THE
8 DATA ON PRISON ADMISSIONS IN LOUISIANA FROM 1925
9 UNTIL 1975, IN THAT 50-YEAR PERIOD, BLACK PEOPLE
10 HAVE -- ADMISSIONS RATES HAVE -- BLACK PEOPLE HAVE
11 ALWAYS BEEN ABOUT 60 PERCENT OF PEOPLE ADMITTED TO
12 PRISON IN LOUISIANA OVER TIME THROUGHOUT HISTORY.
13 AND THEY'RE ABOUT 66 PERCENT OF THE PRISON POPULATION
14 TODAY. SO THAT UNBROKEN LINE I THINK IS -- AND THAT
15 CONTINUITY IS SOMETHING WE DON'T OFTEN SEE IN SOCIAL
16 SCIENCE. SO IT'S DEFINITELY IMPORTANT TO ME TO KIND
17 OF LINK THAT HISTORICAL TRAJECTORY WITH WHAT WE SEE
18 IN THE STATE TODAY.

19 Q TURNING TO THE NEXT SLIDE, REPRODUCING
20 FIGURE 15 FROM PAGE 21 OF YOUR REPORT, WHAT DOES THIS
21 CHART INDICATE?

22 A SO THIS IS A CHART THAT IS FROM THE
23 LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTION
24 THAT LOOKS AT CORRECTIONAL POPULATIONS BY RACE IN THE
25 STATE TODAY. AND AGAIN, BLACK PEOPLE ARE

02:10p

1 OVER-REPRESENTED IN ALL ASPECTS OF CORRECTIONS IN
2 LOUISIANA. SO, OF COURSE, AS I JUST SAID WITH THE
3 PRISON POPULATION, THERE IS ABOUT TWO-THIRDS BLACK,
4 AND THE PROBATION POPULATION IS SLIGHTLY LESS THAN
5 HALF, AGAIN, WHICH REPRESENTS OVER-REPRESENTATION.
6 THE PROBATION POPULATION IS BLACK AND THE PAROLE
7 POPULATION IS DISPROPORTIONATELY AND MAJORITY BLACK
8 AS WELL.

9 Q DR. BURCH, FROM YOUR UNDERSTANDING, ARE
10 PEOPLE WHO ARE INCARCERATED DUE TO A CONVICTION ABLE
11 TO VOTE IN LOUISIANA?

12 A NO.

13 Q FROM YOUR UNDERSTANDING, ARE VOTING RIGHTS
14 AUTOMATICALLY RESTORED FOR PEOPLE ON THE DAY THEY ARE
15 RELEASED FROM INCARCERATION?

16 A NO. IT TAKES SOME TIME.

17 Q TURNING TO SLIDE 37 IN FRONT OF YOU, WHAT IS
18 THE IMPACT OF FELONY DISENFRANCHISEMENT POLICIES IN
19 LOUISIANA ON THE SIZE OF THE ELECTORATE?

20 A SO ACCORDING TO A STUDY OF MANS AND UGGEN --
21 NOT MANS AND UGGEN. I'M SORRY. THE SENTENCING
22 PROJECT AND CHRIS UGGEN AND CO-AUTHORS -- ALMOST
23 48,000 BLACK LOUISIANIANS WERE UNABLE TO VOTE IN THE
24 2020 ELECTION DUE TO THEIR FELONY CONVICTIONS. AND
25 AGAIN, A DISPROPORTIONATE AMOUNT OF THE BLACK VOTING

02:11p

1 AGE POPULATION IN LOUISIANA CANNOT VOTE DUE TO A
2 FELONY, RELATIVE TO PEOPLE IN OTHER GROUPS.

3 Q DR. BURCH, LET'S TURN TO YOUR OVERALL
4 CONCLUSIONS REGARDING THE IMPACT OF CRIMINAL LAW
5 ENFORCEMENT IN LOUISIANA. FROM YOUR ACADEMIC
6 ASSESSMENT, WHAT EXPLAINS THESE MEASURES OF INEQUITY
7 IN THE STATE?

8 A SO CRIMINAL JUSTICE INVOLVEMENT DOES AFFECT
9 VOTING, AND THOSE OUTCOMES, AS I SHOWED, VARY BY
10 RACE. AND -- BUT RESEARCH HAS SHOWN THAT RACIAL
11 DISCRIMINATION PLAYS A ROLE IN PRODUCING THOSE RACIAL
12 DISPARITIES IN CRIMINAL JUSTICE IN LOUISIANA IN THE
13 PAST. AND THERE IS CONTEMPORARY RESEARCH THAT ALSO
14 SHOWS -- THAT I CITE IN MY REPORT -- THAT TALKS ABOUT
15 THESE ISSUES IN LOUISIANA TODAY.

16 SO THERE ARE SEVERAL STUDIES THAT TALKS
17 ABOUT EITHER THE LIKELIHOOD THAT A BLACK PERSON WILL
18 RECEIVE THE DEATH PENALTY FOR KILLING A BLACK VICTIM
19 VERSUS A WHITE VICTIM THAT I CITE, OR DATA THAT TALKS
20 ABOUT HOW PROSECUTORS TREAT BLACK VICTIMS RATHER THAN
21 WHITE VICTIMS. BUT I ALSO CITE SOME REALLY
22 INTERESTING DISPARITIES BETWEEN ARRESTS AND
23 SENTENCING. SO ABOUT TWO -- I THINK ABOUT 63
24 PERCENT -- 65 PERCENT OF THE PEOPLE IN LOUISIANA IN
25 PRISON FOR A DRUG CONVICTION ARE BLACK. BUT THEN

02:13p

1 WHEN YOU LOOK AT THE ARREST DATA, A MAJORITY OF THE
2 PEOPLE WHO ARE ARRESTED FOR SERIOUS DRUG OFFENSES IN
3 LOUISIANA -- SO THOSE THAT INCLUDE EITHER TRAFFICKING
4 OF ANY DRUG OR POSSESSION OF A HARD DRUG -- ARE
5 WHITE. SO THE UNDERLYING DATA IN TERMS OF
6 CRIMINALITY AREN'T REALLY EXPLAINING THOSE OUTCOMES
7 WITH RESPECT TO INCARCERATION IN -- AT LEAST WITH
8 RESPECT TO DRUG CONVICTIONS AND DRUG CRIMES.

9 SO -- YES, SO THOSE PATTERNS OF OUTCOMES
10 CAN'T BE FULLY EXPLAINED BY THE DIFFERENTIAL
11 COMMISSION OF CRIMES BY RACE. AND THEN YOU -- SO
12 THEN YOU HAVE TO LOOK TO THESE OTHER FACTORS LIKE --
13 THAT I CITE IN MY REPORT -- LIKE OVER-POLICING OR
14 DISCRIMINATION IN SENTENCING AND THE LIKE TO EXPLAIN
15 THOSE DISPARITIES.

16 Q YOU TOUCHED ON THIS A BIT, BUT CAN YOU
17 EXPLAIN HOW, IF AT ALL, THESE DISPARITIES REFLECT ON
18 ACCESS TO THE POLITICAL PROCESS FOR BLACK
19 LOUISIANIANS?

20 A YES, SURE. SO PART OF HOW VOTING -- VOTING
21 CAN BE AFFECTED BY CRIMINAL JUSTICE IS VERY CLEAR
22 THROUGH, LIKE I SAID, FELONY DISENFRANCHISEMENT LAWS.
23 BUT MY WORK AND THE WORK OF SEVERAL OTHER PEOPLE IN
24 POLITICAL SCIENCE HAVE -- IT'S SHOWN THAT THESE
25 INTERACTIONS WITH THE CRIMINAL JUSTICE SYSTEM

02:14p

1 GENERALLY, ESPECIALLY THOSE THAT MIGHT BE SEEN AS
2 UNFAIR, TEND TO DEMOBILIZE VOTING AND MAKE PEOPLE SHY
3 AWAY FROM PARTICIPATING IN POLITICS.

4 Q THANK YOU, DR. BURCH.

5 LET'S MOVE ON TO YOUR DISCUSSION OF SENATE
6 FACTOR 6 REGARDING THE USE OF RACIAL CAMPAIGN APPEALS
7 IN LOUISIANA. TO BEGIN, WHAT IS A RACIAL APPEAL?

8 A SO A RACIAL APPEAL IS A USE OF A CODE WORD
9 OR IMAGES OR SOME OTHER KIND OF ASPECT IN A CAMPAIGN
10 THAT MAKES VOTERS THINK ABOUT OR TAKE RACE INTO
11 CONSIDERATION WHEN THEY'RE MAKING CHOICES IN POLICY
12 DECISIONS AND CANDIDATE CHOICE. THOSE CAN BE EITHER
13 OVERT, MEANING THEY SAY THEY'RE TALKING ABOUT RACE,
14 OR SUBTLE, IN WHICH THEY DON'T USE THE ACTUAL
15 LANGUAGE OF RACE BUT MIGHT -- IT MIGHT RELY MORE
16 HEAVILY ON IMAGERY OR OTHER KINDS OF CODE WORDS.

17 Q THINKING ABOUT THE LANGUAGE THAT ADS MAY
18 EMPLOY, WHAT ARE SOME EXAMPLES OF CODE WORDS USED IN
19 RACIAL APPEALS?

20 A THERE IS LOTS OF THEM IN THE LITERATURE. SO
21 "INNER-CITY," "SANCTUARY CITY," "CRIME," "WELFARE,"
22 "ILLEGAL IMMIGRATION," STUFF LIKE THAT.

23 Q ARE THERE ANY ADDITIONAL OR MORE RECENT
24 EXAMPLES FROM CONTEMPORARY POLITICAL DISCOURSE?

25 A THERE IS LIKE "URBAN" OR "GANG," LIKE "WOKE"

02:15p

1 AND "CRITICAL RACE THEORY." BUT I DON'T KNOW IF
2 THOSE -- THOSE ARE -- I DON'T KNOW IF THOSE ARE EVEN
3 CODE WORDS, BECAUSE LIKE "RACE" IS IN "CRITICAL RACE
4 THEORY," SO THAT MIGHT BE MORE EXPLICIT.

5 Q HOW ABOUT VISUAL CUES OR SIGNALS THAT ADS
6 MAY EMPLOY? WHAT ARE SOME EXAMPLES?

7 A SO WHEN ANALYZING TELEVISION CAMPAIGN ADS,
8 THESE ADS -- MCILWAIN AND CALIENDO FIND THAT THEY
9 TEND TO CONTAIN CERTAIN ELEMENTS. AND THOSE ELEMENTS
10 ARE THE INVOCATION OF A SALIENT STEREOTYPE ABOUT THE
11 MINORITY GROUP, SO THAT MIGHT BE CRIMINALITY,
12 LAZINESS, TAKING UNDESERVED ADVANTAGE, COUPLED WITH
13 THE CHARGE OF LIBERALISM, SO EXTREME LIBERAL,
14 DANGEROUS LIBERAL, RADICAL. SO THOSE TWO -- THOSE
15 THINGS GROUPED TOGETHER.

16 THEY SOMETIMES OFTEN SHOW THE IMAGE OF THE
17 MINORITY OPPONENT OR A MINORITY POLITICAL CANDIDATE
18 AND THEN THEY MIGHT ALSO CONTAIN IMAGES OF THE
19 ALL-WHITE -- ALL-WHITE, NONCANDIDATE IMAGES. SO
20 THERE MIGHT BE LIKE IMAGES OF VOTERS WHO ARE ALL
21 WHITE. SO THOSE ARE THE PEOPLE WHO ARE, FOR
22 INSTANCE, BEING PROTECTED FROM THE ISSUES IN THE
23 SALIENT STEREOTYPE. AND SO THAT AUDIENCE WOULD
24 INCLUDE A HIGH PERCENTAGE OF WHITE POTENTIAL VOTERS.

25 Q FROM YOUR REVIEW OF THE ACADEMIC LITERATURE,

02:17p

1 ARE RACIAL APPEALS EFFECTIVE AT INFLUENCING VOTER
2 BEHAVIOR?

3 A YES. SO BOTH IMPLICIT AND NOW EXPLICIT
4 APPEALS HAVE ALSO BEEN SHOWN TO BE EFFECTIVE IN
5 INFLUENCING VOTER BEHAVIOR.

6 Q HOW SO?

7 A TO THE EXTENT THAT THEY CAN -- LET ME MAKE
8 SURE I GET THIS RIGHT. SO THEY CAN MAKE THOSE RACIAL
9 ATTITUDES AND CONCERNS MORE SALIENT IN THE MINDS OF
10 VOTERS, AND THEY CAN MAKE IT SO THAT CERTAIN KINDS OF
11 VOTERS -- I'M SORRY. I'M TRYING TO SUMMARIZE A BUNCH
12 OF LITERATURE AT ONCE. BUT, FOR EXAMPLE, YOU MIGHT
13 SEE PEOPLE THINK MORE ABOUT WEIGHING CRIMINAL JUSTICE
14 OR MIGHT WANT TO THINK ABOUT HARsher CRIMINAL JUSTICE
15 PENALTIES IF THEY SEE AN AD WITH LIKE A MINORITY
16 MUGSHOT THAN IF THEY'RE LOOKING AT SOME OTHER KIND OF
17 AD IN SUPPORT OF A CANDIDATE.

18 Q AND DO RACIAL APPEALS HAVE ANY DIFFERING
19 IMPACT DEPENDING ON THE AUDIENCE?

20 A YES. SO RACIAL APPEALS, DEPENDING ON
21 WHETHER THEY ARE SHOWN BY -- EXPERIENCED BY BLACK
22 MEMBERS AS WELL AS WHITE MEMBERS CAN HAVE DIFFERENT
23 EFFECT. SO CERTAIN KINDS OF RACIAL APPEALS,
24 ESPECIALLY THOSE THAT ARE DESIGNED TO MAKE BLACK
25 VOTERS FEEL LIKE THEIR CHOSEN CANDIDATES DON'T CARE

02:18p

1 ABOUT THEM. KIND OF LIKE THE STUFF THAT TROLL FARMS
2 DID ABOUT HILLARY CLINTON IN 2016, THOSE KINDS OF ADS
3 HAVE BEEN SHOWN TO DEMOBILIZE BLACK VOTERS, AND THEY
4 DON'T HAVE THAT EFFECT ON WHITE VOTERS.

5 Q DR. BURCH, IF YOU CAN TURN YOUR ATTENTION TO
6 THE NEXT SLIDE, WHAT DOES THIS SLIDE DEPICT?

7 A SO THESE ARE SOME --

8 MR. LEWIS: EXCUSE ME. YOUR HONOR, I'M
9 GOING TO OBJECT TO THIS. THESE IMAGES WERE NOT
10 PRODUCED IN DISCOVERY. THEY WERE NOT PRODUCED AS
11 PART OF DR. BURCH'S REPORT OR HER REPORT BACK-UP.
12 THEY HAVE NOT BEEN PROVIDED, EITHER THE IMAGES OR THE
13 UNDERLYING VIDEOS THAT -- FROM WHICH THE IMAGES WERE
14 DERIVED.

15 THE COURT: MS. WENGER, DO YOU WANT TO
16 RESPOND?

17 MS. WENGER: CERTAINLY. SO THESE IMAGES ARE
18 DISCUSSED IN DR. BURCH'S REPORT. I CAN PULL UP THE
19 SITE. ON PAGE 23 IN THE MIDDLE OF THE PAGE -- WE CAN
20 TAKE THE SLIDE DOWN FOR NOW.

21 IN THE MIDDLE OF THE PAGE ON PAGE 23, THESE
22 IMAGES ARE DISCUSSED AT LENGTH BY DR. BURCH. AND THE
23 SLIDE DECK THAT WE'RE USING IS NOT MEANT TO BE
24 ADMITTED INTO THE RECORD. IT IS SIMPLY AN
25 ILLUSTRATIVE VISUAL AID FOR THE ASSISTANCE OF THE

02:20p

1 COURT AND OTHER PEOPLE IN THE ROOM TO UNDERSTAND WHAT
2 DR. BURCH HAS ALREADY DESCRIBED AT LENGTH AND CAN
3 TEXTUALIZE IN HER EXPERT REPORT. SO WE CERTAINLY
4 DON'T THINK THERE IS ANY UNDUE BIAS BY HAVING THESE
5 DISPLAYED IN THIS SETTING. BUT WE'RE CERTAINLY NOT
6 RELYING ON THEM IF YOUR HONOR FEELS OTHERWISE.

7 THE COURT: MR. LEWIS, DO YOU WANT TO
8 RESPOND TO THAT?

9 MR. LEWIS: YES, YOUR HONOR. IT'S ONE THING
10 TO HAVE A TEXTUAL DESCRIPTION TO SAY THERE WAS AN AD
11 THAT DOES SOMETHING. IT'S QUITE ANOTHER TO THEN, YOU
12 KNOW, DISPLAY IMAGES AND USE -- WHICH IS BEING USED
13 FOR EVID- -- IT'S EVIDENTIARY IN CHARACTER. IT
14 WASN'T PRODUCED. IT WASN'T IN THE REPORT. IT WASN'T
15 LINKED FROM THE REPORT. IT WASN'T IN THE REPORT.

16 THE COURT: IT IS IN THE REPORT, THE IMAGERY
17 OF THE AD THAT CONTAIN ALL-WHITE, NONCANDIDATE IMAGES
18 OF -- AND SHE MENTIONS THE NAMES THAT I BRIEFLY SAW
19 ON THE PHOTOGRAPHS BEFORE THEY WERE TAKEN DOWN. I
20 MEAN, THE REPORT -- I'M LOOKING AT IT AND IT DOES
21 DESCRIBE THOSE EXACT IMAGES, AS BEST I CAN TELL FROM
22 WHAT I SAW. MORE IMPORTANTLY, MS. WENGER IS SAYING
23 THAT THEY'RE NOT -- SHE'S NOT OFFERING THEM INTO
24 EVIDENCE; SHE'S USING THEM ILLUSTRATIVELY.

25 SO DO YOU -- IS IT YOUR CONTENTION THAT

02:21p

1 AS THE TRIER OF THE FACT I'M GOING TO BE SO SHOCKED
2 AND HORRIFIED THAT I'M NOT GOING TO BE ABLE TO --
3 YOU'RE NOT GOING TO BE ABLE TO UNRING THE BELL? I
4 MEAN, THEY DIDN'T LOOK THAT SHOCKING.

5 MR. LEWIS: I DON'T -- YOUR HONOR, I JUST --
6 I'M JUST TRYING TO, YOU KNOW, FOOT TO THE RULES OF
7 EVIDENCE. THEY HAD PLENTY OF OPPORTUNITY --

8 THE COURT: SHE'S NOT PUTTING IT INTO
9 EVIDENCE.

10 MR. LEWIS: AND IT'S ALSO -- WE'D ALSO ADD
11 THAT UNDER RULE 1006, IT'S ALSO NOT IMPROPER SUMMARY
12 BECAUSE IT'S A DIFFERENT MEDIUM, RIGHT. IT'S A TEXT
13 DESCRIPTION, THERE IS A VIDEO, THEN THERE IS THE
14 STILL FROM A VIDEO, YOU KNOW, NONE OF WHICH HAVE
15 BEEN -- HAVE BEEN PROVIDED. SO I -- THAT'S OUR
16 POSITION.

17 THE COURT: AND I THINK YOU MAKE A GOOD
18 POINT. ACTUALLY, THE SUMMARY ARGUMENT THAT YOUR
19 CO-COUNSEL GAVE YOU WAS PRETTY INGENIOUS. BUT SHE'S
20 NOT OFFERING THEM INTO EVIDENCE. AND I THINK, AS THE
21 TRIER OF FACT, THEY'RE NOT -- YOU KNOW, THEY'RE NOT
22 PICTURES THAT -- THEY'RE NOT "SHOCKING THE
23 CONSCIENCE" TYPE PICTURES, SO I THINK THAT IT'S
24 PROBABLY OKAY. I'M GOING TO OVERRULE YOUR OBJECTION.
25 THEY'RE NOT COMING INTO EVIDENCE.

02:22p

1 YOU MAY SHOW THE PHOTOS.

2 MS. WENGER: THANK YOU, YOUR HONOR.

3 BY MS. WENGER:

4 Q DR. BURCH, WITH THE REPORT YOU HAVE IN FRONT
5 OF YOU, IF YOU COULD TURN TO PAGE 23 JUST SO THAT WE
6 CAN USE THAT FOR CONTEXT IN WHAT YOU'RE DESCRIBING.
7 WE HAVE SOME VISUALS ON THIS SCREEN, BUT I'D LIKE TO
8 HAVE YOU WALK THROUGH TRULY WHAT YOU'RE TALKING ABOUT
9 ON PAGE 23 OF YOUR REPORT IN RELATION TO THE 2019
10 GUBERNATORIAL ELECTION.

11 A YES. SO AS I SAID BEFORE, THERE ARE SOME
12 HALLMARKS OF THE KINDS OF ADS THAT WE WOULD -- OF ADS
13 THAT CONSTITUTE IMPLICIT RACIAL APPEALS. AND AS I
14 SAID BEFORE, SO THIS AD THAT WAS BY CANDIDATE EDDIE
15 RISPONE BEGINS WITH MUGSHOTS OF BLACK MEN PROMINENTLY
16 DISPLAYED ALONGSIDE ADDITIONAL MUGSHOTS OF TWO OTHER
17 MEN WHO COULD BE LATINO. THE IMAGERY -- THEN ALSO IN
18 THE UPPER CORNER CONTAINS THE ALL-WHITE, NONCANDIDATE
19 IMAGES OF RISPONE WITH HIS CONSTITUENTS THAT MCILWAIN
20 AND CALIENDO MARK AS COMMON IN THE SENSE THAT IT'S
21 LIKE THESE ARE THE PEOPLE WE'RE TRYING TO PROTECT.

22 AND THEN YOU ALSO SEE WORDS LIKE "SANCTUARY
23 CITY," AGAIN, THOSE CODE WORDS AS WELL. AND I HAVE
24 THE TEXT OF THE AUDIO AS WELL, WHICH SAYS "DANGEROUS,
25 SICK, VIOLENT. JOHN BEL EDWARDS PUT THEM BACK ON OUR

02:23p

1 STREETS WHERE THEY ROBBED, ATTACKED, MURDERED. UNDER
2 EDWARDS MURDER IS UP 20 PERCENT. THOUSANDS OF
3 DANGEROUS CRIMINALS RELEASED AND NEW ORLEANS A
4 SANCTUARY CITY MECCA FOR LAWLESSNESS. EDDIE RISPONE
5 WILL BAN SANCTUARY CITIES AND LEAVE FORGIVENESS TO
6 GOD, NOT GOVERNMENT. COMMIT THE CRIME, DO THE TIME.
7 EDDIE RISPONE FOR GOVERNOR."

8 Q THANK YOU, DR. BURCH.

9 I'D LIKE TO LEAN IN A LITTLE BIT MORE TO
10 YOUR DISCUSSION OF IMPLICIT RACIAL APPEALS. ARE
11 THESE APPEALS MEANT TO SHOCK THE CONSCIENCE OR ARE
12 THEY DESIGNED TO CUE OTHER SIGNALS OR SUBCONSCIOUS
13 BIASES?

14 A YES. SO I CAN GO BACK TO MY REPORT AND TALK
15 SPECIFICALLY ABOUT THIS. CANDIDATES -- BECAUSE --
16 THESE ADS HAPPEN BECAUSE CANDIDATES -- I'M ON PAGE 22
17 OF MY REPORT. THEY STILL HAVE AN INCENTIVE TO APPEAL
18 TO WHITE RACIAL FEARS. AND KIND OF THIS COMBINATION
19 OF PHENOMENA, THE NEED TO APPEAR RACIALLY EGALITARIAN
20 WHILE ACTIVATING RACIAL ATTITUDES IS WHY YOU HAVE TO
21 DO THIS THROUGH COVERT OR IMPLICIT MEANS SUCH AS
22 IMAGES OR CODED LANGUAGE. SO IT'S ALMOST TRYING TO
23 ACT SUBCONSCIOUSLY.

24 Q DOES THAT REFLECT AT ALL ON WHY THESE CUES
25 MIGHT RESONATE DIFFERENTLY FOR DIFFERENT AUDIENCES?

02:25p

1 A YES.

2 Q CAN YOU DESCRIBE EXAMPLES OF ANY OTHER KINDS
3 OF RACIAL APPEALS YOU LOOKED AT IN LOUISIANA BEYOND
4 OR INCLUDING THE STATEWIDE ELECTIONS WE JUST
5 DISCUSSED?

6 A I FOCUSED PRIMARILY ON THE GUBERNATORIAL
7 ELECTION. BUT THERE WERE EVEN IN THAT EXCHANGE SOME
8 OTHER ACTORS, NOT JUST THE CANDIDATES WHO RELEASED
9 ADS. FOR INSTANCE, I INCLUDE AN EXAMPLE FROM STATE
10 SENATOR CONRAD APPEL AND FROM THE LOUISIANA
11 REPUBLICAN PARTY AS WELL.

12 Q ANY OTHER HISTORIC EXAMPLES OF RACIAL
13 APPEALS THAT YOU IDENTIFIED IN YOUR REPORT?

14 A YES. SO I ALSO DISCUSSED THE CANDIDACY IN
15 RACIAL APPEALS GOING BACK TO DAVID DUKE IN LOUISIANA,
16 WHO OBVIOUSLY, FOR THE RECORD, WAS A FORMER GRAND
17 WIZARD OF THE KU KLUX KLAN WHO WON A STRONG MAJORITY
18 OF LOUISIANA'S WHITE VOTE IN THREE STATEWIDE
19 ELECTIONS, AND HE RAN ON A PLATFORM THAT OPENLY
20 APPEALED TO WHITE RACIAL FEARS.

21 Q OVERALL, DR. BURCH, WHAT WERE YOUR
22 CONCLUSIONS ABOUT THE EFFECT OF RACIAL CAMPAIGN
23 APPEALS IN LOUISIANA?

24 A SO I CONCLUDED THAT POLITICAL CAMPAIGNS IN
25 LOUISIANA, THERE IS HISTORICAL EVIDENCE THAT THEY

02:26p

1 HAVE MADE RACIAL APPEALS AND THEY STILL HAVE IMPLICIT
2 AND EXPLICIT RACIAL APPEALS THAT COME OUT IN THESE
3 CAMPAIGNS IN THE ELECTIONS THAT I -- THE CONTEMPORARY
4 ELECTIONS THAT I STUDIED. AND THOSE RACIAL APPEALS
5 FEATURED PROMINENTLY IN THE 2019 GUBERNATORIAL
6 ELECTION. AND NOT JUST BY THE CANDIDATES BUT OTHER
7 POLITICAL ORGANIZATIONS MADE THEM, TOO.

8 Q AND DO YOU HAVE ANY REASON TO BELIEVE THAT
9 SIMILAR TYPES OF APPEALS HAVE CEASED TO EXIST IN THE
10 STATE SINCE 2019?

11 A NO.

12 Q ALL RIGHT. LET'S MOVE ALONG TO YOUR
13 ANALYSIS OF SENATE FACTOR 7 REGARDING THE EXTENT TO
14 WHICH BLACK LOUISIANIANS HAVE BEEN ELECTED TO OFFICE.

15 DR. BURCH, IF YOU CAN TURN YOUR ATTENTION TO
16 THE NEXT SLIDE RIGHT HERE, THIS REPLICATES DATA
17 POINTS FROM PAGE 25 OF YOUR REPORT. JUST OFFERS A
18 VISUALIZATION OF NUMBERS THAT YOU CITE. WHAT DOES
19 THIS SLIDE CONVEY -- LET'S START WITH THE FEDERAL
20 LEVEL HERE. WHAT DID YOUR RESEARCH FIND WITH RESPECT
21 TO REPRESENTATION FOR BLACK LOUISIANIANS IN FEDERAL
22 POSITIONS?

23 A SO IF WE JUST LOOK AT THE LEFT-HAND PART OF
24 THIS SLIDE, WE CAN SEE FOR THE CONGRESSIONAL
25 DELEGATION CURRENTLY IN LOUISIANA THERE -- WHERE THE

02:27p

1 PURPLE IS THE BLACK REPRESENTATIVES AND YELLOW IS
2 WHITE REPRESENTATIVES -- ONE OUT OF SIX
3 REPRESENTATIVES IN THE CONGRESSIONAL DELEGATION ARE
4 BLACK.

5 AND WITH RESPECT TO THE NUMBER OF BLACK
6 LOUISIANIANS WHO HAD EVER BEEN SENT TO CONGRESS,
7 THERE ARE FIVE IN THE HISTORY OF THE STATE. AT LEAST
8 THREE CAME FROM CONGRESSIONAL DISTRICT 2. AND SINCE
9 THE -- AND ONE WAS ELECTED IN RECONSTRUCTION. AND
10 SINCE THEN ALL OF THE OTHERS CAME FROM MAJORITY-
11 MINORITY DISTRICTS.

12 Q HAS THERE EVER BEEN A BLACK SENATOR ELECTED
13 FROM LOUISIANA?

14 A I COULD NOT FIND ONE.

15 Q LET'S LOOK AT SOME OF THE OTHER POSITIONS
16 YOU ANALYZED HERE. WHAT CAN THEY TELL US ABOUT
17 REPRESENTATION OF BLACK PEOPLE IN LOUISIANA?

18 A YES. SO WITH RESPECT TO THE STATE
19 LEGISLATURE, BLACK LEGISLATORS HOLD ABOUT 25 PERCENT
20 OF ALL OF THE STATE LEGISLATIVE SEATS. AND THAT'S
21 ACROSS THE HOUSE AND SENATE. AND THERE IS 26 BLACK
22 LEGISLATORS IN THE HOUSE OUT OF 105 AND LESS -- AND I
23 THINK ABOUT TEN LOUISIANA STATE SENATORS OUT OF 39
24 TOTAL SEATS ARE BLACK.

25 Q WHAT ABOUT SOME OF THE OTHER POSITIONS?

02:29p

1 A SO THERE IS ALSO SOME -- IF YOU THINK ABOUT
2 THE STANDARD OF ABOUT OVER 30 PERCENT OF THE STATE IS
3 BLACK, STATE COURT JUDGES ARE ALSO -- BLACK PEOPLE
4 ARE ALSO UNDER-REPRESENTED ON THE STATE BENCH, ALSO
5 WITH RESPECT TO COUNTY -- WITH EXECUTIVE -- OTHER
6 EXECUTIVE POSITIONS LIKE MAYORS, AND ALSO THERE IS
7 UNDER-REPRESENTATION ON THE BOARD OF ELEMENTARY AND
8 SECONDARY EDUCATION.

9 Q AND FROM YOUR AWARENESS, ARE ANY OF THESE
10 ELECTED OFFICIALS ELECTED FROM BLACK-MAJORITY
11 DISTRICTS?

12 A I'M SURE THAT SOME ARE. I THINK THERE --
13 I'M NOT SURE A HUNDRED PERCENT ABOUT ALL OF THE --
14 FOR INSTANCE, THE MAYORS. BUT THE STATE LEGISLATIVE
15 SEATS MOST PROBABLY ARE.

16 Q HAS THERE EVER BEEN A BLACK GOVERNOR OR A
17 LIEUTENANT GOVERNOR IN LOUISIANA SINCE
18 RECONSTRUCTION?

19 A NOT SINCE RECONSTRUCTION.

20 **THE REPORTER:** I'M SORRY.

21 **THE WITNESS:** NOT SINCE RECONSTRUCTION.

22 **BY MS. WENGER:**

23 Q DR. BURCH, WHAT WERE YOUR OVERALL
24 CONCLUSIONS FROM YOUR ANALYSIS OF SENATE FACTOR 7?

25 A SO OVERALL I CONCLUDED THAT BLACK PEOPLE ARE

02:30p

1 ABOUT A THIRD OF LOUISIANA'S OVERALL POPULATION BUT
2 ARE UNDER-REPRESENTED AMONG ELECTED OFFICIALS AT ALL
3 LEVELS OF GOVERNMENT INCLUDING AMONG EXECUTIVES SUCH
4 AS GOVERNOR, LIEUTENANT GOVERNOR, MAYOR AND
5 LEGISLATORS AT THE FEDERAL AND STATE LEVEL, AND
6 JUDGES.

7 Q THANK YOU.

8 DR. BURCH, LET'S MOVE TO YOUR DISCUSSION OF
9 SENATE FACTOR 8 REGARDING ANY LACK OF RESPONSIVENESS
10 FROM ELECTED OFFICIALS TO THE NEEDS OF BLACK
11 CONSTITUENTS. I'D LIKE TO START WITH THE METRICS YOU
12 ASSESSED. CAN YOU TURN TO THE SLIDE ON YOUR SCREEN
13 HERE AND EXPLAIN A BIT WHAT THESE VISUALIZATIONS
14 INTEND TO CONVEY.

15 A YES. SO THESE DATA POINTS FROM MY REPORT
16 TALK ABOUT THE FACT THAT LOUISIANA -- IF YOU'RE
17 LOOKING IN COMPARISON WITH THE OTHER 50 STATES --
18 LOUISIANA RANKS 48TH OUT OF 50 IN MATH ACHIEVEMENT,
19 46 OUT OF 50 IN CANCER DEATH RATE, 44 OUT OF 50 IN
20 LIFE EXPECTANCY. AND ON ALL OF THESE DIMENSIONS THAT
21 I JUST TALKED ABOUT IN MY REPORT, BLACK PEOPLE ARE
22 WORSE OFF RELATIVE TO WHITE PEOPLE IN THE STATE AMONG
23 ALL OF THESE DIMENSIONS WHERE LOUISIANA IS DOING
24 POORLY.

25 AND SO WHEN WE THINK ABOUT RESPONSIVENESS,

02:31p

1 THEN WE WANT TO THINK ABOUT THE EXTENT TO WHICH WE'RE
2 -- THE STATE IS ENACTING POLICIES THAT ARE DESIGNED
3 TO ADDRESS SOME OF THESE ISSUES. AND SO -- BUT ONE
4 OF THE EXAMPLES OF THE WAYS THAT PERHAPS THIS IS NOT
5 HAPPENING IS A QUOTATION BY SENATOR CASSIDY, WHICH I
6 THINK GOES TO THE HEART OF RESPONSIVENESS.

7 SO IN TALKING ABOUT MATERNAL MORTALITY AND
8 PRESENTED WITH DATA THAT LOUISIANA IS PERFORMING
9 POORLY WITH RESPECT TO MATERNAL MORTALITY, SENATOR
10 CASSIDY SAID IN RESPONSE "ABOUT A THIRD OF OUR
11 POPULATION IS AFRICAN AMERICAN; AFRICAN AMERICANS
12 HAVE A HIGHER INCIDENCE OF MATERNAL MORTALITY. SO,
13 IF YOU CORRECT OUR POPULATION FOR RACE, WE'RE NOT AS
14 MUCH OF AN OUTLIER AS IT'D OTHERWISE APPEAR."

15 Q FOR CLARITY OF THE RECORD, THAT'S FROM PAGE
16 26 OF YOUR REPORT.

17 TURNING TO THE NEXT SLIDE, YOU DISCUSS
18 CANCER ALLEY IN YOUR REPORT AND I HEARD YOU MENTION
19 IT EARLIER. HOW DOES CANCER ALLEY IN LOUISIANA
20 REFLECT ON THE RESPONSIVENESS OF ELECTED OFFICIALS TO
21 THE NEEDS OF BLACK PEOPLE IN YOUR ASSESSMENT?

22 A SO I THOUGHT THAT THIS WAS AN INTERESTING
23 INCIDENT BECAUSE -- EXAMPLE -- BECAUSE THERE IS A
24 SPECIFIC INSTANCE IN WHICH IN 2021 PRESIDENT BIDEN
25 ANNOUNCED SEVERAL CLIMATE-RELATED EXECUTIVE ORDERS

02:33p

1 THAT WERE DESIGNED TO PROMOTE ENVIRONMENTAL JUSTICE
2 AND HELP PLACES AND MENTIONED LOUISIANA'S CANCER
3 ALLEY SPECIFICALLY. SENATOR CASSIDY ACTUALLY GOT
4 ANGRY AND CALLED THOSE REMARKS THAT HE MADE A SLAM ON
5 THE STATE AND THEN DENIED THAT POLLUTION WAS A FACTOR
6 IN CAUSING THESE ELEVATED CANCER RATES, WHICH I HAVE
7 ALREADY SAID RESEARCH HAS SHOWN THAT AIR POLLUTION
8 AND THE LIKE IN THESE AREAS DOES MATTER. AND SO
9 INSTEAD WE SAW BEHAVIORAL FACTORS THAT HE BLAMED FOR
10 THE ELEVATED CANCER RATES.

11 SO SENATOR CASSIDY SAYS -- AND I CITE IT ON
12 PAGE 26 -- "WE HAVE A HIGHER INCIDENCE OF CIGARETTE
13 SMOKING, OF OBESITY, OF CERTAIN VIRAL INFECTIONS, AND
14 OTHER THINGS WHICH INCREASE THE INCIDENCE OF CANCER
15 IN OUR STATE."

16 AND AGAIN, PEOPLE WHO -- ADVOCATES FOR THE
17 AREA CALLED CANCER ALLEY WHO HEARD THIS TOOK THIS AS,
18 YOU KNOW, IT'S ALWAYS -- THE QUOTE IS: "IT'S ALWAYS
19 'BLAME THE FOLKS' -- THE POOR BLACK FOLKS -- FOR
20 THEIR OWN DEMISE." SO THAT, AGAIN, THEY SAW THAT
21 COMMENT AS BEING NOT RESPONSIVE TO THE NEEDS,
22 ESPECIALLY WHEN SOMEONE AT THE FEDERAL LEVEL WAS
23 TRYING TO HELP THE AREA.

24 Q ALL RIGHT. MOVING TO THE NEXT SLIDE,
25 PULLING DATA CITED FROM PAGES 26 TO 27 OF YOUR

02:34p

1 REPORT, CAN YOU DESCRIBE WHY THIS SURVEY DATA -- WHAT
2 THIS SURVEY DATA TELLS US ABOUT BLACK LOUISIANIANS'
3 OWN SENSE OF THEIR ELECTED OFFICIALS' RESPONSIVENESS?

4 A SO I TOOK DATA FROM THE 2022 LOUISIANA
5 SURVEY, WHICH IS A REPRESENTATIVE SURVEY OF THE
6 STATE. AND IT SHOWS THAT ACROSS THE STATE ABOUT 70
7 PERCENT OF BLACK RESPONDENTS TO THE SURVEY AGREED
8 THAT, QUOTE, MOST ELECTED OFFICIALS IN LOUISIANA
9 DON'T CARE WHAT PEOPLE LIKE ME THINK. AND THAT
10 FIGURE IS ACTUALLY PRETTY SIMILAR TO WHAT WHITE
11 LOUISIANIANS THINK. BUT THEN THERE IS SPECIFIC
12 REASONS THAT BLACK LOUISIANIANS FEEL THAT WAY. AND
13 THEY GO ON IN THE SURVEY TO TALK ABOUT BLACK PEOPLE
14 IN THE STATE FEEL THAT THEY ARE DISCRIMINATED AGAINST
15 POLITICALLY. SO FEWER BLACK LOUISIANIANS WERE VERY
16 CONFIDENT THAT PEOPLE WHO ARE LEGALLY QUALIFIED TO
17 VOTE ARE ABLE TO IN THE STATE, AND A MAJORITY OF
18 BLACK LOUISIANIANS BELIEVE THAT, QUOTE, BLACK PEOPLE
19 ARE TREATED LESS FAIRLY THAN WHITE PEOPLE WHEN VOTING
20 IN ELECTIONS.

21 Q THANK YOU.

22 TURNING TO THE NEXT SLIDE, CAN YOU EXPLAIN
23 HOW PUBLIC TESTIMONY FROM THE REDISTRICTING PROCESS
24 PLAYED INTO YOUR ANALYSIS OF SENATE FACTOR 8?

25 A SO IF YOU THINK ABOUT THE DATA THAT I JUST

02:35p

1 CITED ABOUT THE CONCERN ABOUT POLITICAL INEQUALITY
2 AMONG BLACK PEOPLE IN THE STATE, THESE CONCERNS THAT
3 I PULLED FROM THE REDISTRICTING ROADSHOWS AND
4 HEARINGS ACTUALLY IS A REFLECTION OF WHAT WE SEE IN
5 THE SURVEY DATA STATEWIDE. AND SO WE SEE QUOTES, FOR
6 INSTANCE, FROM LYDIA LARSE WHO SAYS -- WHO -- I
7 WATCHED THE VIDEO AND SHE APPEARED TO BE AFRICAN
8 AMERICAN TO ME, AND FROM HER STATEMENTS SEEM SO. SHE
9 SAYS, QUOTE, THE CONSTITUTION STARTS WITH WE THE
10 PEOPLE. I DON'T FEEL THAT. NONE OF YOU GUYS UP HERE
11 REPRESENT ME, BUT A FEW. WE'RE ONE-THIRD OF THE
12 STATE, AND I'M NOT BEING REPRESENTED. OUR VOICES ARE
13 NOT BEING HEARD. AT ALL. I FEEL AS THOUGH MY VOICE
14 IS NOT BEING HEARD BECAUSE Y'ALL DON'T NEED US.
15 WE'RE NOT NEEDED. YOU DON'T CARE.

16 DO YOU -- ADAM MOORE SAYS, "DO WE CARE ABOUT
17 GERRYMANDERING? HEY, LET'S ISOLATE THESE PEOPLE OVER
18 HERE. DO YOU CARE? HELP US. DO ANYONE CARE? HEY,
19 IT'S NOT MY FAULT I'M BLACK. I WAS BORN THIS WAY."

20 A COUPLE OF OTHER PEOPLE IN THOSE -- WELL,
21 SEVERAL OTHER PEOPLE SAID THINGS LIKE THIS, BUT JUST
22 A COUPLE OF EXAMPLES ON THE SLIDE THAT LINK
23 REPRESENTATION TO OUTCOMES COME FROM KETURAH BUTLER-
24 REED WHO SAYS, "I CHALLENGE YOU TO PUSH FOR MORE
25 MAJORITY-MINORITY DISTRICTS BECAUSE MORE MEANS MORE

02:37p

1 RESOURCES Poured INTO BLACK SCHOOLS AND MORE OF A
2 SIGNIFICANT VOICE IN BLACK PEOPLE CHOOSING ELECTED
3 OFFICIALS BECAUSE THAT IS REFLECTIVE OF THE NUMBERS
4 OF THE PEOPLE." SO TYING THAT THEY NEED THOSE
5 MAJORITY-MINORITY DISTRICTS TO TRANSLATE INTO
6 RESOURCES AND OUTCOMES.

7 DEONDRE BELL, II: "AND SO, TO DEPRIVE
8 ONE-THIRD OF THE STATE'S POPULATION OF THE ABILITY TO
9 ELECT THEIR PREFERRED CANDIDATE KEEPS LOUISIANA AT
10 THE BOTTOM OF NEARLY EVERY STATISTIC IN THIS
11 COUNTRY."

12 SO THEY'RE KIND OF, AGAIN, MAKING THOSE SAME
13 CONNECTIONS THAT I MADE IN MY REPORT.

14 Q THANK YOU, DR. BURCH.

15 TURNING TO THE NEXT SLIDE, WHAT DO THESE
16 METRICS PULLED FROM PAGE 28 OF YOUR REPORT INDICATE
17 ABOUT THE RESPONSIVENESS OF LOUISIANA LEGISLATORS
18 DURING THE PASSAGE OF THE CHALLENGED SENATE DISTRICTS
19 HERE?

20 A SO WHAT WAS INTERESTING FROM THE PUBLIC
21 TESTIMONY THAT WE SAW IN LOOKING AT THE PASSAGE OF
22 THE MAPS, 80 PEOPLE SUBMITTED PUBLIC COMMENT CARDS
23 AGAINST THE ENACTED MAP WITHOUT SPEAKING. AN
24 ADDITIONAL 22 PEOPLE SPOKE AGAINST THE ENACTED MAP
25 AND IN FAVOR OF MORE MAJORITY-MINORITY DISTRICTS.

02:38p

1 AND THERE WERE NO PEOPLE THAT MADE PUBLIC COMMENTS IN
2 SUPPORT OF THE STATUS QUO NUMBER OF MAJORITY-MINORITY
3 SENATE SEATS.

4 AND SO IT'S VERY CLEAR THAT THE PUBLIC
5 COMMENT THAT SENATORS HEARD THERE WAS CLEARLY IN
6 SUPPORT IN INCREASING MINORITY REPRESENTATION. AND
7 SIMILARLY, PEOPLE -- 56 PEOPLE SUBMITTED COMMENT
8 CARDS IN SUPPORT OF THE ALTERNATIVE MAP THAT ADDED
9 MAJORITY-MINORITY DISTRICTS. SO THERE IS CLEAR
10 SUPPORT FOR ADDING MAJORITY-MINORITY DISTRICTS, BUT
11 THAT WAS NOT -- OBVIOUSLY WITH THE OUTCOME, THOSE
12 WERE NOT -- THE LEGISLATURE WAS NOT RESPONSIVE TO
13 THOSE.

14 Q THANK YOU, DR. BURCH.

15 OVERALL WHAT WERE YOUR FINDINGS REGARDING
16 THE PRESENCE OF SENATE FACTOR 8 IN THE CONTEXT OF
17 THIS STATE IN THIS CASE?

18 A SO I FIND THAT THE OUTCOMES OF POLICIES DO
19 NOT TRACK THE SPECIFIC NEEDS OF THE MINORITY
20 COMMUNITY IN SEVERAL WAYS. AND I FEEL LIKE IN MY
21 REPORT I'VE SHOWED THE WAYS THAT, AGAIN, OUTCOMES
22 OVER TIME HAVE BEEN PERSISTENT IN TERMS OF RACIAL
23 GAPS IN EDUCATION AND CRIMINAL JUSTICE AND THE LIKE.
24 BLACK LOUISIANIANS EXPRESSED IN SURVEYS AND TO THE
25 LOUISIANA LEGISLATURE THAT THEY ARE NOT VALUED

02:39p

1 EQUALLY AND DON'T FEEL VALUED EQUALLY BY ELECTED
2 REPRESENTATIVES AND FEEL DISCRIMINATED AGAINST IN
3 POLITICS. AND THEN THEY CONNECT THAT POLITICAL
4 INEQUALITY WITH POOR OUTCOMES AS WELL.

5 SO IT'S -- JUST LISTENING TO THE VOICES OF
6 THE PEOPLE, IT'S VERY CLEAR THAT THEY ARE SAYING THEY
7 FEEL THAT THEIR GOVERNMENT IS NOT RESPONSIVE TO THEM.

8 Q THANK YOU, DR. BURCH.

9 LET'S TURN TO YOUR ANALYSIS OF THE LAST
10 SENATE FACTOR YOU WORKED ON HERE REGARDING THE
11 TENUOUSNESS OF THE LEGISLATURE'S UNDERLYING POLICY
12 JUSTIFICATIONS FOR THEIR ENACTED STATE LEGISLATIVE
13 MAPS.

14 FIRST, WHAT SOURCES DID YOU USE TO EXAMINE
15 AND ASSESS SENATE FACTOR 9?

16 A SO I INCLUDE HERE SEVERAL VIDEOS OF -- AND
17 ANALYZED THE HEARINGS, THE ROADSHOWS, THE -- SOME
18 OTHER NEWS OR PUBLIC SPEECHES MADE BY LEGISLATORS IN
19 THIS SECTION OF THE REPORT.

20 Q THANK YOU.

21 BASED ON YOUR REVIEW OF THE LEGISLATORS'
22 STATEMENTS, WHAT DID YOU IDENTIFY AS THE KEY POLICY
23 CONSIDERATIONS LEGISLATORS OFFERED TO JUSTIFY THE
24 LEGISLATIVE MAPS ENACTED WITHOUT SUBSTANTIVELY
25 INCREASING REPRESENTATION FOR BLACK VOTERS?

02:40p

1 A SO IN MY ANALYSIS I PUT THE REASONS FOR NOT
2 DRAWING ADDITIONAL MINORITY DISTRICTS INTO THREE
3 BUCKETS. SO THE SUPPORTERS OF THE BILL ARGUE THAT
4 ADDITIONAL MAJORITY-MINORITY DISTRICTS WOULD FIRST
5 DILUTE THE BLACK VOTE; SECOND, UNDERMINE INCUMBENCY
6 PROTECTION AND; THIRD, VIOLATE COMMUNITIES OF
7 INTEREST. AND SO I DISCUSS THOSE IN TURN IN MY
8 REPORT.

9 Q GENERALLY, DR. BURCH, DID YOU FIND THAT
10 LEGISLATORS SUPPORTED THESE CLAIMS WITH EVIDENCE?

11 A NO.

12 Q LET'S LOOK AT SOME OF THE TESTIMONY YOU
13 ANALYZED, TURNING TO THE SLIDE ON YOUR SCREEN. CAN
14 YOU DESCRIBE YOUR FINDINGS REGARDING THE TESTIMONY
15 PRESENTED BY THE RESPECTIVE SPONSORS OF THE ENACTED
16 MAP? WE CAN START WITH SB 1.

17 A YES. SO SENATE PRESIDENT CORTEZ TESTIFIED
18 AT VARIOUS POINTS. HE AGREED THAT THE MAP IN SENATE
19 BILL 1 DID NOT INCREASE MAJORITY-MINORITY SENATE
20 DISTRICTS FROM THE PRIOR MAP. AND HE DID AGREE THAT
21 LOUISIANA DEMOGRAPHICS HAD SHIFTED. HE AGREED THAT
22 IT WAS POSSIBLE TO CREATE ADDITIONAL MAJORITY-
23 MINORITY DISTRICTS. BUT THEN HE CHOSE NOT TO. AND
24 THEN HE LISTS SPECIFICALLY THREE REASONS. HE SAYS
25 CONTINUITY OF REPRESENTATION, MINORITY VOTE DILUTION,

02:42p

1 AND COMPACTNESS.

2 Q HOW ABOUT FOR HOUSE BILL 14?

3 A SO CHAIRMAN STEFANSKI WAS A LITTLE LESS
4 CLEAR ABOUT THE PRIORITIES FOR DRAWING THE MAP IN HB
5 14, SO HE GAVE A LIST OF FACTORS THAT HE TOOK INTO
6 ACCOUNT AND AT VARIOUS POINTS MENTIONED POPULATION
7 SIZE, GEOGRAPHY, COMMUNITIES OF INTEREST, LAWS,
8 PUBLIC COMMENTS, MEMBERS' DESIRES FOR THEIR COMMUNITY,
9 AND CONCERNS ABOUT POPULATION LOSS IN NORTH LOUISIANA
10 AS WELL.

11 Q AMONG THOSE LAUNDRY LIST OF FACTORS, DID YOU
12 FIND HE ALSO MADE REFERENCE TO THOSE BUCKETS OF
13 CLAIMS THAT YOU HEARD IN PRESIDENT CORTEZ'S
14 TESTIMONY?

15 A YES.

16 Q THANK YOU.

17 ALL RIGHT. LET'S LOOK CLOSER AT YOUR
18 ANALYSIS OF THE LOUISIANA LEGISLATURE'S PURPORTED
19 CONCERNS REGARDING MINORITY VOTE DILUTION. TURNING
20 TO THE SLIDE BEFORE YOU WHICH PULLS FROM PAGES 30
21 THROUGH 35 OF YOUR REPORT, CAN YOU DESCRIBE YOUR
22 FINDINGS?

23 A YES. SO I FOUND THAT THERE WAS AN ARGUMENT
24 THAT WAS MADE BOTH IN SUPPORT OF SB 1 AND HB 14 THAT
25 ADDING A SECOND MAJORITY-MINORITY DISTRICT WOULD

02:43p

1 DILUTE THE BLACK VOTE. AND SO WHAT THAT MEANS
2 SPECIFICALLY IS THAT THE -- SO THERE IS THIS IDEA
3 THAT THE VOTING RIGHTS ACT KIND OF REQUIRES THE
4 PACKING OF MINORITY VOTERS INTO MAJORITY-MINORITY
5 DISTRICTS IN VERY HIGH CONCENTRATIONS IN ORDER TO
6 GUARANTEE THAT THE MINORITY GROUP WILL ELECT A
7 CANDIDATE OF CHOICE. SO IN PRESIDENT CORTEZ'S WORDS,
8 IT CAN'T JUST BE AN OPPORTUNITY BUT A SLAM DUNK. SO
9 UNDER THAT STANDARD, EVEN DISTRICTS WITH LIKE 53
10 PERCENT MINIMUM BLACK VOTING AGE POPULATIONS WOULD
11 NOT BE ADEQUATE UNDER THE VOTING RIGHTS ACT.

12 AND SO HE SAYS SPECIFICALLY -- I QUOTE HIM
13 ON PAGE 31 IN A LONG QUOTE: "SO, WHAT IS 50 PERCENT
14 PLUS ONE GIVES YOU A MAJORITY OF" -- "MAJORITY OF THE
15 MINORITY IF THAT'S THE POPULATION YOU LOOKING AT, BUT
16 IF THEY ONLY TURN OUT AT 30 OR 35% RATE, AND THE
17 OTHER POPULATION TURNS OUT AT 40 OR 50% RATE, THE
18 MINORITY GROUP IS GOING TO, I'M TRYING TO BE CLEAR.
19 THE MINORITY IS GOING TO HAVE A HIGHER NUMBER OF
20 VOTING AGE POPULATION, BUT THEY WON'T VOTE AND THEY
21 WON'T ELECT THE CANDIDATE OF THEIR CHOICE." AND SO
22 THAT'S KIND OF HIS ARGUMENT ABOUT VOTE DILUTION.

23 Q DID HE USE ANY DATA TO BACK UP THAT
24 ARGUMENT?

25 A NO.

02:44p

1 Q IN YOUR ANALYSIS, DR. BURCH, DID ANY OF THE
2 SUPPORTERS' OR THE SPONSORS' COLLEAGUES PUSH BACK
3 AGAINST THE USE OR SUGGESTION OF THE RELEVANCY OF
4 THESE METRICS OR THEORIES?

5 A OH, YES. SO THERE WERE LONG DISCUSSIONS
6 ABOUT THIS, ACTUALLY, IN THE RECORD. AND SO THEY
7 HEARD SEVERAL ARGUMENTS FROM -- ESPECIALLY FROM
8 MEMBERS OF THE BLACK CAUCUS THAT TALKED ABOUT AND
9 CALLED INTO QUESTION THESE CLAIMS. SO, FOR INSTANCE,
10 SENATOR PRICE -- AND I HAVE HIM QUOTED ON PAGE 32.
11 HE'S BASICALLY RECALLING OTHER -- MORE COMMENTS THAT
12 HAD BEEN MADE BY SENATOR TARVER. HE ARGUED THAT THE
13 REQUIREMENT WAS FOR AN OPPORTUNITY, NOT A GUARANTEE.

14 AND SO HE SAYS, "UNDER SECTION 2 OF THE 1965
15 VOTING RIGHTS ACT, IT SPECIFICALLY TALKS ABOUT THE
16 FACT OF GIVING PEOPLE OPPORTUNITY AND OPPORTUNITY, I
17 THINK, IT'S ALL THAT WE CAN ASK FOR, AND YOU SAY,
18 WELL, YOU MAY NOT BE ABLE TO ELECT, BUT AS SENATOR
19 TARVER SAID, IT'S UP TO THE PERSON IN THE DISTRICT TO
20 GET OUT THERE AND MAKE SURE THAT ITS CONSTITUENTS
21 COME OUT AND VOTE AND AT LEAST GIVE THEMSELVES THAT
22 OPPORTUNITY. IF WE DO NOT INCREASE THE MINORITY
23 DISTRICT, WE'LL NEVER HAVE THAT OPPORTUNITY. IF WE
24 JUST STAY STATUS QUO AS THE MAP IS RIGHT NOW WITHOUT
25 EVEN CONSIDERING INCREASE, THEN THE OPPORTUNITY GOES

02:46p

1 AWAY, I THINK, UNDER SECTION 2, IT CLEARLY STATES
2 THAT WE MUST BE GIVEN AN OPPORTUNITY TO ELECT A
3 PERSON OF OUR CHOICE, AND BY NOT PROVIDING THAT
4 OPPORTUNITY, I THINK, IT VIOLATES SECTION 2 OF THE
5 CIVIL RIGHTS ACTS."

6 Q SOME OF THESE CITATIONS THAT YOU PULLED FROM
7 YOUR REPORT -- FOR EXAMPLE, FROM SENATOR PRICE WHO I
8 BELIEVE REPRESENTS NAPOLEONVILLE, SENATOR TARVER, A
9 FORMER OR CURRENT SENATOR FROM SHREVEPORT -- DID YOU
10 FIND THAT THEIR SENTIMENTS AND DEBATE IN THE
11 LEGISLATIVE RECORD THAT YOU REVIEWED BETTER REFLECTED
12 SOME OF THOSE PUBLIC COMMENTS OR TESTIMONY YOU
13 REVIEWED FROM THE ROADSHOW AND THE LEGISLATIVE
14 PROCESS?

15 A YES.

16 Q INCLUDING FROM BLACK CONSTITUENTS?

17 A YES.

18 Q IT WAS MORE RESPONSIVE TO WHAT THEY HAD
19 HEARD FROM THE PEOPLE THAT SPOKE UP IN THIS PROCESS?

20 A YES.

21 Q LET'S TURN TO YOUR ANALYSIS OF THE
22 LEGISLATURE'S PRIORITIZATION OF INCUMBENT PROTECTION,
23 TURNING TO THE NEXT SLIDE PULLED FROM PAGES 35 TO 38
24 OF YOUR REPORT. CAN YOU DESCRIBE YOUR FINDINGS?

25 A YES. SO BY INCUMBENCY PROTECTION, THIS IS

02:47p

1 NOT -- THAT TERM IS NOT EXPLICITLY USED AS -- BUT,
2 RATHER, AT LEAST IT COMES UP IN A COUPLE OF DIFFERENT
3 WAYS.

4 SO PRESIDENT CORTEZ ARGUED THAT ADDING
5 MAJORITY-MINORITY DISTRICTS WOULD VIOLATE THE
6 PRINCIPLE OF WHAT HE CALLED CONTINUITY OF
7 REPRESENTATION. AND WHAT HE MEANT BY THAT IS, QUOTE,
8 THE THIRD TENET OR PRINCIPLE WAS AS BEST AS POSSIBLE
9 TO MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT
10 DO I MEAN BY THAT? IT MEANS THAT IF YOUR DISTRICT
11 ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO
12 HAVE A RIGHT TO REELECT YOU. AND THAT'S ON PAGE 36
13 OF MY REPORT.

14 AND HE TALKS ABOUT THIS AGAIN IN MAKING IT
15 CLEAR THAT HE'S TALKING ABOUT INCUMBENCY PROTECTION.
16 AND THE HOUSE PLAN, THIS COMES UP NOT AS -- QUOTE,
17 UNQUOTE -- CONTINUITY OF REPRESENTATION BUT THE
18 DESIRE TO MAKE CHANGES ONLY TO DISTRICTS WHERE
19 INCUMBENTS WERE NOT RETURNING BECAUSE OF TERM LIMITS.

20 Q WAS INCUMBENCY PROTECTION INCLUDED IN JOINT
21 RULE 21 OR OTHER GUIDANCE PRESENTED IN ADVANCE OF THE
22 REDISTRICTING PROCESS?

23 A NO. AND IT'S ALSO -- IT'S NOT INCLUDED AS A
24 PRIORITY IN JOINT RULE 21, AND NEITHER IS THE TERM
25 "LIMITED" -- STICKING THE TERM "LIMITED MEMBERS"

02:48p

1 THING. BUT EVEN IF IT WERE, THERE ARE ALTERNATIVE
2 HOUSE PLANS THAT -- FOR INSTANCE, THAT MANAGE TO DRAW
3 ADDITIONAL MAJORITY-MINORITY DISTRICTS WHILE FOCUSING
4 ONLY ON THIS TERM "LIMITED DISTRICT" IDEA. SO THAT'S
5 NOT AN IMPEDIMENT TO ADDING MAJORITY-MINORITY
6 DISTRICTS. THE TWO THINGS AREN'T MUTUALLY EXCLUSIVE.

7 Q THANK YOU, DR. BURCH.

8 FINALLY LET'S TURN TO THE NEXT SLIDE PULLING
9 FROM PAGES 38 THROUGH 42 OF YOUR REPORT. WHAT WAS
10 YOUR ASSESSMENT OF THE DISCUSSION OF COMMUNITIES OF
11 INTEREST LEADING TO THE PASSAGE OF THE ENACTED
12 LEGISLATIVE MAPS HERE IN LOUISIANA?

13 A SO THERE WAS SOME DISCUSSION OF COMMUNITIES
14 OF INTEREST AS A REASON THAT THEY -- THE DRAWERS OF
15 THE ENACTED MAPS COULDN'T ADD MORE MAJORITY-MINORITY
16 DISTRICTS. BUT WHAT'S INTERESTING ABOUT THOSE
17 DISCUSSIONS IS THAT FIRST THEY WEREN'T -- AGAIN, A
18 LOT OF TIMES THE DISCUSSION DIDN'T SAY THAT THOSE --
19 KEEPING THOSE COMMUNITIES INTACT WOULD BE MUTUALLY --
20 AND DRAWING A NEW DISTRICT WAS MUTUALLY EXCLUSIVE.

21 SO, FOR INSTANCE, WITH RESPECT TO THE SENATE
22 MAP, SENATE PRESIDENT CORTEZ ARGUED THAT IT WAS
23 IMPOSSIBLE TO CREATE ADDITIONAL MAJORITY-MINORITY
24 DISTRICTS WITHOUT DISRUPTING THE REPRESENTATION OF
25 THAT COMMUNITY BETWEEN ST. CHARLES AND ST. JOHN

02:49p

1 PARISHES. AND THAT WAS THE PROBLEM WITH ONE OF A NEW
2 MAJORITY-MINORITY DISTRICT. BUT THERE WAS NO ANSWER
3 THAT THE OTHER ONE IN THE SENATE MAP WOULD VIOLATE A
4 PARTICULAR COMMUNITY OF INTEREST. SO IT MIGHT BE AN
5 EXCUSE FOR ONE PARTICULAR CONFIGURATION, BUT YOU
6 COULD DO SOMETHING WITH OTHERS.

7 IT'S ALSO TRUE THAT IT'S NOT REALLY CLEAR
8 WHICH COMMUNITIES OF INTEREST WE WERE TALKING ABOUT
9 PRIORITIZING. SO THE NEEDS OF OTHER COMMUNITIES OF
10 INTEREST THAT WERE DISCUSSED IN THE RECORD, SUCH AS
11 THE BLACK RESIDENTS OF THE WESTBANK IN JEFFERSON
12 PARISH, THOSE WERE IGNORED. AND THEY WERE IGNORED
13 FOR REASONS THAT WERE THINGS LIKE ONE SENATOR WHO
14 WANTED TO REPRESENT HIS SISTER AND HE WAS STILL
15 PAYING STUDENT LOANS TO TULANE. SO THE RATIONALE FOR
16 THAT WAS NOT -- IT WAS NOT COMMUNITIES OF -- THAT
17 COMMUNITY OF INTEREST WAS IGNORED FOR REASONS LIKE
18 THAT.

19 Q THANK YOU, DR. BURCH.

20 DR. BURCH, IN YOUR ASSESSMENT IS THERE
21 POLITICAL SCIENCE DATA TO SUPPORT THE EXISTENCE OF
22 EVERY SINGLE SENATE FACTOR YOU ANALYZED IN LOUISIANA?

23 A YES.

24 Q THANK YOU.

25 I'D NOW LIKE TO SHIFT OUR FOCUS TO THE

02:51p

1 SUPPLEMENTAL REPORT THAT DR. BURCH SUBMITTED IN
2 RESPONSE TO DEFENDANTS' EXPERT, DR. ALFORD. THIS IS
3 PLAINTIFFS' EXHIBIT 128.

4 DO YOU HAVE THAT IN FRONT OF YOU, DR. BURCH?

5 A I DO.

6 Q IS THIS THE REPORT THAT YOU SUBMITTED IN
7 RESPONSE TO YOUR REVIEW OF DR. ALFORD'S REPORT?

8 A YES.

9 Q DR. BURCH, WHAT DOES YOUR SUPPLEMENTAL
10 REPORT EXAMINE?

11 A SO IT LOOKS AT DR. ALFORD'S CONCLUSION THAT
12 CLEAR CORRELATIONS BETWEEN RACE AND VOTING IN
13 LOUISIANA ARE CAUSED BY PARTY COHESION RATHER THAN
14 RACE AND THAT MANY MEASURES OF RACIAL POLARIZATION
15 HAVE DECLINED OVER TIME.

16 AND SO IN ANSWERING THAT, I LOOKED AT THE
17 ROLE OF RACE OR RACIAL ATTITUDES AND PARTISANSHIP IN
18 VOTE CHOICE IN THE POLITICAL SCIENCE LITERATURE.

19 Q WHAT DID YOU REVIEW TO REACH YOUR
20 CONCLUSIONS?

21 A THE RELEVANT LITERATURE IN POLITICAL SCIENCE
22 AND I ALSO HAVE A CHART HERE FROM DATA FROM THE
23 LOUISIANA -- VOTING DATA FROM THE LOUISIANA SECRETARY
24 OF STATE'S OFFICE.

25 Q THANK YOU.

02:52p

1 BEFORE CIRCLING BACK TO YOUR OVERALL
2 FINDINGS, DID YOU REACH ANY CONCLUSIONS ABOUT THE
3 HISTORICAL ROOTS OF THE LINK BETWEEN RACE AND PARTY
4 IN THE UNITED STATES AND HERE IN LOUISIANA?

5 A YES. SO THE POLITICAL SCIENCE LITERATURE IS
6 QUITE CLEAR THAT PARTISAN REALIGNMENT -- THEY
7 DISAGREE SOMETIMES ABOUT THE TIMING. BUT PARTISAN
8 REALIGNMENT REALLY HAPPENED BEGINNING AFTER THE NEW
9 DEAL AND ACCELERATING THROUGH WORLD WAR II AS BLACK
10 VOTERS BEGAN TO VOTE FOR DEMOCRATS IN LARGER NUMBERS.
11 AND THAT MADE THE PARTY MORE RESPONSIVE TO THE NEEDS
12 OF AFRICAN AMERICANS.

13 AND SO YOU CAN THINK ABOUT -- THE DIXIECRAT
14 SUCCESSION IN 1948 WAS WHEN THE DEMOCRATIC PARTY
15 FIRST TRIED TO PUT CIVIL RIGHTS AS A PLANK IN ITS
16 PARTY PLATFORM. AND SOUTHERN DEMOCRATS GOT MAD AND
17 SUCCEDED FROM PARTY FOR A MOMENT. AND SO THERE IS
18 THIS HISTORY OF THE DEMOCRATIC PARTY MOVING MORE
19 TOWARD BEING THE PARTY OF LIBERALIZATION ON RACIAL
20 ISSUES AND CIVIL RIGHTS. AND SO THEN THAT ALL
21 CULMINATED IN THE ELECTION OF 1964 AND YOU STARTED TO
22 SEE THIS EXODUS OF SOUTHERN WHITE VOTERS FROM THE
23 DEMOCRATIC PARTY -- BEGINNING IN THAT LATE 1950s,
24 EARLY 1960s TIME PERIOD -- AS A REFLECTION OF THOSE
25 RACIAL ATTITUDES. AND STUDIES HAVE SHOWN THAT IT IS

02:53p

1 THE CIVIL RIGHTS AND RACIAL ATTITUDES THAT MADE
2 PEOPLE CHANGE -- MOVE OUT OF THE PARTY RATHER THAN
3 INCOME OR OTHER POLICY PREFERENCES.

4 AND SO OTHER STUDIES HAVE SHOWN THAT RACIAL
5 ATTITUDES MORE THAN IDEOLOGICAL SHIFTS OR OTHER
6 POLICY PREFERENCES EXPLAIN AN INCREASINGLY LARGE PART
7 OF CANDIDATE CHOICE AND PARTISANSHIP AMONG WHITE
8 VOTERS BETWEEN 1972 AND 2000. AND THAT PARTISAN
9 SORTING BY RACIAL GROUP HAS ACTUALLY ONLY GOTTEN
10 STRONGER BEGINNING IN 2008 WITH THE ELECTION OF
11 PRESIDENT OBAMA.

12 Q THANK YOU, DR. BURCH.

13 AND DOES THIS HISTORY INFORM YOUR
14 PROFESSIONAL OPINIONS AROUND THE EXISTENCE OF
15 RACIALLY POLARIZED VOTING PATTERNS IN THE STATE OF
16 LOUISIANA?

17 A YES. SO I LOOKED AT SEVERAL STUDIES OF
18 LOUISIANA POLITICS TO TALK ABOUT THE FACT THAT
19 LOUISIANA HAS FOLLOWED THIS SAME PATTERN IN ABOUT THE
20 SAME TIMING AS OTHER -- THE ELECTORATE IN OTHER
21 SOUTHERN STATES. AND SO I CONTINUE -- I TALK ABOUT
22 STUDIES THAT HAVE SHOWN HOW THIS HAPPENED
23 HISTORICALLY THROUGH THE 1996 PRESIDENTIAL ELECTION.
24 AND THEN IN MY REPORT I PICK UP ON THAT, LOOKING AT
25 DATA IN LOUISIANA FROM 2000 TO 2022 PARTY

02:54p

1 REGISTRATION BY RACE.

2 Q LET'S ACTUALLY TURN TO THE NEXT SLIDE THEN.
3 THIS REPLICATES FIGURE 1 IN YOUR SUPPLEMENTAL REPORT.
4 CAN YOU SPEAK TO WHAT THIS CHART TELLS US.

5 A YES. SO THIS IS, LIKE I SAID, DATA FROM THE
6 LOUISIANA SECRETARY OF STATE. AND IT SHOWS THE
7 PERCENTAGE OF LOUISIANA VOTERS REGISTERED AS
8 DEMOCRATS BY RACE. AND THE PURPLE IS BLACK VOTERS
9 AND THE YELLOW IS WHITE VOTERS. AND YOU CAN SEE THAT
10 BLACK VOTERS HOVER AROUND 80 PERCENT, BUT THEY WERE
11 REGISTERED AS DEMOCRATIC. AND IT KIND OF STAYS THAT
12 WAY OVER TIME OVER THE PAST 22 YEARS.

13 BUT WHITE VOTERS CONSISTENTLY, ESPECIALLY
14 BEGINNING BETWEEN THE 2004 AND 2008 PERIOD, YOU SEE
15 THAT DEMOCRATIC REGISTRATION DECLINE. AND SO LIKE I
16 SAID, WHITE VOTERS ARE MOVING OUT OF THE DEMOCRATIC
17 PARTY TO THE POINT WHERE AT -- BY 2022 IT ONLY LOOKS
18 LIKE 22, 21 PERCENT OF WHITE VOTERS ARE STILL
19 REGISTERED AS DEMOCRATS. SO YOU SEE THIS
20 POLARIZATION PLAY OUT OVER TIME EXACTLY AS THE
21 LITERATURE SUGGESTS IT WILL.

22 Q WHAT DOES THE LITERATURE YOU REVIEWED
23 INDICATE, IF ANYTHING, REGARDING PERCEPTIONS OF RACE
24 AND PARTY ALIGNMENT IN THE UNITED STATES?

25 A SO IT TELLS -- THE LITERATURE TELLS US THAT

02:56p

1 PARTISANSHIP AND PARTY ALIGNMENT AND PARTY CHOICE IS
2 ITSELF SHAPED BY RACE AND RACIAL ATTITUDES. SO, FOR
3 INSTANCE, FOR BLACK PEOPLE, THE HIGH RATE OF
4 DEMOCRATIC SUPPORT IS PRIMARILY BASED ON THE IDEA OF
5 RACIAL LINKED FATE, AND IT -- AND THE SUPPORT OF
6 RACIAL EGALITARIAN -- RACIALLY EGALITARIAN OR CIVIL
7 RIGHTS PLANKS AND THE LIKE IS ABOUT THE DEGREE TO
8 WHICH A BLACK PERSON BELIEVES THAT THEIR FATE IS TIED
9 TO THE FATE OF THE RACE. AND IT'S ALSO SOMEWHAT
10 ABOUT SOCIAL PRESSURE TO CONFORM TO GROUP IDEAS OF
11 BLACK UPLIFT.

12 SO THERE IS THESE RACIAL CONSIDERATIONS OF
13 PARTISANSHIP THAT AFFECT HOW BLACK VOTERS CHOOSE TO
14 IDENTIFY WITH PARTIES. SO AGAIN, IT'S HARD TO SAY
15 THAT THIS IS -- SO TO SAY THAT THESE PATTERNS ARE
16 ABOUT PARTISANSHIP RATHER THAN RACE IGNORES THE ISSUE
17 THAT PEOPLE ARE CHOOSING PARTIES BASED ON HOW THE
18 PARTIES ALIGN ON RACIAL ISSUES.

19 THAT'S ALSO TRUE FOR WHITE REPUBLICANS. IN
20 THE MINDS OF MOST AMERICANS -- THERE IS THIS REALLY
21 INTERESTING STUDY IN WHICH THEY ASKED AMERICANS TO
22 ENVISION THE TYPICAL PERSON IN A POLITICAL PARTY.
23 AND 97.2 PERCENT OF AMERICANS THINK THAT THE TYPICAL
24 REPUBLICAN IS WHITE. AND THEN ALSO WHITE RESPONDENTS
25 WHO PERCEIVE THE DEMOCRATIC PARTY AS AFRICAN AMERICAN

02:57p

1 OR PRIMARILY AFRICAN AMERICAN ARE ACTUALLY LESS
2 FAVORABLE TOWARD DEMOCRATS. THEY'RE MORE FAVORABLE
3 TOWARD REPUBLICANS AND THEY TAKE MORE CONSERVATIVE
4 ISSUES ON THESE -- ON POLITICAL -- STANCES ON
5 POLITICAL ISSUES.

6 AND SO THERE IS THIS -- AND THERE IS ALSO
7 DATA THAT SHOW THAT RACIAL ATTITUDES ARE -- MUCH MORE
8 STRONGLY PREDICT PARTISANSHIP AND PARTY CHOICE TODAY
9 THAN THEY HAVE PREVIOUSLY. SO THAT RELATIONSHIP IS
10 JUST GETTING MUCH MORE TIGHT AS TIME GOES ON.

11 Q THANK YOU, DR. BURCH.

12 TURNING TO THE NEXT SLIDE, HOW DO METRICS
13 REGARDING SUPPORT FOR INTERRACIAL MARRIAGE DISCUSSED
14 ON PAGE 4 OF YOUR SUPPLEMENTAL REPORT PULLED INTO
15 YOUR ASSESSMENT?

16 A SO I DISCUSSED INTERRACIAL MARRIAGE BECAUSE
17 DR. ALFORD DOES. I THINK THAT IT -- HE CITES A
18 STATISTIC ABOUT INTERRACIAL MARRIAGE. BUT I THINK
19 IT'S INTERESTING BECAUSE THE WAY THAT MOST OF THE
20 LITERATURE MEASURES INTERRACIAL -- SUPPORT FOR
21 INTERRACIAL MARRIAGE ISN'T JUST A GENERALIZED
22 QUESTION LIKE HE USES. IT'S ACTUALLY AN EXAMPLE OF
23 THINKING. TO GET AT THE -- QUOTE, UNQUOTE -- REAL
24 ATTITUDE IS ASKING PEOPLE WHAT THEY THINK ABOUT A
25 CLOSE RELATIVE MARRYING SOMEONE OF A DIFFERENT RACE.

02:58p

1 AND THEN YOU START TO SEE THAT A MINORITY OF
2 WHITE RESPONDENTS SAY THAT THEY FAVORED OR SOMEWHAT
3 FAVORED A CLOSE RELATIVE MARRYING SOMEONE OF A
4 DIFFERENT GROUP. AND THAT'S COMPARED TO LIKE 53.7
5 PERCENT OF BLACK RESPONDENTS. SO IT'S STILL CLEAR
6 THAT THERE IS SOME RESISTANCE TO INTERRACIAL MARRIAGE
7 IN THESE GROUPS, ESPECIALLY WHEN YOU ASK ABOUT A
8 CLOSE RELATIVE RATHER THAN A GENERAL BLANKET POLICY
9 STATEMENT.

10 IT'S ALSO INTERESTING THAT PARTISANSHIP AND
11 IDEOLOGY ARE STATISTICALLY SIGNIFICANT PREDICTORS OF
12 SUPPORT FOR INTERMARRIAGE, SO -- INTERRACIAL
13 MARRIAGE. AND SO EVEN THAT IS TIED UP IN RACIAL
14 POLITICS. AND SO REPUBLICANS AND IDEOLOGICAL
15 CONSERVATIVES ARE ACTUALLY LESS SUPPORTIVE OF
16 INTERMARRIAGE WITH BLACK PEOPLE.

17 Q THANK YOU, DR. BURCH.

18 OVERALL WHAT DID YOU CONCLUDE REGARDING THE
19 CONTEMPORARY RELATIONSHIP BETWEEN RACIAL ATTITUDES
20 AND VOTE CHOICE?

21 A SO I FOUND THAT THE LITERATURE IN POLITICAL
22 SCIENCE VERY CLEARLY SUPPORTS THE POINT THAT PARTY
23 AND CANDIDATE CHOICE IS SHAPED BY RACIAL IDENTITY AND
24 RACIAL ATTITUDES IN THE ELECTORATE. AND THAT
25 RELATIONSHIP HAS BEEN GETTING STRONGER IN RECENT

02:59p

1 YEARS. AND SO TO SAY THAT PARTY COHESION RATHER THAN
2 RACIAL CONSIDERATIONS EXPLAINS VOTING PATTERNS ALONG
3 RACIAL DIMENSIONS IN LOUISIANA, IT JUST CONFUSES THE
4 CAUSALITY. THERE IS REALLY STRONG EVIDENCE IN THE
5 LITERATURE THAT RACE AND RACIAL ATTITUDES ARE WHAT
6 ARE DRIVING PARTY COHESION AND VOTE CHOICE.

7 Q THANK YOU, DR. BURCH.

8 MS. WENGER: YOUR HONOR, IF I CAN HAVE A
9 MOMENT TO CONFER WITH MY CO-COUNSEL?

10 THE COURT: TAKE A MINUTE.

11 MS. WENGER: YOUR HONOR, IF I CAN JUST MAKE
12 SURE WE HAVE A CLEAN RECORD ON THIS. I WANT TO MAKE
13 SURE WE HAVE THE NUMBERS.

14 PLAINTIFFS MOVE TO ADMIT PLAINTIFFS'
15 EXHIBIT 126, 127 AND 128 WITHOUT OBJECTION.

16 THE COURT: I THINK THEY WERE ALREADY
17 ADMITTED. BUT IF THOSE AREN'T THE RIGHT NUMBERS,
18 THEY ARE NOW THE RIGHT NUMBERS. 126, 127 AND 128 ARE
19 ADMITTED.

20 MS. WENGER: THANK YOU, YOUR HONOR.

21 THANK YOU, DR. BURCH.

22 I'LL PASS THE WITNESS.

23 THE COURT: LET'S TAKE A 15-MINUTE RECESS
24 BEFORE YOUR CROSS.

25 THE LAW CLERK: ALL RISE. COURT IS IN

03:00p

1 RECESS.

2 (WHEREUPON, A RECESS WAS TAKEN.)

3 THE COURT: BE SEATED.

4 CROSS.

5 CROSS-EXAMINATION

6 BY MR. LEWIS:

7 Q GOOD AFTERNOON, DR. BURCH. I'M PATRICK
8 LEWIS FOR THE LEGISLATIVE DEFENDANTS.

9 A GOOD AFTERNOON.

10 Q ALL RIGHT. JUST TO BEGIN, I DON'T RECALL
11 YOU TESTIFYING ON DIRECT EXAMINATION ABOUT THE
12 TURNOUT GAP BETWEEN -- THE ACTUAL VALUE OF THE
13 TURNOUT GAP BETWEEN WHITE AND BLACK RESIDENTS IN
14 LOUISIANA. SO I'D LIKE TO START THERE.

15 A OKAY.

16 Q IF WE COULD TURN TO PAGE 6 OF YOUR REPORT,
17 PL 126, WHICH I BELIEVE IS PAGE 8 OF THE EXHIBIT.

18 A I HAVE IT.

19 Q OKAY. WE'RE WAITING FOR THE SCREEN TO GET
20 UP. THERE WE GO.

21 A OKAY. OH. WELL, THAT'S -- YES.

22 Q OKAY. ALL RIGHT. SO IF I'M READING FROM
23 THE THIRD PARAGRAPH CORRECTLY, YOU REPORT THAT IT WAS
24 64 PERCENT WHITE TURNOUT IN 2020 COMPARED TO 58
25 PERCENT FOR BLACK LOUISIANANS?

03:21p

1 A YES.

2 Q FAIR TO SAY THAT THAT LEVEL OF BLACK TURNOUT
3 IS HIGHER THAN IT WAS IN, FOR EXAMPLE, 1982?

4 A I DON'T HAVE THOSE DATA IN FRONT OF ME, SO I
5 DON'T KNOW.

6 Q YOU DON'T KNOW. OKAY.
7 HIGHER THAN BLACK TURNOUT WOULD HAVE BEEN IN
8 1965?

9 A I WOULD -- DON'T KNOW, ACTUALLY.

10 Q YOU DON'T KNOW.

11 A I'D HAVE TO LOOK AT THAT.

12 Q OKAY. SO YOU INCLUDE IN YOUR REPORT AS WELL
13 AND YOU DISCUSSED IN YOUR DIRECT EXAMINATION TABLE 1
14 ON PAGE 7.

15 MR. LEWIS: SO IF WE COULD TURN TO THE NEXT
16 PAGE, MR. WILLIAMSON.

17 BY MR. LEWIS:

18 Q IT'S UP ON THE SCREEN. DO YOU RECOGNIZE
19 THIS TABLE FROM YOUR REPORT?

20 A I DO.

21 Q OKAY, GREAT. SO THIS ANALYSIS SHOWS THAT
22 AMONG THE LEAST EDUCATED LOUISIANANS, BLACK TURNOUT
23 ACTUALLY EXCEEDS WHITE TURNOUT. IS THAT RIGHT?

24 A WELL, IT DEPENDS ON WHAT YOU MEAN BY
25 "LEAST." SO FOR PEOPLE WITH A HIGH SCHOOL DIPLOMA,

03:22p

1 WHITE TURNOUT EXCEEDS BLACK TURNOUT. FOR PEOPLE WITH
2 NO HIGH SCHOOL DIPLOMA, BLACK TURNOUT EXCEEDS WHITE
3 TURNOUT. SO AT THE LOWER END OF THE SCALE IT KIND OF
4 REVERSES.

5 Q OKAY. AND AMONG THOSE WITH A BACHELOR'S
6 DEGREE, BLACK TURNOUT ALSO EXCEEDS WHITE TURNOUT. IS
7 THAT CORRECT?

8 A YES. BUT I'M NOT A HUNDRED PERCENT SURE
9 THOSE ARE STATISTICALLY SIGNIFICANT, SO THEY MAY
10 BE -- THAT MAY BE LIKE PARITY. PARITY, YES.

11 Q I SEE. OKAY. AND THEN AMONG THOSE WITH THE
12 HIGHEST LEVEL OF EDUCA- -- I BELIEVE GRADUATE SCHOOL,
13 YOU HAVE WHITE TURNOUT EXCEEDING BLACK TURNOUT. IS
14 THAT RIGHT?

15 A YES.

16 Q SO THE DIFFERENCE BETWEEN WHITE TURNOUT AND
17 BLACK TURNOUT AS EDUCATION LEVEL INCREASES IS NOT
18 COMPLETELY LINEAR, IS IT?

19 A NO. SO THOSE -- SO I GUESS WHAT YOU --
20 ACTUALLY, I DON'T WANT TO GUESS WHAT YOU MEAN BY
21 THAT. WHAT DO YOU MEAN BY THAT?

22 Q SURE. SO THE IDEA IS THAT AS THAT
23 WHITE TURNOUT -- AS EDUCATION LEVEL INCREASES, WHITE
24 TURNOUT DOESN'T ALWAYS EXCEED BLACK TURNOUT. RIGHT?

25 A THAT'S TRUE.

03:23p

1 Q OKAY. AND --

2 A TO THE EXTENT THAT -- TO THE EXTENT THAT FOR
3 EACH EDUCATIONAL LEVEL. SOMETIMES BLACK PEOPLE AT
4 THAT EDUCATIONAL LEVEL VOTE MORE, SOMETIMES WHITE
5 PEOPLE AT THAT EDUCATIONAL LEVEL VOTE MORE, SOMETIMES
6 IT'S PARITY. LIKE I SAID, IT CAN BE THE SAME.

7 Q SURE. SURE. NO, I UNDERSTAND.

8 AND, IN FACT, THE EDUCATIONAL LEVEL WHERE
9 WHITE TURNOUT EXCEEDS BLACK TURNOUT THE MOST ON THIS
10 TABLE IS AMONG THOSE WITH THE ABSOLUTE HIGHEST LEVEL
11 OF EDUCATION AT GRADUATE SCHOOL. IS THAT RIGHT?

12 A YES.

13 Q SO WE CAN -- ACTUALLY, I'D LIKE NOW TO MOVE
14 TO FIGURE 2 ON PAGE 8 OF YOUR REPORT, SO WE'LL GO TO
15 THE NEXT PAGE.

16 I BELIEVE YOU TESTIFIED ABOUT THIS ON
17 DIRECT. NOW, THIS -- TO MAKE SURE I UNDERSTAND THIS
18 CORRECTLY, THIS FIGURE IS SHOWING THE RACIAL
19 PERCENTAGE SHIFT ENROLLMENT IN EAST BATON ROUGE
20 SCHOOLS FROM 1970 TO 2019. IS THAT RIGHT?

21 A YES.

22 Q AND SO DO YOU BELIEVE THAT THIS FIGURE IS
23 SHOWING US THAT AS -- THERE IS AN INCREASE IN BLACK
24 STUDENT POPULATION RELATIVE TO WHITE POPULATION IN
25 THE SCHOOL SYSTEM. ARE YOU SAYING THAT THAT'S A

03:25p

1 POSITIVE OR A NEGATIVE THING AS FAR AS EQUAL
2 OPPORTUNITY FOR BLACK VOTERS IN LOUISIANA TO VOTE?

3 A SO WHAT I'M SAYING IS RELATIVE TO THE
4 POPULATION IN THE DISTRICT, SCHOOL SEGREGATION IN
5 EAST BATON ROUGE PARISH IS INCREASING. AND THAT IN
6 AND OF ITSELF, AS I SAID BEFORE, AFFECTS OUTCOMES.

7 SO RIGHT HERE I TALK ABOUT THE EFFECTS OF
8 SCHOOL SEGREGATION IN MY REPORT ON PAGE 7. SO SCHOOL
9 SEGREGATION HAS BEEN SHOWN TO DETRIMENTALLY AFFECT
10 THE ACADEMIC PERFORMANCE OF MINORITY STUDENTS. BLACK
11 AND LATINO STUDENTS WHO GREW UP UNDER CONDITIONS OF
12 SEGREGATION WERE LESS ACADEMICALLY PREPARED FOR
13 COLLEGE AND HAD BEEN EXPOSED TO MORE VIOLENCE AND
14 SOCIAL DISORDER THAN THOSE COMING FROM MAJORITY
15 DOMINANT SETTINGS.

16 SO IF WE TAKE THAT A STEP FURTHER AND THINK
17 BACK TO THE CHARTS WE JUST REVIEWED, THEN, AGAIN,
18 BLACK AND LATINO STUDENTS UNDER SEGREGATION BEING
19 LESS PREPARED FOR COLLEGE, THAT SHAPES WHERE ON THAT
20 DISTRIBUTION THEY END UP IN TERMS OF THEIR
21 EDUCATIONAL LEVEL AND THUS THEIR VOTER TURNOUT.

22 Q OKAY. SO THEN IF I UNDERSTAND CORRECTLY
23 THEN, IF YOU'RE -- ARE YOU THEN SUGGESTING THAT AS
24 THERE IS AN INCREASE IN THE SHARE OF THE STUDENT
25 POPULATION IN THE EAST BATON ROUGE SCHOOLS THAT'S

03:26p

1 BLACK, THAT THAT'S THEN INDICATIVE OF AN EDUCATION
2 SYSTEM IN EAST BATON ROUGE THAT WOULD BE HARMFUL TO
3 BLACK VOTING OPPORTUNITY?

4 A YES. THE RESEARCH SAYS THAT IT IS; THAT
5 SEGREGATION IS HARMFUL, YES.

6 Q OKAY. BUT AGAIN, IN YOUR REPORT YOU DON'T
7 SHOW, FOR EXAMPLE, BLACK TURNOUT RATES IN EAST BATON
8 ROUGE PARISH FROM 1970 TO 2019, DO YOU?

9 A NO. JUST STATEWIDE BY EDUCATION.

10 Q OKAY. AND SO YOUR REPORT ALSO INCLUDES --
11 AND WE DON'T NECESSARILY HAVE TO GO THROUGH ALL OF
12 THESE, ALTHOUGH WE CAN -- A DISCUSSION OF, YOU KNOW,
13 VARIOUS SOCIOECONOMIC FACTORS. YOU INCLUDED INCOME,
14 HOUSEHOLD INCOME AND SO FORTH.

15 ALL OF THAT DATA ARE REPORTED ONLY AT THE
16 STATEWIDE LEVEL. IS THAT CORRECT?

17 A YES.

18 Q OKAY. SORRY.

19 A YOU'RE -- SORRY. AND YOU'RE JUST TALKING
20 ABOUT THE SECTION WITH SOCIOECONOMIC DATA?

21 Q SURE. SO JUST TO BE VERY CLEAR, IF WE'RE
22 LOOKING AT FIGURES 5 BEGINNING ON PAGE 10 OF YOUR
23 REPORT AND WE GO THROUGH FIGURE 8 APPEARING ON PAGE
24 12.

25 A YES, THOSE ARE ALL STATEWIDE.

03:28p

1 Q GREAT. OKAY. AND THOSE ARE ALL FROM A
2 SNAPSHOT FROM 2019. IS THAT CORRECT?

3 A YES.

4 Q OKAY. SO -- AND THEN IF WE GO ON TO THE
5 HEALTH ANALYSIS THAT YOU -- IF YOU LOOK AT HEALTH
6 OUTCOMES BEGINNING BETWEEN PAGES 16 AND 19 OF YOUR
7 REPORT -- SORRY, AS I'M FUMBLING THROUGH HERE --
8 FIGURES 11 AND 12 AND 13 ON PAGE 18 OF YOUR REPORT,
9 ALL OF THOSE ARE EFFECTIVELY A SNAPSHOT IN TIME, TOO.
10 ISN'T THAT RIGHT?

11 A THOSE FIGURES, YES, ARE FROM 2019.

12 Q OKAY. AND THOSE, AGAIN, ARE REPORTED SOLELY
13 AT THE STATEWIDE LEVEL. IS THAT RIGHT?

14 A FOR THOSE FIGURES, YES.

15 Q SO IN YOUR REPORT YOU DON'T STUDY HOW THOSE
16 EMPLOYMENT -- ECONOMIC INDICATORS AND HEALTH
17 INDICATORS CHANGE OVER TIME, DO YOU?

18 A WELL, I DO TALK ABOUT SOME ASPECTS -- I
19 MOSTLY TALK ABOUT EDUCATION AS IT CHANGES OVER TIME
20 AND HOUSING AS THEY CHANGE OVER TIME. WITH RESPECT
21 TO HEALTH OUTCOMES, I DO NOT TALK ABOUT OVER-TIME
22 DATA, WITH THE EXCEPTION OF SOME DISCUSSIONS OF
23 THINGS LIKE KATRINA, FOR INSTANCE. AND I ALSO TALK
24 ABOUT SEGREGATION OVER TIME AND I DO -- YEAH.

25 SO MOSTLY MY DATA FOR EDUCATION ARE OVER

03:29p

1 TIME, AND HOUSING AND THE LIKE ARE BOTH CONTEMPORARY
2 AND OVER TIME. AND THEN DATA ABOUT INCOME AND
3 SOCIOECONOMIC STATUS ARE CONTEMPORARY. THAT'S RIGHT.

4 Q AND AGAIN, FOR ALL OF THOSE WITH THE
5 EXCEPTION OF THIS -- WHICH I GUESS IS STILL ON THE
6 SCREEN HERE -- FIGURE 2 WITH THE EAST BATON ROUGE
7 SCHOOLS, ALL THAT DATA REPORTED AT THE STATEWIDE
8 LEVEL, NOT AT THE LOCAL LEVEL. IS THAT RIGHT?

9 A GIVE ME A SECOND.

10 Q SURE.

11 A SO EVEN IN THE EDUCATION SECTION I DO -- IT
12 DEPENDS ON WHAT YOU MEAN BY "STATEWIDE." SO, FOR
13 INSTANCE, I DO TALK ON PAGE 5, FOR INSTANCE, ABOUT
14 HISTORICAL SEGREGATION, TALKING ABOUT 11 OF 64 --
15 THEY CALL THEM COUNTIES, BUT WE KNOW THEY'RE
16 PARISHES -- THAT ARE SEGREGATED AND SPECIFIC DATA
17 ABOUT ORLEANS PARISH AND THE FIGHT TO DESEGREGATE
18 ORLEANS PARISH. I TALK ABOUT DATA ON PAGE 7 AT THE
19 BOTTOM.

20 SO, OF COURSE I HAVE THIS CHART ABOUT EAST
21 BATON ROUGE AS ZOOM IN, BUT I ALSO TALK MORE ABOUT
22 THE FACT THAT HALF OF TRADITIONAL SCHOOL DISTRICTS
23 FOR WHICH DATA WERE AVAILABLE IN THE STATE
24 DEMONSTRATE HIGH LEVELS OF RACIAL SEGREGATION WITHIN
25 THE DISTRICT, AND NINE OF 68 WERE MORE THAN 87

03:31p

1 PERCENT NON-WHITE. SO THAT I THINK IS DATA THAT IS
2 NOT JUST IN THE STATE AS A WHOLE BUT ALSO TALKS ABOUT
3 SPECIFIC -- THAT THESE -- PATTERNS IN DIFFERENT
4 PARISHES.

5 Q I SEE. OKAY. BUT IN YOUR REPORT, THE
6 ONLY -- IN TERMS OF -- I KNOW YOU SET ASIDE THE
7 HISTORICAL EVIDENCE THAT YOU CITED FROM GOING BACK
8 INTO THE '50s. BUT, FOR EXAMPLE, IN THAT PROPUBLICA
9 STUDY, THE ONLY SCHOOL DISTRICT THAT YOU ACTUALLY
10 IDENTIFIED BY NAME AND TALK ABOUT BY NAME IN THAT
11 PART OF YOUR REPORT IS EAST BATON ROUGE. IS THAT
12 RIGHT?

13 A THAT'S NOT FROM THAT REPORT. BUT YES, THE
14 ONLY ONE THAT I TALK ABOUT BY NAME IS THERE. BUT
15 AGAIN, I LIST -- I DO DISCUSS SEVERAL OTHERS WITH
16 RESPECT TO HOW THEY BREAK DOWN IN THE -- SO NOT JUST
17 STATEWIDE SEGREGATION BUT ACROSS -- THE FACT THAT IT
18 EXISTS IN DIFFERENT PLACES AS WELL.

19 Q AGAIN, YOU'RE GOING BACK TO THAT -- THE
20 DESEGREGATION PORTION OF YOUR REPORT. I UNDERSTAND.
21 OKAY.

22 A UH-HUH.

23 Q BUT THERE ARE VARIATIONS, FOR EXAMPLE, IN
24 SOCIOECONOMIC CONDITIONS DEPENDING ON WHERE ONE LIVES
25 WITHIN THE STATE OF LOUISIANA. IS THAT RIGHT?

03:32p

1 A YES.

2 Q SO, FOR EXAMPLE, HOUSEHOLD INCOME FOR BLACK
3 LOUISIANANS IN BATON ROUGE PARISH -- EAST BATON ROUGE
4 PARISH MIGHT NOT BE THE SAME AS HOUSEHOLD INCOME FOR
5 BLACK LOUISIANANS IN, FOR EXAMPLE, THE DELTA
6 PARISHES. IS THAT RIGHT?

7 A THAT COULD BE TRUE.

8 Q AND, IN FACT, WHITE LOUISIANANS WOULD HAVE A
9 SIMILAR HOUSEHOLD INCOME DISPARITY BETWEEN URBAN AND
10 RURAL AREAS, TOO. RIGHT?

11 A THAT COULD BE TRUE.

12 Q COULD BE TRUE, OKAY.

13 AND YOUR REPORT DOESN'T ANALYZE THAT, DOES
14 IT?

15 A NO.

16 Q AND LIKEWISE, YOUR REPORT DOES NOT ANALYZE
17 VOTER TURNOUT BY RACE IN DIFFERENT LOCALITIES IN
18 LOUISIANA, DOES IT?

19 A NO.

20 Q I'D LIKE TO TURN BRIEFLY TO THE PORTION OF
21 YOUR REPORT THAT DISCUSSED RACIAL APPEALS, WHICH
22 IS -- SO WE'RE GOING TO GO TO PAGE 23 OF YOUR REPORT.

23 A OKAY.

24 Q THERE WE ARE.

25 NOW, YOU REFERENCED DAVID DUKE, THE FORMER

03:33p

1 GRAND WIZARD OF THE KKK. WERE YOU -- BUT YOU ONLY
2 REFERENCE HIS CAMPAIGNS I BELIEVE GOING THROUGH 1991.
3 DO I HAVE THAT RIGHT?

4 A THE ONE THAT IS IN THE QUOTE HERE IS 1990
5 SENATE RACE, YES, GUBERNATORIAL RUNOFF.

6 Q WERE YOU AWARE DAVID DUKE ALSO RAN FOR U.S.
7 SENATE IN 2016?

8 A I THINK I RECALL THAT.

9 Q YOU RECALL THAT, OKAY.

10 WERE YOU AWARE WHAT SHARE OF THE VOTE DUKE
11 RECEIVED THAT YEAR?

12 A I BELIEVE IT WAS MUCH LOWER THAN IN THE
13 '90S.

14 Q ABOUT 3 PERCENT? DOES THAT SOUND ABOUT
15 RIGHT?

16 A I DON'T KNOW EXACTLY.

17 Q YOU DON'T KNOW, OKAY.

18 AND YOU DON'T REFERENCE THAT 2016 CAMPAIGN
19 IN YOUR REPORT, DO YOU?

20 A NO. THIS IS JUST, AGAIN, PROVIDING EXAMPLES
21 OF PROMINENT RACIAL APPEALS IN POLITICS, NOT AN
22 EXHAUSTIVE LIST.

23 Q I SEE. SO GOING ON TO THOSE EXAMPLES, YOU
24 PROVIDED, I WANT TO SAY, ABOUT FOUR FROM 2019. IS
25 THAT RIGHT?

03:35p

1 A IF YOU COULD LIST THOSE, WHAT YOU'RE
2 COUNTING, THAT WOULD BE --

3 Q HAPPY TO DO IT. OKAY. SO WE START WITH --
4 ON THE THIRD PARAGRAPH ON 23 YOU DISCUSS AN AD FROM
5 EDDIE RISPONE.

6 A UH-HUH.

7 Q SO THAT'S THE FIRST AD. RIGHT?

8 A YES.

9 Q OKAY. THEN YOU TALK ABOUT AN AD -- IN THE
10 NEXT PARAGRAPH DOWN, AN AD PLACED IN A PROMINENT
11 NEWSPAPER TALKING ABOUT THE CHARGE OF LIBERALISM. DO
12 YOU SEE THAT?

13 A YES. SO THAT'S TWO.

14 Q THAT'S TWO. AND THEN IF WE GO TO THE NEXT
15 PAGE, PAGE 24, YOU THEN DISCUSS IN THE THIRD
16 PARAGRAPH SUPPORTERS OF EDWARDS RUNNING ADS TARGETING
17 BLACK VOTERS, ARGUING THAT RISPONE TARGETED DONALD
18 TRUMP AND CALLING TRUMP A RACIST. DO YOU SEE THAT?

19 A YES.

20 Q THAT'S -- IS THAT THE THIRD?

21 A YES, I THINK SO.

22 Q AND I BELIEVE THE FOURTH IS -- AGAIN, IN THE
23 SAME PARAGRAPH IT SAYS IN -- QUOTE, IN RESPONSE,
24 RISPONE AND THE LOUISIANA GOP SAID THAT EDWARDS, WHO
25 DID NOT RUN THE AD HIMSELF, WAS A RACIST TAKING PART

03:36p

1 IN THE FAMILY TRADITION OF TAKING ADVANTAGE OF BLACK
2 PEOPLE. DO YOU SEE THAT?

3 A YES. THAT'S FOUR.

4 Q THAT'S THE FOURTH?

5 A SO THE FIFTH ONE --

6 Q THERE IS A FIFTH, ALL RIGHT.

7 A YES. SO THE ONE ON THE NEXT PAGE IS I THINK
8 ALSO FROM 2019.

9 Q I SEE. OKAY. AND THAT WAS FROM A STATE
10 SENATE CANDIDATE. RIGHT?

11 A YES.

12 Q OKAY. SO I'D JUST LIKE TO START WITH THE
13 FIRST EXAMPLE. AND TO QUOTE YOUR WORDS FROM THAT --
14 EXCUSE ME. I ACTUALLY WANT TO LOOK AT -- WELL, LET
15 ME JUST ASK THIS QUESTION.

16 JOHN BEL EDWARDS WON THAT RACE, DIDN'T HE?

17 A HE DID.

18 Q SO ANY ADVERSE RACIAL APPEALS THAT YOU ARGUE
19 EXIST IN THESE ADS DID NOT PRECLUDE THE ELECTION OF
20 GOVERNOR EDWARDS?

21 A SO I WANT TO BE CAREFUL HERE, BECAUSE I
22 DON'T WANT TO SUGGEST THAT BECAUSE HE GOT ELECTED,
23 THE ADS DIDN'T AFFECT THE ELECTION. SO, FOR
24 INSTANCE, THE -- THE ADS COULD HAVE AFFECTED EITHER
25 HIS ELECTION OR COULD HAVE -- IN TERMS OF MAKING THE

03:37p

1 MARGIN DIFFERENT, OR IT COULD ALSO HAVE AFFECTED
2 DOWN-BALLOT RACES OR SOMETHING LIKE THAT --

3 THE REPORTER: I'M SORRY.

4 THE WITNESS: SORRY.

5 BY THE WITNESS:

6 A IT COULD HAVE AFFECTED DOWN-BALLOT RACES,
7 FOR INSTANCE, OR HIS ELECTION IN TERMS OF THE MARGIN.
8 SO EVEN IF HE GOT ELECTED, I DON'T WANT TO IMPLY HERE
9 THAT THE ELECTION WASN'T AFFECTED BY THESE ADS.

10 Q BUT MY QUESTION, DR. BURCH, IS WHETHER THOSE
11 ALLEGED RACIAL APPEALS PRECLUDED HIS ELECTION,
12 PREVENTED HIM FROM BEING ELECTED.

13 A NO.

14 Q SO I'D LIKE TO TURN TO THE FIRST OF THE NEXT
15 EXAMPLE ON PAGE 24. AND THIS IS -- YOU DESCRIBE
16 AGAIN ON THAT THIRD PARAGRAPH ON PAGE 24 THE, QUOTE,
17 SUPPORTERS OF EDWARDS RAN ADS TARGETING BLACK VOTERS,
18 ARGUING THAT RISPONE SUPPORTED DONALD TRUMP AND
19 CALLING TRUMP A RACIST. THE NEXT SENTENCE READS:
20 "STUDIES HAVE SHOWN THAT THIS TYPE OF EXPLICIT RACIAL
21 APPEAL CAN SERVE AS A COUNTERSTRATEGY TO NEUTRALIZE
22 APPEALS IN WAYS THAT GALVANIZE WHITE LIBERALS AND
23 BLACK VOTERS." DO YOU SEE THAT?

24 A I DO.

25 Q OKAY. SO WOULD GALVANIZING WHITE LIBERALS

03:39p

1 AND BLACK VOTERS BE A WAY TO INCREASE BLACK VOTERS'
2 ABILITY TO ELECT CANDIDATES OF CHOICE?

3 A NOT -- IT DEPENDS ON WHERE THE ADS ARE
4 TARGETED, SO IT MAY OR MAY NOT BE. IT JUST DEPENDS.

5 Q IT DEPENDS, OKAY.

6 AND IS IT FAIR TO SAY THAT IT WOULD BE --
7 BASED ON THE ANALYSIS THAT YOU'RE PROVIDING HERE,
8 THAT IT COULD BE IN DEMOCRATIC CANDIDATES' INTERESTS
9 TO CALL OUT ALLEGED RACIAL APPEALS BY REPUBLICAN
10 CANDIDATES AS RACIST?

11 A IT SAYS THAT IT CAN SERVE AS THE
12 COUNTERSTRATEGY THAT CAN DO THAT. BUT SOMETIMES IT
13 --

14 THE REPORTER: I'M SORRY. "SOMETIMES" --

15 THE WITNESS: SOMETIMES IT MAY NOT WORK.

16 BY MR. LEWIS:

17 Q BUT SOMETIMES IT MAY WORK?

18 A YES.

19 Q OKAY. NOW, MOVING ON TO THE SECOND EXAMPLE
20 IN THAT SAME PARAGRAPH, YOU SAY ALSO IN THE THIRD
21 PARAGRAPH OF YOUR REPORT THAT, QUOTE, RISPONE AND THE
22 LOUISIANA GOP SAID THAT EDWARDS, WHO DID NOT RUN THE
23 AD HIMSELF, WAS A RACIST TAKING PART IN THE FAMILY
24 TRADITION OF TAKING ADVANTAGE OF BLACK PEOPLE. YOU
25 GO ON TO THEN QUOTE THE AD.

03:40p

1 AND DO YOU SEE WHERE YOU SAY THAT THAT'S AN
2 EXAMPLE OF A STRATEGY TO, QUOTE -- FOR REPUBLICAN
3 CANDIDATES TO, QUOTE, DEMOBILIZE BLACK VOTERS BY,
4 QUOTE, PORTRAYING THEIR CHOSEN CANDIDATE OR PARTY AS
5 INSENSITIVE TO THE GROUP'S NEEDS? DO YOU SEE THAT?

6 A SO IN THE PRECEDING PARAGRAPH, YES. OR IS
7 IT SOMEWHERE ELSE THAT YOU WANT ME TO LOOK?

8 Q NO, THAT'S WHERE -- YEAH, FROM THE PRECEDING
9 PARAGRAPH. IS THAT RIGHT?

10 A YES.

11 Q SO THEN AM I UNDERSTANDING THIS CORRECTLY
12 THEN THAT THE WORD "RACIST" CAN ONLY BE USED IN A
13 CAMPAIGN AD WHEN IT SUPPORTS DEMOCRATIC CANDIDATES?

14 A I DON'T SEE WHERE I WRITE THAT.

15 Q BUT I MEAN, IS THAT THE -- IF YOU'RE SAYING
16 THAT IT'S AN IMPROPER RACIAL APPEAL IF REPUBLICANS
17 MAKE A CHARGE OF RACISM AND IT'S A COUNTERSTRATEGY IF
18 DEMOCRATIC CANDIDATES MAKE A CHARGE OF RACISM, THEN
19 ISN'T THAT -- DOESN'T THAT FOLLOW THAT IT'S
20 APPROPRIATE WHEN IT'S USED BY DEMOCRATS AND NOT WHEN
21 IT'S USED BY REPUBLICANS?

22 A CAN YOU --

23 MS. WENGER: OBJECTION. I THINK THIS BOTH
24 MISCHARACTERIZES THE WITNESS'S TESTIMONY AND ALSO IS
25 VEERING ON ASKED AND ANSWERED.

03:41p

1 **MR. LEWIS:** SHE HASN'T ANSWERED THE
2 QUESTION.

3 **THE COURT:** OVERRULED.

4 **MR. LEWIS:** THANK YOU.

5 **BY THE WITNESS:**

6 **A** CAN YOU SHOW ME WHERE I USE -- DESCRIBE THIS
7 AS IMPROPER?

8 **Q** WELL, IF YOU -- I DON'T KNOW THAT YOU SAY --
9 I DON'T KNOW THAT YOU USED THE WORD "IMPROPER," SO IF
10 THAT'S FINE, THEN WE CANNOT USE THE WORD "IMPROPER."

11 BUT IF -- BUT IS IT YOUR POSITION, THEN,
12 THAT IT IS -- THAT IT -- SO WHAT DOES IT MEAN TO
13 DEMOBILIZE BLACK VOTERS? LET'S START THERE.

14 **A** SO I SAID TWO THINGS. I SAID THAT RACIAL
15 APPEALS OPERATE DIFFERENTLY, SO THAT MEANS THAT THEY
16 HAVE DIFFERENT EFFECTS. BUT I DON'T BELIEVE I
17 CHARACTERIZE THOSE EFFECTS IN ANY OTHER WAY OTHER
18 THAN TO DESCRIBE WHAT THEY ARE, WHICH IS TO DECREASE
19 BLACK VOTERS. AND THAT'S IN -- ACCORDING TO THE
20 LITERATURE THERE.

21 **Q** OKAY. SO THEN IF REPUBLICAN CANDIDATES MAKE
22 CHARGES OF RACISM AGAINST BLACK-PREFERRED CANDIDATES
23 AND IF I'M READING PAGE 24 CORRECTLY, YOU'RE SAYING
24 THAT CAN LEAD TO DEMOBILIZATION OF BLACK VOTERS. IS
25 THAT RIGHT?

03:42p

1 A YES. THAT'S WHAT THE LITERATURE SHOWS.

2 Q I SEE. AND IF -- AND I THINK WE'VE ALREADY
3 DISCUSSED. IF DEMOCRATIC CANDIDATES CALL OUT OR MAKE
4 CHARGES OF RACISM AGAINST REPUBLICANS, THAT IT CAN
5 LEAD TO GALVANIZING OF WHITE LIBERALS AND BLACK
6 VOTERS. IS THAT RIGHT?

7 A SO -- HANG ON A SECOND. SO WHAT I SAY HERE
8 IS NOT NECESSARILY ABOUT PARTY. SO WHAT I SAY IN THE
9 FIRST PARAGRAPH IS THAT "SPECIFICALLY MESSAGES
10 DESIGNED TO PORTRAY THE CHOSEN CANDIDATE OR PARTY OF
11 BLACK VOTERS AS RACIST." SO I DON'T SAY "PARTY"
12 THERE. AND THEN AFTER I SAY "THIS TYPE OF EXPLICIT
13 RACIAL APPEAL CAN SERVE AS A COUNTERSTRATEGY TO
14 NEUTRALIZE RACIAL APPEALS IN WAYS THAT GALVANIZE
15 LIBERALS AND BLACK VOTERS."

16 AND SO IT'S, AGAIN, TALKING ABOUT RACIAL
17 APPEALS THAT CALL OUT RACISM, BUT IT'S NOT
18 NECESSARILY BY PARTY THAT I'M LISTING THERE IN TERMS
19 OF THE DEFINITION OF THE EFFECTS.

20 Q I'D LIKE TO MOVE ON TO YOUR ANALYSIS OF
21 SENATE FACTOR 7 VERY QUICKLY. AND I THINK -- IS IT
22 YOUR -- I BELIEVE YOU TESTIFIED ON DIRECT EXAMINATION
23 THAT BLACK -- THAT 25 PERCENT OF THE LOUISIANA
24 LEGISLATURE IS MADE UP OF BLACK MEMBERS. IS THAT
25 CORRECT?

03:44p

1 A I THINK THAT WAS TRUE AS OF WHEN I WROTE THE
2 PRELIMINARY REPORT. SO THAT MIGHT HAVE BEEN -- WHICH
3 I THINK I DID IN 2022. NOT ANALYZING THE ELECTION
4 THAT CAME AFTER.

5 Q I SEE. OKAY.

6 AND SO YOU -- SO WHAT PERCENTAGE OF BLACK
7 ELECTED OFFICIALS IN THE LEGISLATURE DO YOU BELIEVE
8 IS REQUIRED BY SENATE FACTOR 7?

9 A I DIDN'T ANALYZE THAT.

10 Q YOU DIDN'T ANALYZE THAT. OKAY.

11 BUT YOU WOULD AGREE THAT 25 PERCENT OF THE
12 LEGISLATIVE SEATS ARE DEFINITELY MORE THAN SAYING
13 THAT THERE WERE NO MINORITY-ELECTED OFFICIALS IN THE
14 LEGISLATURE. CORRECT?

15 A YES. 36 IS MORE THAN ZERO.

16 Q OKAY. AND THAT 36 IS NOT VERY FEW
17 MINORITY-ELECTED OFFICIALS, IS IT?

18 A THAT'S A QUALITATIVE JUDGMENT. I DON'T --

19 Q OKAY. AND SO WHAT PERCENTAGE OF THE
20 LOUISIANA LEGISLATURE -- I MEAN, ARE YOU ADVOCATING
21 IN THIS CASE THAT THIRTY -- THAT THE PERCENTAGE OF
22 THE LEGISLATURE THAT IS BLACK HAS TO EQUAL THE
23 POPULATION OF THE STATE THAT IS BLACK?

24 A I DON'T BELIEVE I MADE THAT STATEMENT. I'M
25 JUST SAYING THAT BLACK LOUISIANIANS ARE

03:46p

1 UNDERREPRESENTED RELATIVE TO THEIR SHARE OF THE
2 POPULATION.

3 Q OKAY. SO YOU BELIEVE THEN THAT THE -- WELL,
4 IF IT'S UNDERREPRESENTED, THEN WHAT WOULD BE ADEQUATE
5 REPRESENTATION IN YOUR MIND?

6 A SO MY DEFINITION OF UNDERREPRESENTED IS
7 STATISTICAL PARITY. SO I'M JUST MAKING A FACTUAL
8 CLAIM THAT STATISTICALLY THE PROPORTION IN THE STATE
9 IS GREATER THAN THE PROPORTION IN THE LEGISLATURE.

10 Q OKAY. NOW, YOU ALSO MENTIONED IN DIRECT
11 EXAMINATION YOU LOOKED AT THE PERCENTAGE OF MAYORS IN
12 LOUISIANA THAT WERE BLACK. IS THAT RIGHT?

13 A YES.

14 Q OKAY. BUT NOT ALL LOUISIANA CITIES ARE THE
15 SAME SIZE, ARE THEY?

16 A NO.

17 Q OKAY. SO, FOR EXAMPLE, BEING THE MAYOR OF
18 NEW ORLEANS IS A CONSIDERABLY MORE INFLUENTIAL ROLE
19 THAN BEING THE MAYOR OF A SMALL TOWN. WOULD YOU
20 AGREE?

21 A ACTUALLY, I DON'T KNOW THE ANSWER TO THAT.
22 SO IT -- BECAUSE IT KIND OF DEPENDS ON THINGS LIKE
23 WHAT THE -- HOW THE COUNTY GOVERNMENT IS SET UP. SO
24 IF, YOU KNOW, YOU HAVE A STRONG MAYOR MODEL, THEN
25 PERHAPS. BUT IF YOU HAVE LIKE A MORE STRONG CITY

03:47p

1 COUNCIL MODEL, THEN THE MAYOR CAN JUST BE A
2 FIGUREHEAD. SO IT KIND OF VARIES BY JURISDICTION
3 AMONG MORE THINGS THAN JUST POPULATION SIZE.

4 Q OKAY. BUT IF WE LOOK AT THE TWO LARGEST
5 CITIES IN LOUISIANA, DO YOU KNOW THE MAYOR PRESIDENT
6 OF THE CITY OF BATON ROUGE AND EAST BATON ROUGE
7 PARISHES?

8 A NO, I DON'T KNOW THEM.

9 Q DO YOU KNOW THAT PERSON'S RACIAL
10 IDENTIFICATION?

11 A IF I REMEMBER CORRECTLY -- I'M ACTUALLY NOT
12 SURE IF THIS HAS CHANGED SINCE THE TIME OF MY REPORT,
13 SO I DON'T WANT TO GUESS.

14 Q YOU DON'T REMEMBER?

15 A NO. I'M GOING TO SAY NO.

16 Q OKAY. WOULD IT SURPRISE YOU TO LEARN THAT
17 THE MAYOR-PRESIDENT OF BATON ROUGE IS SHARON WESTON
18 BROOME, A BLACK WOMAN?

19 A NO.

20 Q DO YOU KNOW WHO THE MAYOR OF THE CITY OF NEW
21 ORLEANS IS?

22 A YES. AGAIN, I'M NOT SURE IF THERE HAS BEEN
23 AN ELECTION SINCE THE LAST TIME I CHECKED. BUT IF I
24 REMEMBER CORRECTLY, THAT IS A BLACK WOMAN AS WELL.

25 Q MAYOR CANTRELL?

03:48p

1 A YES.

2 Q DOES THAT SOUND RIGHT? OKAY.

3 ALL RIGHT. TURNING TO FACTOR 8,
4 RESPONSIVENESS, I JUST HAVE A FEW VERY QUICK
5 QUESTIONS. FIRST, I BELIEVE YOU INDICATED IN YOUR
6 REPORT AND ON YOUR DEMONSTRATIVE THAT -- AND WE
7 CAN -- LET'S PUT IT UP. IT'S PAGE 26 OF THE REPORT,
8 WHICH IS PAGE 28 OF THE DOCUMENT TOWARD THE BOTTOM.
9 IF WE COULD ZOOM IN ON THAT LAST FULL PARAGRAPH, MR.
10 WILLIAMSON.

11 OKAY. AND DO YOU SEE THAT SECOND SENTENCE
12 THAT SAYS, QUOTE, FOR INSTANCE, ABOUT 70 PERCENT OF
13 BLACK RESPONDENTS TO THE LOUISIANA SURVEY AGREED
14 THAT, QUOTE, MOST ELECTED OFFICIALS IN LOUISIANA
15 DON'T CARE WHAT PEOPLE LIKE ME THINK, END QUOTE, A
16 FIGURE THAT WAS SIMILAR TO WHITE LOUISIANANS. DO YOU
17 SEE THAT?

18 A I DO.

19 Q SO SIMILAR PERCENTAGES OF WHITE AND BLACK
20 LOUISIANANS ARE EXPRESSING CONCERN HERE ABOUT
21 RESPONSIVENESS. IS THAT RIGHT?

22 A OH, YES.

23 Q AND THAT'S NOT TOO DISSIMILAR FROM THE REST
24 OF THE COUNTRY. RIGHT? PEOPLE OFTEN DON'T LIKE
25 THEIR REPRESENTATIVES. ISN'T THAT RIGHT?

03:50p

1 A THAT'S INTERESTING. MOST PEOPLE -- SO THE
2 WAY YOU ASK THAT QUESTION, LIKE MY POLITICAL SCIENCE
3 HEAD IS MAKING ME ANSWER MORE THAN YOU PROBABLY
4 THOUGHT, BUT -- SO YES, IT'S SIMILAR IN TERMS OF LIKE
5 THE FACT THAT MOST PEOPLE DON'T LIKE THE GOVERNMENT
6 AND HAVE PROBLEMS WITH THE GOVERNMENT. BUT ACTUALLY
7 MOST PEOPLE HATE CONGRESS BUT LIKE THEIR
8 REPRESENTATIVE. SO IT'S A REALLY INTERESTING DYNAMIC
9 WHEN YOU THINK ABOUT IT.

10 Q OKAY. AND THEN TURNING TO RESPONSIVENESS,
11 YOU KNOW, YOU CITED -- IT LOOKS LIKE YOU COUNTED UP
12 THE COMMENT CARDS, YOU REVIEWED THE LEGISLATIVE
13 HEARINGS FROM THE REDISTRICTING PROCESS IN 2022 IN
14 LOUISIANA. IS THAT RIGHT?

15 A I DID. I WATCHED ALL THAT VIDEO.

16 Q SO -- BUT YOU'D AGREE WITH ME THAT, YOU
17 KNOW, LOOKING AT THE -- I BELIEVE IT'S A HUNDRED AND
18 TWO PUBLIC COMMENTS AGAINST THE PLAN AND THE NUMBER
19 OF MAJORITY-MINORITY DISTRICTS IN THE PLAN. THAT'S
20 NOT A REPRESENTATIVE SAMPLE OF PUBLIC OPINION IN
21 LOUISIANA, IS IT?

22 A NO. THAT'S WHY I DO INCLUDE DATA THAT'S A
23 REPRESENTATIVE SAMPLE OF PUBLIC OPINION IN LOUISIANA.
24 SO AGAIN, LOOKING AT THE SURVEY DATA THAT I CITE IN
25 PAGE 27, AGAIN THAT -- TOP OF 27 -- "MOREOVER, A

03:51p

1 MAJORITY OF BLACK LOUISIANIANS BELIEVE THAT 'BLACK
2 PEOPLE ARE TREATED LESS FAIRLY THAN WHITE PEOPLE'
3 WHEN VOTING IN ELECTIONS." SO AGAIN, THAT IS BOTH
4 SURVEY DATA THAT TALKS ABOUT POLITICS AND ALSO ABOUT
5 VOTER SUPPRESSION AND ABOUT -- AS WELL AS THE
6 ROADSHOWS.

7 Q I UNDERSTAND. YOUR REPORT, HOWEVER, DOESN'T
8 CITE A SINGLE PARTICULAR PUBLIC POLICY, LIKE A PIECE
9 OF LEGISLATION BEFORE THE LEGISLATURE, I GUESS, OTHER
10 THAN THE REDISTRICTING BILL ITSELF, DOES IT?

11 A NO, OTHER THAN THE -- WELL, THAT'S KIND OF A
12 BIG ONE.

13 Q I GAVE YOU THE REDISTRICTING BILL.

14 A YES.

15 Q I WAS JUST ASKING IF THERE IS ANYTHING ELSE.
16 SO IT'S THE REDISTRICTING BILL?

17 A YES. THE REDISTRICTING BILLS ARE KIND OF,
18 YEAH, BIG ONES.

19 Q I UNDERSTAND. AND I SEE YOU HAVE A LOT OF
20 QUOTES IN HERE FROM SENATOR CASSIDY. HE'S A U.S.
21 SENATOR. RIGHT?

22 A YES.

23 Q AND THEN AS FAR AS PUBLIC COMMENT -- I GUESS
24 JUST THE LAST COUPLE OF QUESTIONS FOR YOU ON THAT.
25 WERE YOU AWARE THAT THERE WERE GROUPS INCLUDING THE

03:52p

1 ACLU AND ONE OF THE PLAINTIFFS IN THIS CASE, BVM,
2 THAT WERE -- THAT PARTICIPATED IN THE LEGISLATIVE
3 PROCESS LEADING TO THE REDISTRICTING BILLS AT ISSUE?

4 A YES, I DID SEE THEM. AND MOSTLY THEY -- AS
5 FAR AS I COULD TELL, THEY IDENTIFIED THEMSELVES WHEN
6 THEY SPOKE, SAYING THEY WERE THERE REPRESENTING X
7 GROUP.

8 Q SURE. BUT INNER SCRIPTS CAN OFTENTIMES
9 ENCOURAGE THEIR SUPPORTERS TO -- YOU KNOW, TO MAKE
10 PUBLIC COMMENTS OR SHOW UP AT MEETINGS IN LEGISLATION
11 IMPORTANT TO THE GROUP. IS THAT RIGHT?

12 A YES. AND I ACTUALLY SAW QUITE A BIT OF THAT
13 NOT JUST FROM THE GROUPS THAT YOU MENTIONED BUT, FOR
14 INSTANCE -- ONE OF THE THINGS THAT I THOUGHT WAS
15 REALLY INTERESTING WAS THAT A LOT OF LOCALITIES
16 DURING THE ROADSHOWS WOULD SHOW UP WITH -- DELEGATION
17 IS A STRONG WORD -- BUT LOTS OF OFFICIALS, LIKE THE
18 CHAMBER OF COMMERCE AND OTHER PLACES TO TALK ABOUT
19 THINGS LIKE COMMUNITIES OF INTEREST AND ISSUES SUCH
20 AS THAT. SO IT DEFINITELY HAPPENED THROUGHOUT THE
21 PROCESS. AND AGAIN, MOST OF THE TIME THEY WOULD
22 IDENTIFY THEMSELVES WHEN THEY WERE DOING THAT WORK.

23 Q SURE. SO I'D LIKE TO TURN TO THE LAST
24 FACTOR YOU ANALYZED, WHICH IS TENUOUSNESS. SO ON
25 PAGE 36 OF YOUR REPORT, WHICH IS PAGE 38 OF OUR -- OF

03:54p

1 YOUR -- OF THE EXHIBIT, YOU DISCUSS PRESIDENT
2 CORTEZ'S VIEWS ON CONTINUITY OF REPRESENTATION. AND
3 I JUST HAD A COUPLE OF QUESTIONS ON THAT.

4 FIRST, YOU KNOW, YOU HAVE THIS SORT OF BLOCK
5 QUOTED LANGUAGE AT THE VERY TOP OF THE PAGE FROM
6 PRESIDENT CORTEZ BEGINNING WITH THE THIRD TENET OR
7 PRINCIPLE. AND I JUST WANT TO MAKE SURE I
8 UNDERSTAND. YOU'RE SAYING THAT THAT BLOCK QUOTED
9 LANGUAGE SUPPORTS THE VIEW THAT YOU MAKE LATER ON IN
10 THE PAGE THAT, QUOTE, CONTINUITY OF REPRESENTATION IS
11 NOT ABOUT VOTERS, RATHER, IT IS ABOUT THE SELF-
12 INTEREST OF THE LEGISLATORS?

13 A HANG ON. LET ME FIND -- I DON'T -- NO. I'M
14 ACTUALLY TALKING ABOUT THE NEXT QUOTATION THERE IN
15 WHICH HE SAYS WHY HE'S TALKING ABOUT -- PRESIDENT
16 CORTEZ IS TALKING ABOUT WHY ADDITIONAL MAJORITY-
17 MINORITY DISTRICTS DO NOT GAIN TRACTION IN THE
18 SENATE. HE SAID, "THE OTHER PART, YOU KNOW, AS IN
19 THIS BUILDING, YOU GOT TO GET VOTES. THAT MAP SO
20 DESTROYED MANY OF THE DISTRICTS AND DIDN'T KEEP THAT
21 CONTINUITY OF REPRESENTATION THAT THERE WAS NOT A
22 REAL CHANCE OF GETTING THE 20 VOTES." AND THEN HE
23 GOES ON TO TALK ABOUT HOW "DRAWING NEW MAJORITY-
24 MINORITY DISTRICTS WAS A NON-STARTER BECAUSE IT WOULD
25 PUT CERTAIN INCUMBENTS IN JEOPARDY." AND AGAIN,

03:55p

1 QUOTE, AND THEN YOU GET INTO ANOTHER AREA OF PEOPLE
2 THAT YOU'VE NEVER MET BEFORE AND HAVE NEVER VOTED FOR
3 YOU. AND ALMOST IT WAS MORE THAN 50 PERCENT OF THE
4 PEOPLE IN THAT DISTRICT WOULD NEVER HAVE VOTED FOR
5 THE PERSON CURRENTLY HOLDING.

6 SO THOSE ARE THE KINDS OF THINGS THAT I'M
7 TALKING ABOUT WITH RESPECT TO THE SELF-INTEREST OF
8 THE LEGISLATORS.

9 Q OKAY. BUT DO YOU SEE ON THAT -- GOING BACK
10 TO THAT SECOND PARAGRAPH WHERE YOU -- IT BEGINS,
11 QUOTE, TO PRESIDENT CORTEZ, REDISTRICTING VIOLATES
12 THE CONTINUITY OF REPRESENTATION TO THE EXTENT THAT
13 PLANS, QUOTE, GRAB A GROUP OF CONSTITUENTS TO ELECT A
14 DIFFERENT PERSON. DO YOU SEE THAT?

15 A I DO.

16 Q OKAY. AND YOU LINK THAT TO THE PRIOR
17 SENTENCE YOU QUOTE FROM HIM IN THE BLOCK QUOTE WHERE
18 IT SAYS, QUOTE, IT MEANS THAT IF YOUR DISTRICT
19 ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO
20 HAVE A RIGHT TO REELECT YOU. RIGHT?

21 A YES. SO HERE IN THIS PARAGRAPH I'M TRYING
22 TO TALK ABOUT HOW HE DEFINES WHAT CONTINUITY OF
23 REPRESENTATION MEANS TO HIM.

24 Q NOW, YOU'D AGREE THAT WHEN CITING ANY
25 TRANSCRIPT, IT'S IMPORTANT TO INCLUDE THE APPROPRIATE

03:57p

1 CONTEXT OF SOMEONE'S REMARKS. RIGHT?

2 A YES. I TRIED REALLY HARD TO PUT IN WHOLE
3 SENTENCES, DESCRIBE THE CONTEXT BUT IN -- WELL, TO BE
4 HONEST, I WAS MORE WORRIED THAT I WOULD BE ACCUSED OF
5 PUTTING IN TOO MANY LONG BLOCK QUOTES IN ORDER TO
6 PROVIDE CONTEXT RATHER THAN EXCERPTING AND MOVING
7 THINGS ALONG.

8 Q OKAY. SO I'D LIKE TO JUST PULL UP NOW JX
9 21, JOINT EXHIBIT 21, WHICH HAS BEEN PREADMITTED.
10 AND I'LL REPRESENT TO YOU, DR. BURCH, THIS IS THE
11 TRANSCRIPT FROM THE HEARING THAT YOU'RE CITING IN
12 YOUR PIECE. AND IF WE COULD GO TO PAGE 7.

13 AND, DR. BURCH, DO YOU SEE THE TEXT FROM --
14 AND I'LL REPRESENT TO YOU THIS IS REMARKS FROM
15 PRESIDENT CORTEZ AT THAT FEBRUARY 2, 2022 SENATE
16 HEARING YOU REFERENCED IN THE FOOTNOTE IN YOUR
17 REPORT.

18 IF WE TURN TO LINE 9 -- AND I'LL READ IT TO
19 YOU. IT SAYS, QUOTE, THE THIRD TENET OR PRINCIPLE
20 WAS AS BEST POSSIBLE TO MAINTAIN THE CONTINUITY OF
21 REPRESENTATION. WHAT DO I MEAN BY THAT? IT MEANS
22 THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE DONE A
23 GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU.
24 CONVERSELY, YOU DON'T GET TO CHOOSE WHO YOUR
25 POPULATION IS, THEY CHOOSE YOU. IF YOU DIDN'T DO A

03:58p

1 GOOD JOB, THEY HAVE THE RIGHT TO UNELECT YOU. AND
2 THE PEOPLE WHO PEOPLE WHO KNOW YOUR JOB THE BEST FOR
3 THOSE WHO WERE IN YOUR DISTRICT.

4 DO YOU SEE THAT?

5 A SO I THINK THAT WHAT I PUT IN WAS TRUE TO
6 THE FACT THAT HIS DEFINITION OF CONTINUITY OF
7 REPRESENTATION IS BASICALLY ABOUT INCUMBENCY.

8 Q BUT YOU SAW THAT SUBSEQUENT TEXT WHEN YOU
9 WATCHED THE VIDEO. RIGHT?

10 A YEAH. SO I DON'T THINK THAT CONTRADICTS
11 WHAT I HAVE HERE IN TERMS OF SAYING THAT THIS IS
12 ABOUT INCUMBENCY.

13 Q YOU DIDN'T INCLUDE THOSE REMARKS IN YOUR
14 REPORT, DID YOU?

15 A YOU MEAN THE PART ABOUT "YOU DON'T GET TO
16 CHOOSE WHO YOUR POPULATION IS, THEY CHOOSE YOU"?

17 Q CORRECT.

18 A FROM THERE?

19 Q YES.

20 A NO.

21 Q NO, OKAY. I'D LIKE TO TURN VERY QUICKLY TO
22 A COMMENT THAT YOU MADE ON PAGE 32 OF YOUR REPORT.
23 SO IF WE COULD GO BACK TO PL 126 AND TURN TO PAGE 32.

24 AND SPECIFICALLY THE SECOND PARAGRAPH FROM
25 THE BOTTOM YOU STATE THAT, QUOTE, THE COMMITTEE --

04:00p

1 AND I BELIEVE THAT WAS THE SENATE COMMITTEE -- WAS
2 PRESENTED WITH EVIDENCE THAT STATISTICAL ANALYSES
3 SHOW THAT PLANS SUCH AS THAT PRESENTED IN SB 17 WOULD
4 RELIABLY PERFORM TO ALLOW BLACK LOUISIANANS TO ELECT
5 CANDIDATES OF THEIR CHOICE. DO YOU SEE THAT?

6 A I DO.

7 Q AND WERE YOU AWARE THAT SENATOR HEWITT ASKED
8 MORE THAN ONCE FOR A COPY OF THAT STATISTICAL
9 ANALYSIS?

10 A I DID SEE HER DO THAT.

11 Q YOU DID SEE HER DO THAT.

12 AND WERE YOU AWARE THAT THE ACLU DID NOT
13 PROVIDE THAT ANALYSIS TO SENATOR HEWITT?

14 A I DON'T KNOW.

15 Q YOU DON'T KNOW, OKAY.

16 AND YOU DIDN'T REFERENCE THAT THAT ANALYSIS
17 WAS REQUESTED AND MAY OR MAY NOT HAVE BEEN PROVIDED
18 IN YOUR REPORT, DO YOU?

19 A LET ME SEE. I THINK IT MUST -- IT MUST BE
20 THAT IT WAS DESCRIBED IN -- NO. I THINK I JUST
21 REFERENCED THE FACT THAT IT WAS DESCRIBED.

22 Q AND THEN FINALLY I JUST HAD JUST A COUPLE
23 VERY BRIEF WRAP-UP QUESTIONS.

24 YOU REFERENCE A SERIES OF ALTERNATE BILLS
25 THAT WERE PRESENTED TO THE LOUISIANA LEGISLATURE IN

04:01p

1 THAT FIRST EXTRAORDINARY SESSION IN 2022. IS THAT
2 RIGHT?

3 A YES.

4 Q OKAY. AND DO YOU KNOW IF ANY OF THE -- ANY
5 OF THOSE PLANS PROPOSED 14 OR MORE MAJORITY-BLACK
6 DISTRICTS FOR THE SENATE?

7 A I DON'T RECALL.

8 Q YOU DON'T RECALL, OKAY.

9 AND WERE YOU AWARE OF ANY OF THE PLANS --
10 ANY OF THOSE ALTERNATE PLANS THAT WOULD HAVE HAD 35
11 OR MORE MAJORITY-BLACK DISTRICTS IN THE HOUSE?

12 A I DON'T RECALL.

13 Q SO FINALLY, I JUST HAD ONE MORE QUESTION FOR
14 YOU, AND IT'S ON PAGE 40 OF YOUR REPORT. IF WE COULD
15 GO TO THAT QUICKLY. AND I JUST WANTED TO ASK YOU
16 ABOUT -- YOU MADE REFERENCE IN YOUR TESTIMONY IN
17 DIRECT EXAMINATION ABOUT A STATEMENT MADE BY SENATOR
18 HENRY ABOUT WANTING A DISTRICT A CERTAIN WAY SO HE,
19 QUOTE, REPRESENT HIS SISTER AND WAS STILL PAYING
20 STUDENT LOANS TO TULANE. DO YOU RECALL THAT?

21 A I DO.

22 Q OKAY. AND I BELIEVE YOU BLOCK QUOTE HIS
23 FULL COMMENTS IMMEDIATELY BELOW THAT TEXT. DO YOU
24 SEE THAT?

25 A YES. YES.

04:03p

1 Q OKAY. AND HE'S PRETTY CLEARLY REFERRING TO
2 WANTING TO REPRESENT TULANE AND LOYOLA. IS THAT
3 RIGHT?

4 A YES. AND -- YES. SO HE'S GOT SOME
5 DISCUSSION -- YES.

6 Q OKAY. SO NOT JUST HIS SISTER. RIGHT?

7 A WELL, HE ALSO TALKS ABOUT ONE SISTER, TWO
8 SISTERS, A BROTHER AND A FATHER AND A MOTHER. YEAH.
9 SO THERE IS A LOT -- THERE IS A LOT THERE.

10 Q AND THOSE ARE ALL PEOPLE THAT HAD
11 CONNECTIONS TO LOYOLA UNIVERSITY. RIGHT? FROM HIS
12 STATEMENT?

13 A YES.

14 Q OKAY.

15 MR. LEWIS: YOUR HONOR, I HAVE NO FURTHER
16 QUESTIONS. THANK YOU, DR. BURCH.

17 THE COURT: THANK YOU.

18 ANY REDIRECT?

19 MS. WENGER: JUST A LITTLE.

20 REDIRECT EXAMINATION

21 BY MS. WENGER:

22 Q NOW, DR. BURCH, MR. LEWIS SPOKE TO YOU ABOUT
23 FIGURE 1 AND TABLE 1 FROM PAGE 7 OF YOUR REPORT. IF
24 WE CAN PULL UP THOSE UP -- THAT PAGE UP.

25 DR. BURCH, IS THERE A REASON THAT YOU SHARED

04:04p

1 THESE DEPICTIONS TOGETHER?

2 A YES. SO AGAIN, GOING BACK TO FIGURE 1, WHEN
3 YOU LOOK AT LESS THAN HIGH SCHOOL AND EDUCATIONAL
4 ATTAINMENT BY RACE AMONG LOUISIANA ADULTS AGE 25 AND
5 OLDER, AGAIN, LOOKING AT BLACK LOUISIANIANS, THERE
6 ARE MORE OF THEM IN THAT LESS THAN HIGH SCHOOL
7 CATEGORY THAN THERE ARE IN THE LAST TWO -- THE TWO
8 BOTTOM CATEGORIES OF BACHELOR'S DEGREE AND HIGHER.
9 AND SO EVEN IF WHITE TURNOUT AND BLACK TURNOUT AT
10 THAT LESS THAN HIGH SCHOOL DIPLOMA LEVEL, BLACK
11 VOTERS ARE OUTVOTING WHITE PEOPLE THERE. THE
12 PROPORTION OF THE WHITE GROUP IN LOUISIANA THAT'S IN
13 THAT LESS THAN HIGH SCHOOL CATEGORY IS SO SMALL,
14 ESPECIALLY RELATIVE TO THE NUMBER WHO ARE IN THE
15 BACHELOR'S DEGREE OR HIGHER.

16 AND SO, AGAIN, THINKING ABOUT WHERE PEOPLE
17 ARE CONCENTRATED IN TURNOUT, THE NO HIGH SCHOOL
18 DIPLOMA, EVEN IF THERE IS MORE BLACK PEOPLE VOTING AT
19 HIGHER RATES IN THAT GROUP, THERE IS STILL -- IT'S
20 NOT ENOUGH TO OVERCOME THAT EDUCATIONAL DISPARITY
21 BETWEEN THE TWO GROUPS IN TERMS OF HOW PEOPLE WITH
22 BACHELOR'S DEGREES AND WHO HAVE GONE TO GRADUATE
23 SCHOOL ARE VOTING AMONG WHITE PEOPLE. SO IT'S JUST,
24 AGAIN, WHAT'S GOING ON ACROSS RACE AND THAT SHOULDN'T
25 -- ISN'T REALLY THE FOCUS.

04:06p

1 IT'S TWO THINGS. IT'S, ONE, THE EFFECT OF
2 EDUCATION ON TURNOUT. WE CAN SEE IT INCREASES IN
3 EACH RACIAL GROUP, SUCH THAT GENERALLY PEOPLE WITH
4 LOWER EDUCATIONAL ATTAINMENT ARE LESS LIKELY TO VOTE
5 THAN PEOPLE WITH HIGHER EDUCATIONAL ATTAINMENT.
6 AND COUPLED WITH FIGURE 1, WE CAN SEE THAT BLACK
7 PEOPLE ARE MORE LIKELY THAN WHITE PEOPLE TO BE IN
8 THAT LOW TURNOUT AND LOW EDUCATION GROUP.

9 Q THANK YOU, DR. BURCH.

10 MR. LEWIS ALSO MENTIONED YOUR USE OF BOTH
11 STATEWIDE DATA, ONE, AND DATA FROM THE YEAR OF 2019
12 SPECIFICALLY. I'D LIKE TO TURN TO THE BOTTOM OF PAGE
13 18 OF YOUR REPORT. LET'S TALK A LITTLE ABOUT YOUR
14 ANALYSIS OF HEALTH OUTCOMES IN LOUISIANA.

15 YOU MENTIONED CANCER ALLEY. IS THAT A
16 STATEWIDE REGION OR A SPECIFIC AREA WITHIN THE STATE?

17 A JUST A SPECIFIC AREA WITHIN THE STATE THAT
18 STRETCHES BETWEEN NEW ORLEANS AND BATON ROUGE.

19 Q AND DID YOU DISCUSS ANY OTHER HEALTH
20 PHENOMENA BEYOND THE YEAR OF 2019 RELEVANT TO HEALTH
21 OUTCOMES FOR BLACK LOUISIANANS?

22 A YES, I DO TALK ABOUT RACIAL DISPARITIES AND
23 ACCESS TO COVID-19 VACCINE SITES AS WELL, AND
24 DIFFICULTIES FOR BLACK AMERICANS TO ACCESS PRIMARY-
25 CARE PHYSICIANS AND DOCTORS BECAUSE OF RACIAL

04:07p

1 RESIDENTIAL SEGREGATION.

2 Q THANK YOU.

3 LET'S TALK A LITTLE BIT ABOUT YOUR
4 DISCUSSION AND WHAT MR. LEWIS DISCUSSED REGARDING
5 RACIAL CAMPAIGN APPEALS. DOES THE LITERATURE ON
6 RACIAL CAMPAIGN APPEALS OR RACIAL APPEALS GENERALLY
7 THAT YOU DISCUSSED ONLY LOOK AT THE OUTCOMES OF
8 ELECTIONS, OR IS IT ALSO ENGAGING WITH ANY ANALYSIS
9 OF THE EFFECT THAT THESE APPEALS HAVE ON INDIVIDUAL
10 VOTERS?

11 A YES. SO A LOT OF THESE ARTICLES, FOR
12 INSTANCE, WHAT THEY MIGHT DO IS ACTUALLY SHOW --
13 RANDOMLY ASSIGN A GROUP OF VOTERS IN AN EXPERIMENTAL
14 CONDITION TO SEE CERTAIN KINDS OF ADS AND THEN TEST
15 THEIR ATTITUDES AFTERWARDS TO SHOW THAT THEY STILL
16 HAVE AN EFFECT ON HOW VOTERS THINK AND WHETHER
17 THEY'RE PRIMED TO THINK ABOUT RACIAL ISSUES VERSUS
18 OTHER KINDS OF ISSUES.

19 Q ALL RIGHT. FINALLY, LET'S DISCUSS SOME OF
20 THE METRICS THAT YOU LOOKED AT. MR. LEWIS
21 DISCUSSED -- I BELIEVE THESE ARE MAINLY FROM PAGE
22 28 -- REGARDING COMMENT CARDS AND OTHER COMMENTARY
23 AROUND THESE OTHER BILLS THAT WERE SUBMITTED DURING
24 THE REDISTRICTING PROCESS THAT INCREASED
25 BLACK-MAJORITY DISTRICTS, BUT PERHAPS THE ISSUE IS

04:08p

1 THE NUMBER OF DISTRICTS THAT WERE ADDED IN RELATION
2 TO PLAINTIFFS' ILLUSTRATIVE MAPS HERE.

3 I'M JUST CURIOUS. FROM YOUR ANALYSIS OF THE
4 COMMENTS MADE OR COMMENT CARDS SUBMITTED, WERE
5 MEMBERS WHO WENT TO THE CAPITOL TO SPEAK CONSTITUENTS
6 FOCUSED ON THE EXACT NUMBER OF DISTRICTS OR DID THEY
7 SPEAK TO OTHER THEMES THAT MATTERED TO THEM?

8 A MOSTLY THEY WERE ABOUT OTHER THEMES AND
9 ASKING FOR MORE THAN WHAT THEY GOT, SO MORE THAN THE
10 CURRENT MAP. AND THEY WANTED TO BE REPRESENTED. SO
11 AGAIN, THERE ARE SOME PEOPLE WHO TALK ABOUT THE
12 ONE-THIRD NUMBER, BUT THEY ARE DEFINITELY NOT
13 SPECIFIC TO A -- SOMETHING LIKE "WE JUST WANT TWO."

14 Q THANK YOU, DR. BURCH.

15 MS. WENGER: NO FURTHER QUESTIONS.

16 THE COURT: ALL RIGHT. IT IS AFTER FOUR
17 TODAY. WHERE ARE WE IN TERMS OF THE CASE?

18 MS. KEENAN: SURE, YOUR HONOR. WOULD YOU
19 LIKE ME TO COME TO THE PODIUM?

20 THE COURT: YES, PLEASE. IT WOULD BE BETTER
21 FOR THE -- MAKE SURE WE HAVE A GOOD RECORD.

22 MS. KEENER: SO, YOUR HONOR, PLAINTIFFS
23 DON'T HAVE ANY ADDITIONAL WITNESSES TO CALL AT THIS
24 TIME. BUT BEFORE WE REST OUR CASE-IN-CHIEF, THERE
25 ARE A FEW FINAL MATTERS WE WANT TO ADDRESS WITH THE

04:10p

1 COURT. WE'RE HAPPY TO DO THAT NOW IF YOUR HONOR
2 WOULD LIKE.

3 THE COURT: GO AHEAD.

4 MS. KEENAN: SO FIRST, THERE ARE A HANDFUL
5 OF EXHIBITS THAT WE'RE HOPING TO ASK THE COURT TO
6 TAKE JUDICIAL NOTICE OF AND ADMIT. THERE ARE THREE
7 CATEGORIES THAT I CAN RUN THROUGH.

8 THE FIRST IS A HANDFUL OF DOCUMENTS:
9 PLAINTIFFS' EXHIBITS 164 THROUGH 180. THOSE ARE
10 SECRETARY OF STATE DOCUMENTS, PUBLIC GOVERNMENT
11 DOCUMENTS THAT WERE EITHER PRODUCED BY THE SECRETARY
12 OF STATE IN THIS LITIGATION OR PULLED FROM THE PUBLIC
13 SECRETARY OF STATE WEBSITE BY PLAINTIFFS.

14 THERE HAVE BEEN NO OBJECTIONS TO THE
15 AUTHENTICITY OF THESE DOCUMENTS, AND SO WE ASK YOUR
16 HONOR TO TAKE JUDICIAL NOTICE OF THE SECRETARY OF
17 STATE DOCUMENTS AND TO ADMIT THEM INTO EVIDENCE AT
18 THIS TIME.

19 THE COURT: DOES THE SECRETARY OF STATE OR
20 THE INTERVENORS HAVE ANY OBJECTION?

21 MR. STRACH: NO, YOUR HONOR.

22 THE COURT: OKAY. 164 THROUGH 180 ARE
23 ADMITTED WITHOUT OBJECTION.

24 MS. KEENAN: THE SECOND CATEGORY IS TWO
25 FILES: PLAINTIFFS' EXHIBIT 120 AND PLAINTIFFS'

04:10p

1 EXHIBIT 122. THESE ARE BLOCK EQUIVALENCY FILES THAT
2 ARE, AGAIN, PUBLIC GOVERNMENT DOCUMENTS ON THE
3 LOUISIANA LEGISLATURE'S WEBSITE. WE'D LIKE TO ASK
4 THE COURT TO TAKE JUDICIAL NOTICE OF THESE DOCUMENTS
5 AND TO ADMIT THEM AS WELL. AGAIN, THERE HAVE BEEN NO
6 OBJECTIONS TO THEIR AUTHENTICITY.

7 **THE COURT:** IS THERE ANY OBJECTION TO
8 PLAINTIFF 120 AND 122, THE BLOCK EQUIVALENCY DATA?

9 **MR. LEWIS:** NONE FROM THE LEGISLATIVE
10 INTERVENORS, YOUR HONOR.

11 **THE COURT:** ANY FROM THE DEFENDANT?

12 **MR. STRACH:** NOT FROM THE DEFENDANTS, YOUR
13 HONOR.

14 **THE COURT:** ADMITTED.

15 **MS. KEENAN:** FINALLY, YOUR HONOR, AS FOR THE
16 EXHIBITS, EXHIBITS -- THESE ARE PLAINTIFFS' EXHIBITS
17 181 THROUGH 183. THESE ARE AUDIO AND FILINGS FROM
18 THE *ROBINSON* CASE THAT YOUR HONOR IS FAMILIAR WITH.
19 THEY ARE STATEMENTS OR ADMISSIONS BY A PARTY OPPONENT
20 REGARDING THE TIMING THAT THE STATE OF LOUISIANA WILL
21 NEED REGARDING THE MAPS IN THIS CASE.

22 WE'RE HOPING THAT BECAUSE THESE ARE
23 COURT FILINGS -- THEY'RE SPECIFICALLY FILINGS AND
24 RECORDINGS DRAWN FROM THE FIFTH CIRCUIT'S WEBSITE,
25 THE SUPREME COURT'S DOCKET, INCLUDING THE STATE'S

04:12p

1 RESPONSE TO OUR MOTION TO STAY WITH THE SUPREME
2 COURT, AND A CERTIFIED TRANSCRIPT OF THE FIFTH
3 CIRCUIT ARGUMENT. THESE ARE ALL COURT FILINGS THAT
4 THE COURT CAN TAKE JUDICIAL NOTICE OF. AND WE'D ASK
5 THE COURT TO ADMIT THESE DOCUMENTS AS WELL.

6 **MR. STRACH:** YOUR HONOR, WE HAVE A RELEVANCE
7 OBJECTION TO THESE. AND IT'S BECAUSE THEY DEAL WITH
8 *ROBINSON*, A DIFFERENT CASE, DIFFERENT DISTRICT, SO WE
9 HAVE A RELEVANCE OBJECTION.

10 **MS. KEENAN:** YOUR HONOR, IF I MAY?

11 **THE COURT:** WHAT ARE YOU TRYING TO SHOW WITH
12 THESE?

13 **MS. KEENAN:** SURE. SO IT'S OUR
14 UNDERSTANDING -- AND IT'S I BELIEVE BEEN TALKED ABOUT
15 BOTH AT THE STATUS CONFERENCE AND AT THE TOP OF THIS
16 CASE --

17 **THE COURT:** THE STATUS CONFERENCE WAS IN A
18 DIFFERENT CASE. THIS IS A DIFFERENT CASE, BUT LET'S
19 GO AHEAD. WHAT ARE YOU TRYING TO SHOW?

20 **MS. KEENAN:** YES. JUST THAT THE TIMING THAT
21 THE STATE WILL NEED TO IMPLEMENT THESE MAPS IS A FACT
22 THAT WE DON'T THINK IS DISPUTED ACROSS THE CASES.
23 IT'S THE SAME PARTIES. WE UNDERSTAND THAT
24 REPRESENTATION TO APPLY TO BOTH. IF THAT'S NOT THE
25 CASE, THAT IS NOT OUR CURRENT UNDERSTANDING.

04:12p

1 SO THE RELEVANCE IS JUST THE
2 REPRESENTATION ABOUT THE TIMING THAT THE STATE WILL
3 NEED TO IMPLEMENT THE MAPS. AND WE DON'T UNDERSTAND
4 THAT TO BE DIFFERENT ACROSS THE TWO CASES.

5 **THE COURT:** IS THE TIMING THAT THE STATE
6 NEEDS TO IMPLEMENT MAPS -- I MEAN, IT'S -- IT IS A --
7 IT'S A LEGISLATIVE AND THEN SECRETARY OF STATE
8 PROCESS.

9 IS THE TIMING DIFFERENT, MR. STRACH?

10 **MR. STRACH:** IT COULD VERY WELL BE. BUT
11 THOSE REPRESENTATIONS WERE MADE SPECIFICALLY ABOUT
12 CONGRESSIONAL MAPS IN THE CONTEXT OF THAT PARTICULAR
13 CASE. THIS CASE IS MOVING AT A DIFFERENT PACE THAN
14 THAT ONE. WE DON'T KNOW WHEN THERE MIGHT BE AN
15 ORDER, WHEN THERE MIGHT HAVE TO BE A REMEDIAL
16 PROCESS. WE HAVE NO IDEA.

17 **THE COURT:** THIS IS THE REMEDIAL PROCESS.
18 THIS IS THE TRIAL ON THE MERITS. YOU MEAN IF THE
19 LEGISLATURE NEEDS TO RESPOND.

20 **MR. STRACH:** EXACTLY. WE HAVE NO IDEA, YOUR
21 HONOR, IF THE --

22 **THE COURTROOM DEPUTY:** WOULD YOU GET TO A
23 MICROPHONE, PLEASE?

24 **MR. STRACH:** YES. I'M SORRY.

25 **THE COURT:** SHARE YOUR MIC WITH MR. STRACH.

04:13p

1 **MR. STRACH:** JUDGE, WE JUST DON'T KNOW IF
2 IT'S GOING TO BE THE SAME OR NOT, BECAUSE WE'RE
3 DEALING WITH A LOT OF DIFFERENT TYPES OF DISTRICTS
4 HERE. THE LEGISLATURE IS ALREADY GOING TO BE DEALING
5 WITH THE CONGRESSIONAL MAP, AS THE COURT KNOWS. WE
6 DON'T KNOW WHAT THE TIMING OF A RULING HERE WILL BE.

7 SO WE -- THERE IS -- IT WOULD NOT BE
8 FAIR. IT WOULD BE PREJUDICIAL TO TRY TO IMPOSE A
9 TIMELINE GIVEN FOR CONGRESSIONAL DISTRICTS ON THE
10 LEGISLATIVE CASE. AND THAT'S WHY THE DOCUMENTS ARE
11 JUST NOT RELEVANT HERE.

12 **MS. KEENAN:** MAY I RESPOND BRIEFLY, YOUR
13 HONOR?

14 **THE COURT:** YES.

15 **MS. KEENAN:** I THINK THERE IS TWO STRANDS OF
16 ARGUMENTS HERE, THOUGH. IT SEEMS LIKE DEFENDANTS ARE
17 NOW SAYING THAT THEY MAY TRY TO SHOW THAT THE TIMING
18 IS DIFFERENT THAN WHAT WAS OFFERED THERE. BUT THAT
19 DOESN'T MEAN THAT THE TIMING ISN'T RELEVANT ACROSS
20 THE TWO CASES.

21 CERTAINLY THE STATE'S REPRESENTATIONS
22 ABOUT THE TIME NEEDED TO ADMINISTER ANY MAPS THAT
23 COME OUT OF THE REMEDIAL PROCESS IS AT LEAST RELEVANT
24 TO THESE PROCEEDINGS. AND IT DOESN'T SOUND LIKE
25 THERE ARE OBJECTIONS TO THE AUTHENTICITY OR THE FACT

04:14p

1 OF THOSE STATEMENTS BEING MADE. SO I THINK WE WOULD
2 STILL MOVE TO ADMIT THEM.

3 **THE COURT:** WHY IS IT RELEVANT? WHY IS THE
4 TIMING RELEVANT OTHER THAN -- I GET IT.

5 **MS. KEENAN:** YEAH.

6 **THE COURT:** HURRY UP, GOT TO GO, HURRY UP.
7 I GET IT. BUT --

8 **MS. KEENAN:** WELL, I THINK IT'S A LITTLE
9 MORE THAN JUST THAT, YOUR HONOR. I THINK THAT IT IS
10 IMPORTANT IN THESE CASES TO ESTABLISH A RECORD FOR
11 THE COURT REGARDING *PURCELL*, REGARDING THE TIMING
12 NEEDED TO SEEK REMEDIES TO EXPEDITE THIS CASE GOING
13 FORWARD. IT'S INCREDIBLY IMPORTANT FOR US TO CREATE
14 A RECORD ABOUT THE AMOUNT OF TIME THAT THE STATE
15 NEEDS TO IMPLEMENT ANY MAPS THAT ARE GOING TO ARISE
16 OUT OF THIS PROCEEDING.

17 **THE COURT:** THEY'RE GOING TO HAVE WITNESSES.
18 CAN'T YOU ASK THEM?

19 **MS. KEENAN:** SURE, YOUR HONOR, AS LONG AS
20 THEY CALL THE SECRETARY'S WITNESSES, WHICH ARE
21 CURRENTLY LISTED AS MAY CALLS. SO I THINK IF THEY
22 CALL THOSE WITNESSES, WE WILL BE ABLE TO TRY TO
23 ELICIT THAT TESTIMONY.

24 **THE COURT:** WELL, I KNOW THAT THE PRESIDENT
25 -- THE CURRENT PRESIDENT OF THE SENATE IS SITTING IN

04:15p

1 THE COURTROOM AND HE'S GOING TO BE CALLED -- SORRY,
2 NOT TODAY, PROBABLY TOMORROW. BUT THERE IS ONE OF
3 YOUR WITNESSES. ARE YOU GOING TO CALL THE SECRETARY
4 OF -- YOU HAVE A MAY CALL -- I'VE FORGOTTEN HER NAME.
5 SHERRI SOMETHING.

6 MR. STRACH: SHERRI HADSKEY.

7 THE COURT: HADSKEY, YES.

8 MR. STRACH: WE PROBABLY WON'T. BUT WE'RE
9 WAITING TO SEE HOW THE EVIDENCE PLAYS OUT, BUT WE
10 PROBABLY WON'T.

11 I THINK THAT THESE ISSUES WILL BECOME
12 RELEVANT IF THERE IS AN ORDER AND A REMEDIAL PROCESS.
13 AND THAT'S WHEN WE'LL ALL KNOW WHAT THE TIMING CAN
14 BE. RIGHT NOW WE'RE ALL SPEAKING INTO A VACUUM. SO
15 I DON'T SEE HOW IT CAN BE RELEVANT WHEN -- IF THERE
16 IS A REMEDIAL PROCESS AS IN THE CONGRESSIONAL CASE,
17 AGAIN, YOU'RE TALKING ABOUT 144 DISTRICTS HERE, MANY
18 OF WHICH COULD BE IMPACTED. YOU'RE TALKING ABOUT
19 DISTRICTS WHICH HAVE SPLIT PARISHES, ET CETERA, WHICH
20 IS NOT THE CASE IN THE CONGRESSIONAL CASE. YOU'RE
21 TALKING ABOUT A WHOLE DIFFERENT CAN OF WORMS WITH
22 LEGISLATIVE DISTRICTS. AND THE ONE PROCESS IS
23 COMPLETELY UNRELATED TO THE OTHER.

24 MS. KEENAN: MAY I RESPOND ONE MORE TIME,
25 YOUR HONOR, JUST BRIEFLY?

04:18p

1 REPRESENTATIONS IN MULTIPLE COURTS, THIS COURT, THE
2 COURT OF APPEAL, THE SUPREME COURT. AND, YOU KNOW,
3 YES, A PARTY ADMISSION IS A PARTY ADMISSION, BUT THE
4 PROBLEM IS YOU'RE NOT GOING TO CALL MS. HADSKY, AND
5 SO -- I'M GOING TO TAKE IT UNDER ADVISEMENT.

6 ARE THERE ANY OTHER HOUSEKEEPING
7 MATTERS?

8 MS. KEENAN: YES, YOUR HONOR, JUST TWO.

9 FIRST, PLAINTIFFS DO RESERVE THE RIGHT
10 TO CALL REBUTTAL WITNESSES FOLLOWING THE DEFENDANTS'
11 CASE-IN-CHIEF, WITH THE EXCEPTION OF THE HANDFUL WHO
12 WE HAVE ALREADY STIPULATED WILL NOT BE RETURNING.

13 THE COURT: I MEAN, YOU'RE ENTITLED TO
14 REBUTTAL, SO -- EXCEPT THE TWO, WHICH WERE MR. COOPER
15 AND --

16 MS. KEENAN: AND DR. BURCH.

17 THE COURT: -- DR. BURCH.

18 MS. KEENAN: THAT'S RIGHT.

19 YOUR HONOR, FINALLY, YOUR HONOR MAY OR
20 MAY NOT HAVE SEEN THAT AT THE END OF THE LUNCH BREAK
21 AT 1:25 P.M. CENTRAL --

22 THE COURT: YOUR HONOR SAW IT.

23 MS. KEENAN: OKAY. PLAINTIFFS WOULD LIKE A
24 CHANCE TO RESPOND TO THAT MOTION ON THE RECORD. WE'D
25 PREFER TO DO SO IN WRITING AFTER THE CONCLUSION OF

04:18p

1 TRIAL. BUT IF YOUR HONOR WISHES TO RULE BEFORE THEN,
2 I AM PREPARED TO ADDRESS THE MOTION ORALLY ON THE
3 RECORD NOW, JUST AT YOUR HONOR'S PREFERENCE OF THE
4 TIMING.

5 **THE COURT:** LET'S HEAR FROM MR. STRACH.
6 REALLY THE ONLY ISSUE IS INTERLOCUTORY APPEAL. I
7 MEAN --

8 **MR. STRACH:** CORRECT. YOUR HONOR, WE DIDN'T
9 ASK FOR EXPEDITED TREATMENT. WE EXPECT IT WOULD JUST
10 BE DEALT WITH IN THE NORMAL COURSE, SO WE'D BE HAPPY
11 FOR THEM TO HAVE THE FULL TIME TO RESPOND --

12 **THE COURT:** I'D BE VERY HAPPY FOR THAT, TOO.

13 **MR. STRACH:** -- AND THE COURT TO RULE AT
14 YOUR CONVENIENCE.

15 **THE COURT:** I DIDN'T KNOW IF YOU WANTED TO
16 PUNT IT UP AS A 52(C) OR SOMETHING LIKE THAT.

17 **MR. STRACH:** WELL -- SO THAT'S WHERE I'M
18 GOING NEXT. SO WE WILL BE ASKING -- MAKING A MOTION
19 FOR JUDGMENT ON PARTIAL FINDINGS PURSUANT TO RULE
20 52(C). WE WERE JUST GOING TO DO IT ORALLY AND THEN
21 ASK THE COURT'S PLEASURE IN TERMS OF BRIEFING THAT
22 LATER. AGAIN, IT'S -- WE JUST WANT TO MAKE SURE WE
23 MAKE IT AT THE CLOSE OF THEIR EVIDENCE, WHETHER IT'S
24 TODAY OR TOMORROW, AND THEN WE COULD BRIEF IT.
25 HOWEVER, WE DON'T KNOW THERE IS A -- NEEDS TO BE A

04:19p

1 RUSH TO DECIDE IT.

2 **THE COURT:** I HAVEN'T HEARD YOUR 52(C).

3 I'LL RESERVE LISTENING TO YOUR 52(C) IN -- HOWEVER,

4 WITH RESPECT TO BRIEFING ON THE MOTION TO DISMISS,

5 YOU CAN HAVE THE REGULAR -- THE TIME FRAME THAT'S SET

6 FORTH IN THE LOCAL RULES. I GUESS IT'S 21 DAYS,

7 WHATEVER IT IS.

8 **MS. KEENAN:** THANK YOU, YOUR HONOR. THAT'S

9 ALL FROM PLAINTIFFS. WE'RE PREPARED TO REST OUR

10 CASE-IN-CHIEF.

11 **THE COURT:** ARE YOU RESTING YOUR CASE-IN-

12 CHIEF? AND I'M NOT PUTTING YOU IN A TRICK BAG. I'M

13 TAKING THIS 181 TO 183 UNDER ADVISEMENT. I MEAN, IF

14 I ADMIT THEM, I'M GOING TO ADMIT THEM EVEN IF YOU'VE

15 RESTED, SO DON'T FEEL LIKE YOU'RE IN A BOX.

16 **MS. KEENAN:** THANK YOU, YOUR HONOR. ONE

17 MOMENT TO CONFER WITH COUNSEL.

18 **THE COURT:** OKAY. OH, YOU MAY STEP DOWN. I

19 AM SO SORRY. NO, YOU JUST HAVE TO SIT THERE AND

20 WATCH THIS.

21 **THE WITNESS:** IT'S OKAY. I WAS BEING NOSY.

22 **THE COURT:** I AM SO SORRY.

23 **MS. KEENAN:** YOUR HONOR, THAT IS ALL FROM

24 THE PLAINTIFFS. WE'RE READY TO REST OUR CASE-IN-

25 CHIEF.

1 **THE COURT:** THE PLAINTIFFS ARE RESTING.

2 THE COURT WILL HEAR FROM THE DEFENDANTS

3 IN THE DEFENDANTS' CASE-IN-CHIEF IN THE MORNING.

4 I'LL HEAR YOUR 52(C) ARGUMENTS AT 9 A.M. SO IF YOU

5 WANT TO HAVE -- IF PRESIDENT CORTEZ IS YOUR LEAD-UP,

6 IF YOU WANT TO BE HERE ABOUT 9:30 -- I'D LIKE TO SAVE

7 YOU THE TROUBLE OF BEING HERE AT 9:00, UNLESS YOU

8 JUST WANT TO LISTEN TO THESE FINE PEOPLE TALK.

9 IS THERE ANYTHING ELSE THAT WE NEED TO

10 TAKE UP THIS AFTERNOON BEFORE WE RECESS FOR THE DAY?

11 **MR. STRACH:** NOT FROM US, YOUR HONOR.

12 **MS. KEENAN:** NOT FROM PLAINTIFFS, YOUR

13 HONOR.

14 **THE COURT:** OKAY. WE'LL SEE Y'ALL IN THE

15 MORNING AT 9:00.

16 **(WHEREUPON, THE PROCEEDINGS WERE ADJOURNED**

17 **UNTIL NOVEMBER 30, 2023 AT 9:00 A.M.)**

18 **C E R T I F I C A T E**

19 **I CERTIFY THAT THE FOREGOING IS A CORRECT**

20 **TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE**

21 **ABOVE-ENTITLED NUMBERED MATTER.**

22 **S:/NATALIE W. BREAUX**

23 **NATALIE W. BREAUX, RPR, CRR**

24 **OFFICIAL COURT REPORTER**

25

Attachment 4

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL * CIVIL ACTION
*
VERSUS * NO. 3:22-178-SDD
*
KYLE ARDOIN, ET AL * NOVEMBER 30, 2023
* * * * *

DAY 4
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:

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FOUNDATION
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8:58AM

1 **THE COURT:** WE ARE BACK ON THE RECORD IN THE NAIRNE
2 VERSUS ARDOIN CASE, 22 CIVIL ACTION 178. I BELIEVE THE PARTIES
3 HAVE A RULE 52(C) MOTION THAT THEY WANT TO -- OR THE
4 DEFENDANT/INTERVENORS HAVE A 52(C) THAT THEY WANT TO URGE. I'M
5 GOING TO GIVE EACH SIDE TEN MINUTES TO ARGUE THE 52(C), AND
6 THEN WE WILL TAKE A TEN-MINUTE BREAK AND COMMENCE WITH
7 TESTIMONY.

8 ALSO, JUST FOR HOUSEKEEPING PURPOSES SO THAT YOU ALL KNOW,
9 WE WILL TAKE AN EXTENDED NOONTIME BREAK FROM 11:30 TO 1:30. I
10 HAD MENTIONED THAT TO YOU AT THE PRETRIAL CONFERENCE, SO THAT
11 WILL BE THE SCHEDULE FOR TODAY. OKAY. MR. STRACH.

12 **MR. STRACH:** THANK YOU, YOUR HONOR, AND GOOD MORNING.
13 PHIL STRACH FOR THE SECRETARY OF STATE. YOUR HONOR, ALL
14 DEFENDANTS MOVE FOR JUDGMENT ON PARTIAL FINDINGS PURSUANT TO
15 RULE 52(C). AND WE HAVE THREE OR FOUR PRIMARY REASONS FOR THE
16 BASIS OF OUR MOTION.

17 THE FIRST IS PROVIDED IN OUR MOTION TO DISMISS FILED
18 YESTERDAY. SECTION 2 DOES NOT CONFER A PRIVATE RIGHT OF
19 ACTION. I WON'T GO INTO DETAIL ON THAT. THAT IS IN OUR
20 MOTION, WHICH THE COURT WILL DEAL WITH IT IN DUE COURSE. I DID
21 WANT TO NOTE, YOUR HONOR, THAT YESTERDAY, IN *ELIZONDO VERSUS*
22 *SPRING BRANCH ISP*, CASE NUMBER 4:21CV01997, THE SOUTHERN
23 DISTRICT OF TEXAS CANCELLED A TRIAL DATE SET FOR DECEMBER 4,
24 2023 IN A SECTION 2 CASE INVOLVING SCHOOL BOARD DISTRICTS IN
25 LIGHT OF THE EIGHTH CIRCUIT'S RULING IN ARKANSAS STATE

9:00AM 1 CONFERENCE NAACP, SO I WANTED THE COURT TO BE AWARE THAT A
2 SISTER COURT IN TEXAS TOOK THE CASE OFF THE TRIAL CALENDAR
3 BECAUSE OF THAT PENDING RULING.

4 SECOND, PLAINTIFFS HAVE STANDING TO CHALLENGE, AT MOST,
5 ONLY THOSE DISTRICTS THAT THE INDIVIDUAL PLAINTIFFS TESTIFY
6 THAT THEY LIVE IN. THAT'S CLEAR FROM *GILL V. WHITFORD*, 138
7 SUPREME COURT 1916, AND *NORTH CAROLINA VERSUS COVINGTON*, 138
8 SUPREME COURT 2548. DEFENDANTS PURPORT TO CHALLENGE 34 ENACTED
9 HOUSE DISTRICTS AND 13 ENACTED SENATE DISTRICTS, BUT THEY
10 CANNOT ASSERT INJURY FOR DISTRICTS OTHER THAN THOSE CHALLENGED
11 DISTRICTS IN WHICH THEY RESIDE.

12 DR. NAIRNE IS IN SENATE DISTRICT 2 AND HOUSE DISTRICT 60,
13 BUT SENATE DISTRICT 2 IS AN EXISTING MAJORITY-MINORITY
14 DISTRICT, SO THERE IS NO INJURY AND NO STANDING THERE.

15 DR. WASHINGTON LIVES IN HOUSE DISTRICT 66. REVEREND HARRIS IS
16 IN HOUSE DISTRICT 25. REVEREND LOWE IS IN HOUSE DISTRICT 66.
17 SO OF THE CHALLENGED DISTRICTS, THAT'S, AT MOST, THREE
18 LEGISLATIVE DISTRICTS THAT THE PLAINTIFFS HAVE STANDING TO
19 CHALLENGE.

20 FURTHER, THERE'S NO ORGANIZATIONAL STANDING. LOUISIANA
21 NAACP HAS NOT SHOWN ANY DIVERSION IN FUNDING SPECIFIC TO THE
22 STATE CONFERENCE. ALL THE ALLEGED HARMS ARE TO THE BRANCHES,
23 WHICH ARE SEPARATE LEGAL ENTITIES WHICH ARE NOT PART OF THIS
24 LAWSUIT.

25 MR. MCCLANAHAN SPOKE IN GENERALITIES ABOUT BANQUETS AND

9:02AM 1 FUNDRAISING, BUT THOSE ARE ALL BY THE BRANCHES. AND IN FACT,
2 HE TESTIFIED THAT THE STATE CONFERENCE HAD, IN FACT, HAD ITS
3 ANNUAL CONFERENCE THIS YEAR.

4 ALL THE HARM MS. HO SANG TESTIFIED TO WAS TO THE BLACK
5 VOTERS MATTER FUND, NOT THE CAPACITY BUILDING INSTITUTE. THEY
6 ARE SEPARATE ENTITIES, DIFFERENT TAX STATUSES. BUT EVEN IF
7 THEY WEREN'T, THE ALLEGED HARM AND DIVERSION OF RESOURCES
8 OCCURRED BEFORE THE MAPS WERE PASSED.

9 THERE IS NO ASSOCIATIONAL STANDING. THAT WAS NOT RAISED
10 BY BVM BECAUSE THEY DON'T HAVE ANY MEMBERS. THE LOUISIANA
11 NAACP CANNOT ASSERT STANDING ON BEHALF OF THE BRANCH MEMBERS.
12 THEY ARE TOTALLY SEPARATE ORGANIZATIONS. FURTHERMORE, THE TIME
13 FOR MEASURING STANDING IS AT THE FILING OF THE COMPLAINT, AS
14 YOUR HONOR CORRECTLY NOTED IN THE SUMMARY JUDGMENT ORDER AT
15 DOC. 181 AT PAGE 5. THE PLAINTIFFS OFFERED NO EVIDENCE AS TO
16 WHEN THESE INDIVIDUALS BECAME MEMBERS, LET ALONE WHETHER THEY
17 VOTE OR WHETHER THEIR CANDIDATES OF CHOICE ARE WINNING THEIR
18 DISTRICTS. MR. MCCLANAHAN CONCEDED THAT HE DID NOT CONTACT THE
19 MEMBERS WHO WAIVED THEIR ASSOCIATIONAL PRIVILEGE UNTIL A FEW
20 WEEKS AGO, AND DEFENDANTS HAVE NOT BEEN ABLE TO DEPOSE THOSE
21 WITNESSES.

22 EVEN SO, MR. MCCLANAHAN ONLY TESTIFIED TO THREE ENACTED
23 SENATE DISTRICTS AND FOUR ENACTED HOUSE DISTRICTS IN WHICH
24 MEMBERS OF CERTAIN LOCAL NAACP BRANCHES RESIDE. SO WHEN
25 COMBINED WITH THE INDIVIDUAL PLAINTIFFS, THAT WOULD BE, AT

9:03AM 1 MOST, 10 LEGISLATIVE DISTRICTS OUT OF THE 47 ENACTED DISTRICTS
2 THAT PLAINTIFFS CHALLENGE.

3 FINALLY, YOUR HONOR, THE PLAINTIFFS HAVE FAILED TO PRESENT
4 A VIABLE REMEDY.

5 IN *ROSE V. GEORGIA*, NUMBER 1:20CV2921, IN THE SOUTHERN
6 DISTRICT OF GEORGIA, THE ELEVENTH CIRCUIT HELD THAT A PLAINTIFF
7 MUST PRESENT A SATISFACTORY REMEDIAL PLAN TO MEET THE *GINGLES*
8 PRECONDITIONS. HERE PLAINTIFFS HAVE PRESENTED NO EVIDENCE THAT
9 THE PROPOSED ILLUSTRATIVE DISTRICTS WILL PERFORM AND ELECT A
10 BLACK VOTER'S CANDIDATE OF CHOICE. DR. HANDLEY TESTIFIED THAT
11 SHE DID NOT CONDUCT A DISTRICT-SPECIFIC ABILITY-TO-ELECT
12 ANALYSIS. SHE FAILED TO CONDUCT A DISTRICT-SPECIFIC ANALYSIS
13 OF WHAT BVAP IS NECESSARY FOR BLACK VOTERS' CANDIDATES OF
14 CHOICE TO WIN.

15 IN *COVINGTON V. NORTH CAROLINA*, THE COURT OBSERVED THAT
16 THE CORRECT ANALYSIS TO SATISFY THE THIRD PRONG IS A, QUOTE,
17 DISTRICT EFFECTIVENESS ANALYSIS, WHICH IS, QUOTE, USED TO
18 DETERMINE THE MINORITY VOTING AGE POPULATION LEVEL AT WHICH A
19 DISTRICT BECOMES EFFECTIVE IN PROVIDING A REALISTIC OPPORTUNITY
20 FOR VOTERS OF THAT MINORITY GROUP TO ELECT CANDIDATES OF THEIR
21 CHOICE, CLOSE QUOTE. AND, OF COURSE, THAT DECISION WAS
22 AFFIRMED UNANIMOUSLY BY THE UNITED STATES SUPREME COURT.

23 DR. HANDLEY ADMITTED THAT SHE DID NOT CONDUCT A
24 DISTRICT-SPECIFIC ANALYSIS EXCEPT FOR HER EFFECTIVENESS SCORES,
25 WHICH WERE ONLY FOR THE DISTRICTS AS DRAWN, NOT THE PROPOSED

9:05AM

1 ILLUSTRATIVE DISTRICTS.

2 FURTHERMORE, SHE ALSO FAILED TO CONSIDER ENDOGENOUS
3 ELECTIONS. THE COURTS WITHIN THIS CIRCUIT HAVE ROUTINELY HELD
4 THAT ENDOGENOUS ELECTIONS ARE MORE PROBATIVE OF UNEQUAL
5 ELECTORAL OPPORTUNITY, CITING *RODRIGUEZ VERSUS HARRIS COUNTY*,
6 964 F.SUPP.2D 686, AFFIRMED BY THE FIFTH CIRCUIT IN 2015.

7 IN ADDITION, THE PLAINTIFFS HAVE PUT ON NO EVIDENCE OF
8 DEMONSTRATING THAT THE POPULATION, THE MINORITY POPULATION IN
9 THE PROPOSED ILLUSTRATIVE DISTRICTS ARE COMPACT. AND
10 THEREFORE, THE CLAIMS FAIL FOR THAT REASON. ALSO, THEREFORE,
11 THEY HAVE FAILED TO DEMONSTRATE THAT THEY HAVE A VIABLE REMEDY,
12 AND THEREFORE DEFENDANTS ARE ENTITLED TO A RULE 52 (C) JUDGMENT.

13 THANK YOU, YOUR HONOR.

14 **THE COURT:** THANK YOU. COUNSEL FOR THE PLAINTIFF.

15 **MS. KEENAN:** YES, YOUR HONOR. MAY I PROCEED?

16 **THE COURT:** YES.

17 **MS. KEENAN:** SO I THINK MR. STRACH SAID THERE WERE
18 THREE OR FOUR PRIMARY REASONS --

19 **THE COURT:** MAKE AN APPEARANCE FOR THE COURT
20 REPORTER. WE HAVE A NEW COURT REPORTER.

21 **MS. KEENAN:** OH, I APOLOGIZE. MEGAN KEENAN FOR THE
22 PLAINTIFFS.

23 **THE COURT:** THANK YOU.

24 **MS. KEENAN:** I THINK MR. STRACH SAID THERE WERE THREE
25 OR FOUR PRIMARY REASONS. I'M NOT SURE I GOT EXACTLY THAT MANY,

9:06AM

1 BUT I WILL TRY TO TAKE THEM IN TURN AS I HEARD THEM.

2 SO FIRST WAS AS TO THE REQUEST THAT WE SHOULD STAY OR
3 CANCEL THE TRIAL RELATING TO THE PRIVATE RIGHT OF ACTION
4 DECISION THAT CAME OUT OF THE ARKANSAS DECISION IN THE EIGHTH
5 CIRCUIT. AS MR. STRACH NOTED, THERE WAS NO MOTION FILED ON
6 THIS ISSUE YESTERDAY FOR THE FIRST TIME DURING THE LUNCH BREAK
7 OF DAY THREE OF THE TRIAL. THE DEFENDANTS HAVE NEVER ASKED
8 THIS COURT TO DISMISS THIS CASE ON THE BASIS OF A PRIVATE RIGHT
9 OF ACTION PRIOR TO THAT MOTION. THEY DID NOT RAISE IT IN THEIR
10 ANSWER, FOR EXAMPLE. AND THEY DIDN'T RAISE IT IN ANY MOTION TO
11 DISMISS THAT WAS FILED AT AN APPROPRIATE TIME. SO AS AN
12 INITIAL MATTER, PLAINTIFFS WANT TO PRESERVE THAT THIS ARGUMENT
13 WAS NOT TIMELY MADE.

14 BUT ON THE SUBSTANCE, ADDITIONALLY, AS YOUR HONOR MADE
15 CLEAR AT THE TOP OF THIS TRIAL, THIS COURT IS BOUND BY THE
16 FIFTH CIRCUIT'S DECISION IN *ROBINSON VERSUS ARDOIN*, WHICH JUST
17 WEEKS AGO CONFIRMED THAT PRIVATE PLAINTIFFS HAD A PRIVATE RIGHT
18 OF ACTION UNDER SECTION 2. TO BE SPECIFIC, THE COURT WAS FACED
19 WITH THE QUESTION OF, QUOTE, WHETHER SECTION 2 PROVIDES FOR A
20 PRIVATE RIGHT OF ACTION, CLOSE QUOTE, AND IT HELD THAT PRIVATE
21 PLAINTIFFS, INCLUDING SOME OF THE VERY PARTIES IN THIS VERY
22 CASE, QUOTE, ARE AGGRIEVED PERSONS, AND THAT THERE IS A RIGHT
23 FOR PLAINTIFFS TO BRING THESE CLAIMS, CLOSE QUOTE. THAT'S THE
24 ROBINSON SLIP OPINION AT PAGES 9 TO 10. SO THIS COURT IS BOUND
25 BY THE FIFTH CIRCUIT'S EXISTING LAW SAYING THAT THERE IS, IN

9:08AM

1 FACT, A PRIVATE RIGHT OF ACTION UNDER SECTION 2.

2 MR. STRACH DID NOT SEEM TO RAISE THE JURISDICTIONAL
3 ARGUMENT HERE TODAY. WE ARE PREPARED TO ADDRESS THAT TO THE
4 EXTENT OF THIS UNDERSTANDING, BUT WE WILL, IN ANY EVENT, BE
5 ADDRESSING THE JURISDICTIONAL COMPONENT, WHICH WE THINK IS
6 WRONG-HEADED, IN THE MOTION THAT YOUR HONOR SAID WE CAN FILE
7 AFTER TRIAL IN THIS CASE.

8 TO BRIEFLY COMMENT ON THAT ISSUE, WE DON'T UNDERSTAND ANY
9 SOURCE OF AUTHORITY FOR THAT ARGUMENT. THE EIGHTH CIRCUIT
10 DECISION THAT THE DEFENDANTS HAVE RAISED ADDRESSES JURISDICTION
11 BRIEFLY TO SAY THAT THEY FOUND THAT THE DISTRICT COURT HAD
12 JURISDICTION ALL ALONG AND THAT THERE ARE ONLY VERY SPECIFIC
13 CIRCUMSTANCES WHERE THE PRIVATE RIGHT OF ACTION ISSUE IS
14 JURISDICTIONAL AND THAT THIS ISN'T ONE OF THEM.

15 THE ONLY OTHER SOURCE OF AUTHORITY ABOUT THIS PRIVATE
16 RIGHT OF ACTION ISSUE AND WHETHER PRIVATE PLAINTIFFS CAN BRING
17 A CLAIM UNDER SECTION 2, TO OUR KNOWLEDGE, IS JUSTICE GORSUCH'S
18 CONCURRENCE IN *BRNOVICH*, WHICH AGAIN SPECIFICALLY STATES THAT
19 THIS IS NOT A JURISDICTIONAL ISSUE, SO WE DON'T UNDERSTAND ANY
20 BASIS FOR THAT SORT OF AN ARGUMENT.

21 THE LAST THING ON THIS ISSUE ABOUT THE PRIVATE RIGHT OF
22 ACTION IS THAT THE CASE THAT MR. STRACH CITED OUT OF THE
23 SOUTHERN DISTRICT OF TEXAS, OF COURSE, WAS SET TO BEGIN LATER
24 IN DECEMBER. YOUR HONOR HAS ALREADY DECIDED NOT TO STAY THIS
25 TRIAL, AND NOW WE ARE MID-WAY THROUGH THE TRIAL. SO WE WOULD

9:09AM

1 OBJECT TO ANY ARGUMENT THAT THERE SHOULD BE JUDGMENT ENTERED ON
2 THE BASIS OF THE EIGHTH CIRCUIT DECISION AT THIS STAGE OF
3 TRIAL.

4 I'M GOING TO MOVE ON NEXT TO WHAT I UNDERSTAND TO BE AN
5 ARGUMENT THAT AFFECTS THE INDIVIDUAL STANDING IN THIS CASE,
6 MR. STRACH'S ARGUMENT ABOUT THE INJURIES TO THOSE PLAINTIFFS
7 AND TO WHICH DISTRICTS THE PLAINTIFFS ARE ABLE TO CHALLENGE.
8 AS THE COURT EXPLAINED IN ITS ORDER DENYING SUMMARY JUDGMENT
9 PRIOR TO TRIAL, THE INJURY-IN-FACT INQUIRY REQUIRES PLAINTIFFS
10 TO SHOW THE EXISTENCE OF AT LEAST ONE PERSON WHO WAS A BLACK
11 REGISTERED VOTER RESIDING IN EACH DILUTIVE DISTRICT THAT COULD
12 BE REDRAWN INTO A MAJORITY BLACK DISTRICT. THAT'S FROM YOUR
13 HONOR'S ORDER DENYING SUMMARY JUDGMENT.

14 HERE, THE TESTIMONY OF THE INDIVIDUAL PLAINTIFFS AND
15 PRESIDENT MCCLANAHAN ESTABLISHED THE RACE AND VOTER
16 REGISTRATION STATUS OF EACH PLAINTIFF AND NAACP MEMBER. THE
17 TESTIMONY OF THE INDIVIDUAL PLAINTIFFS, PRESIDENT MCCLANAHAN
18 AND BILL COOPER, ESTABLISHED THE ILLUSTRATIVE AND ENACTED
19 DISTRICTS IN WHICH EACH PLAINTIFF AND NAACP MEMBER CURRENTLY
20 RESIDES. AND PLAINTIFFS' EXHIBITS 23, 24, 33 AND 40
21 ESTABLISHED THE BVAP PERCENTAGE OF EACH ENACTED AND
22 ILLUSTRATIVE HOUSE AND SENATE DISTRICT.

23 FROM THOSE SOURCES THAT I'VE JUST MENTIONED, WE
24 ESTABLISHED THE FOLLOWING INFORMATION: EACH PLAINTIFF AND
25 NAACP MEMBER IS BLACK AND A REGISTERED VOTER IN THE STATE OF

9:10AM

1 LOUISIANA. DR. NAIRNE CURRENTLY RESIDES IN MAJORITY WHITE
2 ENACTED HD 60 AND WOULD RESIDE IN MAJORITY BLACK ILLUSTRATIVE
3 HOUSE DISTRICT 58. REVEREND LOWE CURRENTLY RESIDES IN MAJORITY
4 WHITE ENACTED HD 66 AND WOULD RESIDE IN MAJORITY BLACK
5 ILLUSTRATIVE HD 101. REVEREND HARRIS CURRENTLY RESIDES IN
6 MAJORITY WHITE ENACTED HD 25 AND WOULD RESIDE IN MAJORITY BLACK
7 ILLUSTRATIVE HD 23. DR. WASHINGTON CURRENTLY RESIDES IN
8 MAJORITY WHITE ENACTED HD 66 AND WOULD RESIDE IN MAJORITY BLACK
9 ILLUSTRATIVE HD 101.

10 AND WITHOUT GETTING INTO THE SPECIFIC NAMES AND ADDRESSES
11 DISCUSSED UNDER SEAL, OF COURSE, MR. COOPER WALKED US THROUGH
12 HOW EACH NAACP MEMBER CURRENTLY RESIDES IN A PACKED OR CRACKED
13 DISTRICT IN THE ENACTED MAP AND WOULD INSTEAD LIVE IN A
14 REASONABLY CONFIGURED MAJORITY BLACK DISTRICT IN THE
15 ILLUSTRATIVE MAP, INCLUDING SPECIFICALLY ILLUSTRATIVE HD 1, 23,
16 38, 65, 68, AND 69, AS WELL AS ILLUSTRATIVE SENATE DISTRICTS
17 17, 19 AND 38.

18 IN ADDITION TO MR. COOPER, MR. MCCLANAHAN'S TESTIMONY
19 ABOUT THE NAACP MEMBERS, DR. NAIRNE ALSO TESTIFIED THAT SHE IS
20 AN NAACP MEMBER, AND SHE LIVES IN ENACTED HD 60, WHICH
21 MR. COOPER UNCRACKED TO CREATE MAJORITY BLACK HD 60.

22 SO IN EACH OF THOSE DISTRICTS THAT I'VE JUST NAMED, HD 1,
23 23, 38, 65, 68 AND 69 AND 60 AND ILLUSTRATIVE SD 17, 19 AND 38,
24 PLAINTIFFS HAVE ESTABLISHED STANDING AS YOUR HONOR DEFINED IT
25 IN THE ORDER DENYING SUMMARY JUDGMENT IN THIS CASE.

9:12AM

1 AS FOR THE ASSOCIATIONAL STANDING THAT MR. STRACH RAISED,
2 I AM UNAWARE OF ANY ASSOCIATIONAL STANDING CASE IN WHICH AN
3 ORGANIZATION HAS HAD TO PROVE NOT ONLY THE NAMES AND THE
4 ADDRESSES AND THE VOTER REGISTRATION STATUS AND THE RACE OF ITS
5 MEMBERS AND WHERE THEY WOULD LIVE UNDER BOTH THE ENACTED AND
6 THE ILLUSTRATIVE PLANS, BUT ALSO THE DATE ON WHICH EACH MEMBER
7 JOINED THE ORGANIZATION IN QUESTION. THERE IS NO EVIDENCE
8 CERTAINLY SUGGESTING THAT THEY WERE NOT MEMBERS, SO AT THIS
9 POINT, WE THINK THE PLAINTIFFS HAVE MET THEIR BURDEN ON
10 ASSOCIATIONAL STANDING AND HAVE PROVED EVERYTHING THEY NEED TO
11 ABOUT THE NAACP MEMBERS IN THIS CASE.

12 FINALLY, ON THE NAACP MEMBER POINT, I BELIEVE THAT
13 MR. STRACH HAS CONFUSED THE FACTS ABOUT THE BRANCH TESTIMONY
14 THAT CAME IN AND THE LOUISIANA NAACP TESTIMONY THAT CAME IN.
15 AS WE'VE ALREADY BRIEFED IN THIS CASE, THERE'S A MULTI-TIER
16 MEMBERSHIP STRUCTURE OF THE LOUISIANA NAACP, NAMELY THE
17 LOUISIANA NAACP HAS MEMBERS THAT ARE ITS BRANCHES, AND THOSE
18 BRANCHES HAVE INDIVIDUAL MEMBERS. AND WE'VE TALKED ABOUT CASE
19 LAW SHOWING THAT THIS MULTI-TIER MEMBERSHIP STRUCTURE DOES NOT
20 DESTROY ASSOCIATIONAL STANDING.

21 BUT AS TO THE DIVERSION OF RESOURCES STANDING, WHICH MR.
22 STRACH ALSO ADDRESSED, THERE WAS NO TESTIMONY THAT THE
23 DIVERSION OF RESOURCES WAS ONLY AT THE BRANCH LEVEL RATHER THAN
24 AT THE STATE LOUISIANA NAACP LEVEL. RATHER, MR. MCCLANAHAN,
25 THE PRESIDENT OF THE LOUISIANA NAACP, TESTIFIED ABOUT THE

9:14AM 1 SPECIFIC RESOURCES THAT THAT ORGANIZATION IS DIVERTING. AND IN
2 PARTICULAR, YOUR HONOR, HE TESTIFIED ABOUT HOW THE LOUISIANA
3 NAACP HAS HAD TO PULL PEOPLE BACK FROM DOING WORK ON HEALTH,
4 EDUCATION, AND OTHER PROJECTS AND HOW MUCH ADDITIONAL
5 ORGANIZING AND MOBILIZATION ARE NOW REQUIRED TO COUNTERACT THE
6 STATE HOUSE AND SENATE MAPS, GIVEN THEIR INSTALLATION OF
7 DISILLUSIONMENT IN BLACK VOTERS AND THEIR EFFECT ON OTHER
8 ORGANIZATIONS, CANDIDATES AND FUNDERS' WILLINGNESS TO INVEST
9 RESOURCES INTO BLACK COMMUNITIES' NEEDS IN LOUISIANA.

10 I'M NEXT GOING TO ADDRESS THE ORGANIZATIONAL STANDING
11 ISSUE AS TO BLACK VOTERS MATTER CAPACITY INSTITUTE, WHICH
12 AGAIN, I DON'T QUITE UNDERSTAND. MR. STRACH REPRESENTED THAT
13 THE RESOURCES DIVERTED WERE FROM BVM FUND, BUT THAT IS SIMPLY
14 NOT WHAT MS. HO SANG TESTIFIED. WHEN ASKED SPECIFICALLY ABOUT
15 WHERE THE RESOURCES THAT SHE TESTIFIED ABOUT WERE EXPENDED
16 FROM, SHE SAID ONE HUNDRED PERCENT OF THOSE RESOURCES CAME FROM
17 THE C3, FROM BVM CAPACITY BUILDING INSTITUTE. THAT'S THE NAMED
18 PLAINTIFF IN THIS CASE.

19 SO THE PLAINTIFFS HAVE SHOWN THAT THE RESOURCES MS. HO
20 SANG TESTIFIED ABOUT CAME FROM THE NAMED PLAINTIFF
21 ORGANIZATION. AND MR. STRACH ALSO SUGGESTED THAT THOSE
22 RESOURCES WERE ONLY EXPENDED PRIOR TO THE PASSAGE OF THE MAP.
23 BUT AGAIN, THAT IS NOT WHAT MS. HO SANG TESTIFIED. SHE DID, OF
24 COURSE, TALK ABOUT HOW BVM CAPACITY BUILDING INSTITUTE EXPENDED
25 SUBSTANTIAL RESOURCES TOWARD COUNTERACTING THE STATE HOUSE AND

9:15AM

1 SENATE MAPS FROM THE TIME THEY WERE INITIALLY PROPOSED,
2 INCLUDING BY SUSPENDING SUBSTANTIAL AMOUNTS OF MONEY ON STAFF
3 TIME ON EDUCATING, MOBILIZING, AND TRANSPORTING BLACK VOTERS
4 FROM AROUND THE STATE TO TESTIFY AT ROAD SHOW HEARINGS AND THE
5 STATE HOUSE, ALL TO COUNTERACT THE UNLAWFUL MAP THAT THE
6 LEGISLATURE ULTIMATELY DID PASS.

7 BUT IN ADDITION TO ALL OF THE WORK SHE TESTIFIED ABOUT
8 LEADING UP TO THE PASSAGE OF THE STATE HOUSE AND SENATE MAPS,
9 SHE MADE CLEAR THAT BVM CONTINUED TO DIVERT RESOURCES AFTER THE
10 PASSAGE OF THE MAP TO COUNTERACT DEFENDANTS' CONDUCT AND THAT
11 THAT DIVERSION IS ONGOING.

12 MS. HO SANG TALKED IN DETAIL ABOUT HOW BVM, FOR EXAMPLE,
13 LAUNCHED A NEW ACCOUNTABILITY STRATEGY. THAT IS ONE CONCRETE
14 MEASURE BVM IS TAKING TO COUNTERACT THE MAP'S DILUTIVE EFFECT
15 AND SUPPRESSION OF BLACK VOTERS' POWER. SHE TALKED ABOUT HOW
16 THAT ACCOUNTABILITY STRATEGY INCLUDES FINDING NEW WAYS TO HOLD
17 ELECTED OFFICIALS ACCOUNTABLE TO BLACK VOTERS, WHETHER BY
18 DEVOTING STAFF TIME TOWARD CREATING FLIERS AND E-MAILS AND
19 SOCIAL MEDIA POSTS, LIKE PLAINTIFFS' EXHIBITS 205, 206, 207,
20 AND 208, TO EDUCATE VOTERS ON WHICH REPRESENTATIVES VOTED
21 AGAINST THEIR INTERESTS AND HOW TO CONTACT THOSE
22 REPRESENTATIVES DIRECTLY, OR BY HOSTING VIRTUAL AND IN-PERSON
23 FREEDOM SCHOOLS TO TEACH BVM'S PARTNERS AND COMMUNITIES ABOUT
24 HOW TO ENGAGE WITH ELECTED OFFICIALS WHO DON'T REPRESENT THEIR
25 COMMUNITIES AND TO MAKE THEIR NEEDS HEARD.

9:16AM

1 MS. HO SANG ALSO EXPLAINED THAT THE DILUTIVE STATE HOUSE
2 AND SENATE MAPS HAVE DEEPEDED VOTER APATHY AND DISILLUSIONMENT
3 BY PROVIDING WHAT SHE CALLED A CASE IN POINT, THAT DESPITE
4 BLACK COMMUNITIES ORGANIZING AND TESTIFYING BEFORE THE
5 LEGISLATURE AND FIGHTING FOR THEIR RIGHTS, THE ENACTED MAPS DO
6 NOT GIVE THEM AN OPPORTUNITY TO ELECT A REPRESENTATIVE OF THEIR
7 CHOICE, AND SO THEY LITERALLY PREVENT THEIR VOTES FROM
8 MATTERING.

9 AND TO COUNTERACT THIS DISTINCTIVE EFFECT OF THE STATE
10 HOUSE AND SENATE MAPS, AGAIN, AFTER THE MAPS WERE PASSED, BVM
11 HAS HAD TO DEVOTE EVEN MORE STAFF TIME AND RESOURCES TOWARD
12 CONVINCING BLACK LOUISIANANS THAT THEIR VOTES MATTER, INCLUDING
13 BY CHANGING ITS PRACTICE OF EXPENDING RESOURCES ON VOTER
14 ENGAGEMENT EFFORTS CLOSE IN TIME TO ELECTION DAY, TO WHICH SHE
15 DESCRIBED AS A 365 YEAR-ROUND VOTER ENGAGEMENT APPROACH.

16 PERHAPS MOST IMPORTANTLY, MS. HO SANG ALSO EXPLAINED HOW
17 EACH OF THESE CONCRETE MEASURES BVM IS TAKING TO COUNTERACT THE
18 DEFENDANTS' CONDUCT PERCEPTIVELY IMPAIRS BVM'S ABILITY TO CARRY
19 OUT OTHER ACTIVITIES. RECALL, FOR EXAMPLE, MS. HO SANG'S
20 TESTIMONY ABOUT HOW BVM HAS LIMITED TIME AND RESOURCES AND HOW
21 POURING ITS EFFORTS AND RESOURCES INTO THE ACCOUNTABILITY
22 STRATEGY AND ITS 365 VOTER ENGAGEMENT WORK AFTER THE PASSAGE OF
23 THE MAPS HAVE DELAYED OR PREVENTED BVM FROM ENGAGING IN
24 CAPACITY FOR BUILDING WORK WITH ITS PARTNERS. FOR EXAMPLE, ITS
25 PARTNERS' ISSUE MINING NEEDS THAT ARE CRITICALLY IMPORTANT TO

9:18AM 1 THEIR ABILITY TO EFFECTIVELY MOBILIZE AND EMPOWER BLACK VOTERS
2 IN LOUISIANA.

3 ALL OF THAT TESTIMONY AND THE EXHIBITS I MENTIONED HAVE
4 COME INTO EVIDENCE, AND SO PLAINTIFFS HAVE ESTABLISHED THAT BVM
5 DID DIVERT RESOURCES SUFFICIENT TO ESTABLISH ORGANIZATIONAL
6 STANDING IN THIS CASE.

7 THE NEXT THING I HAVE IS AN ARGUMENT THAT THERE'S NO
8 EVIDENCE THAT THE PROPOSED ILLUSTRATIVE DISTRICTS WILL PERFORM,
9 WHICH AGAIN, DR. HANDLEY CERTAINLY TESTIFIED TO YESTERDAY. AS
10 THIS COURT HAS ALREADY OBSERVED IN THE *DAUBERT* ORDER IN THIS
11 CASE, DR. HANDLEY'S TESTIMONY WAS SUFFICIENTLY LOCALIZED,
12 ESPECIALLY GIVEN THAT IT WOULD HAVE BEEN IMPOSSIBLE TO HAVE
13 DONE DISTRICT-SPECIFIC ANALYSIS ON DISTRICTS THAT HADN'T HAD
14 ANY ELECTIONS YET.

15 DR. HANDLEY DID, HOWEVER, TRY TO CREATE ENDOGENOUS
16 ELECTIONS, AS SHE TESTIFIED IN HER EXPERT OPINIONS, BY
17 ASSEMBLING AREAS OF INTEREST IN THE STATE, LOOKING AT
18 LEGISLATIVE RACES THAT HAD HAPPENED IN THE DISTRICTS THAT ARE
19 NOW IN THE ILLUSTRATIVE -- OR NOW THE ENACTED DISTRICTS, AND BY
20 TALKING ABOUT HOW THERE WAS RACIALLY POLARIZED VOTING IN EACH
21 OF THOSE AREAS.

22 DR. HANDLEY ALSO INCLUDED IN HER REPORT EFFECTIVENESS
23 SCORES FOR NOT ONLY THE ENACTED BUT THE ILLUSTRATIVE DISTRICTS.
24 SO SHE CERTAINLY PROVIDED BOTH EVIDENCE ABOUT HOW RACIALLY
25 POLARIZED VOTING EXISTS IN LOUISIANA AND HOW IT AFFECTS

9:19AM

1 ELECTIONS. SHE TALKED ABOUT HOW THAT AFFECTED EACH OF THE
2 PROPOSED ILLUSTRATIVE DISTRICTS IN THIS CASE, AND SHE INCLUDED
3 AN EFFECTIVENESS SCORE FOR EACH OF THOSE DISTRICTS.

4 SO PLAINTIFFS BELIEVE THAT THEY HAVE ESTABLISHED WHAT IS
5 NECESSARY FOR *GINGLES* II AND III AS IT RELATES TO A PERFORMANCE
6 OF THE DISTRICTS.

7 I'M JUST CHECKING MY NOTES TO SEE IF THERE IS ANYTHING
8 ELSE I WANTED TO INCLUDE ON THE RECORD, YOUR HONOR.

9 I GUESS, JUST TO ADD ONE MORE THING ABOUT THE
10 EFFECTIVENESS OF THE DISTRICT, AS I SAID, DR. HANDLEY
11 CALCULATED THE EFFECTIVENESS SCORE OF ALL ENACTED DISTRICTS IN
12 THE AREAS OF INTEREST. SHE DIDN'T FIND A SINGLE ENACTED
13 DISTRICT WITH BVAPS LESS THAN 50 PERCENT THAT WERE EFFECTIVE IN
14 ELECTING BLACK PREFERRED CANDIDATES. THAT'S ALSO ENTIRELY
15 CONSISTENT WITH TESTIMONY FROM FACT WITNESSES LIKE
16 REPRESENTATIVE GLOVER ABOUT HOW SELDOM BLACK CANDIDATES SUCCEED
17 OUTSIDE OF MAJORITY BLACK DISTRICTS. WE THINK THAT TESTIMONY
18 ALSO GOES TO THE EFFECTIVENESS OF THE DISTRICTS IN THIS CASE.

19 I'M GOING TO BRIEFLY CONFER WITH COUNSEL TO MAKE SURE
20 THERE ISN'T ANYTHING ELSE WE WANT TO SAY IN RESPONSE TO
21 MR. STRACH'S ARGUMENTS.

22 **THE COURT:** YOU MAY.

23 **MS. KEENAN:** THAT'S ALL FROM PLAINTIFFS, YOUR HONOR.

24 **THE COURT:** OKAY. THE COURT IS GOING TO TAKE THE
25 52 (C) UNDER ADVISEMENT AND, UNDER THE EXPRESS TEXT OF 52 (C) ,

9:21AM 1 DECLINES TO RENDER ANY JUDGMENT UNTIL THE CLOSE OF EVIDENCE.
2 WE WILL TAKE A RECESS UNTIL 9:30, AND THEN WE WILL COMMENCE
3 WITH THE DEFENDANTS' CASE-IN-CHIEF.

4 (RECESS TAKEN AT 9:21 A.M. UNTIL 9:34 A.M.)

5 THE COURT: THE DEFENDANTS/INTERVENORS MAY CALL THEIR
6 FIRST WITNESS.

7 MS. MCKNIGHT: GOOD MORNING, YOUR HONOR. MAY IT
8 PLEASE THE COURT. WE WOULD CALL PRESIDENT OF THE SENATE, PAGE
9 CORTEZ, TO THE STAND.

10 THE COURT: OKAY. THANK YOU. MS. MCKNIGHT, MAKE AN
11 APPEARANCE FOR THE COURT REPORTER, PLEASE.

12 MS. MCKNIGHT: GOOD MORNING. MY NAME IS KATE
13 MCKNIGHT WITH BAKER HOSTETLER HERE ON BEHALF OF THE LEGISLATIVE
14 INTERVENORS.

15 THE CLERK: IF YOU WOULD, SIR, PLEASE STATE YOUR NAME
16 AND SPELL IT FOR THE RECORD.

17 THE WITNESS: MY NAME IS PAGE CORTEZ, P-A-G-E,
18 C-O-R-T-E-Z.

19 PAGE CORTEZ,
20 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MS. MCKNIGHT:

23 Q. GOOD MORNING, MR. PRESIDENT.

24 A. GOOD MORNING.

25 Q. COULD YOU START BY TELLING US WHERE YOU ARE FROM.

9:35AM 1 A. I'M FROM LAFAYETTE, LOUISIANA, AND I REPRESENT DISTRICT
2 23, SENATE DISTRICT 23, WHICH IS PRIMARILY LAFAYETTE PARISH.

3 Q. OKAY. AND HOW LONG HAVE YOU SERVED IN THE LEGISLATURE?

4 A. SIXTEEN YEARS.

5 Q. AND WHAT WAS YOUR ROLE IN THE 2022 REDISTRICTING CYCLE?

6 A. WELL, I'M THE PRESIDING OFFICER OF THE SENATE. I ALSO
7 SERVE EX OFFICIO ON ALL COMMITTEES, DO NOT HAVE VOTING
8 PRIVILEGES ON THE COMMITTEES, AND I'VE AUTHORED SENATE BILL 1,
9 WHICH WAS ONE OF THE REDISTRICTING BILLS. I ALSO AUTHORED A
10 BILL RELATIVE TO THE CONGRESSIONAL DISTRICTS AND TO THE BOARD
11 OF ELEMENTARY AND SECONDARY EDUCATION. I AUTHORED THREE
12 DIFFERENT BILLS. THE ONLY ONE THAT WAS PASSED ULTIMATELY WAS
13 THE SENATE BILL 1.

14 Q. AND WHAT WAS THE SENATE COMMITTEE THAT WAS RESPONSIBLE FOR
15 THE REDISTRICTING CYCLE?

16 A. SENATE AND GOVERNMENTAL AFFAIRS.

17 Q. COULD YOU TELL US, AS PRESIDENT OF THE SENATE, DO YOU HAVE
18 ANY ROLE IN MANAGING VOTES FOR PIECES OF LEGISLATION?

19 A. NO. I MEAN, WHEN YOU SAY MANAGING VOTES, I DON'T -- I
20 ONLY ATTEMPT TO FIGURE OUT WHERE THE VOTES ARE FOR THE
21 SUBSEQUENT PASSAGE OF THE LEGISLATION.

22 Q. SO IN YOUR ROLE, DO I UNDERSTAND THAT YOU'D NEED TO KNOW
23 THE LEVELS OF SUPPORT FOR DIFFERENT PIECES OF LEGISLATION?

24 A. YES.

25 Q. AND DID YOU HAVE THAT ROLE DURING THE REDISTRICTING CYCLE?

9:36AM 1

A. YES.

2

Q. AND I KNOW WE HAVE BEEN FOCUSED ON REDISTRICTING IN THIS
3 CASE. IS THE REDISTRICTING EFFORT BY THE LEGISLATURE TREATED
4 JUST LIKE ANY OTHER PIECE OF LEGISLATION?

5

A. YES. IN TERMS OF PROCESS, IT'S A HUNDRED PERCENT THE SAME
6 AS ANY OTHERS. YOU KNOW, AS FAR AS FOR HOW MANY VOTES IT TAKES
7 TO PASS AND THE GOVERNOR'S SIGNATURE, ET CETERA, YES, IT IS
8 IDENTICAL.

9

Q. LET'S BRING UP JOINT EXHIBIT NUMBER 53. THIS IS LABELED
10 JRULE OR JOINT RULE 21. DO YOU RECOGNIZE THIS DOCUMENT,
11 MR. PRESIDENT?

12

A. YES.

13

Q. AND WHAT IS IT?

14

A. THE HOUSE OF REPRESENTATIVES HAS THEIR SET OF RULES, THE
15 SENATE HAS ITS SET OF RULES, AND THEN THERE'S A SEPARATE SET
16 CALLED JOINT RULES OF BOTH THE HOUSE AND THE SENATE. THEY HAVE
17 TO BE VOTED ON BY BOTH CHAMBERS, AND THEY ARE APPLICABLE WHEN
18 THERE IS A JOINT COMMITTEE OR WHEN THERE'S A JOINT SESSION.
19 THESE RULES WERE RELATIVE TO THE REDISTRICTING PROCESS. AS I
20 RECALL PRIMARILY, THEY WERE TO SET FORTH GUARDRAILS FOR THE
21 ROAD SHOWS AND HOW WE WERE TO PROCEED.

22

Q. AND WHEN DID JOINT RULE 21 BECOME EFFECTIVE?

23

A. IN THE '21 SESSION.

24

Q. AND I SEE A DATE AT THE BOTTOM THAT SAYS JUNE 11, 2021.

25

DO YOU SEE THAT?

9:38AM 1

A. YES.

2

Q. WHY WOULD IT BECOME EFFECTIVE IN JUNE 2021?

3

A. WELL, IT WAS CONTEMPLATING THAT THE ROAD SHOWS GOING INTO THE '22 EXTRAORDINARY SESSION, THAT WAS GOING TO DEAL WITH THE REDISTRICTING PROCESS.

5

6

Q. AND DID JOINT RULE 21 HELP INFORM THE PUBLIC DURING THESE ROAD SHOWS?

7

8

A. WELL, WE WOULD LIKE TO THINK SO, BUT I DON'T THINK THE PUBLIC IN GENERAL READS OUR JOINT RULES. MANY OF THE MEMBERS PROBABLY DON'T READ THEM. BUT YES, THAT WAS THE ATTEMPT WAS TO SAY THESE ARE THE GUARDRAILS WITH WHICH WE WERE GOING TO APPLY THE PRINCIPLES OF REDISTRICTING, WHICH DEAL WITH THE CONSTITUTIONAL REQUIREMENTS, THE STATUTORY REQUIREMENTS, THE FEDERAL REQUIREMENTS AND SO FORTH.

10

11

12

13

14

15

Q. AND IN YOUR VIEW, DID THE ROAD SHOWS HELP EDUCATE THE PUBLIC ABOUT SOME OF THE GUARDRAILS TO REDISTRICTING?

16

17

A. I THINK --

18

MR. ADCOCK: YOUR HONOR, I NEED TO LODGE AN OBJECTION HERE. SORRY ABOUT THAT. I DON'T NORMALLY OBJECT TO LEADING, BUT I THINK IT IS IMPORTANT HERE. THESE ARE JUST LEADING QUESTIONS, AND THIS IS DIRECT EXAMINATION. I'M JUST LODGING AN OBJECTION.

19

20

21

22

23

THE COURT: MS. MCKNIGHT?

24

MS. MCKNIGHT: YES, YOUR HONOR. WE ARE TRYING TO -- THESE ARE JUST PREFATORY QUESTIONS. WE HAVEN'T GOTTEN INTO THE

25

P. CORTEZ - DIRECT

9:39AM 1 DEPTH OF ANY SORT OF CONTENTIOUS ISSUES. WE ARE LAYING THE
2 GROUNDWORK FOR WHAT JOINT RULE 21 WAS.

3 **THE COURT:** TECHNICALLY, THEY ARE LEADING, BUT IT'S A
4 BENCH TRIAL. I'M GOING TO GIVE YOU SOME LATITUDE. YOU MAY
5 PROCEED.

6 **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

7 A. YEAH, THE PRIMARY PURPOSE OF THE ROAD SHOW WAS TO EDUCATE
8 THE AREAS -- I THINK IT WAS PART TO EDUCATE NOT ONLY THE PUBLIC
9 BUT THE MEMBERS OF THE LEGISLATURE WHO ATTENDED THE ROAD SHOWS
10 AS TO WHAT ARE THE CONSTITUTIONAL REQUIREMENTS, WHAT ARE THE
11 STATUTORY REQUIREMENTS, AND TO BRIEF EVERYONE. NOT EVERYONE
12 THAT SERVES IN THE LEGISLATURE IS AN ATTORNEY AND UNDERSTANDS
13 THE LAW AS REGARDS -- RELATIVE TO REDISTRICTING. AND SO THAT'S
14 WHY THIS RULE WAS SET OUT, TO MAKE SURE THAT EVERYBODY
15 UNDERSTANDS THIS IS WHAT YOU HAVE TO DO. AND SO IT WAS
16 PRESENTED AT ALL THE ROAD SHOWS, ALONG WITH THE SLIDE
17 PRESENTATION BY STAFF, WHO WERE OUR LEGAL EXPERTS ON THE
18 PROCESS.

19 **BY MS. MCKNIGHT:**

20 Q. AND DO YOU HAVE ANY EXAMPLES FROM THOSE ROAD SHOWS OF WHEN
21 THE PUBLIC MADE A REQUEST THAT WOULDN'T COMPLY WITH
22 REDISTRICTING CRITERIA IN JOINT RULE 21?

23 A. I'M NOT SURE I HAVE A SPECIFIC EXAMPLE, BUT I HEARD IT
24 COME UP OVER AND OVER, THAT -- I WILL GIVE YOU -- WELL, I DO
25 RECALL ONE IN THE LAFAYETTE ROAD SHOW WHERE -- BY SOMEONE FROM

9:41AM 1 ST. LANDRY PARISH, AS I RECALL, WANTED TO HAVE THE MAJORITY OF
2 THE SENATE DISTRICT OR CONGRESSIONAL DISTRICT. WELL, THERE'S
3 ONLY 60,000 PEOPLE IN ST. LANDRY PARISH, AND A CONGRESSIONAL
4 DISTRICT IS MADE UP OF 750,000 PEOPLE. YOU CAN'T HAVE THE
5 MAJORITY WHEN YOU ONLY HAVE 60,000 PEOPLE. A SENATE DISTRICT
6 IS 120,000. 60,000 WOULD BE POTENTIALLY HALF OF IT BUT
7 PROBABLY WOULDN'T BE THE WHOLE DISTRICT.

8 BUT THEY WERE REFERRING TO MANY YEARS AGO WHEN ST. LANDRY
9 PARISH HAD 60 OR MORE THOUSAND PEOPLE, AND THE SENATE DISTRICT
10 WAS MAYBE 90,000 PEOPLE, AND THEY WERE THE HOUSE OF THE
11 DISTRICT, AND THEY WERE SAYING THEY HAD LOST THEIR SENATOR. SO
12 IT JUST DOESN'T APPLY, BUT THAT WOULD BE, I GUESS, AN EXAMPLE.

13 Q. THANK YOU. AND I WILL HAVE MORE SPECIFIC QUESTIONS IN A
14 MINUTE, BUT COULD YOU GIVE THE COURT A SENSE OF THE MAIN TENETS
15 OF JOINT RULE 21?

16 A. WELL, THEY ARE PRETTY WELL ENUMERATED, BUT, YOU KNOW, EACH
17 DISTRICT HAS TO BE CONTIGUOUS IN NATURE. THEY HAVE TO COMPLY
18 WITH THE 14TH AMENDMENT, THE 15TH AMENDMENT, SECTION 2 OF THE
19 VOTING RIGHTS ACT. I MEAN, IT IS ALL ENUMERATED IN THERE. IT
20 HAS TO BE SINGLE-MEMBER DISTRICTS. IT HAS TO BE A WHOLE PLAN.
21 THEY HAVE TO BE SUBSTANTIALLY EQUAL IN POPULATION. AND THERE'S
22 TWO DIFFERENT CRITERIA, AND JOINT RULE LAYS THIS OUT, THAT
23 CONGRESSIONAL PLANS ARE DIFFERENT THAN THE STATE DISTRICT
24 PLANS, AND THAT THE STATE DISTRICT PLANS HAVE A LITTLE MORE
25 DEVIATION OR ALLOW FOR THAT THAN THE CONGRESSIONAL PLANS.

9:43AM 1 YOU KNOW, THEY ASK THAT YOU GIVE CONSIDERATION TO
2 TRADITIONAL DISTRICT ALIGNMENTS TO THE EXTENT THAT IS
3 PRACTICABLE. I MEAN, I COULD GO THROUGH AND READ THEM ALL, BUT
4 YES, IT DID GIVE CERTAIN TENETS. YOU KNOW, OBVIOUSLY THE
5 ONE-PERSON, ONE-VOTE IS THE IDEA OF THE DEVIATION AND EQUAL
6 NUMBERS IN THE DISTRICTS --

7 Q. OKAY. THANK YOU. LET'S TURN TO SECTION D. CAN YOU
8 EXPLAIN WHAT SECTION D WAS MEANT TO ACCOMPLISH?

9 A. WELL, IT SPECIFICALLY TALKS ABOUT THE PLANS THAT WE HAD
10 TO -- THE MAPS THAT WE HAD TO CREATE RELATIVE TO THE HOUSE OF
11 REPRESENTATIVES, THE SENATE, THE PUBLIC SERVICE COMMISSION, AND
12 THE BOARD OF ELEMENTARY AND SECONDARY EDUCATION. AGAIN, IT
13 PROVIDED FOR THE SINGLE-MEMBER DISTRICTS. THEY HAD TO BE EQUAL
14 IN POPULATION. I REFER TO THAT AS THE ONE-PERSON, ONE-VOTE
15 DOCTRINE.

16 THERE WAS A DEVIATION THAT WE -- A STANDARD THAT WAS
17 ACCEPTABLE OF PLUS OR MINUS FIVE PERCENT FROM THE IDEAL
18 DISTRICT POPULATION. IT HAD TO BE A WHOLE PLAN. IT COULDN'T
19 BE A PORTION OF THE STATE. IT HAD TO BE THE WHOLE STATE. AND
20 THEN THE LAST ONE WAS TO GIVE CONSIDERATION FOR TRADITIONAL
21 DISTRICT ALIGNMENTS TO THE EXTENT PRACTICABLE. I SOMETIMES
22 CALL THAT COMMUNITIES OF INTEREST IN CONTINUITY OF
23 REPRESENTATION.

24 Q. WERE YOU HERE YESTERDAY FOR DR. BURCH'S TESTIMONY?

25 A. I WAS.

9:44AM 1 Q. OKAY. AND DID YOU HEAR HER CLAIM THAT JOINT RULE 21 DID
2 NOT MENTION CONTINUITY OF REPRESENTATION?

3 A. I DID.

4 Q. OKAY. AND I HEARD YOU JUST TESTIFY THAT SECTION D(4)
5 RELATED TO CONTINUITY OF REPRESENTATION. DID I UNDERSTAND THAT
6 CORRECTLY?

7 A. YES.

8 **MR. ADCOCK:** OBJECTION, JUDGE. THAT'S NOT WHAT THE
9 WITNESS TESTIFIED TO, AND I DON'T THINK THAT'S WHAT THE
10 DOCUMENT SAYS.

11 **MS. MCKNIGHT:** WOULD YOU LIKE ME TO RESPOND, YOUR
12 HONOR?

13 **THE COURT:** I DON'T KNOW WHAT THE NATURE OF THE
14 OBJECTION IS. IS THERE SOME CODE OF EVIDENCE THAT YOU --

15 **MR. ADCOCK:** COUNSEL IS MISCHARACTERIZING THE
16 TESTIMONY THAT WAS JUST GIVEN ABOUT A DOCUMENT THAT IS RIGHT
17 HERE IN FRONT OF US THAT DOESN'T SAY WHAT HE JUST SAID IT SAYS.

18 **THE COURT:** OKAY. THE DOCUMENT IS IN EVIDENCE, AND
19 THE TESTIMONY OF THE WITNESS IS ALSO IN EVIDENCE. SO IF
20 THERE'S SOME INCONSISTENCY, IT WILL BE CLEAR IN THE EVIDENCE.
21 YOUR OBJECTION IS OVERRULED.

22 **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

23 **BY MS. MCKNIGHT:**

24 Q. SO LET'S FOCUS ON THE LANGUAGE OF SECTION D(4). WHY DOES
25 THIS MEAN TO YOU THAT YOU ARE FOCUSED ON MAINTAINING CONTINUITY

9:45AM 1 OF REPRESENTATION WHEN YOU REFER TO MAINTAINING TRADITIONAL
2 DISTRICT ALIGNMENTS?

3 A. WELL, THERE WAS A NUMBER OF FACTORS THAT WENT INTO THIS,
4 PROBABLY ABOUT FOUR OR FIVE THAT I COULD GO INTO RIGHT NOW.
5 THE MAP DRAWING AND THE PROCESS, WE HAD TO ADHERE TO A LOT OF
6 DIFFERENT PRINCIPLES. THIS WAS ONE OF THEM. BUT BY EXAMPLE,
7 TRADITIONAL DISTRICT ALIGNMENTS WOULD BE PARISHES THAT WERE
8 CONSIDERED -- I'M GOING TO SAY SENATE SEATS.

9 LET'S JUST USE THE EXAMPLE OF TWO PARISHES THAT HAD ALWAYS
10 BEEN TOGETHER. THEY DID NOT WANT TO BE BROKEN UP. AND I WILL
11 GIVE YOU EXAMPLES, LIKE LAFOURCHE AND TERREBONNE, BY EXAMPLE,
12 OR ST. JOHN AND ST. CHARLES. BUT THEN YOU ALSO HAD THE CASE OF
13 MEMBERS WHO OVER THE YEARS UNDERSTOOD THAT GOING BACK INTO THE
14 '80S, THE PERSON WHO REPRESENTED THAT DISTRICT, PRIOR TO TERM
15 LIMITS -- WE CERTAINLY HAVE TERM LIMITS -- PRIOR TO TERM
16 LIMITS, THEY ALWAYS REPRESENTED ST. CHARLES AND ST. JOHN
17 BECAUSE IT WAS A RIVER PARISH DISTRICT. THEY HAD COMMUNITIES
18 OF INTEREST. AND TO SEPARATE THAT AND SAY, WELL, THE PEOPLE IN
19 ST. JOHN DON'T -- WE DON'T NEED THEM TO BE WITH ST. CHARLES, SO
20 WE ARE GOING TO PUT ST. CHARLES IN A DIFFERENT AREA, WOULD BE
21 EFFECTIVELY LETTING THE LEGISLATURE PICK THE POPULATION VERSUS
22 THE POPULATION PICKING THE LEGISLATOR. AND THAT IS WHAT I
23 CONSIDERED CONTINUITY OF REPRESENTATION. DON'T CONFUSE THE
24 VOTERS WHEN YOU DON'T HAVE TO.

25 Q. THANK YOU. LET'S BRING UP JX21, AND WE WILL LOOK AT THE

P. CORTEZ - DIRECT

9:47AM 1 FIRST PAGE. MR. PRESIDENT, I WILL REPRESENT TO YOU THAT THIS
2 IS A TRANSCRIPT THAT HAS BEEN ADMITTED AS A JOINT EXHIBIT OF A
3 COMMITTEE HEARING FOR THE SENATE AND GOVERNMENTAL AFFAIRS ON
4 FEBRUARY 2, 2022. DO YOU SEE THAT?

5 A. YES.

6 Q. AND DO YOU REMEMBER PARTICIPATING IN THIS MEETING?

7 A. YES.

8 Q. LET'S TURN TO PAGE 7. ACTUALLY, LET'S TURN BACK TO
9 PAGE 6. I WANT TO MAKE IT CLEAR THAT THIS IS -- CAN WE GO BACK
10 TO PAGE 5? MR. PRESIDENT, DO YOU SEE THAT THIS IS A STATEMENT
11 BY YOU IN THAT MEETING?

12 A. YES.

13 Q. SO LET'S TURN TWO PAGES TO PAGE 7. COULD YOU READ LINES 9
14 THROUGH 21? AND THEN I WOULD LIKE TO ASK YOU SOME QUESTIONS
15 ABOUT IT.

16 A. "THE THIRD TENET OR PRINCIPLE WAS AS BEST POSSIBLE TO
17 MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT DO I MEAN BY
18 THAT? IT MEANS THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE
19 DONE A GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU.
20 CONVERSELY, YOU DON'T GET TO CHOOSE WHO YOUR POPULATION IS;
21 THEY CHOOSE YOU. IF YOU DIDN'T DO A GOOD JOB, THEY HAVE THE
22 RIGHT TO UNELECT YOU. AND THE PEOPLE WHO -- PEOPLE WHO KNOW
23 YOUR JOB THE BEST FOR THOSE WHO WERE IN YOUR DISTRICT, SO TO GO
24 GRAB A SEPARATE POPULATION FROM ANOTHER DISTRICT JUST SCREAMS
25 TO THE PUBLIC THAT YOU ARE LOOKING FOR A BETTER GROUP OF PEOPLE

9:49AM 1 TO KEEP YOU IN OFFICE, SO THAT IS A PRINCIPLE WE TRIED TO
2 ADHERE TO."

3 Q. AND IN THIS MEETING, WERE YOU DISCUSSING SENATE BILL 1?

4 A. YES.

5 Q. AND WHEN YOU ARE DISCUSSING SENATE BILL 1 IN THIS EXCERPT,
6 HOW DOES THIS RELATE TO YOUR EFFORT TO COMPLY WITH JOINT RULE
7 21 D(4)?

8 A. WELL, IT'S THE CONTINUITY OF SERVICE -- OF REPRESENTATION.
9 THE CONTINUITY OF REPRESENTATION IS THAT IF YOU'VE DONE A GOOD
10 JOB -- BUT AGAIN, MANY MEMBERS HAVE TURNED OUT, SO IT FLOWS
11 INTO COMMUNITIES OF INTEREST AS WELL AS THE ACTUAL SERVICE. IF
12 YOU'VE DONE A GOOD JOB, YOU'D HAVE A CHANCE TO GET REELECTED,
13 NOT BECAUSE YOU ARE TRYING TO PROTECT YOUR REELECTION BUT
14 BECAUSE THEY KNOW WHO YOU ARE AND THEY KNOW WHAT YOU HAVE DONE.
15 IF YOU GO PULL YOURSELF INTO ANOTHER GROUP OR POPULATION OF
16 PEOPLE WHO DON'T KNOW YOU, THEN THEY CAN'T JUDGE AS WELL AS
17 THOSE WHO YOU HAVE SERVED.

18 Q. AND YOU WERE HERE FOR DR. BURCH'S TESTIMONY YESTERDAY. DO
19 YOU REMEMBER HER DESCRIBING THIS EFFORT AS BEING
20 SELF-INTERESTED AND FOR THE PURPOSES OF INCUMBENCY PROTECTION?

21 A. YES.

22 Q. IS WHAT YOU ARE DESCRIBING HERE AS SELF-INTEREST
23 INCUMBENCY PROTECTION EFFORT?

24 A. WELL, IF THE PERSON -- NOT WHAT I'M DESCRIBING. WHAT I'M
25 DESCRIBING IS THE PUBLIC. YOU ARE TRYING TO TAKE CARE OF THE

P. CORTEZ - DIRECT

9:51AM 1 PUBLIC. YOU ARE NOT TRYING TO TAKE CARE OF THE PERSON. THE
2 PUBLIC HAS THE RIGHT TO CHOOSE. THE PERSON DOESN'T HAVE THE
3 RIGHT TO CHOOSE THE PUBLIC OR THE PEOPLE THAT THEY WANT VOTING
4 ON THEM.

5 Q. THANK YOU. LET'S GO BACK TO JX53, JOINT RULE 21. MOVING
6 ON TO SECTION G(1), I SEE A REFERENCE TO WHOLE ELECTION
7 PRECINCTS. DO YOU SEE THAT?

8 A. YES.

9 Q. AND WHAT WAS -- WHAT WERE YOU TRYING TO ACCOMPLISH WITH
10 JOINT RULE 21, SECTION G?

11 **MR. ADCOCK:** YOUR HONOR, I OBJECT. I DON'T THINK
12 COUNSEL HAS LAID A FOUNDATION FOR THE WITNESS' KNOWLEDGE OF
13 JOINT RULE 21. I SHOULD HAVE MADE THIS EARLIER, BUT I'M MAKING
14 IT NOW.

15 **THE COURT:** THE QUESTION IS WHAT WAS MEANT BY G(1),
16 AND THE EARLIER QUESTION THAT DREW NO OBJECTION WAS WHAT WAS
17 MEANT BY I THINK IT WAS D3. I'M GOING TO SUSTAIN -- WELL, LET
18 ME LET YOU RESPOND, BUT HOW DOES MR. -- PRESIDENT CORTEZ ATTEST
19 TO THE MINDSET OF BOTH CHAMBERS OF THE LEGISLATURE, WHICH HE
20 SAID WERE NEEDED TO ENACT JOINT RULE 21?

21 **MS. MCKNIGHT:** I SEE, YOUR HONOR. LET ME REPHRASE TO
22 AVOID THAT.

23 **THE COURT:** THE OBJECTION IS GRANTED. YOU MAY
24 REPHRASE.

25 **MS. MCKNIGHT:** THANK YOU.

9:52AM

1 **BY MS. MCKNIGHT:**

2 Q. MR. PRESIDENT, WERE YOU PRESIDENT OF THE SENATE WHEN JOINT
3 RULE 21 WAS PASSED?

4 A. YES.

5 Q. OKAY. AND WERE YOU AWARE OF JOINT RULE 21 WHEN IT WAS
6 PASSED?

7 A. YES.

8 Q. WERE YOU AWARE OF ITS PURPOSE IN PASSING?

9 A. YES.

10 Q. AND AT THE TIME IT WAS PASSED, DID YOU HAVE AN
11 UNDERSTANDING OF WHAT THESE PROVISIONS MEANT FOR THE
12 REDISTRICTING PROCESS?

13 **MR. ADCOCK:** YOUR HONOR, AGAIN, THESE ARE LEADING
14 QUESTIONS. THIS IS DIRECT. NORMALLY I WOULDN'T OBJECT, BUT I
15 THINK IT IS IMPORTANT HERE, GIVEN WE ARE TALKING ABOUT THE
16 WITNESS' KNOWLEDGE OF AN IMPORTANT DOCUMENT.

17 **MS. MCKNIGHT:** YOUR HONOR, THESE ARE FAIR QUESTIONS
18 FOR LAYING FOUNDATION.

19 **THE COURT:** THEY ARE. I WILL GIVE YOU SOME LATITUDE.
20 OVERRULED.

21 **MS. MCKNIGHT:** THANK YOU.

22 A. YES.

23 **BY MS. MCKNIGHT:**

24 Q. OKAY. SO WHAT WAS YOUR UNDERSTANDING OF JOINT RULE 21 G
25 AND WHAT IT WAS MEANT TO ACCOMPLISH?

9:53AM

1 **MR. ADCOCK:** OBJECTION, JUDGE. I STILL DON'T THINK
2 THAT COUNSEL HAS LAID A FOUNDATION. SHE JUST ASKED IF HE WAS
3 PRESIDENT OF THE SENATE AND HE PRESIDED OVER IT WHEN THIS WAS
4 PASSED. NOW, WHETHER HE WAS ACTIVELY INVOLVED IN DRAFTING IT,
5 WHETHER HE HAD INPUT INTO THE LANGUAGE, WHETHER HE WAS PART OF
6 THE DEBATE, HE DIDN'T DESCRIBE WHO THE AUTHORS WERE, WHETHER HE
7 WAS ONE OF THE AUTHORS, WHETHER HE TALKED TO THE AUTHORS,
8 WHETHER THEY CONSULTED WITH HIM. PRESUMABLY THERE WERE AUTHORS
9 AND INPUT FROM BOTH HOUSES. HE DIDN'T TESTIFY THAT HE TALKED
10 TO ANY OF THOSE PEOPLE. SO I DON'T THINK THERE HAS BEEN A
11 PROPER FOUNDATION LAID TO ASK THIS WITNESS QUESTIONS ABOUT THE
12 MEANING OF THESE VARIOUS TERMS IN JOINT RULE 21.

13 FURTHER, I THINK THE PRIOR TESTIMONY THAT I DIDN'T OBJECT
14 TO SHOULD BE STRUCK, GIVEN THE SHORTCOMINGS AND LAYING A
15 FOUNDATION.

16 **THE COURT:** YOUR MOTION TO STRIKE IS DENIED. AND
17 WITH RESPECT TO THIS QUESTION, YOUR OBJECTION IS OVERRULED.
18 THIS QUESTION WAS, "WHAT WAS YOUR INTENT IN ENACTING JOINT RULE
19 21?" IF HE VOTED ON IT, HE CAN CERTAINLY EXPRESS WHAT HIS
20 INTENT WAS. OVERRULED.

21 A. SO JOINT RULE 21 WAS A HOUSE CONCURRENT RESOLUTION. IT
22 WAS AUTHORED BY THE HOUSE. I BELIEVE IT WAS OFFERED BY
23 REPRESENTATIVE STEFANSKI, WHO WAS THE CHAIRMAN OF HOUSE AND
24 GOVERNMENTAL AFFAIRS. I HAD MULTIPLE CONVERSATIONS WITH
25 REPRESENTATIVE STEFANSKI AND TRISH LOWERY, WHO WAS THE DRAFTER

P. CORTEZ - DIRECT

9:54AM 1 RELATIVE TO THIS JOINT RULE. I ALSO SERVED IN THE LEGISLATURE
2 TEN YEARS PRIOR, 11 YEARS PRIOR, WHERE WE HAVE A SIMILAR SET OF
3 RULES BUT WE HAD TO MAKE SOME CHANGES TO IT. THE STAFF IN THE
4 SENATE, I DID SPEAK TO SENATOR HEWITT RELATIVE TO THESE RULES.

5 THERE WERE MULTIPLE DISCUSSIONS RELATIVE TO WHICH OF THESE
6 RULES WOULD WE KEEP IN THE JOINT RULE, AND THERE WAS SOME
7 DISAGREEMENT AMONGST THE SENATE AND THE HOUSE. I CAN'T RECALL
8 EXACTLY WHAT RULES WERE -- WHICH PARTS OF THESE WE HAD
9 DISAGREEMENT WITH, BUT THEY WERE SUBTLE. THEY WERE SUBTLE
10 DISAGREEMENTS.

11 AT THE END OF THE DAY, WE ALL AGREED TO PUT FORWARD THIS
12 JOINT RULE. G(1) SPECIFICALLY TALKS ABOUT USING WHOLE
13 PRECINCTS AND NOT SPLITTING PRECINCTS, AND I REMEMBER THAT TO
14 BE VERY IMPORTANT BECAUSE OF THE CONCEPT OF CONFUSING VOTERS.
15 IF YOU LIVE IN A PRECINCT AND YOUR NEXT DOOR NEIGHBOR VOTES FOR
16 A DIFFERENT SENATOR THAN YOU DO, YOU ARE CONFUSED. WHY ARE WE
17 GOING TO THE SAME VOTING BOOTH, AND YET YOU VOTE FOR SENATE
18 DISTRICT 22 AND I VOTE FOR SENATE DISTRICT 23? AND SO WE TRIED
19 AS MUCH AS POSSIBLE -- I'M NOT GOING TO TELL YOU THAT ON EVERY
20 MAP WE DIDN'T SPLIT PRECINCTS, BUT AS MUCH AS PRACTICABLE, WE
21 DID NOT SPLIT PRECINCTS, AND THAT IS WHAT THIS WAS ABOUT, THIS
22 PARTICULAR RULE.

23 Q. AND TO BE CLEAR, YOU SPONSORED SB 1; IS THAT RIGHT?

24 A. CORRECT.

25 Q. AND SB 1 BECAME THE ENACTED PLAN; IS THAT RIGHT?

P. CORTEZ - DIRECT

9:56AM 1

A. CORRECT.

2 Q. DID JOINT RULE 21 GUIDE YOUR DEVELOPMENT OF SB 1?

3 A. YES.

4 Q. WERE THERE EVER TIMES WHERE THERE WERE PROPOSALS FOR A MAP
5 THAT YOU HAD TO DECIDE WHETHER TO VOTE ON OR NOT, AND YOU MADE
6 A DETERMINATION WHETHER TO VOTE BASED ON SPLIT VTDS?

7 **MR. ADCOCK:** OBJECTION, COMPOUND QUESTION.

8 **THE COURT:** SUSTAINED.

9 **BY MS. MCKNIGHT:**

10 Q. DID JOINT RULE 21 G(1) EVER GUIDE YOUR VOTING ON ANY
11 REDISTRICTING BILLS?

12 A. I THINK IT WAS PART OF ALL OF -- ALL OF JOINT RULE 21 WAS
13 PART OF -- YOU HAD TO LOOK AT IT HOLISTICALLY. IF IT VIOLATED
14 A PRINCIPLE TO THE POINT WHERE YOU DIDN'T THINK IT WAS LEGAL,
15 YOU HAD TO VOTE AGAINST IT.

16 Q. NOW I WOULD LIKE TO DRAW YOUR ATTENTION DOWN TO JOINT RULE
17 21, SECTION H. I SEE A REFERENCE TO MAINTENANCE OF COMMUNITIES
18 OF INTEREST. COULD YOU EXPLAIN HOW THAT GUIDED YOU IN YOUR
19 SPONSORSHIP OF THE BILL SB 1?

20 **MR. ADCOCK:** YOUR HONOR, AGAIN, MY OBJECTION IS TO
21 FOUNDATION. THE PREVIOUS QUESTION THAT WAS OVERRULED WAS WHAT
22 WAS YOUR UNDERSTANDING OR BELIEF WHEN YOU VOTED FOR JOINT RULE
23 21. NOW WE ARE ASKING ABOUT TEXT OF JOINT RULE 21. LIKE I
24 SAID EARLIER, I DON'T THINK THERE HAS BEEN A FOUNDATION LAID
25 THAT THE WITNESS WAS SUFFICIENTLY INVOLVED IN THE DRAFTING,

9:57AM 1 WRITING OF JOINT RULE 21 TO ANSWER THE MEANING OF IT.

2 **THE COURT:** HER QUESTION WAS, "HOW DID SECTION H
3 GUIDE YOU IN DRAFTING SENATE BILL 1?" YOUR OBJECTION IS
4 OVERRULED.

5 A. SO WHEN MEMBERS OF THE SENATE CAME TO ME AND SAID -- AND I
6 USED THESE EXAMPLES EARLIER, AND I WILL USE IT AGAIN --
7 LAFOURCHE PARISH AND TERREBONNE PARISH HAVE ALWAYS BEEN WHOLLY
8 OR ALMOST WHOLLY IN THE SAME SENATE DISTRICT. WHY WOULD YOU
9 SPLIT THEM UP? THEY ARE COMMUNITIES OF INTEREST. THEY HAVE
10 SIMILAR -- YOU KNOW, SIMILAR LIFESTYLE, SIMILAR PROFESSIONS.

11 THE OTHER ONE THAT I DIDN'T MENTION EARLIER THAT I WILL
12 MENTION IS HISTORICALLY VERMILLION PARISH AND ACADIA PARISH
13 WERE ALWAYS IN THE SAME DISTRICT, BUT THEY HAD BEEN SEPARATED
14 DUE TO POPULATION SHIFT IN THE 2011 REDISTRICTING -- NOT
15 SEPARATED, BUT THE VERMILLION PARISH, WHICH WAS WHOLLY IN THE
16 SENATE DISTRICT, PICKED UP A PART OF LAFAYETTE PARISH BECAUSE
17 OF ITS GROWTH IN 2011, AND PART OF ST. LANDRY PARISH AND PART
18 OF ACADIA PARISH. THE CONVERSATION FROM THE SENATORS IN
19 SOUTHWEST LOUISIANA --

20 **MR. ADCOCK:** YOUR HONOR, I HAVE TO OBJECT HERE. THIS
21 IS VERY IMPORTANT. I OBJECT ON HEARSAY AND THEN TWO OTHER
22 THINGS.

23 DURING THE DEPOSITION, I ASKED NUMEROUS QUESTIONS ABOUT
24 THE WITNESS' CONVERSATIONS WITH OTHER LEGISLATORS, SPECIFICALLY
25 OTHER SENATORS. THOSE QUESTIONS WERE OBJECTED TO. THE WITNESS

9:59AM 1 WAS DIRECTED NOT TO ANSWER THOSE QUESTIONS BASED ON LEGISLATIVE
2 PRIVILEGE. COUNSEL CITED TO ME, AND I AGREED WITH HER, THIS
3 CAN'T BE USED AS A SWORD AND A SHIELD. THEY USED IT AS A
4 SHIELD IN THE DEPOSITION, AND NOW THEY WANT TO USE IT AS A
5 SWORD TO GIVE SELF-SERVING EVIDENCE ABOUT INTENT HERE. THEY
6 ARE PROHIBITED FROM DOING THAT, AND I HAVE CASES I'M HAPPY TO
7 ARGUE.

8 THIRD OF ALL, TO THE EXTENT HE IS RELYING ON OTHER
9 LEGISLATORS WHO WILL PRESUMABLY TESTIFY TO THIS, THIS IS A
10 DISCOVERY VIOLATION. THIS WASN'T TURNED OVER. WE WEREN'T TOLD
11 HE WAS GOING TO TESTIFY TO THIS. I ASKED ABOUT IT IN THE
12 DEPOSITION. IT WAS OBJECTED TO NUMEROUS TIMES. WE HAVEN'T
13 BEEN NOTIFIED OF OTHER WITNESSES WHO ARE GOING TO TESTIFY TO
14 THIS OR THE SUBSTANCE OF THESE CONVERSATIONS. MAINLY THEY ARE
15 JUST TRYING TO PERVERT THIS LEGISLATIVE PRIVILEGE OBJECTION
16 WHERE THEY DIRECTED THE WITNESS NOT TO ANSWER ON NUMEROUS
17 OCCASIONS DURING DEPOSITION AND THEN TRY TO GET AROUND IT WITH
18 THE SELF-SERVING TESTIMONY. SO I OBJECT ON THOSE GROUNDS,
19 UNLESS THEY WANT TO WAIVE THE LEGISLATIVE PRIVILEGE OF THESE
20 OTHER LEGISLATORS, WHICH IN WHICH CASE WE WANT ALL OF THE
21 COMMUNICATIONS BETWEEN THOSE LEGISLATORS AND SENATOR CORTEZ,
22 INCLUDING MEMOS OR E-MAILS OR ANYTHING THAT WAS GIVEN TO HIM BY
23 OTHER LEGISLATORS. BUT RIGHT NOW, THIS IS IMPERMISSIBLE.

24 AND WE ASKED FOR -- THIS IS THE LAST THING I WILL SAY. WE
25 ASKED FOR A DEPOSITION. HE SAID HE WAS ACTUALLY NOT ANSWERING

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10:00AM 1 BECAUSE HE WANTED TO RESPECT THE RIGHT OF OTHER LEGISLATORS TO
2 ASSERT LEGISLATIVE PRIVILEGE. AND COUNSEL COMMITTED TO US THAT
3 THEY WOULD GET US THE WAIVERS OF OTHER LEGISLATORS IF THEY
4 WAIVED THAT PRIVILEGE BY AUGUST 25TH, WHICH WAS TWO DAYS AFTER
5 THAT DEPOSITION. THEY HAVEN'T DONE IT. WE HAVEN'T RECEIVED
6 THOSE WAIVERS, SO HE CAN'T TESTIFY TO THESE CONVERSATIONS.

7 **THE COURT:** MS. MCKNIGHT?

8 **MS. MCKNIGHT:** YES, YOUR HONOR. FIRST OF ALL,
9 LEGISLATIVE PRIVILEGE IS A VERY IMPORTANT ISSUE IN THIS CASE,
10 AND WE TAKE IT SERIOUSLY. THE TESTIMONY I'M ELICITING -- AND
11 THIS IS MY FAULT FOR NOT ASKING THE PREFATORY QUESTION. I'M
12 ONLY GOING TO ELICIT TESTIMONY HERE TODAY FROM PRESIDENT CORTEZ
13 FROM THE PUBLIC TRANSCRIPT. BUT BY PUBLIC TRANSCRIPT, I MEAN
14 THERE WERE HEARINGS ON THE FLOOR. THERE WERE HEARINGS ON
15 COMMITTEE. WE HAVE DETAILED TRANSCRIPTS. THEY ARE ALL IN THE
16 RECORD. PLAINTIFFS HAVE HAD THEM SINCE THE TIME THEY OCCURRED,
17 SO THERE'S NO DISCOVERY VIOLATION.

18 SO I WILL MAKE SURE THAT I PREFACE QUESTIONS TO MAKE SURE
19 THAT ANY TESTIMONY I ELICIT FROM PRESIDENT CORTEZ TODAY IS FROM
20 PUBLIC TRANSCRIPTS.

21 NOW, AS FAR AS LEGISLATIVE PRIVILEGE, WE -- AGAIN,
22 PRESIDENT CORTEZ IS NOT IN A POSITION TO WAIVE LEGISLATIVE
23 PRIVILEGE FOR ANY OF THE OTHER LEGISLATORS. PLAINTIFFS WERE
24 ENTITLED TO GO OUT AND LOOK FOR ANY OTHER SENATORS THEY WANTED
25 AND PUT THEM ON IN THEIR CASE-IN-CHIEF. THEY DID NOT. SO WE

10:02AM

1 ARE HERE TODAY USING THE LEGISLATIVE TRANSCRIPTS THAT WERE
2 PRODUCED. THEY ARE A MATTER OF PUBLIC RECORD.

3 **THE COURT:** OKAY. I'M GOING TO SUSTAIN THE
4 OBJECTION. PRESIDENT CORTEZ, WHETHER YOU FOLLOW IT OR NOT
5 FOLLOW IT, I'M GOING TO INSTRUCT YOU THAT YOU SHOULD CONFINE
6 YOUR ANSWERS TO THINGS THAT WERE SAID IN THE PUBLIC RECORD.
7 OTHERWISE, THE COURT WILL FIND THAT YOU'VE WAIVED THE
8 LEGISLATIVE PRIVILEGE, AND I'M SURE THAT'S NOT THE POSITION
9 THAT YOU WANT TO FIND YOURSELF IN.

10 YOUR ATTORNEY NEEDS TO BE MORE CIRCUMSPECT IN THE SCOPE OF
11 HER QUESTIONS, BUT YOU NEED TO BE ADVISED -- AND THE COURT IS
12 HEREBY ADVISING YOU -- I SHOULDN'T SAY ADVISING, I SHOULD SAY
13 INSTRUCTING YOU THAT YOU NEED TO TREAD LIGHTLY IN TERMS OF YOUR
14 COMMUNICATIONS WITH OTHER LEGISLATORS.

15 **MR. ADCOCK:** JUDGE, THE LAST THING IS, BASED ON THAT
16 RULING, I WOULD MOVE TO STRIKE THE FIRST PART OF HIS ANSWER,
17 WHICH I OBJECTED TO.

18 **THE COURT:** DENIED.

19 **BY MS. MCKNIGHT:**

20 Q. MR. PRESIDENT, I'M GOING TO STEP BACK FROM JOINT RULE 21.
21 LET'S PUT UP A MAP OF THE SENATE ENACTED PLAN. THIS IS PX34.
22 MR. PRESIDENT, THIS IS PLAINTIFFS' EXHIBIT, AN ILLUSTRATION OF
23 THE 2022 SENATE PLAN. DOES IT APPEAR ACCURATE TO YOU AS THE
24 2022 SENATE PLAN?

25 A. THIS IS THE ENACTED PLAN?

10:03AM

1 Q. CORRECT.

2 A. AS FAR AS I CAN TELL, IT LOOKS LIKE IT. I MEAN, IT
3 DOESN'T GO DOWN TO THE PRECINCT LEVEL, BUT AS FAR AS I CAN
4 TELL, IT LOOKS LIKE THE ENACTED PLAN.

5 Q. OKAY. I WOULD LIKE TO ASK YOU ABOUT WHAT KIND OF
6 POPULATION SHIFT AND POPULATION CHANGE ISSUES YOU WERE
7 ADDRESSING IN YOUR BILL SB 1. SO USING THIS MAP, COULD YOU
8 DESCRIBE THE POPULATION SHIFT YOU WERE FACED WITH IN LOUISIANA
9 WHEN YOU WERE PREPARING SB 1?

10 A. SURE. SO THE WAY THAT SENATE DISTRICTS ARE NUMBERED IS
11 THEY START WITH NUMBER 1, WHICH IS IN THE FAR SOUTHEAST PORTION
12 OF THE STATE, AND THEY FINISH WITH 39, WHICH IS IN THE
13 NORTHWEST CORNER. THE HOUSE MAP IS EXACTLY OPPOSITE. IT
14 STARTS WITH DISTRICT 1 IN THE NORTHWEST CORNER AND FINISHES
15 WITH 105 DOWN IN THE FAR SOUTHEAST CORNER.

16 SOME OF THESE NUMBERS HAVE BEEN MOVED OUT OF ORDER.
17 BECAUSE OF A REDISTRICTING, WE MOVE A NUMBERED DISTRICT TO
18 ANOTHER AREA OF THE STATE AND POPULATION SHIFTS. BUT AT THE
19 TIME, IN THE PREVIOUS MAP, IF YOU LOOK AT SENATE DISTRICT 28
20 AND GO NORTH FROM THERE, 28 AND 30 AND GO NORTH, EFFECTIVELY, I
21 CALL IT THE TOP OF THE BOOT, THOSE 12 DISTRICTS HAD A COMBINED
22 LOSS FROM THE DEVIATION. FROM THE 120,000, I'M GOING TO SAY,
23 COLLECTIVELY THEY HAD LOST 90,000 PEOPLE. IF YOU ADDED ALL THE
24 LOSSES -- EVERY DISTRICT HAD LOST POPULATION. IF YOU ADDED
25 THEM ALL UP, IT WAS ROUGHLY 90,000. SO JUST A FEW THOUSAND

10:05AM

1 SOUTH OF A FULL SENATE DISTRICT.

2 IF YOU GO TO THE SOUTHEAST, NORTH OF -- WE CALL THE NORTH
3 SHORE NORTH OF LAKE PONTCHARTRAIN, AND YOU LOOK AT SENATE
4 DISTRICTS 1, 11, 12, 6, 13 AND 18, POSSIBLY -- YEAH, THOSE
5 COLLECTIVELY -- YOU WILL SEE IN THIS PARTICULAR ONE, THERE'S 37
6 NOW, AND THAT WAS BECAUSE WE REMOVED A DISTRICT FROM NORTHWEST
7 LOUISIANA AND PUT IT ON THE NORTH SHORE, BUT THEY COLLECTIVELY
8 HAD 70,000 MORE PEOPLE THAN THE DEVIATION.

9 SO YOU HAD 70,000 PEOPLE MORE IN POPULATION THAN THOSE
10 DISTRICTS COULD TAKE IN, AND YOU HAD 90,000 LESS THAN THEY
11 NEEDED TO BE MADE ONE-PERSON, ONE-VOTE EQUAL.

12 SO WE HAD TO CHOOSE TO DO TWO THINGS, THREE THINGS -- WE
13 HAD THREE OPTIONS, REALLY, I GUESS. WE COULD -- WELL, WE HAD
14 MULTIPLE OPTIONS, MORE THAN THREE, BUT WE HAD A
15 MAJORITY-MINORITY DISTRICT 29 UP IN NORTH LOUISIANA, CENTRAL
16 AND NORTH LOUISIANA. IF WE WANTED TO MAINTAIN THAT MINORITY
17 DISTRICT, WHICH WAS ONE OF THE TENETS THAT WE TALKED ABOUT,
18 CONTINUITY OF REPRESENTATION, THEN YOU HAD TO EITHER MIGRATE
19 ALL THE OTHERS SOUTH TO PICK UP MORE POPULATION, WHICH WOULD
20 HAVE CREATED LARGER DISTRICTS GEOGRAPHICALLY TO PICK UP THE
21 POPULATION. YOU COULD ROLL THE DISTRICTS COUNTER-CLOCKWISE OR
22 CLOCKWISE TO PICK UP THE POPULATION.

23 YOU HAD ANOTHER MINORITY DISTRICT, DISTRICT 34, WHICH WE
24 WANTED TO MAINTAIN THAT MINORITY DISTRICT, AND IT WAS ON THE
25 MISSISSIPPI STATE LINE. SO YOU COULDN'T PICK A POPULATION

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10:07AM

1 GOING INTO MISSISSIPPI, AND YOU COULDN'T PICK A POPULATION
2 GOING UP INTO ARKANSAS. SO THE ONLY PLACE THEY COULD GO TO
3 PICK UP POPULATION WAS TOWARDS THE CENTRAL PART OF THE STATE OR
4 SOUTH.

5 THE 29 DISTRICT WAS IN SOME WAYS LIKE A WALL IN THE MIDDLE
6 OF THE STATE, SO YOU HAD TO GO AROUND IT TO THE NORTH OR UNDER
7 IT TO THE SOUTH. IT HAD TO GROW AS WELL. IT HAD TO PICK UP
8 POPULATION.

9 SO IN THE END, I WENT HISTORICALLY AND LOOKED AT, I THINK
10 IT WAS IN 1990 THAT THE NORTHERN PART OF THE STATE HAD LOST
11 POPULATION, AND AT THAT TIME, THEY CHOSE TO REMOVE A SENATE
12 DISTRICT FROM MONROE AREA, FROM THE NORTHEAST AREA, AND THEY
13 BROUGHT IT TO SOUTH LOUISIANA. I MADE THE DECISION TO REMOVE A
14 DISTRICT FROM NORTHWEST LOUISIANA AND PLACE IT ON THE NORTH
15 SHORE IN MY MAP, BECAUSE ANYTHING OTHER THAN THAT WOULD HAVE
16 DISTORTED EVERY OTHER DISTRICT IN THE STATE TO THE POINT WHERE
17 IT WOULD NOT HAVE LOOKED LIKE IT PREVIOUSLY LOOKED.

18 SO THAT WAS THE BIGGEST CHALLENGE WAS THE POPULATION
19 SHIFT, THAT NORTH LOUISIANA HAD LOST POPULATION, AND SOUTH
20 LOUISIANA, PRIMARILY THE NORTH SHORE, BUT THE LAFAYETTE AREA
21 GAINED, LAKE CHARLES HAD GAINED, BATON ROUGE HAD GAIN
22 POPULATION, THE ASCENSION PARISH AREA HAD GAINED POPULATION.
23 ALL OF THOSE DISTRICTS NEEDED TO SHRINK IN SIZE AND ALL OF THE
24 NORTH LOUISIANA EITHER HAD TO GROW IN SIZE, OR YOU COULD PULL
25 ONE OUT AND THEN THEY COULD MAINTAIN THEIR SEMBLANCE TO WHAT

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10:09AM

1 THEY WERE BEFORE.

2 Q. THANK YOU. I WANT TO MAKE SURE I UNDERSTAND. YOU
3 MENTIONED A 1990 PLAN WHERE IT REMOVED A DISTRICT FROM THE
4 NORTHEAST. WHY WAS THAT RELEVANT TO YOUR DRAWING OF SB 1?

5 A. WELL, IN FAIRNESS TO THE STATE, IF YOU KEEP PLUCKING
6 SENATE DISTRICTS OUT OF ONE AREA OF THE STATE, THEY BECOME --
7 EXCUSE ME -- THEY BECOME VERY LARGE RURAL DISTRICTS THAT DON'T
8 HAVE COMMUNITIES OF INTEREST. THE ONE THAT WE TOOK WAS
9 DISTRICT 37, WAS A VERY COMPACT DISTRICT, AND THAT POPULATION
10 COULD BE SPREAD AMONGST THE LOSSES FROM THE SURROUNDING
11 DISTRICTS.

12 AND IT WAS A FAIRNESS ISSUE THAT IF NORTHEAST LOUISIANA
13 HAD LOST ONE SOME 30 YEARS AGO, 40 YEARS AGO, THEN NORTHWEST
14 LOUISIANA WOULD BE IN LINE TO LOSE A DISTRICT.

15 NO ONE WANTS TO LOSE A DISTRICT. I MEAN, YOU DON'T REALLY
16 LOSE A DISTRICT. YOU JUST CHANGE WHO REPRESENTS YOU OR WHAT
17 DISTRICT NUMBER REPRESENTS YOU.

18 Q. WERE THERE ANY ISSUES WITH CONGREGATE SETTINGS?

19 A. YES. THAT WAS ANOTHER CHALLENGE. BECAUSE OF COVID, THE
20 WAY THE CENSUS IS DONE IN YEARS PAST AND MANY OF THE DECADES
21 PAST, IF YOU WERE -- IF YOU WERE LIVING IN A DORMITORY AT LSU,
22 YOU WOULD BE COUNTED IN EAST BATON ROUGE PARISH, OR IF YOU
23 WERE -- BUT IF YOU WERE FROM, LET'S SAY, HOUMA OR LAFAYETTE AND
24 YOU WERE DOING DISTANT LEARNING DURING THAT TIME PERIOD OF THE
25 CENSUS, YOU WERE COUNTED IN LAFAYETTE OR IN HOUMA. SO WE KNOW

10:11AM

1 THAT HAD SOME CHANGE. WE DON'T KNOW EXACTLY WHAT THAT NUMBER
2 IS. I DON'T KNOW THAT IT'S A HUGE NUMBER, BUT IT WAS A NUMBER
3 THAT POTENTIALLY INFLATED SOME AREAS THAT OTHERWISE WOULDN'T
4 HAVE GOTTEN SOME AND DEFLATED SOME AREAS THAT OTHERWISE WOULD
5 HAVE GOTTEN SOME DUE TO CONGREGATE.

6 Q. WE'VE TALKED ABOUT POPULATION CHANGES IN LOUISIANA. I
7 WOULD LIKE TO ASK YOU ABOUT WHAT SORTS OF GEOGRAPHIC BARRIERS
8 OR CHALLENGES YOU FACED IN PREPARING SB 1.

9 A. THE BIGGEST CHALLENGES WERE THE DISTRICTS THAT BORDER
10 EITHER THE GULF OF MEXICO, MISSISSIPPI, ARKANSAS OR TEXAS. I
11 HAD THE CHALLENGE OF WANTING TO MAINTAIN WHAT WAS PRECLEARED
12 UNDER THE JUSTICE DEPARTMENT SOME 11 YEARS EARLIER. 39 AND 34
13 ARE BOTH MINORITY DISTRICTS. 39 IS BORDERED BY ARKANSAS AND
14 TEXAS. 34 IS BORDERED BY ARKANSAS AND MISSISSIPPI. THEY CAN'T
15 GROW INTO ARKANSAS TO PICK UP POPULATION, THEY CAN'T GROW INTO
16 MISSISSIPPI TO PICK UP POPULATION, BUT THEY WERE BOTH BELOW THE
17 DEVIATION, SO THEY HAD TO PICK UP POPULATION FROM SOMEWHERE.
18 THEY HAD TO GROW INTO THE STATE.

19 DOWN IN SOUTH LOUISIANA, YOU KNOW, 20 IS AN EXAMPLE, THE
20 GULF OF MEXICO IS TO ITS SOUTH. IT COULD NOT GROW SOUTH. IT
21 HAD TO GROW EITHER NORTH, EAST OR WEST. AND WHEN YOU HAVE
22 OTHER DISTRICTS THAT ARE ALSO OVER IN POPULATION OR YOU -- THEY
23 NEED TO GIVE UP POPULATION, YOU NEED TO GIVE UP POPULATION.
24 WHERE DO YOU GIVE IT TO? WHO DO YOU GIVE IT TO? SO THOSE WERE
25 CHALLENGES.

10:12AM 1 AND YOU HAVE THE LAKE, AS WELL AS THE ATCHAFALAYA BASIN.
2 SO GEOGRAPHICALLY, LAKE PONTCHARTRAIN, YOU CAN'T SAY, IF YOU
3 ARE A NORTH SHORE DISTRICT, OH, BUT I'M GOING TO GIVE YOU SIX
4 PRECINCTS IN METAIRIE. WELL, THAT DOESN'T MAKE SENSE. IF YOU
5 ARE IN ST. MARTIN PARISH, YES, YOU ARE CONTIGUOUS WITH
6 IBERVILLE PARISH, BUT IT WOULDN'T MAKE SENSE TO SAY I'M GOING
7 TO GIVE YOU SIX PRECINCTS IN BRUSLY, BECAUSE YOU WOULD HAVE TO
8 GET ON THE ATCHAFALAYA BASIN AND GO ALL THE WAY ACROSS TO MEET
9 WITH THOSE CONSTITUENTS. THEY ARE CONTIGUOUS BY NATURE OF
10 PRECINCTS, BUT THE ATCHAFALAYA BASIN IS THE LARGEST BASIN IN
11 THE U.S., AND YOU WOULDN'T DO THAT. SO YOU ARE LIMITED TO
12 GOING SOUTH OR NORTH WITH THAT DISTRICT. CONVERSELY, WITH THE
13 NORTH SHORE AND THE SOUTH SHORE, YOU CAN'T CROSS THE -- YOU CAN
14 LEGALLY CROSS IT, BUT IT MAKES NO SENSE TO DO SO.

15 Q. TURNING TO THE ROAD SHOWS PRIOR TO DRAWING, DID YOU ATTEND
16 ANY OF THE ROAD SHOWS?

17 A. I DID.

18 Q. OKAY. AND WHICH ONE DID YOU ATTEND?

19 A. I ATTENDED THE ONE IN LAFAYETTE FOR THE WHOLE ROAD SHOW.
20 I THINK I -- I STUCK MY HEAD INTO BATON ROUGE FOR A FEW MINUTES
21 BUT DIDN'T STAY FOR THE ENTIRETY OF IT.

22 Q. AND DID OTHER SENATORS ATTEND OTHER ROAD SHOWS?

23 A. THE HOUSE AND GOVERNMENTAL --

24 **MR. ADCOCK:** OBJECTION, JUDGE. I DON'T KNOW THAT SHE
25 HAS LAID A FOUNDATION FOR HIM TO KNOW WHICH SENATORS ATTENDED

P. CORTEZ - DIRECT

10:14AM 1 WHICH ROAD SHOWS OR WHETHER ANY OF THEM ATTENDED THEM.

2 **THE COURT:** MS. MCKNIGHT?

3 **MS. MCKNIGHT:** I CAN REPHRASE, YOUR HONOR.

4 **THE COURT:** PLEASE DO.

5 **BY MS. MCKNIGHT:**

6 Q. ARE YOU AWARE OF WHETHER ANY SENATORS ATTENDED OTHER ROAD
7 SHOWS? AND THEN I WILL ASK YOU A FOLLOW-UP QUESTION. IT IS
8 JUST A YES OR NO.

9 A. YES.

10 Q. OKAY. AND WHAT IS YOUR AWARENESS OF WHETHER OTHER
11 SENATORS ATTENDED OTHER ROAD SHOWS?

12 A. WELL, THEY TOOK ROLL AT ALL OF THE ROAD SHOWS.

13 Q. AND YOU ARE AWARE OF THAT PARTICIPATION; IS THAT FAIR?

14 A. CORRECT.

15 Q. DID YOU HAVE AN UNDERSTANDING OF ANY SENATE AND
16 GOVERNMENTAL AFFAIRS REQUIREMENT ABOUT ATTENDANCE AT ROAD
17 SHOWS?

18 A. I'M NOT AWARE OF THE REQUIREMENT. IT'S MY BELIEF THAT THE
19 MEMBERS ATTENDED AS MANY AS PRACTICABLE, THAT THAT WAS THEIR --
20 THEY UNDERSTOOD WHEN THEY WERE APPOINTED TO THAT COMMITTEE THAT
21 REDISTRICTING WAS GOING TO BE A HIGH PRIORITY FOR PARTICIPATION
22 ON THAT COMMITTEE.

23 **MR. ADCOCK:** YOUR HONOR, I'M SORRY. THIS IS SNEAKING
24 UP ON ME BECAUSE OF THE WAY IT'S PHRASED. I HAVE TO OBJECT
25 AGAIN. HE IS TESTIFYING OTHER LEGISLATORS UNDERSTOOD THAT WHEN

10:15AM 1 THEY WERE PUT ON THE COMMITTEE -- LIKE, THAT GETS INTO OTHER
2 LEGISLATORS' THOUGHTS. PRESUMABLY HE CAN'T KNOW THAT UNLESS
3 THEY TOLD HIM THAT. SO I OBJECT FOR THE SAME REASON I WAS
4 OBJECTING PREVIOUSLY REGARDING THE TESTIMONY OF OTHER
5 LEGISLATORS.

6 **THE COURT:** WELL, YOUR OBJECTION IS SUSTAINED. THE
7 QUESTION DIDN'T CALL FOR HIM TO OFFER THE MENTAL STATES OF
8 OTHER LEGISLATORS. PRESIDENT CORTEZ, PLEASE UNDERSTAND THAT
9 YOU HAVE FIRSTHAND KNOWLEDGE OF WHAT WAS IN YOUR MIND. YOU
10 DON'T HAVE FIRSTHAND KNOWLEDGE OF WHAT WAS IN OTHER PEOPLE'S
11 MINDS. SHE DIDN'T CALL FOR YOU TO ANSWER THAT, BUT IF YOU
12 WOULD REFRAIN FROM OFFERING THAT, IT WOULD BE MOST HELPFUL.

13 **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

14 A. THANK YOU, YOUR HONOR. CAN I OFFER SOMETHING ELSE? I
15 THINK IT'S IMPORTANT TO KNOW THAT AS A MEMBER OF SENATE AND
16 GOVERNMENTAL AFFAIRS, THE SENATE RULES REQUIRED AND I EXPLAINED
17 TO EACH MEMBER WHEN THEY WERE APPOINTED TO SENATE AND
18 GOVERNMENTAL AFFAIRS THAT THEY WERE APPOINTED BECAUSE THEY WERE
19 A MEMBER OF A CERTAIN CONGRESSIONAL DISTRICT, BECAUSE WE WERE
20 IN A REDISTRICTING CYCLE. THAT REDISTRICTING WAS -- PART OF
21 THEIR JOB WAS TO OVERSEE ALL OF THE REDISTRICTING PROCESS AND
22 TO VOTE IN COMMITTEE ON ALL OF THOSE BILLS. MY -- IT'S NOT
23 WHAT THEY THOUGHT. IT'S WHAT I TOLD THEM AT THE TIME OF THEIR
24 APPOINTMENT.

25 **THE COURT:** RIGHT. BUT THE WAY YOU PHRASED IT WAS,

10:16AM 1 WHAT YOUR WORDS WERE, "THEY UNDERSTOOD." YOU CAN CERTAINLY SAY
2 THESE WERE THE INSTRUCTIONS, THIS WAS THE REASON THEY WERE
3 CHOSEN, WHAT YOU DID, WHAT YOU THOUGHT, WHAT YOU SAID, BUT YOU
4 CAN'T SAY WHAT OTHER PEOPLE DID, THOUGHT OR SAID.

5 **THE WITNESS:** MY APOLOGIES.

6 **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

7 **BY MS. MCKNIGHT:**

8 Q. MR. PRESIDENT, DURING THE ROAD SHOWS THAT YOU ATTENDED, DO
9 YOU RECALL ANYONE EXPRESSING THE VIEW THAT THEY WISHED FOR MORE
10 MAJORITY BLACK DISTRICTS IN THE SENATE?

11 A. NO.

12 Q. NOW, AS PART OF THE REDISTRICTING PROCESS, DID YOU MEET
13 WITH OTHER SENATORS?

14 A. YES.

15 Q. HOW MANY OTHER SENATORS DID YOU MEET WITH?

16 A. I MET WITH EVERY ONE OF THE OTHER 38 SENATORS.

17 Q. DID YOU MEET WITH SOME OF THEM MORE THAN ONCE?

18 A. YES.

19 Q. DID YOU EVER DENY A SENATOR A MEETING WHEN THEY REQUESTED
20 ONE ON THE TOPIC OF REDISTRICTING?

21 A. NO.

22 Q. AND DID YOU RELY ON INFORMATION YOU LEARNED FROM MEMBERS
23 IN THOSE MEETINGS IN DRAWING SB 1?

24 **MR. ADCOCK:** YOUR HONOR, SAME OBJECTION. THIS IS
25 KIND OF AN IN ROUTE AROUND THE SWORD AND SHIELD DOCTRINE. HE

P. CORTEZ - DIRECT

10:18AM

1 RELIED ON THEM.

2 **THE COURT:** IT IS. WHAT IS YOUR RESPONSE?

3 **MS. MCKNIGHT:** I'M NOT ASKING HIM WHAT THEY SAID OR
4 HOW IT CHANGED THE MAP. I'M ASKING ABOUT WHETHER IT FED INTO
5 HIS DEVELOPMENT OF SB 1.

6 **THE COURT:** SUSTAINED. ASK A DIFFERENT QUESTION.

7 **MS. MCKNIGHT:** SURE.

8 **BY MS. MCKNIGHT:**

9 Q. WERE THESE MEETINGS WITH THE OTHER SENATORS ABOUT
10 INCUMBENCY PROTECTION OR DISTRICT PERFORMANCE?

11 **MR. ADCOCK:** SAME OBJECTION, JUDGE.

12 **THE COURT:** MS. MCKNIGHT, LET ME BE VERY CLEAR. YOU
13 CANNOT ASSERT LEGISLATIVE PRIVILEGE AND THEN IN AN INDIRECT WAY
14 TRY TO GET AT THE SUBJECT MATTER OF LEGISLATIVE MEETINGS AND
15 DISCUSSIONS. SO YOU CAN HAVE IT ONE WAY OR THE OTHER.

16 **MS. MCKNIGHT:** I UNDERSTAND, YOUR HONOR.

17 **THE COURT:** OBJECTION SUSTAINED.

18 **MS. MCKNIGHT:** PARDON ME, YOUR HONOR. I DIDN'T MEAN
19 TO INTERRUPT YOU. I UNDERSTAND AND I'LL MOVE ON.

20 **BY MS. MCKNIGHT:**

21 Q. MR. PRESIDENT, I WOULD LIKE TO ASK YOU ABOUT DRAWING SB 1
22 IN ORDER TO COMPLY WITH THE VOTING RIGHTS ACT. DID YOU DRAW
23 ANY GUIDANCE FOR COMPLIANCE FROM THE PRIOR DECADE'S
24 REDISTRICTING?

25 A. YES.

10:19AM 1

Q. AND WHAT WAS THAT GUIDANCE?

2

A. WELL, IN 2011, WE WERE UNDER A DIFFERENT SECTION OF THE VOTING RIGHTS ACT THAT REQUIRED A PRECLEARANCE BY THE JUSTICE DEPARTMENT ON THE MAPS. AND AT THAT TIME, IT'S MY RECOLLECTION THAT WE ADDED A MAJORITY-MINORITY DISTRICT IN THE SENATE, AND IT WAS PRECLEARED BY THE JUSTICE DEPARTMENT AT THAT TIME.

7

AND SO 11 YEARS LATER, THE FACT THAT THE POPULATION HAD NOT CHANGED DRAMATICALLY IN ANY WAY, I FELT CONFIDENT THAT IF WE FOLLOWED THE JUSTICE DEPARTMENT'S PRECLEARANCE MODEL, THAT BY MAINTAINING A NUMBER OF MAJORITY-MINORITY DISTRICTS, WE WOULD BE IN COMPLIANCE WITH FEDERAL LAW.

10

11

12

Q. AND YOU APPRECIATE THAT THE STATE WAS NO LONGER UNDER SECTION 5 PRECLEARANCE AT THE TIME YOU REDREW THE MAP; IS THAT RIGHT?

14

15

MR. ADCOCK: YOUR HONOR, I'M SORRY.

16

THE COURT: CALLS FOR A LEGAL CONCLUSION. SUSTAINED.

17

MS. MCKNIGHT: THANK YOU.

18

BY MS. MCKNIGHT:

19

Q. DID YOU -- IN ADDITION TO THAT GUIDANCE, DID YOU SEEK LEGAL COUNSEL ABOUT COMPLIANCE?

20

21

A. YES.

22

Q. NOW, WHEN YOU WERE DRAWING YOUR DISTRICT, YOUR PLAN, RATHER, WERE YOU DRAWING IT FOR ONE ELECTION OR FOR A WHOLE DECADE?

24

25

A. FOR THE DECADE.

10:20AM

1 Q. OKAY. WHAT DOES THAT MEAN TO YOU WHEN YOU THINK ABOUT
2 POPULATION SHIFTS IN THE STATE?

3 A. WELL, FIRST OF ALL, FROM AN ELECTED PERSPECTIVE, I WAS
4 TURNED DOWN. IT WAS IRRESPECTIVE TO MY DISTRICT. IT WAS ABOUT
5 THE POPULATION OF MY AREA AND HOW THEY COULD BEST BE SERVED IN
6 THE FUTURE BY WHOEVER WAS ELECTED. SO AGAIN, THOSE TENETS THAT
7 I HAD TALKED ABOUT, COMMUNITIES OF INTEREST, ALL HAD TO BE
8 MAINTAINED, YET YOU HAD TO CHANGE THE MAKEUP OF THEM BECAUSE
9 SOME HAD TO SHRINK BECAUSE THEY WERE TOO POPULATED, AND SOME
10 HAD TO GROW GEOGRAPHICALLY. SO HOW DO YOU DO THAT AND PREPARE
11 FOR THE NEXT DECADE, YOU KNOW, WHERE GROWTH IS GOING TO HAPPEN
12 AND SHRINKAGE IS GOING TO HAPPEN?

13 Q. AND WHEN YOU WERE DRAWING THE SB 1, HOW DID YOU ATTEMPT TO
14 COMPLY WITH THE VOTING RIGHTS ACT IN LIGHT OF THE SHIFTING
15 POPULATION?

16 A. WELL, WE WANTED TO CERTAINLY MAINTAIN THE
17 MAJORITY-MINORITY DISTRICTS, THAT WAS NUMBER ONE, BUT WE DIDN'T
18 WANT TO DISRUPT THOSE COMMUNITIES OF INTEREST. THAT WAS THE
19 BIG -- THAT WAS THE SECOND -- AND OF COURSE, AGAIN, IT ALL
20 COMES BACK TO THE NUMBER ONE THING. IT'S THE ONE-PERSON,
21 ONE-VOTE. YOU'VE GOT TO COMPLY WITH THAT BEFORE YOU COMPLY
22 WITH ANYTHING ELSE. YOU KNOW, THAT -- YOU CAN'T HAVE A
23 DISTRICT MADE OF 150,000 PEOPLE AND ONE MADE OF 60,000. THAT
24 WOULD VIOLATE THE MAP IMMEDIATELY.

25 Q. DID YOU EVER HAVE A CONCERN THAT YOU COULD DRAW A DISTRICT

10:22AM

1 YOU BELIEVED WAS COMPLIANT WITH THE VRA THIS YEAR BUT COULD
2 FALL OUT OF COMPLIANCE IN SUBSEQUENT YEARS?

3 A. WE HAD EXAMPLES OF THAT FROM THE PREVIOUS MAP. THAT EXACT
4 PROBLEM OCCURRED POST-KATRINA. THE MODEL WAS, THERE WAS SOME
5 MOVEMENT IN THE NEW ORLEANS AREA, AND OVER THE LAST TWO
6 DECADES, THERE HAS BEEN SOME MIGRATION BACK TO THE ORLEANS
7 AREA. SO WE SAW THAT HAPPEN WHERE THE MAP THAT WAS CREATED IN
8 2011 WAS APPROVED BY THE JUSTICE DEPARTMENT, BUT TODAY -- NOT
9 TODAY -- A YEAR AGO, WHEN WE PASSED THIS MAP, I DON'T THINK IT
10 WOULD HAVE BEEN IN COMPLIANCE HAD WE NOT CHANGED IT.

11 Q. AND WHY NOT?

12 A. BECAUSE THERE WAS A MAJORITY-MINORITY DISTRICT THAT WAS
13 UNDER 50 PERCENT.

14 Q. YESTERDAY WE SAW A SLIDE FROM PLAINTIFFS, AND I WOULD LIKE
15 TO ASK YOU FIRST IF YOU SAW THE SAME SLIDE, AND THEN I WILL ASK
16 YOU SOME QUESTIONS ABOUT IT. WE SAW A SLIDE FROM PLAINTIFFS
17 CLAIMING THAT YOU WERE PRESSING FOR A NEW STANDARD OF
18 COMPLIANCE FOR VOTING RIGHTS ACT, THAT YOU WERE LOOKING TO
19 CREATE A, QUOTE, SLAM DUNK GUARANTEE OF PERFORMANCE. DO YOU
20 RECALL SEEING THAT SLIDE?

21 A. YES.

22 Q. LET'S TURN TO JX21. MR. PRESIDENT, THIS IS THE SAME
23 TRANSCRIPT WE WERE LOOKING AT EARLIER OF THE SENATE AND
24 GOVERNMENTAL AFFAIRS COMMITTEE MEETING ON FEBRUARY 2, 2022.

25 LET'S TURN TO PAGE 33. AND FIRST, AS A FOUNDATIONAL QUESTION,

10:24AM

1 MR. PRESIDENT, DO YOU RECOGNIZE THE TEXT IN THE FIRST HALF OF
2 THIS PAGE?

3 A. YES.

4 Q. AND WHO IS SPEAKING IN THIS PORTION OF THE TRANSCRIPT?

5 A. IT'S ME.

6 Q. OKAY. AND I SEE A REFERENCE IN LINE 13 TO, QUOTE-UNQUOTE,
7 SLAM DUNK. COULD YOU EXPLAIN WHAT YOU WERE TALKING ABOUT HERE?

8 A. SO I WAS USING, IN ESSENCE, A BASKETBALL ANALOGY WHEREBY A
9 THREE-POINT SHOT IN BASKETBALL IS A LOW PERCENTAGE SHOT, AND A
10 SLAM DUNK IS A HIGH PERCENTAGE SHOT. IF YOU TAKE A THREE-POINT
11 SHOT, YOUR CHANCE OF MAKING THE GOAL IS MUCH LOWER. AND SO
12 RELATIVE TO OPPORTUNITY, DO YOU HAVE AN OPPORTUNITY TO MAKE IT?
13 YES. IF YOU TAKE A HALF COURT SHOT, YOU HAVE AN OPPORTUNITY TO
14 MAKE IT. BUT THE PERCENTAGE OF MAKING IT COULD BE -- I MEAN,
15 THE BEST NBA PLAYERS MAKE LESS THAN 30-PERCENT THREE-POINTERS.
16 SO THAT MEANS 7 OUT OF 10 TIMES THEY FAIL.

17 WHAT'S AN OPPORTUNITY? WELL, YOU WANT TO HAVE A BETTER
18 THAN HALF CHANCE OF MAKING IT, AND A SLAM DUNK IS A BETTER THAN
19 50-PERCENT CHANCE. I COULD HAVE SAID LAY-UP. I COULD HAVE
20 USED ANOTHER TERM. BUT SLAM DUNK WAS WHAT I USED TO SUGGEST
21 THAT IF YOU HAVE AN OPPORTUNITY TO GET OVER -- THEY PROBABLY
22 MAKE OVER 50-PERCENT SLAM DUNKS.

23 Q. DOES THIS TRANSCRIPT DEMONSTRATE THAT YOU WERE PUSHING FOR
24 A GUARANTEED WIN FOR VRA DISTRICTS IN SB 1?

25 **MR. ADCOCK:** OBJECTION, JUDGE. SHE IS ASKING ABOUT

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10:26AM

1 WHAT THE TRANSCRIPT MEANS. IT SPEAKS FOR ITSELF.

2 **THE COURT:** WELL, AND IT IS LEADING. I'M GOING TO
3 SUSTAIN THE OBJECTION. ASK A DIFFERENT QUESTION.

4 **BY MS. MCKNIGHT:**

5 Q. OKAY. WHEN YOU WERE DRAWING SB 1, WERE YOU LOOKING TO
6 DRAW GUARANTEED WIN VRA DISTRICTS?

7 **MR. ADCOCK:** OBJECTION, LEADING.

8 **THE COURT:** SUSTAINED.

9 **BY MS. MCKNIGHT:**

10 Q. WHAT KIND OF OPPORTUNITY WERE YOU TRYING TO CREATE IN
11 DRAWING VRA DISTRICTS IN SB 1?

12 A. IT WAS MY BELIEF, AFTER ALL OF THE MEETINGS THAT I HAD,
13 THAT AN OPPORTUNITY REQUIRED A CERTAIN LEVEL OF BVAP. AND WHEN
14 YOU GOT BELOW A CERTAIN LEVEL OF BVAP IN CERTAIN DISTRICTS,
15 THERE WAS NO OPPORTUNITY. IN OTHER DISTRICTS, YOU COULD GO
16 BELOW A CERTAIN NUMBER AND THERE WAS STILL AN OPPORTUNITY. AND
17 THAT WAS MY BELIEF, THAT THEY WERE DIFFERENT IN THE URBAN AND
18 THE RURAL AREAS. THERE WERE DIFFERENT REASONS. AND THAT WAS
19 BASED ON ALL OF THE CONVERSATIONS THAT I HAD WITH EVERY MEMBER
20 OF THE SENATE --

21 **MR. ADCOCK:** OBJECTION, AGAIN, JUDGE.

22 **THE COURT:** MY APOLOGIES.

23 **MR. ADCOCK:** LET ME FINISH. SO HE'S TESTIFYING AGAIN
24 ABOUT WHAT HE BELIEVED, QUOTE, BASED ON HIS CONVERSATION WITH
25 ALL THE LEGISLATORS -- OTHER LEGISLATORS. I OBJECT FOR THE

10:27AM

1 SAME BASIS I OBJECTED EARLIER.

2 **THE COURT:** SUSTAINED.

3 **MR. ADCOCK:** IF THIS KEEPS GOING, I'M SORRY, I'M
4 GOING TO HAVE TO -- THIS IS GOING TO BE A WAIVER. HE'S DOING
5 THIS AS HE WANTS TO.

6 **THE COURT:** SUSTAINED. I MEAN, WE ALL KNOW WHAT IS
7 AT RISK. SUSTAINED.

8 **BY MS. MCKNIGHT:**

9 Q. LET'S TURN TO THE BOTTOM OF PAGE 32 WHERE YOU BEGAN YOUR
10 STATEMENT ON 33. I SEE A DISCUSSION BY YOU ABOUT A TURNOUT
11 CONCERN. COULD YOU TELL ME WHAT YOU WERE THINKING OF HERE
12 WITHOUT DESCRIBING ANY CONVERSATIONS WITH OTHER LEGISLATORS?

13 A. IT SPEAKS FOR ITSELF, THAT THERE WAS SOME STATISTICAL
14 ANALYSIS DONE IN THE RURAL MINORITY DISTRICTS THAT SUGGESTED
15 THAT TURNOUT WAS LOWER THAN IN THE URBAN DISTRICTS.

16 **MR. ADCOCK:** YOUR HONOR, I HAVE TO OBJECT AGAIN. THE
17 ONLY STATISTICS IN THE RECORD ON THIS THAT HE'S REFERENCING
18 CAME FROM HIS LAWYER, IS MY UNDERSTANDING. SO IF HE IS
19 TESTIFYING TO WHAT HIS LAWYER GAVE HIM IN TERMS OF THESE
20 STATISTICS, THEN IT'S A WHOLE OTHER PRIVILEGE WE ARE GETTING
21 INTO THAT I ASKED ABOUT IN DEPOSITION AND HE WAS INSTRUCTED NOT
22 TO ANSWER. SO THAT'S MY OBJECTION.

23 **MS. MCKNIGHT:** YOUR HONOR, I DON'T THINK IT IS CLEAR
24 THAT THAT IS FROM A PRIVILEGE, THAT HE HAS THIS ANALYSIS OUT OF
25 A PRIVILEGE. I CAN ASK HIM --

P. CORTEZ - DIRECT

10:29AM

1 **THE COURT:** YOU CAN CROSS-EXAMINE HIM ON THAT
2 QUESTION. GO AHEAD. ASK YOUR QUESTION.

3 **MS. MCKNIGHT:** THANK YOU.

4 **BY MS. MCKNIGHT:**

5 Q. SO I NOTICE WHEN YOU STARTED THIS ANSWER, YOU REFERENCED
6 "WHAT I ALLUDED TO EARLIER." SO I WOULD LIKE TO GO EARLIER IN
7 THE TRANSCRIPT BY A FEW PAGES TO PAGE 30. COULD YOU READ LINE
8 7 THROUGH 20, AND I WILL HAVE QUESTIONS FOR YOU, PLEASE.

9 A. "I THINK WE AGREE ONE HUNDRED PERCENT. I THINK THAT THE
10 MAP THAT I'VE DRAWN GIVES THAT OPPORTUNITY, AND WHAT THAT
11 OPPORTUNITY IS, I THINK, IS WHERE YOU AND I MAY HAVE A
12 DIFFERENCE OF OPINION. DROPPING THE PERCENTAGE DOWN WITHOUT
13 KNOWING THE STATISTICAL ANALYSIS BEHIND IT, I THINK YOU COULD
14 HAVE AN ARGUMENT THAT YOU HAVE DONE EXACTLY THE OPPOSITE OF
15 WHAT YOU'RE INTENDING TO DO, BECAUSE I COULD DRAW THE MAP WITH
16 A BUNCH OF 50.1S, THERE WOULD BE A BUNCH OF 50.1S, THEY WOULD
17 GO ALL OVER, THEY WOULD LOOK LIKE SPIDERS, AND THE REALITY OF
18 IT IS THAT THAT MAP WOULD NOT PASS MUSTER. IT WOULD VIOLATE
19 EVERY OTHER PRINCIPLE OF COMMUNITIES OF INTEREST. IT WOULD
20 VIOLATE THE PRINCIPLES. SO THE VOTING RIGHTS ACT, I AGREE, IS
21 ABOUT OPPORTUNITY."

22 DO YOU WANT ME TO READ TO THE BOTTOM?

23 "THAT'S WHAT THIS DID, AND I DIDN'T -- IN FACT, I
24 MENTIONED IN THE SECOND PRINCIPLE THAT I WAS GOING TO FOLLOW,
25 NOT THAT THEY WERE RANKED IN ANY PARTICULAR ORDER, BUT

10:30AM

1 POPULATION IS ONE."

2 **BY MS. MCKNIGHT:**

3 Q. YOU MENTIONED DROPPING THE BVAP PERCENTAGE DOWN WITHOUT
4 KNOWING THE STATISTICAL ANALYSIS BEHIND IT. DO YOU SEE THAT?

5 A. YES.

6 Q. DID YOU EVER RECEIVE FROM ANYONE, ANY OTHER SENATORS,
7 ANYONE, A STATISTICAL ANALYSIS SUPPORTING DROPPING BVAP DOWN TO
8 CLOSE TO 50 PERCENT FOR OPPORTUNITY DISTRICTS?

9 **MR. ADCOCK:** YOUR HONOR, SAME OBJECTION. THEY ARE
10 PASSING INFORMATION ALONG TO HIM. THOSE ARE
11 COMMUNICATIONS THAT WE WEREN'T ASKED --

12 **THE COURT:** YOU SPECIFICALLY -- MS. MCKNIGHT, YOU
13 SPECIFICALLY CALLED FOR DID HE GET STATISTICS FROM ANY OTHER
14 SENATORS. I MEAN, HOW IS THAT --

15 **MS. MCKNIGHT:** I'M TALKING ABOUT -- LET ME CAVEAT --
16 YOUR HONOR, I UNDERSTAND.

17 **BY MS. MCKNIGHT:**

18 Q. IN THIS LEGISLATIVE PROCESS, DID ANY SENATORS OR STAFF PUT
19 FORWARD IN THE PASSING -- THE DEVELOPMENT AND PASSING OF SB 1
20 STATISTICAL ANALYSIS THAT SHOWED THAT VRA DISTRICTS COULD BE
21 DROPPED BELOW 50 PERCENT AND STILL PERFORM?

22 **MR. ADCOCK:** JUDGE, I WILL RESPOND TO THAT. SO THE
23 INSTRUCTION WAS CLEAR, IT'S ONLY BASIS ON THINGS IN THE RECORD.
24 THE WAY TO DO THAT IS TO ASK SPECIFICALLY, ONLY ON THE RECORD,
25 DID YOU SEE ANY STATISTICS GIVEN BY OTHER SENATORS IN THE

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10:31AM

1 PUBLIC RECORD.

2 **THE COURT:** SUSTAINED. DO YOU HAVE THE STATISTICS IN
3 THE PUBLIC RECORD? SHOW HIM.

4 **MS. MCKNIGHT:** SURE.

5 **BY MS. MCKNIGHT:**

6 Q. IN THE PUBLIC RECORD, DO YOU --

7 **THE COURT:** NO. DO YOU HAVE THEM? SHOW THEM.

8 **MS. MCKNIGHT:** YOUR HONOR, PARDON ME. IT WOULD BE
9 PROVING A NEGATIVE. I'M TRYING TO SHOW THAT THERE IS NOTHING
10 IN THE PUBLIC RECORD. IT WAS NEVER PUT FORTH IN THE PUBLIC
11 RECORD.

12 **MR. ADCOCK:** SO YOU CAN'T ASK ABOUT IT.

13 **MS. MCKNIGHT:** WHY NOT?

14 **THE COURT:** OKAY. BUT WHAT YOU ARE ASKING IS HAS ANY
15 SENATOR OR STAFFER GIVEN YOU ANYTHING? AND --

16 **MS. MCKNIGHT:** THAT'S WHY I FOCUSED ON IN THE PASSAGE
17 OF THIS PLAN IN THE LEGISLATIVE PROCESS. AND I CAN INSERT THE
18 WORD "PUBLIC" THERE. I'M TRYING TO BE VERY CLEAR THAT THERE IS
19 A WHOLE LEGISLATIVE RECORD. PLAINTIFFS HAVE HAD ACCESS TO IT
20 TOO. I WOULD LIKE TO FOCUS MY QUESTION -- I BELIEVE I DID --
21 IF I DIDN'T, I CAN DO IT, I CAN TRY AGAIN -- ON THE PUBLIC
22 RECORD RELATED TO SB 1, ANY AMENDMENTS TO SB 1, OR ANY OF THE
23 MAP DRAWING. THERE ARE OTHER MAPS THAT WERE SUBMITTED.

24 THE POINT IS THAT THERE WAS NO ANALYSIS SUBMITTED IN THE
25 PUBLIC RECORD TO SUPPORT THIS. AND SO I BELIEVE IT IS FAIR TO

10:32AM

1 ASK A QUESTION OF WHETHER THE PUBLIC RECORD REFLECTS THAT ANY
2 OF THAT TYPE OF ANALYSIS WAS EVER SUBMITTED.

3 **MR. ADCOCK:** THEN ASK THAT QUESTION. THAT IS FINE.
4 BUT JUST ASK THAT QUESTION. WE HAVE SEEN THAT THIS WITNESS IS
5 NOT GOOD AT FOLLOWING THESE INSTRUCTIONS, SO IT HAS TO BE CLEAR
6 QUESTIONS. THAT WASN'T A CLEAR QUESTION. THE EXAMPLE COUNSEL
7 JUST GAVE IS A CLEAR QUESTION. THAT'S A FINE QUESTION.

8 **THE COURT:** THE OBJECTION IS SUSTAINED. REPHRASE
9 YOUR QUESTION.

10 **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

11 **BY MS. MCKNIGHT:**

12 Q. MR. PRESIDENT, IN THE DRAWING OF SB 1, AND IN THE
13 REDISTRICTING PROCESS AS A WHOLE IN THE SENATE, WAS THERE EVER
14 AN ANALYSIS PUT FORWARD ON THE SENATE FLOOR OR IN THE SENATE
15 AND GOVERNMENTAL AFFAIRS COMMITTEE MEETINGS THAT SHOWED AN
16 ANALYSIS SUPPORTING THE DRAWING OF VRA DISTRICTS AT CLOSE TO
17 50 PERCENT THAT WOULD STILL PERFORM?

18 A. NO.

19 Q. MR. PRESIDENT, ARE YOU AWARE OF THE MEMBERS -- WHO THE
20 MEMBERS ARE OF THE SENATE AND GOVERNMENTAL AFFAIRS COMMITTEE?

21 A. YES.

22 Q. OKAY. AND WERE THERE MEMBERS OF THE BLACK CAUCUS ON THAT
23 COMMITTEE?

24 A. YES.

25 Q. DID ANY OF THOSE MEMBERS OFFER ANY AMENDMENTS TO SB 1?

10:34AM 1

A. NO.

2 Q. DO THE SGA COMMITTEE MEMBERS HAVE OPPORTUNITIES TO OFFER
3 AMENDMENTS TO SENATE BILLS?

4 A. YES.

5 Q. MR. PRESIDENT, DO YOU THINK THE ENACTED SENATE PLAN, YOUR
6 SB 1, REFLECTS THE RESULT OF A LEGISLATIVE PROCESS?

7 A. YES.

8 Q. OKAY. LET'S PULL UP PLAINTIFF'S EXHIBIT 48. THIS IS
9 ILLUSTRATIVE SENATE MAP SHOWING THE STATEWIDE MAP OF
10 PLAINTIFFS' ILLUSTRATIVE PLAN. MR. PRESIDENT, I WOULD LIKE TO
11 ASK YOU QUESTIONS ABOUT WHAT THIS PLAN DOES TO DIFFERENT AREAS
12 OF THE STATE. COULD I ASK YOU ABOUT THE AREA OF ACADIA PARISH
13 AND WHETHER -- AND WHETHER THOSE CHANGES REFLECTED SOMETHING
14 YOU VIEWED AS IMPORTANT IN PREPARING SB 1?

15 **MR. ADCOCK:** YOUR HONOR, OBJECTION. THAT QUESTION IS
16 VERY, VERY VAGUE. AND GIVEN THE SLIPPERINESS OF THESE PROBLEMS
17 WITH PRIVILEGE, I THINK WE NEED TO BE MORE EXACTING IN OUR
18 QUESTIONS AND MAKE SURE WE DON'T GET INTO THESE NONPUBLIC
19 CONVERSATIONS.

20 **MS. MCKNIGHT:** YOUR HONOR, I'M EITHER LEADING OR TOO
21 VAGUE.

22 **BY MS. MCKNIGHT:**

23 Q. I THINK HERE, MR. PRESIDENT, TO BE CLEAR, THIS QUESTION
24 RELATES ONLY TO INFORMATION YOU HAD THAT WAS PUBLICLY
25 AVAILABLE. MY QUESTION IS FOCUSED ON YOUR UNDERSTANDING AND

10:36AM

1 YOUR REVIEW OF THIS MAP AND WHETHER IT COMPLIES WITH YOUR GOALS
2 IN DRAWING SB 1.

3 **MR. ADCOCK:** RIGHT, JUDGE. AND MY OBJECTIONS EARLIER
4 WERE SOMETIMES THE WITNESS WOULD TESTIFY THAT HIS UNDERSTANDING
5 OF SOMETHING WAS BASED ON CONVERSATIONS WITH OTHER LEGISLATORS.
6 SO THAT WAS WHY I WAS ARTICULATING THE PROBLEMS WITH
7 SLIPPERINESS HERE. WE NEED TO BE EXACTING. YOU CAN ASK HIM AN
8 EXACTING QUESTION WITHOUT ASKING A LEADING QUESTION, OR YOU CAN
9 ALSO LAY A FOUNDATION WITHOUT ASKING A LEADING QUESTION.
10 THAT'S MY OBJECTION.

11 **THE COURT:** OVERRULED.

12 A. WITH REGARD TO ACADIA PARISH, IT VIOLATES THE COMMUNITIES
13 OF INTEREST IMMEDIATELY JUST LOOKING AT THE FACT THAT IT IS
14 BROKEN INTO THREE DIFFERENT SENATE DISTRICTS. CROWLEY IS THE
15 SEAT OF ACADIA PARISH. IT LOOKS LIKE -- I CAN'T TELL FROM THE
16 MAP, BUT IT LOOKS LIKE IT MAY EVEN CUT THE CITY OF CROWLEY.
17 BUT CERTAINLY CHURCH POINT AND CROWLEY APPEAR TO BE IN TWO
18 DIFFERENT DISTRICTS. THOSE ARE COMMUNITIES OF INTEREST. IT'S
19 A SMALL PARISH IN GENERAL, ROUGHLY 40,000 PEOPLE, AND IT WOULD
20 BE SPLIT INTO THREE DIFFERENT SENATE DISTRICTS.

21 **BY MS. MCKNIGHT:**

22 Q. AND TURNING TO SD 6, IN THE ILLUSTRATIVE PLAN, WHAT IS
23 YOUR REACTION TO HOW THAT IS DRAWN?

24 A. OKAY. YES. SO 6, THAT DISTRICT WAS ONE OF THOSE
25 DISTRICTS THAT MIGRATED AFTER KATRINA TO THE BATON ROUGE AREA,

10:38AM 1 AND THAT DISTRICT, OVER THE LAST DECADE, HAD BEEN PRIMARILY AN
2 EAST BATON ROUGE DISTRICT. AND IT LOOKS LIKE THAT DISTRICT
3 BECOMES A VERY RURAL DISTRICT AND HAS -- I CAN'T TELL FROM THE
4 MAP IF IT HAS ANY OF BATON ROUGE PROPER. IT LOOKS LIKE IT'S
5 GOT PARTS OF NORTHEAST/EAST BATON ROUGE PARISH IN IT, BUT IT
6 PICKS UP LIVINGSTON, ST. HELENA, EAST FELICIANA, WEST
7 FELICIANA, CONCORDIA. IT ALSO CUTS THE NORTHERN PART OF
8 LIVINGSTON. IT LOOKS AS THOUGH LIVINGSTON PARISH IS GETTING
9 CHOPPED UP, AND LIVINGSTON PARISH HAD BEEN ESSENTIALLY KEPT
10 WHOLE IN PREVIOUS MAPS.

11 Q. LET'S TURN BRIEFLY BACK TO JX21, THE TRANSCRIPT OF THE
12 FEBRUARY 2, 2022 MEETING. WE ARE GOING TO TURN TO PAGE 42,
13 LINES 18 THROUGH 25. COULD YOU READ THOSE LINES, AND THEN I
14 WILL ASK YOU QUESTIONS ABOUT THEM.

15 A. "-- THAT WERE LAFOURCHE PARISH PRECINCTS THAT HAD BEEN
16 MOVED INTO SENATE DISTRICT 8, WHICH WAS THE WEST JEFFERSON
17 PARISH DISTRICT, AND GRAND ISLE IS PART OF JEFFERSON PARISH.
18 THOSE HAVE BEEN MOVED BACK AGAIN TO KEEP LAFOURCHE PARISH WHOLE
19 AND WHOLLY IN SENATE DISTRICT 20. AS I MENTIONED EARLIER,
20 SENATE DISTRICT 20 INITIALLY WAS SHORT AND HAD TO PICK UP
21 POPULATION."

22 Q. LET'S TURN BACK TO PL48. AND IN REVIEWING PLAINTIFFS'
23 ILLUSTRATIVE MAP, ARE LAFOURCHE AND TERREBONNE KEPT TOGETHER
24 HERE?

25 A. NO, LAFOURCHE APPEARS TO BE CUT IN ITS WESTERN AND

10:40AM 1 NORTHWESTERN PORTION BY DISTRICT 8, AND TERREBONNE HAS PART OF
2 IT -- HAS TO GIVE UP PART OF IT, BUT TERREBONNE HAS GOT A
3 POPULATION BASE, BUT IT GIVES A PART OF IT TO SENATE DISTRICT
4 21, WHICH I THINK IT DOES IN THE CURRENT MAP AS WELL.

5 Q. MR. PRESIDENT, I WOULD LIKE TO STEP BACK AND ASK YOU,
6 BASED ON YOUR POLITICAL EXPERIENCE IN THE STATE AND YOUR
7 REDISTRICTING EXPERIENCE, WHAT WOULD YOU EXPECT TO HAPPEN OVER
8 TIME IN AN AREA LIKE NEW ORLEANS IF THE LEGISLATURE HAD DRAWN
9 DISTRICTS AT 50-PERCENT BVAP?

10 MR. ADCOCK: OBJECTION, YOUR HONOR. I DON'T KNOW
11 THAT THAT LAYS A FOUNDATION FOR HIS KNOWLEDGE OF THE CHANGING
12 DEMOGRAPHICS OF NEW ORLEANS OVER THE YEARS.

13 THE COURT: I'M GOING TO OVERRULE THE OBJECTION. I
14 THINK HE HAS BEEN IN THE SENATE FOR 30 YEARS AND HAS WATCHED, I
15 GUESS WHAT WE WILL TALK ABOUT, HUMAN MIGRATORY PATTERNS, AND IF
16 HE HAS GOT A PERCEPTION OF WHAT IS GOING TO HAPPEN IN THE
17 FUTURE, I'M WILLING TO LISTEN TO IT. HIS PERCEPTION IS AS GOOD
18 AS ANYBODY ELSE'S.

19 MS. MCKNIGHT: THANK YOU, YOUR HONOR.

20 A. SO OVER THE LAST DECADE, ORLEANS PARISH PICKED UP ROUGHLY
21 40,000 RESIDENTS, AND 30,000 WERE WHITE. THERE'S A COMMON
22 THOUGHT THAT THE GENTRIFICATION OF THE UPTOWN AREA HAS
23 OCCURRED. I THINK IT HAS OCCURRED. AND I THINK THAT YOU ARE
24 SEEING AND YOU HAVE SEEN, AT LEAST MY TENURE IN THE LEGISLATURE
25 IS THAT THERE HAVE BEEN WHITE DEMOCRATS THAT HAVE BEEN ELECTED

10:42AM 1 FROM THOSE DISTRICTS IN THE HOUSE, SPECIFICALLY, AND I THINK
2 THAT OVER TIME, THE REDUCTION OF BVAP, IT'S MY BELIEF THAT OVER
3 TIME YOU WOULD GET MORE WHITE DEMOCRATS BEING ELECTED OR
4 POTENTIALLY WHITE MODERATE REPUBLICANS OR INDEPENDENTS OR
5 SOMETHING OTHER THAN MINORITIES. I THINK THAT THAT'S A STRONG
6 POSSIBILITY THAT THAT COULD HAPPEN.

7 **MS. MCKNIGHT:** THANK YOU, MR. PRESIDENT. NO FURTHER
8 QUESTIONS.

9 **THE COURT:** WE WILL TAKE A 15-MINUTE RECESS, AND THEN
10 YOU CAN COMMENCE YOUR CROSS.

11 (RECESS TAKEN AT 10:42 A.M. UNTIL 10:58 A.M.)

12 **THE COURT:** PRESIDENT CORTEZ, IF YOU WOULD TAKE THE
13 STAND, PLEASE. BE SEATED. YOUR WITNESS, MR. ADCOCK.

14 **MR. ADCOCK:** THANK YOU, JUDGE.

15 **CROSS-EXAMINATION**

16 **BY MR. ADCOCK:**

17 Q. SENATOR, YOUR TENET NUMBER 1 FOR REDISTRICTING WAS TO
18 FOLLOW THE ONE-PERSON, ONE-VOTE RULE?

19 A. YES.

20 Q. ONE-PERSON, ONE-VOTE, TO YOU, SUPERSEDES ALL OTHERS?

21 A. YES.

22 Q. AND BECAUSE A PERSON IS ELECTED TO THE SENATE SHOULD NOT
23 HAVE TO -- SHOULD NOT HAVE THE SAME POWER AS SOMEONE WHO IS
24 ELECTED BY MORE PEOPLE, CORRECT? FOR INSTANCE, YOU CAN'T DRAW
25 A DISTRICT AROUND YOUR OWN HOUSE AND THEN DRAW A DISTRICT

P. CORTEZ - CROSS

10:59AM

1 AROUND 200,000 PEOPLE AND CALL THAT EVEN, CORRECT?

2 A. CORRECT.

3 **MS. MCKNIGHT:** OBJECTION, COMPOUND.

4 **BY MR. ADCOCK:**

5 Q. AND THAT'S THE ONE-PERSON, ONE-VOTE --

6 **THE COURT:** MR. ADCOCK, I ALLOWED HER TO RESPOND TO
7 YOUR OBJECTIONS, AND SHE DIDN'T JUST PLOW THROUGH. AND I
8 EXPECT YOU TO GIVE HER THE SAME COURTESY. THERE WAS AN
9 OBJECTION, AND YOU SHOULD HAVE PAUSED.

10 **MR. ADCOCK:** I SHOULD HAVE.

11 **THE COURT:** THE QUESTION HAS BEEN ASKED AND ANSWERED.
12 CARRY ON.

13 **MR. ADCOCK:** I APOLOGIZE, JUDGE.

14 **BY MR. ADCOCK:**

15 Q. AND THAT'S THE ONE-PERSON, ONE-VOTE PRINCIPLE?

16 A. CORRECT.

17 Q. AND WHICH IS APPORTIONMENT, BASICALLY?

18 A. CORRECT.

19 Q. NOW, SB 1 THAT YOU WERE DISCUSSING ON DIRECT, YOU WERE THE
20 SPONSOR OF THAT BILL?

21 A. THE AUTHOR. YES.

22 Q. YOU WERE THE AUTHOR OF THAT BILL?

23 A. CORRECT.

24 Q. YOU DRAFTED THAT BILL?

25 A. CORRECT.

P. CORTEZ - CROSS

11:00AM

1 Q. YOU WROTE THAT BILL?

2 A. WITH STAFF.

3 Q. WITH STAFF. AND YOU DID NOT PRESENT ANY STATISTICAL
4 ANALYSIS ON THE RECORD IN SUPPORT OF THAT BILL?

5 A. CORRECT. WELL, WHEN YOU SAY STATISTICAL ANALYSIS,
6 EVERY -- THAT BILL HAD INCLUDED IN IT PERCENTAGES OF VOTERS BY
7 DEMOGRAPHICS. SO YES, IT HAD STATISTICAL ANALYSIS, BUT I WANT
8 TO BE CLEAR, IT WAS THE NUMBER OF PEOPLE IN THE DISTRICT, THE
9 NUMBER OF REGISTERED THIS, REGISTERED THAT, ET CETERA. SO IT
10 DID HAVE SOME STATISTICAL ANALYSIS.

11 Q. AND THAT WAS ATTACHED TO THE BILL?

12 A. YES, THAT WAS ATTACHED, YES.

13 Q. AND NOTHING ELSE OTHER THAN WHAT YOU JUST SAID?

14 A. CORRECT.

15 Q. SO NOTHING WAS ATTACHED TO THE BILL OR PRESENTED IN --
16 EXCUSE ME -- NOTHING WAS ATTACHED TO THE BILL IN TERMS OF A
17 PERFORMANCE ANALYSIS?

18 A. NO.

19 Q. NOTHING WAS ATTACHED TO THE BILL IN TERMS OF AN
20 EFFECTIVENESS SCORE?

21 A. NO.

22 Q. AND NOTHING WAS PRESENTED ON THE FLOOR OR IN COMMITTEE IN
23 TERMS OF AN EFFECTIVENESS SCORE IN SUPPORT OF SB 1?

24 **MS. MCKNIGHT:** OBJECTION, COMPOUND.

25 **BY MR. ADCOCK:**

P. CORTEZ - CROSS

11:02AM

1 Q. NOTHING WAS PRESENTED IN COMMITTEE --

2 **THE COURT:** OVERRULED. YOU HAVE TO LET ME --

3 **MR. ADCOCK:** I'M SORRY. I WAS GOING TO REPHRASE AND
4 I SHOULD HAVE SAID THAT. I APOLOGIZE, JUDGE.

5 **THE COURT:** OKAY. REPHRASE.

6 **BY MR. ADCOCK:**

7 Q. NOTHING WAS PRESENTED IN COMMITTEE IN SUPPORT OF SB 1 IN
8 TERMS OF A PERFORMANCE ANALYSIS?

9 A. NO.

10 Q. NOTHING WAS PRESENTED ON THE SENATE FLOOR IN SUPPORT OF SB
11 1 IN TERMS OF A PERFORMANCE ANALYSIS?

12 A. NO.

13 Q. OR AN -- I WILL MOVE ON. NOW, BETWEEN -- THERE WAS
14 DISCUSSION ABOUT THE MAP CREATED AFTER 2010 IN DIRECT AND THE
15 MAP CREATED AFTER THE 2021 CENSUS. DO YOU REMEMBER THAT?

16 A. COULD YOU RESTATE THE QUESTION?

17 Q. YOU WERE TALKING ON DIRECT ABOUT THE MAPS CREATED AFTER
18 2011, CORRECT?

19 A. CORRECT.

20 Q. AND THAT MAP WAS PRECLEARED BY THE DEPARTMENT OF JUSTICE?

21 A. CORRECT.

22 Q. NOW, DOES IT STRIKE YOU AS ACCURATE THAT THERE WERE 29
23 OPPORTUNITY DISTRICTS IN THE 2011 MAP?

24 **MS. MCKNIGHT:** OBJECTION, CALLS FOR SPECULATION.

25 **MR. ADCOCK:** HE'S THE SENATE PRESIDENT, JUDGE.

P. CORTEZ - CROSS

11:03AM 1

THE COURT: OVERRULED.

2 **BY MR. ADCOCK:**

3 Q. DOES IT STRIKE YOU AS ACCURATE THAT THERE WERE 29
4 OPPORTUNITY DISTRICTS IN THE 2011 MAP?

5 A. YOU ARE TALKING ABOUT THE HOUSE MAP?

6 Q. I'M TALKING ABOUT -- SORRY. I WILL REPHRASE. IF YOU LOOK
7 AT BOTH THE SENATE AND HOUSE MAPS THAT WERE PRECLEARED IN 2011,
8 THAT'S WHAT I'M TALKING ABOUT, SENATOR. OKAY?

9 **MS. MCKNIGHT:** OBJECTION, FOUNDATION.

10 **BY MR. ADCOCK:**

11 Q. YOU ARE AWARE, YOU KNOW --

12 **THE COURT:** THIS IS THE LAST TIME I'M GOING TO ASK
13 YOU. IF SHE MAKES AN OBJECTION, YOU HAVE TO PAUSE.

14 **MR. ADCOCK:** I UNDERSTAND, JUDGE. I APOLOGIZE.

15 **THE COURT:** OBJECTION SUSTAINED.

16 **BY MR. ADCOCK:**

17 Q. THE 2011 MAP FOR THE HOUSE OF REPRESENTATIVES IN LOUISIANA
18 WAS PRECLEARED BY THE DEPARTMENT OF JUSTICE?

19 A. YES.

20 **MS. MCKNIGHT:** OBJECTION, FOUNDATION. PARDON ME. I
21 DIDN'T UNDERSTAND --

22 **THE COURT:** OVERRULED.

23 **BY MR. ADCOCK:**

24 Q. AND THE 2011 MAP FOR THE LOUISIANA SENATE WAS PRECLEARED
25 IN 2011?

11:04AM 1

A. YES.

2 Q. TOGETHER THEY CREATED 29 OPPORTUNITY DISTRICTS, CORRECT?

3 **MS. MCKNIGHT:** OBJECTION, FOUNDATION.

4 **THE COURT:** OVERRULED.

5 A. I'M NOT AWARE OF THAT. I WOULDN'T KNOW IF THAT'S ACCURATE
6 OR NOT.

7 **BY MR. ADCOCK:**

8 Q. IT WAS IMPORTANT TO YOU IN PASSING THE 2022 MAP THAT THE
9 2011 MAP WAS PRECLEARED, CORRECT?

10 A. YES, BUT THE QUESTION, I WANT TO BE CLEAR, WAS RELATIVE TO
11 THE SENATE BILL 1. I THINK YOU ARE ASKING ABOUT TWO MAPS AT
12 THE SAME TIME. I'M NOT SURE I'M UNDERSTANDING YOUR QUESTION.
13 ARE YOU ASKING ME ABOUT TWO MAPS? BECAUSE THERE'S ONLY 39
14 SENATORS, AND WHEN YOU SAY 29 OPPORTUNITY, THAT'S NOT ACCURATE
15 IN THE SENATE MAP. I'M NOT SURE YOU -- I JUST WANT TO BE CLEAR
16 IF I'M TALKING ABOUT SENATE BILL 1 OR THE SENATE MAP OR THE
17 HOUSE MAPS OR BOTH.

18 **MR. ADCOCK:** THAT'S OKAY. I WILL MOVE ON. I WILL
19 MOVE ON.

20 **BY MR. ADCOCK:**

21 Q. SO THE SENATE MAP IN 2011 HAD 11 OPPORTUNITY DISTRICTS,
22 CORRECT?

23 **MS. MCKNIGHT:** OBJECTION, YOUR HONOR. IT CALLS FOR A
24 LEGAL CONCLUSION AND AN OBJECTION THAT WAS SUSTAINED ON MY
25 DIRECT.

11:05AM 1

THE COURT: WHAT WAS THE QUESTION?

2

MR. ADCOCK: THE SENATE MAP CREATED IN 2011 HAD 11

3

OPPORTUNITY DISTRICTS.

4

THE COURT: OVERRULED.

5

A. MY UNDERSTANDING WAS THAT IT HAD 11 MAJORITY-MINORITY

6

DISTRICTS. I DON'T KNOW THAT THE TERM "OPPORTUNITY" IS THE

7

SAME AS MAJORITY-MINORITY.

8

BY MR. ADCOCK:

9

Q. I'M USING THEM INTERCHANGEABLY.

10

A. OKAY.

11

Q. AND THE 2022 MAP, IT WAS PASSED INTO LAW, AND SB 1, THE

12

SENATE MAP, HAD 11 MAJORITY-MINORITY DISTRICTS?

13

A. CORRECT.

14

Q. NOW, ABOUT PRECLEARANCE, DO YOU KNOW THE CRITERIA THE

15

DEPARTMENT OF JUSTICE USES TO PRECLEAR OR APPROVE A MAP DURING

16

THE PRECLEARANCE PROCESS?

17

MS. MCKNIGHT: OBJECTION, CALLS FOR A LEGAL

18

CONCLUSION.

19

MR. ADCOCK: NO, IT DOESN'T, JUDGE. I'M JUST ASKING

20

IF HE KNOWS WHAT THE CRITERIA IS.

21

THE COURT: IF HE KNOWS WHAT THE PROCESS IS, I WILL

22

ALLOW HIM TO ANSWER THE QUESTION.

23

A. NO.

24

BY MR. ADCOCK:

25

Q. NOW, AS THE SENATE PRESIDENT, YOU WERE OVERSEEING THE

P. CORTEZ - CROSS

11:06AM

1 REDISTRICTING SESSION IN EARLY 2022, CORRECT?

2 A. YES, PRESIDING OVER THE DELIBERATIONS ON THE FLOOR, YES.

3 Q. THE FLOOR OF THE SENATE, WITH REPRESENTATIVE SCHEXNAYDER,
4 CORRECT, IN THE HOUSE?

5 A. HE WAS PRESIDING OVER THE HOUSE.

6 Q. YOU WERE WORKING TOGETHER?

7 A. WE PRESIDE OVER DIFFERENT CHAMBERS. I MEAN, OUR STAFFS
8 WORK TOGETHER. I GUESS WE WORK TOGETHER, BUT WE WEREN'T IN THE
9 SAME COMMITTEE HEARINGS TOGETHER, WE WEREN'T IN THE -- WE SERVE
10 IN TWO DIFFERENT BODIES.

11 Q. AND YOU WERE GOING TO VOTE ON -- YOU KNEW YOU WOULD BE
12 VOTING ON THE MAP THAT WAS PASSED FOR THE HOUSE OF
13 REPRESENTATIVES?

14 A. YES.

15 Q. OKAY. SO IT WAS IMPORTANT TO YOU TO KNOW WHAT'S IN A
16 PIECE OF LEGISLATION THAT COMES OVER FROM THE HOUSE?

17 A. YES.

18 Q. OKAY. BECAUSE YOU WERE GOING TO BE ASKED TO VOTE ON
19 WHETHER YOU AGREE WITH THAT LEGISLATION OR YOU DON'T?

20 A. YES.

21 Q. SO IT'S IMPORTANT FOR YOU TO LEARN ABOUT THAT LEGISLATION?

22 A. YES.

23 Q. IT'S IMPORTANT TO YOU TO LEARN WHAT SUPPORTS THAT
24 LEGISLATION?

25 A. YOU SAID WHAT OR WHO?

11:08AM 1 Q. WHAT SUPPORTS THAT LEGISLATION, WHAT INFORMATION SUPPORTS
2 THAT LEGISLATION.

3 A. YES.

4 Q. AND IN LEARNING THE INFORMATION THAT SUPPORTS THAT
5 LEGISLATION, YOU WANT TO KNOW IF IT'S A GOOD BILL, CORRECT, SO
6 TO SPEAK?

7 **MS. MCKNIGHT:** OBJECTION, VAGUE.

8 **BY MR. ADCOCK:**

9 Q. YOU WANT TO KNOW IF THE BILL THAT COMES OVER FROM THE
10 HOUSE IS A GOOD BILL, SO TO SPEAK?

11 **THE COURT:** ARE YOU JUST, LIKE, A SLOW LEARNER?

12 **MR. ADCOCK:** I'M NOT, JUDGE. I'M A LITTLE NERVOUS,
13 AND I APOLOGIZE.

14 **THE COURT:** OKAY.

15 **MR. ADCOCK:** AND I UNDERSTAND YOU WHY YOU'RE UPSET
16 WITH ME.

17 **THE COURT:** WELL, THEN JUST TAKE A BIG, DEEP BREATH,
18 AND DON'T BE SO NERVOUS. NOBODY IS GOING TO BITE YOU, EXCEPT
19 POSSIBLY ME IF YOU KEEP NOT ALLOWING ME TO RULE ON THE
20 OBJECTIONS. I MEAN, I DON'T KNOW IF IT'S THAT YOU CAN'T --
21 THAT YOU DON'T RECOGNIZE MS. MCKNIGHT WHEN SHE SPEAKS. THAT
22 WOULD BE A PROBLEM. SHE'S YOUR OPPOSING COUNSEL. LISTEN FOR
23 HER VOICE. WHEN SHE OBJECTS, BE QUIET. OBJECTION OVERRULED.
24 NOW ASK A QUESTION.

25 **MR. ADCOCK:** I APOLOGIZE.

11:09AM 1

BY MR. ADCOCK:

2 Q. SO IN DETERMINING WHETHER SOMETHING IS A GOOD BILL, YOU
3 WOULD REFERENCE WHAT IS PUT ON IN EVIDENCE IN COMMITTEE,
4 CORRECT?

5 A. WELL, I DON'T SERVE ON THE SENATE AND GOVERNMENTAL AFFAIRS
6 COMMITTEE AS A MEMBER. I'M AN EX OFFICIO MEMBER, AND I DIDN'T
7 ATTEND ALL OF THE MEETINGS, SO I PRIMARILY HAVE TO WEIGH THE
8 EVIDENCE THAT'S PRESENTED ON THE FLOOR OF THE SENATE BY THOSE
9 PRESENTING THE BILL AND THOSE IN OPPOSITION TO THE BILL. AND
10 SO AS A VOTE, I HAVE ONE VOTE IN THE SENATE, AND IT'S BASED ON
11 THE PRESENTATION IN THAT DELIBERATIVE BODY.

12 Q. NOW, I'M TALKING ABOUT THE HOUSE BILL, THE HOUSE MAP. AND
13 TO -- YOU HAVE ACCESS TO HEARING VIDEOS AND HEARING TRANSCRIPTS
14 OF COMMITTEE HEARINGS IN THE HOUSE, CORRECT?

15 **MS. MCKNIGHT:** OBJECTION, YOUR HONOR, THIS IS NOW WAY
16 BEYOND THE SCOPE OF DIRECT.

17 **THE COURT:** RESPOND.

18 **MR. ADCOCK:** I DON'T BELIEVE IT IS. WE'VE ASKED
19 ABOUT THE PASSAGE OF THESE MAPS, WHETHER THEY COMPLY WITH THE
20 VRA, WHAT HIS PRIORITIES ARE, WHAT HIS GUIDEPOSTS ARE IN JOINT
21 RULE 21 IN PASSING A MAP THAT IS COMPLIANT WITH THE VRA. I
22 WANT TO GET INTO HIS KNOWLEDGE OF THE EVIDENCE PRESENTED IN
23 HEARINGS IN SUPPORT OF BILLS THAT WERE INTRODUCED IN THE HOUSE.

24 **MS. MCKNIGHT:** YOUR HONOR, I ASKED HIM ZERO QUESTIONS
25 ABOUT BILLS THAT WERE PRESENTED IN THE HOUSE.

P. CORTEZ - CROSS

11:10AM

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MR. ADCOCK: I CAN RESPOND TO THAT.

THE COURT: ALL RIGHT.

MR. ADCOCK: SO THE QUESTION -- THE TESTIMONY ON DIRECT WAS THERE WAS NO ALTERNATIVE MAPS THAT INCREASED MAJORITY-MINORITY DISTRICTS IN THE ALTERNATIVE TO THE MAPS THAT WERE PASSED IN THE 2022 LEGISLATURE. AND I WANT TO GET INTO HIS KNOWLEDGE OF THE FACT THAT THERE WERE ALTERNATIVE MAPS PUT IN.

MS. MCKNIGHT: FIRST OF ALL, THAT MISSTATES PRIOR TESTIMONY. SECOND, IT REMAINS OUTSIDE THE SCOPE OF THE DIRECT WHICH FOCUSED ON SENATE BILLS.

THE COURT: CONFINE YOUR QUESTIONS TO THE SENATE BILLS. SHE IS CORRECT. SHE DID CONFINE HER QUESTIONS TO THE SENATE. OBJECTION IS SUSTAINED.

BY MR. ADCOCK:

Q. NOW, YOU TESTIFIED ABOUT THE IMPORTANCE OF COMMUNITIES OF INTEREST?

A. YES.

Q. AND IMPORTANT TO YOU IN DRAWING A SENATE MAP?

A. I THINK IT WAS IMPORTANT TO THE PUBLIC.

Q. IT WAS IMPORTANT TO YOU, TOO.

A. OF COURSE, IT WAS ONE OF THE TENETS OF THE JOINT RULE AND I BELIEVE TO BE IN COMPLIANCE WITH THE LAW.

Q. OKAY. AND YOU ARE FAMILIAR WITH THE WEST BANK OF NEW ORLEANS?

P. CORTEZ - CROSS

11:11AM

1 A. JEFFERSON PARISH?

2 Q. YES.

3 A. YES.

4 Q. OKAY. CAN WE PULL UP -- AND THE WEST BANK IS IN JEFFERSON
5 PARISH.

6 A. WELL, THERE IS A WEST BANK OF NEW ORLEANS, AND THAT'S WHY
7 I ASKED THE QUESTION -- I'M SORRY, YOUR HONOR. I'M TRYING TO
8 CLARIFY.

9 THERE IS A WEST BANK, BUT JEFFERSON PARISH IS OFTEN
10 REFERRED TO AS THE WEST BANK, BUT THERE IS ORLEANS PARISH ON
11 THE WEST BANK AS WELL.

12 Q. RIGHT.

13 **MR. ADCOCK:** SO CAN WE PULL UP DEMONSTRATIVE 31.

14 **BY MR. ADCOCK:**

15 Q. SENATOR, DO YOU RECOGNIZE THIS?

16 A. I MEAN, I THINK IT'S -- RELATIVELY SPEAKING, IT LOOKS LIKE
17 THE ORLEANS/WEST BANK JEFFERSON PARISH AND MAYBE PART OF
18 JEFFERSON PARISH, POSSIBLY EVEN PLAQUEMINES AND ST. BERNARD.

19 Q. RIGHT. IT IS GENERALLY THE GREATER NEW ORLEANS AREA,
20 CORRECT?

21 A. THAT'S WHAT IT LOOKS LIKE.

22 Q. OKAY. AND --

23 **MS. MCKNIGHT:** YOUR HONOR -- PARDON ME, MR. ADCOCK.

24 I JUST WANTED TO FIND A BREAK. I WOULD LIKE TO NOTE AN
25 OBJECTION THAT THESE -- HE REFERRED TO THIS AS A DEMONSTRATIVE.

P. CORTEZ - CROSS

11:13AM 1 THIS WAS NOT A DEMONSTRATIVE THAT WAS PRODUCED ACCORDING TO THE
2 PARTIES' AGREEMENT, WHICH IS THE EVENING BEFORE.

3 **MR. ADCOCK:** I HAVE A RESPONSE.

4 **THE COURT:** MR. ADCOCK?

5 **MR. ADCOCK:** YES, TWO RESPONSES. ONE IS, I DON'T
6 BELIEVE THERE WAS AN AGREEMENT TO TURN OVER EVIDENCE YOU WERE
7 GOING TO USE ON CROSS. BUT, TWO, THIS IS ACTUALLY THE ENACTED
8 MAP THAT THE SENATOR PASSED INTO LAW. IT'S HIS BILL. HE WAS
9 THE AUTHOR OF IT. THIS IS JUST A BLOW-UP OF THE NEW ORLEANS
10 AREA IN THE ENACTED MAP. SO I CAN'T SEE HOW THIS IS A
11 SURPRISE.

12 **THE COURT:** OBJECTION OVERRULED.

13 **BY MR. ADCOCK:**

14 Q. SENATOR, THIS LOOKS LIKE A BLOW-UP OF THE NEW ORLEANS
15 AREA, CORRECT?

16 A. YES.

17 Q. IN THE ENACTED MAP?

18 A. YES.

19 Q. FROM 2022?

20 A. YES.

21 Q. OKAY. DO YOU SEE SENATE DISTRICT 5 THERE?

22 A. YES.

23 Q. OKAY. NOW, 5 IS PARTLY ON THE EAST BANK, CORRECT?

24 A. CORRECT.

25 **MR. ADCOCK:** CAN I DRAW ON THIS, MADAM CLERK?

P. CORTEZ - CROSS

11:14AM

1 **BY MR. ADCOCK:**

2 Q. NOW, IT INCLUDES UPTOWN AREA RIGHT HERE, CORRECT?

3 A. CORRECT.

4 Q. AND IT INCLUDES PARTS OF TREMÉ RIGHT HERE? CORRECT?

5 A. CORRECT.

6 Q. AND THAT'S WHERE CONGO SQUARE IS?

7 A. I'M NOT SURE, BUT I TAKE YOUR WORD FOR IT, THAT IT'S
8 THERE.

9 Q. DO YOU THINK CONGO SQUARE IS IMPORTANT TO THE TREMÉ
10 NEIGHBORHOOD?

11 A. I WOULD THINK SO.

12 Q. NOW, ON THE LEFT OVER HERE, WE CALL THAT GERT TOWN,
13 CORRECT?

14 A. AGAIN, I DON'T -- I DON'T KNOW SPECIFICALLY WHAT THE NAMES
15 OF THE SUBDIVISIONS ARE AND WHAT THE NAMES OF ALL OF THE
16 SUBDIVISIONS THROUGHOUT THE STATE, BUT I TAKE YOUR WORD FOR IT.

17 Q. OKAY. AND ACROSS CARROLLTON, KIND OF OVER HERE, A PLACE
18 CALLED HOLLYGROVE, CORRECT?

19 A. AGAIN, I'M NOT SURE.

20 Q. OKAY. AND THEN -- IT'S HARD TO USE THESE PHRASES IN NEW
21 ORLEANS, BUT NORTH OF HOLLYGROVE RIGHT ABOUT HERE IS PIGEON
22 TOWN, CORRECT?

23 A. I WOULDN'T KNOW.

24 Q. NOW, OVER HERE, FOR LACK OF A BETTER PHRASE, THE RIGHT
25 PART OF THE DISTRICT IS -- THAT'S THE SEVENTH WARD, CORRECT?

P. CORTEZ - CROSS

11:15AM

1 A. I THINK IT IS.

2 Q. AND PART OF THE SEVENTH WARD IS GENTILLY TRACE? EXCUSE

3 ME. I WILL REPHRASE THAT. PART OF THE SEVENTH WARD IS

4 GENTILLY TERRACE?

5 A. AGAIN, I WOULDN'T KNOW, BUT I WILL TAKE YOUR WORD FOR IT.

6 Q. OKAY. THEN SENATE DISTRICT 5, IT GOES ACROSS THE RIVER

7 OVER INTO JEFFERSON PARISH, CORRECT?

8 A. YES.

9 Q. OKAY. AND RIGHT HERE, DO YOU KNOW WHAT THAT'S CALLED?

10 A. I DO NOT.

11 Q. SO THE BIG THING I'M CIRCLING ON THE WEST BANK, YOU DON'T

12 KNOW WHAT THAT'S CALLED. OKAY.

13 A. WEST JEFFERSON PARISH?

14 Q. IT'S JEFFERSON PARISH. YOU DON'T KNOW WHAT MUNICIPALITY

15 OR TOWN THAT IS? YOU DON'T KNOW IF IT'S INCORPORATED?

16 A. I DON'T. I DON'T. I WOULD BE SPECULATING, BUT I WOULD

17 SAY IT'S ROUGHLY MARRERO, BUT I WOULD BE SPECULATING.

18 Q. OKAY. NOW, SD 5 IN THE ILLUSTRATIVE MAP DOES NOT CROSS

19 THE MISSISSIPPI RIVER, CORRECT?

20 A. I DON'T RECALL.

21 Q. OKAY. LET'S PULL UP DEMONSTRATIVE 30.

22 **MS. MCKNIGHT:** PARDON ME, MR. ADCOCK. YOUR HONOR,

23 JUST FOR THE RECORD, WE'D LODGE THE SAME OBJECTION. THIS ISN'T

24 A DEMONSTRATIVE THAT WAS SHARED. AT MOST, IT'S AN ILLUSTRATIVE

25 AID.

P. CORTEZ - CROSS

11:17AM 1

THE COURT: THE COURT WILL CONSIDER IT AS AN ILLUSTRATIVE AID.

3 **MR. ADCOCK:** THANK YOU, JUDGE.

4 **BY MR. ADCOCK:**

5 Q. SENATOR, THIS IS A -- IS IT FAIR TO SAY THIS IS A MAP OF
6 THE GREATER NEW ORLEANS AREA?

7 A. IT LOOKS -- YES.

8 Q. OKAY. I WILL TELL YOU THIS IS A BLOW-UP OF THE NEW
9 ORLEANS AREA IN THE SENATE DISTRICT MAP. EXCUSE ME. THIS IS A
10 BLOW-UP OF THE NEW ORLEANS AREA IN PLAINTIFFS' ILLUSTRATIVE
11 MAP. I'M REPRESENTING THAT TO YOU. OKAY?

12 A. OKAY.

13 Q. NOW, DO YOU SEE SENATE DISTRICT 5 THERE IN THE MIDDLE?

14 A. I DO.

15 Q. OKAY.

16 A. EXCUSE ME. YES.

17 Q. DOES THAT LOOK -- AND THAT DOESN'T CROSS THE RIVER IN THE
18 ILLUSTRATIVE MAP, CORRECT?

19 A. IT DOESN'T APPEAR TO, NO.

20 Q. OKAY. DO YOU SEE THAT NUMBER THERE UNDER 5, 51.8 PERCENT?

21 A. 51.8, YES.

22 Q. YES. DOES THAT SOUND LIKE A GOOD -- IN THE BALLPARK OF
23 WHAT THE BVAP POPULATION PERCENTAGE IS IN SENATE DISTRICT 5?

24 **MS. MCKNIGHT:** OBJECTION, LACK OF FOUNDATION. PARDON
25 ME, COUNSEL. THIS IS A DIFFERENT MAP THAN 31? THE NUMBERS ARE

P. CORTEZ - CROSS

11:18AM

1 DIFFERENT?

2 **MR. ADCOCK:** RIGHT. THIS IS ILLUSTRATIVE 30.

3 **MS. MCKNIGHT:** OKAY. THANK YOU. OBJECTION,
4 FOUNDATION.

5 **MR. ADCOCK:** THE ENACTED MAP IS DEMONSTRATIVE -- OR
6 ILLUSTRATIVE -- EXCUSE ME. THE ENACTED MAP IS 31. THIS IS 30.

7 **THE COURT:** OVERRULED.

8 **BY MR. ADCOCK:**

9 Q. DOES 51.8 PERCENT SOUND ABOUT RIGHT TO YOU?

10 A. FOR THAT PARTICULAR DISTRICT, CAN I -- CAN I -- I'M PRETTY
11 SURE THAT DISTRICT WAS THE DISTRICT THAT WAS SERVED BY SENATOR
12 PETERSON, AND NOW SENATOR DUPLESSIS IS SERVING IN THAT
13 DISTRICT.

14 Q. MY QUESTION IS, DOES 51.8 PERCENT SOUND LIKE THE BVAP
15 PERCENTAGE POPULATION OF SENATE DISTRICT 5?

16 **MS. MCKNIGHT:** OBJECTION AGAIN, YOUR HONOR. THIS IS
17 THE PLAINTIFFS' ILLUSTRATIVE PLAN. THIS IS NOT THE PRESIDENT'S
18 SB 1 PLAN. HE HAS NO FOUNDATION TO KNOW WHETHER 51.8 PERCENT
19 BVAP IS ACCURATE FOR PLAINTIFFS' PROPOSED PLAN.

20 **THE COURT:** WHAT IS THE FOUNDATION? HOW IS HE
21 SUPPOSED TO KNOW THIS?

22 **MR. ADCOCK:** YOUR HONOR, I CAN REPHRASE THIS AND DO
23 IT A DIFFERENT WAY.

24 **THE COURT:** PLEASE DO. YOUR OBJECTION IS SUSTAINED.

25 **BY MR. ADCOCK:**

P. CORTEZ - CROSS

11:19AM 1 Q. LET'S GO TO DEMONSTRATIVE 31. AND YOU SEE THIS IS THE
2 ENACTED MAP, SENATOR. AND YOU SEE SENATE DISTRICT 5 THERE.

3 AND I REPRESENT TO YOU THAT 50.24 PERCENT IS THE BVAP
4 PERCENTAGE FOR SENATE DISTRICT 5 IN THE ENACTED MAP. DOES THAT
5 SOUND RIGHT TO YOU?

6 A. IT DOES.

7 Q. OKAY. WAS THERE ANY -- WAS THERE ANY ANALYSIS PRESENTED
8 ON THE RECORD IN SUPPORT OF WHETHER -- WHAT BVAP SENATE
9 DISTRICT 5 NEEDED TO ELECT A BLACK PREFERRED CANDIDATE?

10 A. I DON'T RECALL.

11 Q. AND YOU YOURSELF PRESENTED NO ANALYSIS IN SUPPORT OF THIS
12 BVAP NUMBER FOR SENATE DISTRICT 5 IN THE ENACTED MAP, CORRECT?

13 A. SENATE DISTRICT 5?

14 Q. CORRECT.

15 A. NO.

16 Q. NOW, THERE WAS TESTIMONY FROM HEARINGS FROM THE SENATOR IN
17 THAT DISTRICT DURING THE REDISTRICTING SESSION, CORRECT? I
18 WILL REPHRASE IT. THE SENATOR FOR SENATE DISTRICT 5 IN 2022
19 TESTIFIED IN THE REDISTRICTING SESSION, CORRECT?

20 A. WELL, ON THE FLOOR OF THE SENATE. IF YOU ARE REFERRING TO
21 SENATOR PETERSON, SHE DID MAKE COMMENTS ON THE FLOOR OF THE
22 SENATE WHEN SENATE BILL 1 WAS BEING DELIBERATED.

23 Q. AND SHE DID NOT TESTIFY THERE NEEDED TO BE AN ADDITIONAL
24 BVAP NUMBER, A HIGHER BVAP NUMBER FOR THIS TO PERFORM, DID SHE?

25 A. AS I RECALL, SHE CAME TO THE FLOOR IN OBJECTION TO AN

P. CORTEZ - CROSS

11:21AM 1 AMENDMENT THAT WAS BEING PRESENTED BY SENATOR CARTER, WHO
2 REPRESENTS I BELIEVE SENATE DISTRICT 7, AND THERE WAS AN
3 AMENDMENT BY SENATOR CARTER THAT WOULD HAVE TAKEN A PART OF HER
4 DISTRICT OFF OF THE MAP, ROUGHLY THE MORIAL CENTER AND A LOT OF
5 THAT AREA ALL THE WAY DOWN INTO THE UPTOWN AREA, WHICH WOULD
6 HAVE GIVEN HIM MORE ORLEANS AND LESS JEFFERSON PARISH. I THINK
7 THAT WAS HIS GOAL, STATED GOAL ON THE RECORD WAS TO CHANGE HIS
8 PERCENTAGE OF PARISH POPULATION. SHE OBJECTED BECAUSE IT WOULD
9 CUT INTO THE CORE OF HER DISTRICT, AND HER DISTRICT WAS
10 BASICALLY THE MORIAL, THE WAREHOUSE DISTRICT, THE UPTOWN
11 DISTRICT, AND HE WAS TAKING A TRADITIONAL DISTRICT AND CUTTING
12 IT UP.

13 DISTRICT 3, WHICH IS CURRENTLY SENATOR BOUIE'S DISTRICT,
14 USED TO, IN THE 2011 CYCLE, IT HAD GONE ACROSS TO JEFFERSON
15 PARISH AND WENT ALL THE WAY DOWN TO AVONDALE ALMOST ALONG THE
16 RIVER. AND THERE WAS -- IN THIS CURRENT MAP, IT WAS MY BELIEF
17 THAT THAT DISTRICT NEEDED TO BE MORE ORLEANS-CENTRIC, SO IN
18 PUTTING IT BACK INTO ORLEANS, IT WAS ORLEANS-CENTRIC, BUT IT
19 HAD JUST A -- I'M GOING TO CALL IT JUST A HIGHWAY ALL THE WAY
20 DOWN TO PICK UP POPULATION. I WANT TO SAY AVONDALE, BUT THAT'S
21 PROBABLY NOT EXACTLY WHERE IT WAS, BUT IT WAS ALONG THE WEST
22 BANK. AND IN DOING THAT, IN PUTTING THAT BACK IN -- SENATE
23 DISTRICT 3 BACK IN ALL -- WHOLLY ENCLOSED ON THE EAST BANK, YOU
24 HAD TO PICK UP POPULATION ON THE WEST BANK BY ONE OF THOSE
25 DISTRICTS.

P. CORTEZ - CROSS

11:23AM 1 DISTRICT 5 AT THE TIME WAS BELOW THE OPPORTUNITY -- BELOW
2 50 PERCENT. IT WAS 48-POINT-SOMETHING PERCENT. I MADE THE
3 DECISION TO BRING DISTRICT 5 ACROSS THE RIVER TO GET IT ABOVE
4 THE 48 PERCENT, TO GET IT TO 50-PLUS PERCENT. IT DID CREATE,
5 ADMITTEDLY, A LESS COMPACT DISTRICT, BUT BY DOING SO, OTHER
6 DISTRICTS AROUND IT WERE, IN MY OPINION, MUCH MORE
7 OPPORTUNITIES TO ELECT A MINORITY CANDIDATE AND WERE MUCH SAFER
8 IN COMPLYING WITH WHAT I BELIEVE WAS CLEARED UNDER THE JUSTICE
9 DEPARTMENT YEARS EARLIER.

10 Q. BUT YOU DIDN'T PRESENT ANY ANALYSIS TO SUPPORT -- IN
11 PUBLIC TO SUPPORT YOUR OPINION?

12 **MS. MCKNIGHT:** OBJECTION, ASKED AND ANSWERED.

13 **THE COURT:** OVERRULED.

14 A. IT WAS ALL MY COLLECTIVE OPINION OVER THE COURSE OF THE
15 PROCESS.

16 **BY MR. ADCOCK:**

17 Q. YOU DIDN'T PRESENT ANY --

18 A. I DID NOT PRESENT ANY ANALYSIS.

19 Q. YOU DID NOT PRESENT AN EFFECTIVENESS SCORE FOR SENATE
20 DISTRICT 5 IN THE ENACTED MAP?

21 A. I DON'T RECALL ANYONE PRESENTING THAT TO SAY IT COULD OR
22 COULDN'T EITHER WAY. AND I WOULD LIKE TO HAVE SEEN THAT.

23 Q. BUT YOU DIDN'T PRESENT IT?

24 A. I DID NOT.

25 Q. NOW, IF WE CAN GO BACK TO DEMONSTRATIVE 30 REAL QUICK.

P. CORTEZ - CROSS

11:25AM 1 NOW, THIS IS THE PLAINTIFF'S ILLUSTRATIVE MAP, SENATOR. NOW,
2 YOU SEE IN SENATE DISTRICT 5, IT SAYS 51.8 PERCENT THERE?

3 A. CORRECT.

4 Q. REPRESENTING TO YOU THAT THAT'S THE BVAP PERCENTAGE FOR
5 SENATE DISTRICT 5 IN THE ILLUSTRATIVE MAP?

6 A. CORRECT.

7 Q. THAT'S VERY SIMILAR TO THE ENACTED MAP BVAP, CORRECT?

8 A. WELL, IT IS FAR FROM THE ENACTED MAP IN REGARDS TO SENATE
9 DISTRICTS 3 AND 7, WHICH ARE MUCH LOWER AND REDUCE THE
10 OPPORTUNITY DRAMATICALLY, IN MY OPINION, TO ELECT A MINORITY,
11 AND 19 AS WELL.

12 Q. NOW, YOU ARE FAMILIAR WITH HOUSE DISTRICT 23?

13 A. YES, THAT'S MY DISTRICT.

14 Q. HOUSE --

15 A. THAT WAS A TRICK QUESTION.

16 Q. HOUSE --

17 A. OH, HOUSE DISTRICT 23. OH, SENATE DISTRICT 23 IS MINE.

18 I'M NOT FAMILIAR WITH HOUSE DISTRICT 23. IT WAS A TRICK
19 QUESTION.

20 Q. NOW, YOU WENT TO -- YOU ARE FAMILIAR WITH THE ROAD SHOWS.
21 WE HAVE TALKED ABOUT THOSE.

22 A. YES.

23 Q. YOU ONLY ATTENDED ONE ROAD SHOW?

24 A. YES. I BELIEVE I ARRIVED AT THE BATON ROUGE ROAD SHOW,
25 BUT I DIDN'T STAY AFTER THE OPENING REMARKS.

P. CORTEZ - CROSS

11:27AM 1 Q. AND DURING -- THE ROAD SHOW THAT YOU ATTENDED, THAT WAS IN
2 LAFAYETTE?

3 A. CORRECT.

4 Q. AND DURING THE ROAD SHOW, YOU WERE CALLED TO THE BACK OF
5 THE ROOM BY THE SENATE PRESIDENT?

6 A. I AM THE SENATE PRESIDENT.

7 Q. EXCUSE ME. YOU WERE CALLED TO THE BACK OF THE ROOM BY THE
8 PARISH PRESIDENT?

9 A. I DON'T RECALL BEING CALLED BACK THERE, BUT I REMEMBER
10 GOING TO THE BACK OF THE ROOM TO VISIT WITH SENATOR MILLS,
11 SENATOR FRED MILLS, WHO WAS THERE AND A FEW OTHER ELECTED
12 OFFICIALS FROM DIFFERENT PARISHES. I THINK THE PARISH
13 PRESIDENT OF ST. MARTIN PARISH I MIGHT HAVE MET WITH, AND I
14 KNOW I MET WITH SOMEBODY IN THE BACK OF THE ROOM FROM ST.
15 LANDRY PARISH WHO WANTED TO VISIT WITH ME.

16 Q. AND IS IT YOUR TESTIMONY THAT YOU ARE NOT AWARE OF ANYONE
17 IN ANY OF THE ROAD SHOWS EXPRESSING AN OPINION THAT THEY WANTED
18 MORE MAJORITY-MINORITY DISTRICTS FOR THE STATE LEGISLATURE?

19 A. I REMEMBER IT BEING VERY CLEAR FOR THE CONGRESSIONAL MAP.
20 THAT WAS A REPEATED CONVERSATION OVER AND OVER THAT THE
21 CONGRESSIONAL MAP, THIS $33 \frac{1}{3}$ IS EQUAL TO $\frac{1}{3}$, AND $\frac{1}{3}$ OF 6 IS
22 2, AND IT WAS SIMPLE MATH, AND THAT WAS STATED OVER AND OVER.
23 I DON'T SPECIFICALLY RECALL ABOUT THE SENATE MAP, THERE BEING A
24 CONVERSATION EVER HAD THAT SAID 11 IS NOT ENOUGH, 16 IS TOO
25 MANY, OR ANYTHING LIKE THAT, BUT I DON'T EVER RECALL ANYBODY

P. CORTEZ - CROSS

11:28AM 1 CALLING FOR THAT. I'M NOT SAYING THAT IT DIDN'T HAPPEN. I
2 DON'T EVER RECALL THAT BEING SAID.

3 AND BY THE WAY, I DID ATTEND IT, I SAT AT THE DAIS FOR
4 MOST OF IT, BUT I'M NOT ON THE COMMITTEE. I WAS SIMPLY THERE
5 AS A GUEST SITTING AND LISTENING TO THE STAFF PRESENT THE
6 PROCESS, AND THEN I HEARD A FEW OF THE COMMENTS, AND THEN I DID
7 GO TO THE BACK OF THE ROOM AND VISIT WITH SOME OF THE OFFICIALS
8 THAT WERE THERE.

9 Q. DO YOU KNOW HOW MANY ROAD SHOWS THERE WERE?

10 A. I DON'T RECALL THE EXACT NUMBER, BUT I'M GOING TO SAY
11 ROUGHLY 9 -- 9 AND 12 -- THEY WENT TO EACH PART OF THE STATE.
12 I CAN'T REMEMBER.

13 Q. AND YOU THOUGHT THEY WERE IMPORTANT?

14 A. OH, YEAH, FOR A NUMBER OF REASONS. ONE, TO EDUCATE THE
15 PUBLIC. NUMBER TWO, TO EDUCATE THE MEMBERS OF THE LEGISLATURE
16 IN THOSE REGIONS AND TO EDUCATE OTHER ELECT OFFICIALS WHO WOULD
17 MAKE CLAIMS LIKE WE WANT TO HAVE OUR OWN SENATOR, WHEN YOU ONLY
18 HAVE 40,000 PEOPLE IN YOUR PARISH.

19 Q. YOU ARE AWARE THERE WERE VIDEOS MADE OF THE ROAD SHOWS?

20 A. YES.

21 Q. EVERY ONE OF THEM?

22 A. YES. STAFF MADE SURE TO DOCUMENT EVERYTHING THAT WAS
23 STATED AT THE ROAD SHOWS.

24 Q. AND A LEGISLATOR COULD WATCH THOSE VIDEOS?

25 A. I GUESS THEY COULD HAVE GONE TO THE ARCHIVES AND WATCHED

P. CORTEZ - CROSS

11:29AM 1

ANY OF THEM.

2

Q. IF THEY WANTED TO?

3

A. I ASSUME THEY COULD HAVE, YES.

4

Q. IF THEY WANTED TO.

5

MS. MCKNIGHT: OBJECTION, ASKED AND ANSWERED.

6

THE COURT: SUSTAINED.

7

BY MR. ADCOCK:

8

Q. AND IF THEY WATCHED THOSE VIDEOS, THEY COULD LEARN WHAT

9

WAS SAID AT THE ROAD SHOWS?

10

A. I GUESS THEY COULD.

11

Q. AND IF A CITIZEN VOICED AN OPINION ABOUT THE HOUSE MAP,

12

THE LEGISLATOR WOULD BE ABLE TO HEAR THAT?

13

MS. MCKNIGHT: OBJECTION, CALLS FOR SPECULATION. HE

14

IS REFERRING -- IT IS OUTSIDE THE SCOPE OF DIRECT.

15

MR. ADCOCK: I'M NOT SURE HOW THAT CALLS FOR

16

SPECULATION. IF YOU LISTEN TO A VIDEO, YOU CAN HEAR WHAT

17

SOMEONE SAYS IN THE VIDEO, JUDGE.

18

MS. MCKNIGHT: IT IS OUTSIDE THE SCOPE OF DIRECT,

19

WHICH DID NOT ASK ANY QUESTIONS ABOUT THE HOUSE.

20

THE COURT: SUSTAINED. HE SAID THAT THEY COULD LOOK

21

AT THE VIDEO. YOU CAN HEAR AND SEE IT ON THE VIDEO. IT IS

22

PRETTY SELF-EVIDENT.

23

BY MR. ADCOCK:

24

Q. IF A CITIZEN VOICED AN OPINION ABOUT THE SENATE MAP, THE

25

LEGISLATOR COULD HEAR THAT ON THE VIDEO?

11:30AM

1 A. I ASSUME THEY COULD.

2 Q. IF A CITIZEN SAID THEY WANTED MORE OPPORTUNITY DISTRICTS
3 IN THE STATE SENATE MAP DURING A ROAD SHOW, A LEGISLATOR COULD
4 SEE THAT ON THE VIDEO?

5 A. I ASSUME THEY COULD.

6 Q. AND HEAR THAT?

7 A. CERTAINLY.

8 Q. AND THAT WOULD BE IMPORTANT?

9 A. IT MAY OR MAY NOT BE IMPORTANT TO WHOEVER IS LISTENING TO
10 IT. I DON'T KNOW. I CAN'T GET INTO THE MIND OF WHO WOULD BE
11 LISTENING TO IT AND WHY THEY WOULD BE LISTENING TO IT AND FOR
12 WHAT PURPOSE THEY WOULD BE LISTENING TO IT, BUT WE HAVE
13 THOUSANDS, HUNDREDS OF THOUSANDS OF HOURS OF ARCHIVED VIDEOS
14 FROM EVERY HEARING THAT HAS EVER BEEN HAD, PROBABLY GOING BACK
15 INTO THE EARLY 2000S.

16 **THE COURT:** MR. ADCOCK, THE COURT IS GOING TO HAVE TO
17 RECESS FOR THE NOON BREAK. WE WILL BE IN RECESS UNTIL 1:30.

18 (RECESS TAKEN AT 11:31 A.M. UNTIL 1:35 P.M.)

19 **THE COURT:** YOU MAY CONTINUE, COUNSEL.

20 **MR. ADCOCK:** THANK YOU, JUDGE.

21 **BY MR. ADCOCK:**

22 Q. SENATOR, BEFORE LUNCH YOU TESTIFIED YOU COULD HAVE WATCHED
23 VIDEOS OF THE ROAD SHOWS; IS THAT CORRECT?

24 A. YES.

25 Q. IF YOU WANTED TO?

P. CORTEZ - CROSS

1:35PM 1

A. YES.

2

Q. BUT YOU DID NOT WATCH THOSE VIDEOS?

3

A. ME?

4

Q. YES.

5

A. PERSONALLY? NO, I DID NOT WATCH ANY.

6

Q. OR ANY OF THE OTHER ROAD SHOWS?

7

A. NO.

8

MR. ADCOCK: THAT'S ALL THE QUESTIONS I HAVE, JUDGE.

9

THE COURT: YOU ARE FINISHED?

10

MR. ADCOCK: YES.

11

THE COURT: ANY REDIRECT, MS. MCKNIGHT?

12

MS. MCKNIGHT: NO, YOUR HONOR, NO REDIRECT.

13

THE COURT: YOU MAY STEP DOWN. THANK YOU, SIR.

14

DEFENDANTS MAY CALL THEIR NEXT WITNESS.

15

MS. MCKNIGHT: THANK YOU, YOUR HONOR. LET ME TAKE A

16

BRIEF MOMENT. COUNSEL IS OUTSIDE THE DOOR.

17

THE COURT: OKAY.

18

MS. MCKNIGHT: IT WON'T TAKE LONG.

19

THE COURT: WHO IS YOUR NEXT WITNESS?

20

MS. MCKNIGHT: DR. JOHN ALFORD.

21

THE COURT: OKAY. IS THERE A PROBLEM?

22

MS. MCKNIGHT: PARDON, ME, YOUR HONOR. THE ONLY

23

PROBLEM IS, WE ARE HAVING -- WE ARE TRYING TO LOCATE THE

24

EXPERT. HE WAS SUPPOSED TO BE BACK HERE BY 1:30, AND SO THERE

25

IS A DELAY, CLEARLY. AND I THINK HE PROBABLY EXPECTED THERE TO

1:37PM 1 BE MORE OF A CROSS-EXAMINATION AFTER 1:30. SO WE ARE TRYING TO
2 LOCATE HIM TO MAKE SURE HE GETS IN THE COURTROOM.

3 PARDON ME, YOUR HONOR, WE CAN BE DOCKED THE TIME, BUT WE
4 ARE SORRY TO HOLD THE COURT OVER THIS TIME.

5 **THE COURT:** WHO IS TAKING THIS WITNESS?

6 **MS. MCKNIGHT:** MR. TUCKER.

7 **MR. TUCKER:** I AM, YOUR HONOR.

8 **THE COURT:** WHERE IS HE, MR. TUCKER?

9 **MR. TUCKER:** I AM NOT SURE. HE WAS IN THE COURTROOM
10 EARLIER THIS MORNING. I SAW HIM OVER AT LUNCH, AND I'VE BEEN
11 TRYING TO E-MAIL HIM AND GET AHOLD OF HIM, BUT I ASSUME HE IS
12 ON HIS WAY. I HOPE NOTHING HAS HAPPENED TO HIM AT THIS POINT,
13 BUT HE IS HERE IN TOWN. HE WAS HERE THIS MORNING. AND I
14 APOLOGIZE TO THE COURT.

15 **THE COURT:** DO YOU HAVE ANOTHER WITNESS YOU CAN CALL
16 WHILE WE ARE AWAITING DR. ALFORD?

17 **MR. TUCKER:** I DON'T THINK WE HAVE ANY IN THE
18 COURTROOM RIGHT NOW.

19 **THE COURT:** WELL, THE COURT IS GOING TO BE IN RECESS.

20 (RECESS TAKEN AT 1:38 P.M. UNTIL 1:44 P.M.)

21 **THE COURT:** CALL YOUR NEXT WITNESS. MAKE YOUR WAY TO
22 THE FRONT, SIR. YOU'VE MADE US WAIT LONG ENOUGH. CALL YOUR
23 NEXT WITNESS.

24 **MR. TUCKER:** THANK YOU, YOUR HONOR. THANK THE COURT
25 FOR YOUR PATIENCE VERY MUCH. WE APOLOGIZE. THE DEFENDANTS

DR. J. ALFORD - DIRECT

1:44PM

1 CALL DR. JOHN ALFORD.

2 (OATH ADMINISTERED.)

3 THE COURT: BEFORE YOU GET STARTED, DR. ALFORD, DO
4 YOU SEE ALL OF THESE PEOPLE IN THIS COURTROOM?

5 THE WITNESS: YES.

6 THE COURT: ABOUT HALF OF THEM ARE BILLING THE STATE
7 OF LOUISIANA AND THE TAXPAYERS, AND YOU'VE MADE THEM WAIT FOR
8 15 MINUTES, NOT TO MENTION THE COURT AND THE COURT'S TIME.
9 IT'S A WASTE OF TAXPAYERS' MONEY, AND YOU ARE BILLING THE
10 TAXPAYERS OF THIS STATE.

11 I WOULD EXPECT THAT AS A PROFESSIONAL EXPERT, SOMEBODY WHO
12 IS USED TO TESTIFYING IN COURT, THAT YOU WOULD UNDERSTAND THE
13 NATURE OF PROCEEDINGS AND THE IMPORTANCE OF BEING ON TIME. YOU
14 MAY BEGIN YOUR DIRECT EXAMINATION.

15 MR. TUCKER: THANK YOU, YOUR HONOR. YOUR HONOR, MAY
16 I APPROACH AND GIVE THE WITNESS A HARD COPY OF HIS EXPERT
17 REPORT?

18 THE COURT: YOU MAY.

19 MR. TUCKER: YOU MAY.

20 DR. JOHN ALFORD,

21 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. TUCKER:

24 Q. GOOD AFTERNOON, DR. ALFORD.

25 A. GOOD AFTERNOON.

1:45PM 1 Q. SO I'VE HANDED YOU AND IF WE COULD PUT UP ON THE SCREEN
2 WHAT HAS BEEN MARKED AS LDTX 53.

3 A. YES.

4 Q. AND DO YOU RECOGNIZE THIS DOCUMENT?

5 A. I DO.

6 Q. AND WHAT IS IT?

7 A. IT IS MY REPORT IN THIS CASE.

8 **MR. TUCKER:** AND CONSISTENT WITH THE PARTIES'
9 STIPULATION, WE MOVE TO ADMIT DR. ALFORD'S REPORT, WHICH IS
10 LDTX 53, INCLUDING APPENDICES A AND B.

11 **THE COURT:** ADMITTED.

12 **BY MR. TUCKER:**

13 Q. DR. ALFORD, WOULD YOU PLEASE TURN TO APPENDIX A OF YOUR
14 REPORT.

15 A. (WITNESS COMPLIES.) YES.

16 Q. AND IS THIS A COPY OF YOUR CV?

17 A. IT IS.

18 Q. IS IT UP TO DATE?

19 A. IT LOOKS -- IT IS FOR PUBLICATIONS. I THINK THERE MAY BE
20 A FEW ADDITIONAL CONSULTING MATTERS I'M INVOLVED IN THAT AREN'T
21 INCLUDED HERE THAT HAVE COME UP MORE RECENTLY, BUT WITH REGARD
22 TO THE REST OF IT, IT IS CURRENT.

23 Q. CAN YOU BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND?

24 A. I HAVE A BACHELOR DEGREE, BACHELOR OF SCIENCE DEGREE IN
25 POLITICAL SCIENCE FROM THE UNIVERSITY OF HOUSTON. I HAVE A

DR. J. ALFORD - DIRECT

1:46PM 1 MASTER'S IN PUBLIC ADMINISTRATION FROM THE UNIVERSITY OF
2 HOUSTON. AND I HAVE A MASTER'S AND PH.D. IN POLITICAL SCIENCE
3 FROM THE UNIVERSITY OF IOWA.
4 Q. AND WHAT WAS THE TOPIC OF YOUR DISSERTATION?
5 A. MY DISSERTATION TOPIC WAS ON THE PARTY STRENGTH IN THE
6 ELECTORATE AND IN CONGRESS. AND MY EXAMINATION FOCUSES WERE IN
7 AMERICAN POLITICS, IN PUBLIC POLICY, AND IN METHODOLOGY.
8 Q. WHERE DO YOU CURRENTLY TEACH?
9 A. I TEACH AT RICE UNIVERSITY IN HOUSTON, TEXAS.
10 Q. AND HOW LONG HAVE YOU TAUGHT THERE?
11 A. THIRTY-EIGHT YEARS.
12 Q. ARE YOU A FULL PROFESSOR?
13 A. I AM.
14 Q. WHAT COURSES DO YOU CURRENTLY TEACH?
15 A. I REGULARLY TEACH INTRODUCTION TO AMERICAN POLITICS. I
16 REGULARLY TEACH A COURSE ON ELECTIONS. I TEACH COURSES ON
17 VOTING BEHAVIOR, COURSES ON POLITICAL BEHAVIOR, AND COURSES ON
18 THE BIOLOGY OF POLITICS.
19 Q. DO ANY OF THESE COURSES INVOLVE THE VOTING RIGHTS ACT?
20 A. IT WOULD BE INVOLVED IN THE INTRODUCTION OF AMERICAN
21 POLITICS IN THE SECTION ON VOTING, BUT NOT -- NONE OF THE
22 COURSES FOCUS SPECIFICALLY ON THE VOTING RIGHTS ACT.
23 Q. HAVE YOU TAUGHT ANY OTHER COURSES HISTORICALLY THAT RELATE
24 TO YOUR OPINIONS BEING OFFERED IN THIS CASE?
25 A. I DID TEAM TEACH A COURSE ON REDISTRICTING AND VOTING LAW,

DR. J. ALFORD - DIRECT

1:48PM 1 WITH THE FORMER LIEUTENANT GOVERNOR OF TEXAS, BILL HOBBY, AT
2 RICE. BUT THAT'S THE ONLY COURSE I'VE TAUGHT SPECIFICALLY
3 RELATED TO REDISTRICTING.

4 Q. WHAT IS YOUR EXPERIENCE WITH STATISTICAL ANALYSIS?

5 A. SO MY INITIAL TRAINING, I WAS TRAINED EARLY ON IN
6 UNDERGRADUATE. I WAS A SCIENCE MAJOR INITIALLY, SO I HAD
7 SCIENCE AND MATH COURSES. I WAS HIRED AS A RESEARCH ASSISTANT
8 AT THE INSTITUTE FOR URBAN STUDIES AT THE UNIVERSITY OF HOUSTON
9 WHEN I WAS IN THE MASTER'S PROGRAM. AND MY JOB WAS TO DO
10 STATISTICAL ANALYSIS RELATED TO ASSESSING PUBLIC POLICY IN
11 TEXAS.

12 I STUDIED METHODS. AGAIN, AS ONE OF MY EXAM FIELDS AT
13 UNIVERSITY OF IOWA, I WENT TO THE SUMMER PROGRAM AT UNIVERSITY
14 OF MICHIGAN. THEY RUN A SUMMER PROGRAM IN METHODOLOGY THERE,
15 DURING THE TIME I WAS AT IOWA. WHEN I WAS HIRED AT THE
16 UNIVERSITY OF GEORGIA, I WAS HIRED IN PART AS THE DIRECTOR OF
17 THE POLITICAL SCIENCE DATA ANALYSIS CENTER. WHEN I MOVED TO
18 RICE, I ESTABLISHED THE POLITICAL SCIENCE AND SOCIAL SCIENCE
19 DATA CENTER AT RICE UNIVERSITY. AND FOR PROBABLY THE FIRST 10
20 OR 15 YEARS OF MY CAREER, I TAUGHT METHODS BOTH AT THE
21 UNDERGRADUATE AND GRADUATE LEVEL.

22 Q. DO YOU HAVE ANY EXPERIENCE SPECIFICALLY WITH ECOLOGICAL
23 REGRESSION OR ECOLOGICAL INFERENCE?

24 A. I'VE UTILIZED ECOLOGICAL REGRESSION AND ECOLOGICAL
25 INFERENCE IN MY CONSULTING WORK GOING BACK TO THE LATE 1980S.

DR. J. ALFORD - DIRECT

1:50PM 1 Q. AND HOW DO YOU STAY CURRENT ON UPDATES TO ECOLOGICAL
2 INFERENCE?

3 A. I READ THE LITERATURE, WAS EXCITED WHEN DR. KING
4 INTRODUCED HIS EI, ADDITIONAL 2 X 2 EI METHOD, AND FOLLOWED
5 THAT AND UTILIZED THAT FAIRLY EARLY ON IN CONSULTING, IN
6 ADDITION TO THE ECOLOGICAL REGRESSION AND EXTREME PRECINCT
7 ANALYSIS THAT WE HAD IN THE SORT OF TOOL KIT EARLIER ON. AND
8 I'VE KEPT UP WITH THAT SINCE.

9 I SKIPPED USING ITERATIVE EI AND MOVED DIRECTLY TO USING
10 WHAT IS CURRENTLY THE MOST RECENT VERSION, WHAT IS SOMETIMES
11 CALLED EI RXC, AND I USE THAT PRETTY MUCH EXCLUSIVELY NOW. I
12 THINK IT IS CERTAINLY NO WORSE THAN ANY OTHER TECHNIQUES, AND
13 IT HAS SOME DISTINCT ADVANTAGES, SO THAT'S WHAT I FOCUS MY WORK
14 ON.

15 Q. HAVE YOU PREVIOUSLY SERVED AS AN EXPERT IN REDISTRICTING
16 CASES?

17 A. I HAVE.

18 Q. AND APPROXIMATELY HOW MANY?

19 A. I WOULD SAY MAYBE EVEN CLOSE TO 50 CASES.

20 Q. AND HOW MANY OF THOSE INVOLVE CLAIMS UNDER THE VOTING
21 RIGHTS ACT?

22 A. I THINK ALMOST ALL OR CERTAINLY THE VAST MAJORITY.

23 Q. AND HOW MANY TIMES HAVE YOU TESTIFIED IN REDISTRICTING
24 CASES?

25 A. PROBABLY 30 TIMES.

1:51PM

1 Q. AND DO MOST OF THOSE ALSO INVOLVE THE VOTING RIGHTS ACT?

2 A. I THINK MAYBE ALL BUT ONE WOULD HAVE BEEN VOTING RIGHTS
3 ACT CASES, YES.

4 Q. CAN YOU BRIEFLY DESCRIBE THE TYPES OF OPINIONS YOU HAVE
5 OFFERED IN REDISTRICTING CASES?

6 A. SO EARLIER ON IN MY CAREER, I DID KIND OF A WIDE VARIETY
7 OF THINGS. SO I WAS INVOLVED IN DRAWING DISTRICTS, TESTIFIED
8 ABOUT ISSUES RELATED TO *GINGLES* I, II AND III, AS WELL AS
9 RACIALLY POLARIZED VOTING IN THE SENSE OF THE SENATE FACTOR.

10 I'VE ALSO TESTIFIED ABOUT ALTERNATIVE ELECTION SCHEMES,
11 TESTIFIED ABOUT THINGS LIKE REPRESENTATIVENESS OF THE JURY
12 WHEEL, SOME OTHER STATISTICAL ISSUES. BUT IN THE LAST TWO
13 DECADES, I HAVE NARROWED DOWN TO FOCUS ALMOST EXCLUSIVELY ON
14 *GINGLES* II AND III, AND THEN POLARIZED, RACIALLY POLARIZED AS A
15 SENATE FACTOR.

16 Q. HAS ALL OF YOUR RACIALLY POLARIZED VOTING EXPERIENCE COME
17 FROM YOUR EXPERT WORK?

18 A. YES.

19 Q. AND HAVE YOU DONE YOUR OWN RACIALLY POLARIZED VOTING
20 ANALYSIS?

21 A. HISTORICALLY I DID MY OWN ANALYSIS. MORE RECENTLY, THE
22 LAST 15 YEARS OR SO, I'VE PARTNERED WITH ANOTHER PROFESSOR,
23 RANDY STEVENSON AT RICE UNIVERSITY, AND HE, WORKING UNDER MY
24 DIRECTION, HE DOES BASICALLY THE R PROGRAMMING TO MAKE THE
25 ANALYSIS MORE EFFICIENT, MAKE THE USE OF MY TIME MORE

1:53PM 1

EFFICIENT.

2

I SUPPLY HIM WITH THE INSTRUCTIONS FOR HOW I WANT THAT TO BE CARRIED OUT, WITH THE DATA THAT I WANT TO BE ANALYZED, AND HE RUNS THE PROGRAM, PROVIDES THE RESULTS BACK TO ME, AND THEN THE REST OF THE TASK OF WRITING THE REPORT AND MAKING SENSE OF ALL OF THAT IS MINE.

7

Q. AND HAVE YOU USED ECOLOGICAL INFERENCE AS PART OF YOUR RACIALLY POLARIZED VOTING ANALYSES?

9

A. SO SOME FORM OF -- YOU KNOW, ECOLOGICAL INFERENCE IS BOTH I GUESS A PROBLEM AND A SOLUTION. SO ORIGINALLY, WHAT YOU MIGHT THINK OF AS EI WITH SMALL LETTERS IS THE PROBLEM OF WANTING TO ASK A QUESTION AT THE INDIVIDUAL LEVEL BUT NOT HAVING DATA AT THE INDIVIDUAL LEVEL. SO WE HAVE AGGREGATE DATA, AND WE HAVE AN INDIVIDUAL LEVEL QUESTION, AND THAT IS -- IT MEANS WE DEAL WITH THE ECOLOGICAL FALLACY, AND IT MEANS WE NEED SOME TECHNIQUE FOR MAKING INFERENCES WITH DATA THAT'S AT THE WRONG LEVEL.

18

SOME OF THOSE EARLY TECHNIQUES WERE THE ER APPROACH THAT WAS UTILIZED. WHEN DR. KING PRODUCED HIS BOOK AND THE METHODOLOGY FOR DOING WHAT HE CALLED EI WITH A CAPITAL E AND A CAPITAL I, THAT BECAME HIS ADVANCEMENT IN SOLUTIONS TO HOW TO DO THIS ANALYSIS IN THE BEST AND MOST EFFICIENT WAY IT COULD BE DONE. IT'S NOT A SOLUTION TO THE PROBLEM. WE ARE STILL ONLY ESTIMATING INDIVIDUAL LEVEL BEHAVIOR FROM AGGREGATE DATA, BUT WE DO THAT BECAUSE, SOMEWHAT UNIQUELY, AT LEAST IN THE

DR. J. ALFORD - DIRECT

1:55PM 1 POLITICAL SCIENCE REALM, MOSTLY WHEN WE HAVE INDIVIDUAL
2 QUESTIONS, WE COLLECT INDIVIDUAL DATA. WE DO A SURVEY. WE DO
3 AN EXPERIMENT. BUT HERE, BECAUSE THE VOTE IS SECRET, WE
4 HAVE -- ALTHOUGH WE HAVE INDIVIDUAL LEVEL INFORMATION ABOUT
5 RACE AND ETHNICITY, WE DON'T HAVE INDIVIDUAL LEVEL INFORMATION
6 ABOUT HOW THE VOTE WAS CAST. SO WE ARE CONSTRAINED TO DO SOME
7 FORM OF ECOLOGICAL INFERENCE.

8 AND AGAIN, KING'S MOST RECENT, THE EI RXC SOLUTION IS THE
9 CLOSEST WE'VE GOTTEN TO BEING ABLE TO ANALYZE AS EFFICIENTLY AS
10 WE CAN THE ANSWER TO THESE QUESTIONS WITH ECOLOGICAL DATA,
11 RECOGNIZING THAT WE ARE STILL JUST MAKING AN ECOLOGICAL
12 ESTIMATE OR INFERENCE RATHER THAN ACTUALLY CONNECTING AN
13 ANALYSIS OF HOW INDIVIDUALS AT THE INDIVIDUAL LEVEL ARE VOTING.

14 Q. DR. ALFORD, HAS ANY COURT EVER FOUND YOUR METHODOLOGY FOR
15 RACIALLY POLARIZED VOTING TO NOT BE RELIABLE?

16 A. NO.

17 Q. HAS ANY COURT EVER EXCLUDED YOU AS AN EXPERT?

18 A. NO.

19 Q. HAS ANY COURT EVER EXCLUDED ANY OF YOUR OPINIONS THAT YOU
20 OFFERED IN A CASE?

21 A. THEY CERTAINLY HAVEN'T ALWAYS FOLLOWED THEM, BUT THEY
22 HAVEN'T EXCLUDED THEM.

23 **MR. TUCKER:** YOUR HONOR, AT THIS TIME, WE MOVE TO
24 QUALIFY DR. ALFORD AS AN EXPERT IN VOTING BEHAVIOR AND
25 REDISTRICTING.

1:56PM

1 **THE COURT:** OKAY. THE TENDER IS IN VOTING BEHAVIOR
2 AND REDISTRICTING. IS THERE ANY CROSS ON THE TENDER?

3 **MR. CAMPBELL-HARRIS:** NO OBJECTION, YOUR HONOR.

4 **THE COURT:** OKAY. DR. ALFORD WILL BE ACCEPTED TO
5 GIVE OPINION TESTIMONY ON VOTING BEHAVIOR AND -- I DIDN'T WRITE
6 IT DOWN.

7 **MR. TUCKER:** REDISTRICTING.

8 **THE COURT:** REDISTRICTING.

9 **BY MR. TUCKER:**

10 Q. DR. ALFORD, CAN YOU TURN TO PAGE 3 OF YOUR REPORT?

11 A. YES.

12 Q. CAN YOU BRIEFLY DESCRIBE THE METHODS UTILIZED TO FORMULATE
13 YOUR OPINIONS IN THIS CASE?

14 A. SO THE METHODS I'M USING HERE ARE -- ESSENTIALLY MATCH
15 WITH THE METHODS USED BY DR. HANDLEY. WE ARE BOTH USING THE
16 SAME SOURCES OF DATA TO DO THE RACIALLY POLARIZED VOTING
17 ANALYSIS. WE ARE BOTH USING -- ALTHOUGH SHE USES -- PROVIDES
18 ESTIMATES FOR A VARIETY OF TECHNIQUES, WE BOTH ULTIMATELY ALSO
19 REPORT THE RXC RESULTS. I THINK WE AGREE THAT THOSE ARE, ALL
20 OTHER THINGS BEING EQUAL, PROBABLY THE BEST -- BEST OF THE
21 RESULTS. SO WE ARE USING THE SAME DATA AND WE ARE USING THE
22 SAME STATISTICAL TECHNIQUE TO ANALYZE THE DATA THAT WE HAVE ON
23 THIS ISSUE OF RACIALLY POLARIZED VOTING.

24 Q. SO DID YOU USE THE EI RXC METHODOLOGY IN THIS CASE?

25 A. YES, THIS IS KING'S EI RXC. AND IT'S NOT A SIMPLE

1:58PM

1 TECHNIQUE TO EXPLAIN EXACTLY WHAT IS GOING ON WITH THE
2 TECHNIQUE, BUT THERE WERE SEVERAL THINGS ABOUT IT THAT MAKE IT
3 SUPERIOR TO THE EARLIER ER OR ECOLOGICAL REGRESSION.

4 ECOLOGICAL REGRESSION IS PRETTY EASY TO UNDERSTAND. IF
5 YOU DO A SCATTER PLOT AND YOU RUN A LINE THROUGH IT, THAT IS
6 ECOLOGICAL REGRESSION. IT IS VERY CONSUMER-FRIENDLY.

7 ECOLOGICAL INFERENCE IS NOT. THERE IS SORT OF A MORE ACT
8 OF FAITH I THINK IN ACCEPTING IT, BUT IT DOES SOME THINGS THAT
9 ARE REALLY IMPORTANT. IT ELIMINATES THE PROBLEM OF OUT OF
10 BOUNDS ESTIMATES, WHICH WAS A COMMON PROBLEM WITH ECOLOGICAL
11 REGRESSION. SO YOU WOULD GET AN ESTIMATE THAT BLACK VOTERS ARE
12 VOTING 120 PERCENT FOR A CANDIDATE. AND MAYBE THAT'S AN
13 ENTHUSIASM ADJUSTMENT, BUT IT IS PROBLEMATIC. IT CAN'T BE
14 CORRECT. AND GIVEN THAT THE LINE IS DEPENDENT ON ITS END
15 POINTS, THAT MEANS THERE ARE PROBLEMS WITH THE LINE ITSELF. SO
16 IT ELIMINATES THE PROBLEM OF OUT OF BOUNDS ESTIMATES.

17 IT ELIMINATES THE PROBLEM IN SOME EARLIER TECHNIQUES, LIKE
18 ITERATIVE TECHNIQUES. OF THE TOTAL VOTES, WHEN YOU WOULD ADD
19 UP THE ESTIMATED VOTES FOR, SAY, A RACIAL GROUP ACROSS FIVE
20 CANDIDATES, YOU MIGHT GET SOMETHING THAT ADDED TO MORE THAN
21 WHAT WAS POSSIBLE OR TO LESS THAN WHAT WAS POSSIBLE. IN THE EI
22 RXC, THEY ARE CONSTRAINED BECAUSE THE METHOD DEPENDS ON A
23 PARTICULAR DISTRIBUTION THAT'S CONSTRAINED TO ADD UP TO ONE, A
24 PROBABILITY DISTRIBUTION THAT ADDS UP TO ONE, A MULTINOMIAL
25 PROBABILITY. IT CONSTRAINS THE VOTES CAST BY ANY GROUP TO ADD

1:59PM

1 UP TO 100 PERCENT, WHICH IS CORRECT. IT SHOULD BE THAT.

2 THE TWO OTHER THINGS THAT ARE IMPORTANT IS THAT THE
3 TECHNIQUE IS MORE EFFICIENT BECAUSE IT'S A METHOD OF BOUNDS,
4 WHICH ER IS NOT. AND BY METHOD OF BOUNDS, IT MEANS THAT THE
5 TECHNIQUE TAKES INTO ACCOUNT AND GIVES ADDED -- ESSENTIALLY
6 GIVES SOME ADDED WEIGHT TO INSTANCES WHERE IN A PARTICULAR
7 PRECINCT THERE ARE -- GIVEN THE WAY THE VOTES WERE CAST AND THE
8 PROPORTION MINORITY IN A PARTICULAR PRECINCT, THERE ARE CERTAIN
9 LIMITS OF WHAT COULD BE POSSIBLE THERE. SO YOU COULD SAY AT
10 LEAST 60 PERCENT OF THE MINORITY MUST HAVE CAST THEIR VOTES
11 THIS WAY, GIVEN THE VOTES CAST IN THE PRECINCT. AND THAT
12 INFORMATION IS USEFUL. IT IS IGNORED BY ER, BUT IT IS
13 INCORPORATED INTO EI'S METHODS OF BOUND.

14 AND FINALLY, THE ER HAS A LINEAR ASSUMPTION. IT ASSUMES
15 THAT THERE'S A CONSTANT LINEAR RATE OF INCREASING VOTE OR
16 DECREASING VOTE AS YOU MOVE ACROSS POPULATION METRICS. AND EI
17 ALLOWS THAT RELATIONSHIP TO BE NONLINEAR, WHICH TYPICALLY IS A
18 MORE APPROPRIATE WAY OF DESCRIBING THE VOTE SHARES ACROSS
19 DIFFERENT TYPES OF PRECINCTS.

20 **COURT REPORTER:** VOTE SHARES?

21 A. VOTE SHARES ACROSS DIFFERENT TYPES OF PRECINCTS. I WILL
22 TRY TO SLOW DOWN. I'M VERY BAD ABOUT TALKING FAST.

23 **COURT REPORTER:** SPEAK UP A LITTLE BIT TOO.

24 **THE COURT:** YES. YOU CAN ADJUST THE MIC SO THAT IT'S
25 CLOSER TO YOU.

2:00PM

1 **BY MR. TUCKER:**

2 Q. AND DR. ALFORD, I WILL STOP YOU THERE SO WE CAN GIVE OUR
3 COURT REPORTER HERE A LITTLE BIT OF A BREAK AND ASK YOU ANOTHER
4 QUESTION. SO THE EI RXC METHOD THAT YOU USED IN THIS CASE, IS
5 THAT THE SAME METHOD OR ONE OF THE SAME METHODS THAT DR.
6 HANDLEY USED?

7 A. YES, IT IS.

8 Q. AND WHAT DATA DID YOU RELY UPON TO INFORM YOUR OPINIONS IN
9 THIS CASE?

10 A. SO MOST OF THE DATA IS NOT JUST THE SAME DATA OR THE
11 SOURCE OF DATA THAT DR. HANDLEY USED BUT THE ACTUAL DATA THAT
12 DR. HANDLEY DISCLOSED. SO WHEREVER POSSIBLE, I RELIED ON THAT
13 SAME DATA BECAUSE I DON'T -- I PREFER THAT THE DISPUTES NOT BE
14 ABOUT DATA OR ABOUT METHODS BUT BE ABOUT SORT OF WHAT OUR
15 INTERPRETATION IS OF THE RESULT. SO WHEREVER POSSIBLE, IT IS
16 ACTUALLY THE SAME EXACT DATA PRODUCED BY AND RELIED ON BY DR.
17 HANDLEY.

18 WHERE I DID SOME ADDITIONAL ELECTIONS, THE SOURCES FOR THE
19 ELECTION DATA ARE EXACTLY THE SAME AS THE SOURCES FOR DR.
20 HANDLEY'S DATA, THE SECRETARY OF STATE'S OFFICE.

21 Q. THANK YOU, DR. ALFORD. CAN YOU TURN NOW TO TABLE 1 ON
22 PAGE 6 OF YOUR REPORT.

23 A. YES.

24 Q. CAN YOU TELL THE COURT WHAT THIS TABLE REFLECTS?

25 A. SO THIS IS A REPLICATION ANALYSIS, AND IT WAS PERFORMED

2:02PM 1 TO -- BASICALLY TO MAKE SURE THAT EVEN THOUGH WE ARE USING THE
2 SAME DATA, THE SAME TECHNIQUE, THAT WE ARE IN FACT GETTING
3 RESULTS THAT ARE SIMILAR ENOUGH. SO BECAUSE I HAVE SOME
4 ELECTIONS THAT DR. HANDLEY DIDN'T ANALYZE, I WANT TO MAKE SURE
5 THAT WHEN WE ARE COMPARING THE ELECTIONS, MY ANALYSIS OF THE
6 ELECTIONS SHE DIDN'T ANALYZE TO THE ELECTIONS SHE DID ANALYZE,
7 THAT ANY DIFFERENCES THERE ARE NOT THE RESULT OF METHODOLOGICAL
8 DIFFERENCES.

9 THIS ALSO PROVIDES A CHECK FOR ME ON MY EI ANALYSIS
10 BECAUSE I CAN LOOK AT MY EI ANALYSIS AND COMPARE IT TO HER
11 INDEPENDENT EI ANALYSIS. WE SHOULD GET VERY SIMILAR RESULTS.
12 AND WE GET, AS YOU CAN SEE IN THIS TABLE, WE GET EXTREMELY
13 SIMILAR RESULTS. SO IT BOTH VALIDATES HER RESULTS AND
14 VALIDATES MY ANALYSIS.

15 THERE ARE SOME VERY MODEST DIFFERENCES, WHICH IN AN ER
16 TECHNIQUE, YOU WOULD NOT GET ANY DIFFERENCES AT ALL WITH THE
17 SAME TECHNIQUE ON THE SAME DATA. WITH EI, BECAUSE OF SOME
18 VARIATIONS AND BECAUSE IT'S A PROBABILISTIC TECHNIQUE, EACH RUN
19 TYPICALLY PRODUCES A DIFFERENT RESULT, AND EVEN MULTIPLE RUNS
20 WILL AVERAGE TO A SLIGHTLY DIFFERENT RESULT ACROSS, EVEN FOR --
21 IF I WAS TO REPEAT THE SAME ANALYSIS, UNLESS I HELD THE RANDOM
22 NUMBER SEED EQUAL, I WOULD GET A SLIGHTLY DIFFERENT RESULT.
23 AND THESE ARE WELL WITHIN THAT VERY SLIGHT LESS THAN A
24 PERCENTAGE POINT DIFFERENCE THAT WE WOULD EXPECT TO SEE IN TWO
25 INDEPENDENT EI ANALYSES.

2:03PM

1 Q. SO JUST TO CONFIRM, ARE THE SLIGHT VARIATIONS YOU SEE IN
2 YOUR RESULTS AND DR. HANDLEY'S RESULTS PROBLEMATIC IN ANY WAY?

3 A. NOT AT ALL.

4 Q. I WOULD LIKE YOU NOW TO TURN TO PAGE 7 OF YOUR REPORT, AND
5 SPECIFICALLY HEADING A.

6 A. YES.

7 Q. AND CAN YOU BRIEFLY DESCRIBE THE ANALYSIS YOU PERFORMED IN
8 THIS PART OF THE REPORT?

9 A. SO THIS IS JUST SORT OF A BEGINNING AND A VERY KIND OF
10 HIGH LEVEL OF ABSTRACTION. LOOKING AT WHAT IS THE TOP OF THE
11 TICKET, ELECTION ON YOUR BALLOT, IT'S THE PRESIDENTIAL
12 ELECTION. IT'S THE ELECTION THAT HAS THE MOST VOTERS IN IT AND
13 THE MOST VOTER ATTENTION TO IT. SO IT MAKES A NICE EXAMPLE
14 ELECTION TO GET A PICTURE, A FULL PICTURE OF HOW VOTERS ARE
15 CASTING THEIR VOTES.

16 WE CAN ALSO COMPARE IT ACROSS YEARS BECAUSE IT'S THE SAME
17 OFFICE ACROSS DIFFERENT YEARS, AND IT IS ALWAYS CONTESTED.
18 SOMETIMES WE SEE NONCONTESTED ELECTIONS, BUT WE HAVEN'T SEEN A
19 NONCONTESTED PRESIDENTIAL ELECTION. SO IT IS A GOOD COMPARISON
20 ELECTION. AND THIS LOOKS AT THE 2012, 2016 AND 2020.

21 AS IT HAPPENS, THIS SET OF ELECTIONS ALSO INCLUDES THREE
22 DIFFERENT PATTERNS OF RACIALLY CONTESTED ELECTIONS. SO IT
23 LET'S US LOOK AT VARIATION IN THE RACIAL NATURE OF THE
24 CONTESTATION, AS WELL AS LOOKING AT A SINGLE ELECTION OVER
25 TIME.

2:05PM

1 Q. WHAT DO YOU MEAN BY THE --

2 **MR. CAMPBELL-HARRIS:** YOUR HONOR, I DON'T MEAN TO
3 INTERRUPT, BUT THERE'S BLUE DOTS ON THE SCREEN. CAN WE HAVE
4 THAT FIXED BY THE TECH FOR OPPOSING CO-COUNSEL?

5 **MR. TUCKER:** I ACTUALLY SAW THE SAME THING, AND IT IS
6 DISTRACTING TO THE COURT AND EVERYONE ELSE. THANK YOU. I
7 WASN'T AWARE HOW TO DO THAT.

8 **THE COURT:** SHE CLEARED IT.

9 **MR. TUCKER:** THANK YOU.

10 **BY MR. TUCKER:**

11 Q. DR. ALFORD, WHAT DID YOU MEAN -- AND I DON'T REMEMBER YOUR
12 EXACT WORDS, BUT YOU SAID SORT OF THE DIFFERENT RACIAL
13 COMPOSITION OF THESE ELECTIONS, OR SOMETHING TO THAT EFFECT.
14 WHAT DID YOU MEAN BY THAT?

15 A. SO THE FIRST ELECTION, THE NOVEMBER '12 ELECTION, IS WHAT
16 DR. HANDLEY IS REFERRING TO WHEN SHE TALKS ABOUT A RACIALLY
17 CONTESTED ELECTION. SO AT THE TOP OF THE TICKET HERE IS A
18 BLACK CANDIDATE, BARACK OBAMA, AND A WHITE CANDIDATE, MITT
19 ROMNEY. SO THAT IS A RACIALLY CONTESTED ELECTION. IT'S AN
20 ELECTION THAT WOULD BE INCLUDED, FOR EXAMPLE, AMONG THE
21 STATEWIDE KINDS OF CONTESTS THAT DR. HANDLEY ANALYZED THAT WERE
22 RACIALLY CONTESTED.

23 THE NOVEMBER '16 ELECTION FEATURES HILLARY CLINTON AND
24 DONALD TRUMP, BOTH OF WHICH ARE WHITE CANDIDATES, AS ARE THE
25 VICE-PRESIDENTIAL CANDIDATES, KAINE AND PENCE. SO THIS IS A

2:06PM 1 NONRACIALLY CONTESTED ELECTION. IT IS AN ELECTION THAT IS NOT
2 INCLUDED IN DR. HANDLEY'S ANALYSIS FOR THAT REASON.

3 AND THEN FINALLY, IN 2020, YOU HAVE A RACE THAT'S NOT
4 RACIALLY CONTESTED AT THE TOP OF THE TICKET, BIDEN AND TRUMP,
5 BUT THERE IS RACIAL VARIATION IN THE VICE PRESIDENTIAL SLOT
6 BETWEEN KAMALA HARRIS AND MIKE PENCE.

7 SO WE HAVE A FULLY RACIALLY CONTESTED ELECTION, A
8 NONRACIALLY CONTESTED ELECTION, AND A PARTIALLY RACIALLY
9 CONTESTED ELECTION ALL IN THE SAME OFFICE IN BACK-TO-BACK
10 CONTESTS.

11 Q. SO IN THE TITLE OF TABLE 2 HERE, AT THE SECOND ROW YOU SAY
12 AVERAGES OF EI RXC ESTIMATES. SO DOES THAT MEAN THAT YOU USED
13 YOUR EI RXC METHODOLOGY FOR THIS ANALYSIS?

14 A. SO THIS IS THE EI RXC METHODOLOGY, AND IT IS PERFORMED
15 INDIVIDUALLY FOR EACH OF THE SEVEN, THE SAME SEVEN LEVELS OF
16 INTEREST THAT DR. HANDLEY USED IN HER REPORT. IT IS REPORTED
17 AT THAT LEVEL IN THE APPENDIX. BUT AGAIN, TO MAKE IT EASIER TO
18 RECEIVE WHAT THE PATTERN IS, THESE ARE AVERAGED, AND THOSE
19 AVERAGES REFLECT -- WHAT THEY REFLECT AS AVERAGES IS A PATTERN
20 THAT'S ALSO SEEN IN EACH OF THE SEVEN AREAS THAT ARE BEING
21 AVERAGED TOGETHER TO PRODUCE THIS ESTIMATE.

22 Q. AND AGAIN, IS THAT, USING THOSE SEVEN AREAS AND AVERAGES
23 OF THOSE SEVEN AREAS, IS THAT THE SAME METHODOLOGY THAT DR.
24 HANDLEY USED?

25 A. IT IS THE SAME METHODOLOGY DR. HANDLEY USES.

2:08PM

1 Q. AND WHAT CONCLUSIONS CAN YOU DRAW FROM THIS ANALYSIS THAT
2 IS REFLECTED IN TABLE 2?

3 A. FIRST OF ALL, YOU CAN CLEARLY SEE THAT VOTING IS
4 POLARIZED. SO BLACK SUPPORT IS IN THE HIGH 90 PERCENT RANGE
5 FOR THE DEMOCRATIC CANDIDATES IN ALL OF THESE CONTESTS. IT'S
6 ALSO VERY STABLE. GIVEN THE CONFIDENCE -- OR SORRY, THE
7 CREDIBLE INTERVALS, I WOULDN'T REALLY CHARACTERIZE ANY OF THESE
8 AS BEING DIFFERENT. THEY JUST REFLECT OVERWHELMING COHESION
9 AMONG BLACK VOTERS FOR THE DEMOCRATIC CANDIDATE AT WELL ABOVE
10 90 PERCENT.

11 LOOKING AT WHITE SUPPORT, WHITE SUPPORT IS SOMEWHAT LESS
12 CONCENTRATED BUT STILL VERY COHESIVE, MID 80S TO HIGH
13 80 PERCENT RANGE FOR THE REPUBLICAN CANDIDATE IN ALL THREE OF
14 THESE CONTESTS.

15 SO WHEN WE ARE TALKING ABOUT WHAT DOES POLARIZATION LOOK
16 LIKE IN AN ELECTION ANALYSIS, THIS IS WHAT POLARIZATION LOOKS
17 LIKE, VERY COHESIVE VOTING FOR MINORITY VOTERS AND VERY
18 COHESIVE VOTING IN THE OPPOSITE DIRECTION FOR WHITE VOTERS.

19 Q. DO YOU SEE RACIAL POLARIZATION IN THIS ANALYSIS?

20 A. WELL, I GUESS THAT DEPENDS ON HOW YOU DEFINE RACIAL
21 POLARIZATION. BUT CLEARLY WE SEE THERE IS A PARTISAN PATTERN
22 HERE. SO THAT STABLE PATTERN WE ARE SEEING IS VERY STABLE WITH
23 REGARD TO A VERY SALIENT CUE IN ELECTIONS, WHICH IS THE PARTY
24 CUE THAT'S NOT ONLY PROMINENT IN THE WAY WE RUN POLITICS IN THE
25 UNITED STATES BUT ALSO IS PROMINENT BECAUSE IT IS ON THE

2:09PM 1 BALLOT, BUT IT IS BY THE NAMES OF THE CANDIDATES, SO WE
2 ACTUALLY HAVE PARTISAN BALLOTS AS WELL AS A PARTISAN NOMINATION
3 SYSTEM. SO THAT'S VERY CLEAR. RIGHT? THESE ARE VERY STABLE,
4 VERY HIGH LEVELS OF DIFFERENCE IN THE WAY DEMOCRATS AND
5 REPUBLICANS ARE SUPPORTED BY BLACK AND WHITE VOTERS.

6 ON THE OTHER HAND, WHEN WE LOOK AT THE VARIATION IN THE
7 DEGREE TO WHICH THE ELECTION IS RACIALLY CONTESTED, WE SEE A
8 DIFFERENT PATTERN. SO IF WE ARE LOOKING AT BLACK SUPPORT, IF
9 YOU WERE LOOKING ONLY AT 2012, YOU COULD SAY IT IS CLEAR THAT
10 BLACKS OVERWHELMINGLY PREFER BLACK CANDIDATES BECAUSE THEY GIVE
11 98 PERCENT OF THEIR VOTE TO OBAMA AND ONLY THREE PERCENT TO
12 MITT ROMNEY.

13 WHEN YOU LOOK AT THE NEXT ELECTION DOWN, YOU NOW HAVE TWO
14 WHITE CANDIDATES RUNNING, AND BLACKS ARE GIVING THE SAME,
15 ESSENTIALLY THE SAME LEVEL OF SUPPORT TO CLINTON THAT THEY GAVE
16 TO OBAMA. SO IF THAT LEVEL OF SUPPORT IS THE SAME AND THE
17 RACIAL CHARACTERISTIC OF THE CANDIDATES IS DIFFERENT, THEN I
18 THINK WHAT YOU CAN CONCLUDE FROM THAT IS THE PARTY IS THE SAME
19 AND THE SUPPORT IS THE SAME. AND SO THIS IS A PARTISAN -- A
20 VERY HIGH LEVEL OF PARTISAN COHESION. IT IS NOT A STRONG
21 REFLECTION OF BLACK SUPPORT FOR BLACK CANDIDATES VERSUS WHITE
22 CANDIDATES BECAUSE THERE ISN'T ANY VARIATION THERE AT ALL.

23 AND THE SAME IS TRUE AGAIN WITH THE BIDEN/HARRIS TICKET.
24 THE SUPPORT THERE, AGAIN, IS A VERY HIGH LEVEL OF SUPPORT AMONG
25 BLACK VOTERS, AND SO THE BLACK SUPPORT IS COHESIVE SUPPORT FOR

2:11PM

1 THE DEMOCRATIC CANDIDATE BUT NOT NECESSARILY A SUPPORT THAT
2 VARIES DEPENDING ON WHETHER THE CANDIDATE IS BLACK OR WHITE.

3 Q. AND I SEE A FEW COLUMNS IN THIS CHART THAT ARE REFERENCING
4 PERCENTAGE LOW CI AND PERCENTAGE HIGH CI. CAN YOU EXPLAIN WHAT
5 THOSE ARE?

6 A. SO THESE ARE THE 95-PERCENT CREDIBLE INTERVALS. IF YOU'VE
7 MANAGED TO GET YOUR HEAD AROUND THE IDEA OF A CONFIDENCE
8 INTERVAL, SORT OF A 95-PERCENT CONFIDENCE INTERVAL, THESE ARE
9 NOT CONFIDENCE INTERVALS, BUT THEY ARE THE SORT OF
10 PROBABILISTIC EQUIVALENT. THE CREDIBLE INTERVALS ARE, RATHER
11 THAN BEING MATHEMATICALLY DERIVED, ARE ACTUALLY SAMPLED. THEY
12 ARE SOMETHING DERIVED FROM THE SAMPLE DISTRIBUTION OF THE
13 REPEATED ITERATIONS OF THE EI.

14 SO ALTHOUGH IT IS THE ROUGH EQUIVALENT, I THINK IT
15 SUGGESTS SOMETHING ABOUT EI VERSUS, SAY, A CONFIDENCE INTERVAL
16 AND A SURVEY SAMPLE. IN A SURVEY SAMPLE, A 95-PERCENT
17 CONFIDENCE INTERVAL TELLS US THAT WE CAN BE -- BASICALLY GIVEN
18 THE SAMPLE WE'VE DRAWN, WE CAN BE 95-PERCENT CONFIDENT THAT THE
19 VALUE IN THE POPULATION FALLS SOMEWHERE IN THAT RANGE. AND
20 THAT'S MATHEMATICALLY DERIVED FROM SAMPLING THEORY.

21 A CREDIBLE INTERVAL JUST SAYS THAT IN THIS ITERATIVE
22 PROCESS, 95 PERCENT OF THE DRAWS IN THAT ITERATIVE PROCESS
23 PRODUCED A RESULT THAT WAS NO LOWER THAN THE LOWER AND NO
24 HIGHER THAN THE HIGHER BOUND. THAT DOESN'T MEAN THAT THE REAL
25 WORLD VALUE FALLS IN THERE 95 PERCENT OF THE TIME. IN FACT,

2:13PM 1 THERE'S SOME WORK THAT'S TRIED TO -- THAT'S LOOKED AT THAT
2 EXACT ISSUE AND FINDS THAT THE REAL WORLD VALUE DOESN'T FALL IN
3 THAT INTERVAL MOST OF THE TIME, BECAUSE THE REAL WORLD VALUE IS
4 NOT SOMETHING WE HAVE ACCESS TO THE IN THE SENSE WE DO IN
5 SAMPLING THEORY.

6 SO IT IS IMPORTANT TO REMEMBER THAT IT TELLS US HOW -- HOW
7 NARROWLY THE RESULTS VARIED IN TERMS OF THE PROCESS OF
8 DETERMINING THE VALUE THROUGH EI, BUT IT DOESN'T NECESSARILY
9 TELL US THAT THE REAL WORLD VALUE FALLS THERE.

10 Q. CAN YOU NOW TURN TO SECTION B OF YOUR REPORT ON PAGE 8.
11 SO DID YOU ALSO REVIEW THE SAME ELECTIONS THAT DR. HANDLEY
12 ANALYZED?

13 A. YES. SO THESE ARE THE EXACT SAME RACIALLY CONTESTED
14 ELECTIONS THAT WERE INCLUDED IN DR. HANDLEY'S REPORT.

15 Q. AND I THINK YOU TESTIFIED EARLIER YOU WERE ABLE TO
16 REPLICATE HER RXC EI ANALYSIS?

17 A. YES.

18 Q. AND DID YOU REPORT THAT ANALYSIS ANYWHERE?

19 A. YES, I REPORTED IN THE APPENDIX.

20 Q. WHICH APPENDIX SPECIFICALLY?

21 A. EXCUSE ME?

22 Q. WHICH APPENDIX SPECIFICALLY?

23 A. APPENDIX B, I BELIEVE.

24 Q. THANK YOU. WAS IT AN ISSUE FOR YOU THAT DR. HANDLEY ONLY
25 USED RACIALLY CONTESTED ELECTIONS?

2:14PM

1 A. IT IS -- I THINK IT IS AN ISSUE. THEY ARE -- THERE IS AN
2 ARGUMENT FOR WHY THOSE ELECTIONS ARE MORE PROBATIVE, AND I
3 THINK THAT IS PART OF THE LEGAL ARGUMENT, BUT I THINK PARTIALLY
4 ALSO KIND OF A MORE SUBSTANTIVE ARGUMENT. BUT I THINK --
5 AGAIN, WE DON'T -- IF WE UTILIZE ONLY RACIALLY CONTESTED
6 ELECTIONS, WE CAN EASILY MISUNDERSTAND OR MISINTERPRET, AS BOTH
7 EXPERTS AND COMMENTATORS OFTEN DO. SO IT IS NOT UNCOMMON TO
8 SEE SOMEONE LOOK AT A RACIALLY POLARIZED VOTING ANALYSIS THAT
9 ONLY UTILIZED RACIALLY CONTESTED ELECTIONS AND ASSUME THAT IT
10 TELLS THEM SOMETHING THAT THEY DON'T AND TO REPORT IT AS
11 SOMETHING THAT ISN'T.

12 SO AGAIN, IF WE LOOK AT THAT OBAMA ELECTION AND WE ARE
13 ASKED TO COMMENT ON WHAT THAT ANALYSIS SHOWS ABOUT THE OBAMA
14 ELECTION AND ABOUT HOW BLACK VOTERS ARE VOTING AND ABOUT HOW
15 WHITE VOTERS ARE VOTING, BASED ON THAT SINGLE ELECTION, WE
16 COULD SAY THAT ELECTION DEMONSTRATES THAT BLACK VOTERS VOTE
17 OVERWHELMINGLY FOR A BLACK CANDIDATE, AND THAT WOULDN'T
18 SURPRISE ANYBODY. I WOULDN'T THINK IT WOULD SURPRISE ANYBODY
19 TO KNOW THAT BLACK VOTERS WERE ENTHUSIASTIC SUPPORTERS OF
20 BARACK OBAMA. IT ALSO WOULD SHOW THAT WHITE VOTERS WERE
21 OVERWHELMINGLY OPPOSED TO THE BLACK CANDIDATE, AND THAT SAYS
22 SOMETHING ABOUT BEHAVIOR.

23 I MEAN, FIRST OF ALL, IT IDENTIFIES A BEHAVIOR THAT IS NOT
24 UNCOMMON EVEN TODAY, AND IT CERTAINLY WASN'T UNCOMMON AT THE
25 PERIOD IN WHICH THE VOTING RIGHTS ACT WAS PASSED. SO IT IS

2:16PM 1 DEFINITELY THE CASE THAT THERE'S LOTS OF ANALYSIS THAT SHOWS
2 THAT BLACK VOTERS VOTE IN A VERY HIGH LEVEL OF SUPPORT FOR
3 BLACK CANDIDATES, AND THE WHITE VOTERS DON'T SUPPORT BLACK
4 CANDIDATES. SO YOU MIGHT EASILY THINK THAT ANALYSIS SHOWS
5 THAT, BUT AGAIN, JUST GOING TO THE VERY NEXT PRESIDENTIAL
6 ELECTION MAKES IT CLEAR THAT'S NOT WHAT IT SHOWS AT ALL.

7 Q. CAN YOU TURN TO THE NEXT PAGE, PLEASE, AND SPECIFICALLY I
8 WANT TO HAVE YOU LOOK AT TABLE 3.

9 A. YES.

10 Q. AND WHAT DOES TABLE 3 REFLECT?

11 A. SO TABLE 3, AGAIN, IS EXACTLY THE SAME ELECTIONS THAT DR.
12 HANDLEY ANALYZED, SO JUST THE RACIALLY CONTESTED ELECTIONS, AND
13 JUST PROVIDES THE FULL SET OF ESTIMATES FOR ALL OF THE
14 CANDIDATES IN THOSE ELECTIONS, WHICH GIVEN LOUISIANA'S SOMEWHAT
15 UNIQUE ELECTION SYSTEM SOMETIMES IS A LOT OF CANDIDATES IN THAT
16 INITIAL OCTOBER ROUND.

17 Q. ARE THERE RACES IN THIS DATA SET WITH MULTIPLE BLACK
18 CANDIDATES?

19 A. YES.

20 Q. I WANT TO POINT YOU TO A COUPLE OF SPECIFIC RACES, FIRST
21 STARTING WITH THE OCTOBER 2015 ATTORNEY GENERAL'S RACE. DO YOU
22 SEE THAT AT THE TOP?

23 A. YES.

24 Q. DO YOU HAVE ANY SPECIFIC OPINIONS ABOUT WHAT YOU SEE IN
25 THE RESULTS OF THE ANALYSIS OF THIS RACE?

2:17PM

1 A. SO AGAIN, IF WE LOOK AT THE VERY BOTTOM WHERE WE SIMPLY
2 SUM UP THE DEMOCRATIC CANDIDATES, WE CAN SEE THAT ALTHOUGH THIS
3 IS SLIGHTLY LOWER THAN WE SAW IN THAT ESTIMATE FOR THE
4 PRESIDENTIAL CONTEST, CLOSE TO 80 PERCENT OF BLACKS ARE
5 SUPPORTING DEMOCRATIC CANDIDATES IN THIS ELECTION, AND
6 SOMETHING LESS THAN 10 PERCENT OF WHITE VOTERS ARE SUPPORTING
7 DEMOCRATIC CANDIDATES IN THIS ELECTION. SO IT CLEARLY REFLECTS
8 THAT PARTISAN POLARIZATION THAT WE SAW EARLIER.

9 WHEN WE LOOK AT THE INDIVIDUAL CANDIDATES, WE CAN SEE THAT
10 THERE ARE TWO BLACK DEMOCRATIC CANDIDATES AND THE BLACK VOTE IS
11 -- FIRST OF ALL, NOT ALL THE BLACK VOTE IS GOING FOR THOSE TWO
12 CANDIDATES BUT THAT -- IT'S CERTAINLY OVERWHELMINGLY FOR THOSE
13 TWO CANDIDATES, BUT IT IS PRETTY EVENLY SPLIT BETWEEN THEM. SO
14 HERE THERE ARE DIFFERENCES. THE BLACK VOTERS ARE NOT UNIFYING
15 AROUND A PARTICULAR DEMOCRATIC CANDIDATE BUT IS ACTUALLY
16 DISTRIBUTED ACROSS THOSE CANDIDATES. YOU SEE THE SAME THING
17 WITH TWO OF THE REPUBLICAN CANDIDATES THAT ARE SPLITTING THE
18 WHITE VOTE.

19 SO AT THE LEVEL OF THE CONNECTION BETWEEN VOTERS AND THE
20 CANDIDATES, THERE IS DISAGREEMENT ABOUT CANDIDATES, BUT AGAIN,
21 AS WE SAW EARLIER WITH REGARD TO PARTY, THERE IS POLARIZATION.

22 Q. IS THE BLACK VOTE COHESIVE IN THIS RACE IN YOUR OPINION?

23 A. IT IS NOT COHESIVE FOR A PARTICULAR CANDIDATE, BUT IT IS
24 COHESIVE IN THE SENSE OF IT'S COHESIVE IN SUPPORTING DEMOCRATS
25 RATHER THAN REPUBLICANS.

2:19PM

1 Q. IF YOU CAN NOW FLIP DOWN TO THE BOTTOM OF THE PAGE. I
2 WANT TO ASK YOU ABOUT THE NOVEMBER 2018 SECRETARY OF STATE
3 RACE. SIMILAR QUESTION, WHAT OPINIONS CAN YOU DRAW FROM THE
4 RESULTS OF THIS ANALYSIS?

5 A. AGAIN, YOU CAN SEE THAT THE BLACK VOTE IS SPLITTING
6 BETWEEN THE TWO DEMOCRATIC CANDIDATES. THE WHITE VOTE IS
7 SPLITTING ACROSS THE REPUBLICAN CANDIDATES. WHEN YOU LOOK AT
8 THAT BOTTOM LINE SUM-UP, AGAIN, ALMOST 90 PERCENT OF THE BLACK
9 VOTERS ARE FAVORING ONE OF THE TWO DEMOCRATIC CANDIDATES. ONLY
10 15 PERCENT OF THE WHITE VOTERS ARE SUPPORTING ONE OF THE TWO
11 DEMOCRATIC CANDIDATES.

12 YOU CAN ALSO SEE THAT ONE OF THE DEMOCRATIC CANDIDATES IS
13 WHITE AND ONE IS BLACK. AND THE VOTING THERE IS BLACK VOTERS
14 SHOW -- RATHER THAN SHOWING 90-PERCENT PREFERENCE FOR THE BLACK
15 CANDIDATE, AS THEY DID IN THE OBAMA CONTEST, THE PREFERENCE
16 HERE IS 56 PERCENT. SO A LITTLE MORE THAN HALF FOR THAT
17 CANDIDATE, AND THE OTHER 44 PERCENT ARE FAVORING EITHER THE
18 OTHER DEMOCRAT OR REPUBLICAN, ALL OF WHICH ARE WHITE. SO HERE
19 THE BLACK VOTE IS SPLITTING FAIRLY CLOSE TO EVENLY BETWEEN THE
20 BLACK CANDIDATE AND WHITE CANDIDATES. BUT AGAIN, WITH REGARD
21 TO PARTY, IT IS VERY COHESIVE.

22 Q. SO IN YOUR OPINION, DOES THIS RACE REFLECT A RACIALLY
23 POLARIZED ELECTION?

24 A. NO, AGAIN, IT REFLECTS A PARTY POLARIZED ELECTION.

25 Q. IF YOU COULD FLIP TO THE NEXT PAGE THEN AND TAKE A LOOK AT

2:20PM 1 THE NOVEMBER 2020 SENATE RACE. DO WE SEE SOMETHING SIMILAR
2 HERE IN THIS RACE AS WELL?

3 A. YES. AGAIN, HERE YOU'VE GOT TWO DEMOCRATIC CANDIDATES,
4 AND YOU CAN SEE THAT THE VOTE IS SPLITTING BETWEEN THE TWO,
5 BETWEEN THE TWO CANDIDATES, BUT AGAIN, BLACK SUPPORT FOR
6 DEMOCRATS TOTAL IS QUITE COHESIVE. WHITE SUPPORT IS COHESIVE
7 FOR THE SINGLE REPUBLICAN CANDIDATE.

8 Q. SO IN YOUR OPINION, DO THE RACES EXAMINED BY DR. HANDLEY
9 SHOW RACIAL POLARIZATION?

10 A. AGAIN, BOTH WITH REGARD TO THESE DETAILS, BUT MORE
11 BROADLY, SIMPLY BY LOOKING AT THAT, AGAIN, THAT SAME ISSUE OF
12 SORT OF WHETHER THIS IS PARTY OR RACE, I THINK IT CLEARLY
13 DEMONSTRATES THAT THERE IS PARTY POLARIZATION.

14 Q. DR. ALFORD, HOW DO YOU DEFINE COHESION FOR PURPOSES OF A
15 RACIALLY POLARIZED VOTING ANALYSIS?

16 A. PERSONALLY, I DEFINE COHESION -- COHESION IS -- COHESION
17 IS A CONTINUUM, SO THE BEST WAY TO DEFINE COHESION IS BY USING
18 A NUMBER THAT REPRESENTS HOW COHESIVE A PARTICULAR RESULT IS.
19 AND THAT NUMBER WILL VARY BETWEEN, IN, SAY, A TWO-PARTY
20 CONTEST, THAT NUMBER WILL VARY BETWEEN 50 PERCENT AND A HUNDRED
21 PERCENT. AND IN A HUNDRED PERCENT, IT MEANS VOTERS ARE
22 PERFECTLY COHESIVE. THAT'S WHY WE CAN SAY THAT AT 98 PERCENT,
23 BLACK VOTERS ARE VERY, VERY COHESIVE IN THEIR SUPPORT OF A
24 DEMOCRATIC CANDIDATE. AT 50 PERCENT IN A TWO-PARTY CONTEST, IT
25 REPRESENTS A ZERO COHESION. IT MEANS VOTERS ARE AS NONCOHESIVE

2:22PM 1 AS YOU CAN POSSIBLY BE. THEY ARE EVENLY SPLIT BETWEEN CHOICE
2 ONE AND CHOICE TWO. AND THAT'S WHY WHEN YOU SEE A NUMBER LIKE
3 56 PERCENT, YOU MIGHT THINK, WELL, THAT IS PRETTY COHESIVE
4 BECAUSE IT'S A LONG WAY FROM ZERO, BUT ZERO IS NOT 50 PERCENT.
5 ZERO COHESION ISN'T 50 PERCENT -- NOT 50-PERCENT COHESION. SO
6 THAT IS VERY CLOSE TO NO COHESION AT ALL.

7 Q. ARE YOU AWARE OF AN INDUSTRY STANDARD FOR WHEN IT IS
8 CONSIDERED COHESIVE VERSUS NOT COHESIVE?

9 A. I'M NOT AWARE OF ANY POLITICAL SCIENCE STANDARD FOR
10 TURNING THAT CONTINUOUS RANGE INTO A DICHOTOMY OR ANY
11 PARTICULAR REASON WHY YOU WOULD WANT TO TURN THAT INTO A
12 DICHOTOMY. I'M AWARE THAT THE COURT DOES WANT TO TURN THAT
13 INTO A DICHOTOMY, THAT IT WANTS TO MAKE A DECISION ABOUT THAT
14 SOMETHING IS COHESIVE OR NOT, BUT COURTS HAVE NOT, AT LEAST IN
15 MY EXPERIENCE OVER THE LAST 30 ODD YEARS, HAVE NOT OFFERED
16 ANYTHING CLOSE TO A CLEAR STANDARD FOR WHAT THAT MIGHT BE.

17 Q. DR. ALFORD, DID YOU REVIEW ANY ADDITIONAL ELECTIONS
18 OUTSIDE THOSE REVIEWED BY DR. HANDLEY?

19 A. YES. SO, AGAIN, COVERING THE SAME TIME PERIOD, DR.
20 HANDLEY SELECTED ONLY THE RACIALLY CONTESTED ELECTIONS. I
21 FILLED IN WITH ALL OF THE OTHER ELECTIONS THAT WERE CONTESTED.
22 SO NEITHER OF US ANALYZED NONCONTESTED ELECTIONS BECAUSE THERE
23 IS NOTHING THERE TO ANALYZE, BUT I DID ANALYZE THE REMAINING
24 CONTESTED ELECTIONS, INCLUDING THE ONES THAT SHE EXCLUDED AS
25 NOT BEING RACIALLY CONTESTED.

2:24PM

1 Q. WERE THESE STATEWIDE ELECTIONS?

2 A. YES. SO THEY ARE FOR THE SAME SORTS OF OFFICES, AGAIN,
3 MANY TIMES FOR THE SAME OFFICES THAT SHE MIGHT HAVE INCLUDED IN
4 A DIFFERENT ELECTION YEAR. SO IT'S THE SAME -- WE ARE USING
5 THE SAME UNIVERSE OF ELECTIONS TO DRAW FROM, AND I'M JUST
6 BRINGING IN A FEW ADDITIONAL CONTESTED ELECTIONS THAT WEREN'T
7 RACIALLY CONTESTED.

8 Q. HOW CAN YOU TELL IF THERE'S RACIAL POLARIZATION IF THESE
9 ARE NOT RACIALLY CONTESTED ELECTIONS?

10 A. AGAIN, YOU CAN LOOK AT THE DIFFERENCE IN THE WAY VOTERS
11 VOTE. IN THESE ELECTIONS THE NONRACIALLY CONTESTED ELECTIONS
12 ARE OFTEN COMMONLY USED AS EVIDENCE IN THESE CASES BECAUSE THEY
13 DO PROVIDE INFORMATION ABOUT CANDIDATE PREFERENCE. SO THE
14 CANDIDATE PREFERENCE OF BLACK VOTERS DOESN'T NECESSARILY HAVE
15 TO BE A BLACK CANDIDATE. THEY CAN SHOW A PREFERENCE FOR WHITE
16 CANDIDATES. SO THESE ELECTIONS ARE VALID ELECTIONS AND DO
17 PROVIDE INFORMATION ABOUT THE PREFERRED CANDIDATE OF BOTH BLACK
18 AND WHITE VOTERS.

19 Q. CAN YOU TURN TO TABLE 4 ON PAGE 13 OF YOUR REPORT?

20 A. YES.

21 Q. AND CAN YOU DESCRIBE WHAT THIS TABLE REFLECTS?

22 A. SO THIS IS -- THIS TABLE IS THOSE ADDITIONAL ELECTIONS,
23 SOME ELECTIONS FROM 2015 AND SOME ELECTIONS FROM 2019 THAT WERE
24 NOT INCLUDED IN DR. HANDLEY'S REPORT BECAUSE THEY WEREN'T
25 SUFFICIENTLY RACIALLY CONTESTED. AND THEN THE ANALYSIS IS THE

2:25PM

1 SAME ANALYSIS AS WAS REPORTED EARLIER FOR THE RACIALLY
2 CONTESTED ELECTIONS.

3 Q. AND WHAT CONCLUSIONS DID YOU DRAW FROM THIS ANALYSIS?

4 A. AGAIN, WE -- LOOKING JUST AT THAT -- FIRST, JUST AT THE
5 DEMOCRATIC SUM CATEGORY, YOU CAN SEE THAT THE -- THAT BLACKS
6 ARE VOTING, AGAIN, OVERWHELMINGLY -- ARE OVERWHELMINGLY
7 COHESIVE IN FAVOR OF THE DEMOCRATIC CANDIDATE, EVEN THOUGH NONE
8 OF THESE DEMOCRATIC CANDIDATES ARE BLACK CANDIDATES. THEY ARE
9 WHITE CANDIDATES. AND WHITE VOTERS CONTINUE TO VOTE AT VERY
10 HIGH LEVELS FOR THE REPUBLICAN CANDIDATES, EVEN THOUGH THEY ARE
11 NOT DOING THAT IN REACTION TO THE FACT THAT THE DEMOCRATIC
12 CANDIDATE IS BLACK, BECAUSE THE DEMOCRATIC CANDIDATE IS WHITE.

13 SO IF WHITE VOTERS WERE VOTING CONSISTENTLY IN THE CONTEST
14 THAT DR. HANDLEY PROVIDED, BECAUSE THEY DIDN'T WANT TO SUPPORT
15 A BLACK CANDIDATE, WHICH MEANS THEY WOULD HAVE TO VOTE
16 REPUBLICAN SINCE THE REPUBLICAN CANDIDATE WAS THE WHITE
17 CANDIDATE, HERE THAT'S NO LONGER OPERATING. WHITE VOTERS CAN
18 VOTE FOR A WHITE CANDIDATE WHETHER THEY VOTE DEMOCRATIC OR
19 REPUBLICAN, BUT THEY CONTINUE TO VOTE -- AGAIN, AS WE SEE, THEY
20 CONTINUE TO BE -- TO OVERWHELMINGLY FAVOR THE REPUBLICANS, EVEN
21 IF THE DEMOCRATIC CANDIDATE IS A WHITE CANDIDATE, AS THE
22 REPUBLICAN CANDIDATE IS.

23 Q. DR. ALFORD, I NOTICE THAT THERE ARE SOME BLACK CANDIDATES
24 IN THESE ELECTIONS, SO CAN YOU EXPLAIN THAT AND WHY YOU STILL
25 BELIEVE THEY ARE NOT RACIALLY CONTESTED ELECTIONS?

2:27PM 1 A. SO AT LEAST AS I UNDERSTAND DR. HANDLEY'S EXPLANATION, SHE
2 DIDN'T BELIEVE THAT THE BLACK CANDIDATES HERE, BOTH BECAUSE OF
3 THE VERY LOW LEVELS OF SUPPORT THEY DREW AND MAYBE SOME OTHER
4 ASPECTS OF THEIR CAMPAIGN OR THEIR CAMPAIGN FUNDING, SHE
5 BASICALLY DIDN'T THINK OF THEM AS SERIOUS CANDIDATES. SO IT'S
6 NOT UNCOMMON TO ADDRESS THE ISSUE OF HOW PROBATIVE A NONSERIOUS
7 CANDIDATE IS. BUT THEY ARE ON THE BALLOT, AND THEY ARE BLACK
8 CANDIDATES.

9 Q. SO WERE YOU JUST FOLLOWING WHAT DR. HANDLEY WAS DOING?

10 A. I GUESS I'M -- I'M INCLUDING ALL THE ELECTIONS THAT SHE
11 DIDN'T INCLUDE. AND SO I'M NOT SAYING THAT THESE ARE NOT
12 RACIALLY CONTESTED ELECTIONS. I'M JUST SAYING THESE ARE
13 ELECTIONS THAT SHE DIDN'T BELIEVE WERE RACIALLY CONTESTED.

14 Q. THANK YOU. I WANT TO CALL YOUR ATTENTION SPECIFICALLY TO
15 THE JOHN BEL EDWARD RACES. DO YOU HAVE ANY OPINION
16 SPECIFICALLY ABOUT THESE RACES?

17 A. IT IS CLEAR THAT JOHN BEL EDWARDS DRAWS A HIGHER LEVEL OF
18 WHITE SUPPORT THAN OTHER WHITE REPUBLICAN CANDIDATES. AND I
19 THINK -- I MEAN, HE OBVIOUSLY WAS ABLE TO SUCCESSFULLY NAVIGATE
20 THE ELECTORAL SYSTEM OF LOUISIANA TO BECOME GOVERNOR AND BE
21 REELECTED AS GOVERNOR. HE WAS IN MANY WAYS, I THINK, KIND OF A
22 PROTOTYPICAL DEMOCRATIC CANDIDATE IN THE ELECTION ENVIRONMENT
23 THAT HE IS RUNNING IN. HE'S, YOU KNOW, QUITE CONSERVATIVE ON
24 SOME HOT BUTTON ISSUES, LIKE ABORTION AND GUN CONTROL, SO HE'S
25 NOT A SORT OF PROTOTYPICAL URBAN LIBERAL CANDIDATE. AND HE WAS

2:29PM 1 ABLE TO PARLAY THAT IDEOLOGICAL MODERATION I THINK INTO SOME
2 SUCCESSFUL RUNS FOR GOVERNOR.

3 Q. OKAY. CAN YOU NOW SWITCH TO SECTION C OF YOUR REPORT AT
4 THE BOTTOM OF PAGE 13?

5 A. YES.

6 Q. CAN YOU BRIEFLY DESCRIBE WHAT ANALYSIS YOU ARE PERFORMING
7 HERE?

8 A. SO THIS IS KIND OF ANOTHER VARIATION.

9 Q. ACTUALLY, DR. ALFORD, CAN WE PLEASE SWITCH TO PAGE 14,
10 WHERE THE BODY OF THIS IS. PLEASE CONTINUE.

11 A. THIS IS KIND OF ANOTHER TWIST ON THIS. THESE ARE
12 ELECTIONS THAT ARE NOT PARTY CONTESTED. SO THESE ARE ELECTIONS
13 WHERE THERE WERE -- BOTH OF THE CANDIDATES IN THE ELECTION
14 HAPPENED TO BE REPUBLICANS. IN A MAJORITY REPUBLICAN STATE,
15 THAT SOMETIMES HAPPENS. YOU RARELY -- YOU WOULD NOT EXPECT
16 NECESSARILY TO SEE TWO DEMOCRATIC CANDIDATES AND NO REPUBLICAN,
17 GIVEN THAT IT'S A REPUBLICAN MAJORITY STATE. SO.

18 THERE ARE THREE ELECTIONS WHERE THE ONLY CANDIDATES
19 CONTESTING THE ELECTION WERE REPUBLICAN, SO THESE ARE THE
20 EQUIVALENT OF WHAT WOULD BE A REPUBLICAN PRIMARY IN THE STATE
21 THAT RAN A TRADITIONAL PRIMARY SYSTEM.

22 SO HERE WE GET A CHANCE TO SEE, WHEREAS IN THE -- WHEN WE
23 CAN COMPARE RACIALLY TO NONRACIALLY CONTESTED ELECTIONS, WE CAN
24 SEE WHAT DIFFERENCE THE RACE OF A CANDIDATE MAKES TO THE
25 BEHAVIOR OF VOTERS. HERE WE CAN SEE WHAT DIFFERENCE THE SORT

2:30PM

1 OF VARIATION OR LACK OF VARIATION IN PARTY MAKES TO THE
2 BEHAVIOR OF VOTERS.

3 Q. AND WHAT CONCLUSIONS CAN YOU DRAW FROM THAT BASED UPON
4 YOUR ANALYSIS OF THESE ELECTIONS?

5 A. AGAIN, YOU CAN SEE THAT THESE LOOK DRAMATICALLY DIFFERENT
6 THAN ALL THE OTHER ELECTIONS WE HAVE LOOKED AT. SO AGAIN, IF
7 PARTY IS AN IMPORTANT CUE THAT IS DRIVING POLARIZATION, THEN MY
8 PREDICTION WOULD BE, IF THE ELECTIONS AREN'T PARTY CONTESTED,
9 THEY WON'T BE POLARIZED. AND THAT'S EXACTLY WHAT THE CASE IS
10 HERE. THESE ELECTIONS ARE NOT POLARIZED.

11 I MEAN, LOOK AT THE FIRST ELECTION. BLACK VOTERS ARE
12 GIVING COHESIVE SUPPORT SIMILAR TO THE SUPPORT THAT IN OTHER
13 ELECTIONS THEY MAY HAVE GIVEN, FOR EXAMPLE, TO A BLACK
14 DEMOCRAT, IN THIS CASE, COHESIVE SUPPORT TO A WHITE REPUBLICAN,
15 TO JOHN NEELY KENNEDY. AND AGAIN, IF ELECTIONS WERE RACIALLY
16 POLARIZED, THEN WHITE VOTERS SHOULD BE EQUALLY COHESIVE IN
17 OPPOSITION TO KENNEDY, BECAUSE KENNEDY IS THE PREFERRED
18 CANDIDATE OF BLACK VOTERS IN LOUISIANA. IN FACT, WHITE VOTERS
19 OVERWHELMINGLY SUPPORT THE SAME CANDIDATE AS BLACK VOTERS. SO
20 WHITE VOTERS OBVIOUSLY ARE NOT REACTING TO SOMETHING ABOUT THE
21 KENNEDY CAMPAIGN OR THE NATURE OF KENNEDY'S SUPPORT. THEY ARE
22 NOT TRYING TO VETO THE CHOICE OF BLACK VOTERS HERE. THEY HAVE
23 THE SAME CHOICE AS BLACK VOTERS.

24 WHEN YOU LOOK AT THE NOVEMBER 2015 ATTORNEY GENERAL
25 CONTEST, HERE YOU SEE A MODEST BUT NOT REALLY COHESIVE SUPPORT

2:32PM

1 AMONG BLACK VOTERS FOR CALDWELL OVER LANDRY, KIND OF A 60/40
2 SPLIT, AND A 60/40 SPLIT, NONCOHESIVE SPLIT, AMONG WHITE VOTERS
3 IN THE OPPOSITE DIRECTION.

4 SO THAT'S MODEST, AND I THINK IT PROBABLY -- IT COULD VERY
5 WELL REFLECT A MODEST PARTISAN VOTING PATTERN BECAUSE CALDWELL
6 WAS PREVIOUSLY ELECTED TO THAT OFFICE AS A DEMOCRAT AND THEN
7 SWITCHED PARTIES AND RAN AS A REPUBLICAN AND LOST.

8 AND THEN IN THE COMMISSIONER OF INSURANCE ELECTION, THE
9 BLACK VOTE IS COMPLETELY UNCOHESIVE, AS IS WHITE VOTE. BLACK
10 VOTERS AND WHITE VOTERS ARE BASICALLY SPLITTING EVENLY BETWEEN
11 THE TWO CANDIDATES. SO NONE OF THESE THREE ELECTIONS LOOK
12 ANYTHING LIKE THE PARTY CONTESTED ELECTIONS.

13 Q. DR. ALFORD -- WE CAN TAKE THIS DOWN NOW -- IS PARTY
14 POLARIZATION, IN YOUR OPINION, INCREASING IN THE UNITED STATES?

15 A. PARTY POLARIZATION IS INCREASING IN THE UNITED STATES AND
16 HAS BEEN FOR SOME TIME. WE HAD -- I HAVE BEEN AROUND A LONG
17 TIME, SO WHEN I STARTED STUDYING POLITICS, POLITICAL SCIENCE
18 WAS VERY ANIMATED BY THE FACT THAT THE PARTIES WEREN'T VERY
19 POLARIZED IN THE U.S. THERE WAS AN ARTICLE COMPARING THE TWO
20 PARTIES AS TWEEDLE DEE AND TWEEDLE DUM, AND EUROPEANS LOOKED
21 DOWN ON THE U.S. BECAUSE WE DIDN'T HAVE REALLY DISTINCTIVE
22 IDEOLOGICAL PARTIES LIKE EUROPE HAD. AND AMERICAN POLITICAL
23 SCIENCE ASSOCIATION ACTUALLY ISSUED A REPORT CALLED "TOWARD A
24 MORE RESPONSIVE TWO-PARTY SYSTEM," SUGGESTING THAT THERE MIGHT
25 BE THINGS WE COULD DO TO MAKE THE PARTIES MORE DIFFERENT, MORE

2:34PM

1 IDEOLOGICAL AND MORE APPROPRIATE ADVERSARIES. I DOUBT THAT
2 THAT HAD ANYTHING TO DO WITH WHAT HAPPENED OVER THE ENSUING
3 DECADES, BUT WE HAVE GONE FROM A SYSTEM WHERE THE PARTIES WERE
4 VERY CENTRIST TO A SITUATION WHERE THE PARTIES ARE VERY
5 POLARIZED.

6 SO THE PARTIES ARE POLARIZED, THE PARTY REPRESENTATIVES IN
7 CONGRESS ARE DRAMATICALLY POLARIZED, AS WE SEE IN THE
8 DYSFUNCTION OF THE GOVERNMENT, VOTERS ARE POLARIZED, AS WE SEE
9 IN THE WAY VOTERS CAST VOTES BETWEEN THE PARTIES. AND IT ISN'T
10 JUST A POLARIZATION -- IT IS PARTLY A POLARIZATION ABOUT
11 IDEOLOGY, BUT IT IS ALSO WHAT POLITICAL SCIENTISTS CALL
12 AFFECTIVE POLARIZATION.

13 SO THE DEGREE TO WHICH PEOPLE DISLIKE PEOPLE OF THE
14 OPPOSITE PARTY HAS GROWN VERY SUBSTANTIALLY OVER THE LAST 30
15 YEARS. SO MOST DEMOCRATS DON'T LIKE THE DEMOCRATIC PARTY ANY
16 BETTER THAN THEY DID IN 1970, BUT THEY DISLIKE THE REPUBLICAN
17 PARTY A LOT MORE THAN THEY DISLIKED THE REPUBLICAN PARTY IN
18 1970, AND THE SAME IS TRUE FOR REPUBLICANS.

19 Q. AND IN WHAT DIRECTION DO YOU SEE, IN YOUR OPINION, RACIAL
20 POLARIZATION GOING?

21 A. AGAIN, I'VE BEEN AROUND FOR A LONG TIME, AND A LOT OF THAT
22 TIME I'VE LIVED IN THE SOUTH. AND RACIAL POLARIZATION WAS, AT
23 THE TIME OF THE PASSAGE OF THE VOTING RIGHTS ACT, WAS PRETTY
24 DRAMATIC, AND NOT JUST IN THE SOUTH. FRANKLY, IN A LOT OF
25 PLACES THAT WERE NOT COVERED JURISDICTIONS, FOR EXAMPLE, RACIAL

2:35PM 1 POLARIZATION WAS STILL QUITE STRONG. IT REMAINS STRONG IN SOME
2 PLACES TODAY. I MEAN, I SAW A RECENT ANALYSIS FOR ELECTIONS IN
3 MASSACHUSETTS, I THINK, THAT SHOWED THAT IN SOME LOCAL
4 ELECTIONS THERE WAS STILL FAIRLY DRAMATIC RACIAL POLARIZATION.

5 BUT ON A WHOLE -- IN A VERY LARGE VARIETY OF WAYS, RACIAL
6 POLARIZATION HAS DIMINISHED, AND I THINK IT'S DIMINISHED AND WE
7 CAN SEE THAT IN ALL KINDS OF SURVEY MEASURES. WE CAN ALSO JUST
8 SEE IT IN THE REAL WORLD.

9 I TAUGHT AT THE UNIVERSITY OF GEORGIA IN THE EARLY 1980S,
10 AND ONE OF THE STUDENTS IN INTRO AMERICAN WAS A YOUNG FOOTBALL
11 PLAYER NAMED HERSCHEL WALKER. AND I WAS THINKING ABOUT THIS
12 RECENTLY. IF HE HAD APPROACHED ME AND SAID, I'M THINKING ABOUT
13 RUNNING FOR SENATOR IN GEORGIA, I THINK I WOULD HAVE ADVISED
14 HIM TO MAYBE NOT LIVE IN GEORGIA, BUT FIND ANOTHER STATE,
15 BECAUSE I THINK IT WOULD HAVE BEEN A DIFFICULT RUN. IF HE HAD
16 SAID, AND ALSO, I PLAN TO RUN AS A REPUBLICAN, I WOULD HAVE
17 TOLD HIM THAT HE WAS NOT GOING TO GET NOMINATED IN THE
18 REPUBLICAN PARTY. AND IN THE MOST RECENT SENATE ELECTION --

19 **MR. CAMPBELL-HARRIS:** YOUR HONOR, I DON'T MEAN TO
20 INTERRUPT, BUT I'M GOING TO MOVE TO STRIKE THIS. THIS IS
21 COMPLETELY IRRELEVANT TO LOUISIANA. HE IS TALKING ABOUT
22 GEORGIA. I DON'T SEE HOW THIS IS RELEVANT TO THE STATE OF
23 LOUISIANA WHATSOEVER.

24 **THE COURT:** WELL, IT'S NOT TERRIBLY RELEVANT, BUT THE
25 COURT FINDS IT HELPFUL TO UNDERSTANDING THE ISSUES, SO I'M

2:37PM

1 GOING TO OVERRULE YOUR OBJECTION.

2 A. SO MY POINT BEING, IT'S DIFFICULT FOR ME TO LOOK AT THAT
3 ELECTION IN GEORGIA. I MEAN, I CELEBRATE THAT ELECTION IN
4 GEORGIA. THIS IS A BLACK CANDIDATE WHO BASICALLY RUNS THE
5 REPUBLICAN PRIMARY AGAINST WHITE CANDIDATES, INCLUDING A WHITE
6 CANDIDATE WHO I KNOW PERSONALLY AND I WOULD HAVE PUT MONEY ON
7 IN THE BEGINNING, A LONG-TERM VERY CONSERVATIVE WHITE
8 REPUBLICAN WHO HAD LOTS OF PUBLIC SUPPORT AND HAD THE
9 ENDORSEMENT OF THE SHERIFF ASSOCIATION, COUNTY ASSOCIATIONS,
10 AND BASICALLY HAD WORKED REPUBLICAN POLITICS A LONG TIME AND
11 DIDN'T EVEN COME IN CLOSE, DIDN'T EVEN MAKE IT INTO THE
12 20-PERCENT RANGE AGAINST HERSCHEL WALKER. AND THAT'S IN A
13 PARTY THAT'S OVERWHELMINGLY WHITE IN GEORGIA AND OVERWHELMINGLY
14 CONSERVATIVE.

15 SO YOU HAD THE DEMOCRATIC PARTY NOMINATED A BLACK
16 CANDIDATE, THE REPUBLICAN PARTY NOMINATED A BLACK CANDIDATE,
17 AND GEORGIA ELECTED A BLACK SENATOR. I ALSO WOULD SAY I THINK
18 THEY ELECTED THE CORRECT CANDIDATE IN THAT CASE.

19 BUT THAT, AGAIN, TO ARGUE THAT GEORGIA IS MORE RACIALLY
20 POLARIZED THAN IT WAS WHEN I WAS THERE IN THE 1980S, GIVEN THE
21 VOTING AND ELECTION, THERE'S JUST A REALITY ON THE GROUND. I
22 THINK IS -- I DON'T THINK WE CAN SAY THAT THERE HASN'T BEEN
23 PROGRESS MADE IN TERMS OF THE DEGREE TO WHICH RACE DRIVES
24 AMERICAN BEHAVIOR, AMERICAN POLITICAL BEHAVIOR.

25 Q. DR. ALFORD, SIR, TO PULL BACK TO YOUR OPINIONS IN YOUR

2:38PM 1 REPORT IN THIS CASE NOW, DID YOU DO ANY ANALYSIS TO SUPPORT
2 YOUR OPINIONS ABOUT THE TREND OF RACIAL POLARIZATION?

3 A. AGAIN, THERE'S LOTS OF CONTROVERSY ABOUT THIS, AND I
4 PROVIDED TWO PIECES OF INFORMATION THAT I SIMPLY TOOK FROM
5 ARTICLES OR SOURCES THAT HAVE BEEN CITED BY PLAINTIFFS IN
6 ARGUING THAT RACIAL POLARIZATION WAS MOVING UP IN THE UNITED
7 STATES RATHER THAN DOWN.

8 Q. ACTUALLY, CAN I STOP YOU? I WANT TO PULL IT UP ON THE
9 SCREEN SO THE COURT CAN SEE IT.

10 MR. TUCKER: SO CAN WE PUT UP FIGURE 1 ON PAGE 16.

11 BY MR. TUCKER:

12 Q. NOW, IS THIS ONE OF THE STUDIES YOU ARE REFERRING TO?

13 A. YES, THIS IS A STUDY THAT HAS BEEN CITED REPEATEDLY BY
14 PLAINTIFFS, A STUDY THAT ADDRESSES -- BY TWO POLITICAL
15 SCIENTISTS THAT ADDRESSES THIS ISSUE ABOUT WHY DEMOCRATS LOST
16 THE SOUTH. SO IT GIVES YOU TWO IMPORTANT PIECES OF
17 INFORMATION.

18 THIS IS ABOUT -- THE QUESTION IS WHETHER YOU WOULD BE
19 WILLING TO VOTE FOR A BLACK CANDIDATE FOR PRESIDENT. AND AS
20 YOU CAN SEE IN THE 1960S, THAT THE RED LINE IS THE SOUTH AND
21 THE BLUE LINE IS THE NON-SOUTH. 60 PERCENT OF VOTERS IN THE
22 NON-SOUTH OPENLY ADMITTED IN A SURVEY, DESPITE WHATEVER SOCIAL
23 PRESSURE OR WHATEVER, THE MAJORITY OF THE RESPONDENTS INDICATED
24 THEY WOULD NOT BE WILLING TO VOTE FOR -- THESE ARE WHITE
25 RESPONDENTS -- TO VOTE FOR A BLACK CANDIDATE FOR PRESIDENT. IN

2:40PM

1 THE NORTH, IN SOMETHING CLOSE TO 90 PERCENT OF WHITE VOTERS IN
2 THE SOUTH SAID THEY WOULD NOT VOTE FOR A BLACK CANDIDATE FOR
3 PRESIDENT.

4 BY THE TIME WE GET TO 2000, AND IN THE PERIOD SINCE, THERE
5 IS NO REAL DIFFERENCE BETWEEN THE NORTH AND THE SOUTH. AND
6 ROUGHLY 90 PERCENT OF VOTERS IN BOTH AREAS INDICATE THEY WOULD
7 VOTE FOR A BLACK CANDIDATE FOR PRESIDENT. AND I THINK YOU CAN
8 SAY, WELL, SOME OF THIS IS SORT OF CHANGING SOCIAL NORMS. SOME
9 PEOPLE SAY, WELL, IT IS BECAUSE IT'S JUST NOT POLITICALLY
10 CORRECT TO ADMIT YOU WOULDN'T VOTE FOR A BLACK PRESIDENT NOW,
11 BUT IT WAS THEN. IF THAT IS ALL THE CHANGE, THAT IS A CHANGE.
12 RIGHT? IF IT'S THE CASE THAT FRANK RACIAL DISCRIMINATION IS NO
13 LONGER SOMETHING PEOPLE WANT TO ADMIT TO PUBLICLY, THAT IS A
14 CHANGE, MAYBE NOT A HUNDRED PERCENT CHANGE, BUT IT'S A CHANGE.
15 IF ALL THIS WAS WAS WHAT ECONOMISTS CALL CHEAP TALK, THEN I
16 THINK YOU WOULD HAVE DIFFICULTY EXPLAINING HOW BARACK OBAMA WAS
17 ELECTED PRESIDENT.

18 IT IS HARD TO IMAGINE BARACK OBAMA COULD BE ELECTED
19 PRESIDENT IN 1960, WHEN THE MAJORITY OF PEOPLE EVERYWHERE IN
20 THE COUNTRY SAID THEY WOULD NOT VOTE FOR A BLACK CANDIDATE FOR
21 PRESIDENT. THE ERA IN WHICH OBAMA IS ELECTED IS AN ERA IN
22 WHICH 90 PERCENT PLUS OF WHITES, ADULT WHITES, INDICATE THEY
23 WOULD VOTE FOR A BLACK CANDIDATE FOR PRESIDENT, AND THE
24 MAJORITY OF THEM DID.

25 Q. CAN WE TURN NOW TO FIGURE 2 ON PAGE 17. AND CAN YOU

2:41PM

1 BRIEFLY SUMMARIZE WHAT THIS FIGURE REFLECTS?

2 A. SO THIS IS SORT OF ANOTHER MAJOR OF PEOPLE'S RACIAL
3 OPINIONS, AND IT'S APPLIED TO A BEHAVIOR. IT'S NOT A POLITICAL
4 BEHAVIOR IN THIS CASE, ALTHOUGH INTERRACIAL MARRIAGE IS, OF
5 COURSE, BOTH A LEGAL AND A CONSTITUTIONAL ISSUE EARLIER ON IN
6 THIS ERA.

7 AND HERE AGAIN, YOU CAN SEE THIS BEGINS IN THE LATE '60S,
8 EARLY '70S, BUT WHAT YOU CAN SEE IS AMONG WHITE ADULTS,
9 SOMETHING LIKE 75 TO 80 PERCENT DO NOT APPROVE OF INTERRACIAL
10 MARRIAGE.

11 AND AGAIN, BY THE END OF THE -- BY 2021, APPROVAL -- BOTH
12 WHITE AND BLACK ADULTS APPROVE OF INTERRACIAL MARRIAGE IS IN
13 THE 90-PERCENT RANGE. SO A VERY SIMILAR SORT OF CHANGE OVER
14 TIME.

15 IN THAT SUBTABLE BELOW, YOU CAN SEE THAT -- WHERE THE
16 SOUTH WAS DISTINCTIVE IN ITS LOW LEVELS OF APPROVAL OF
17 INTERRACIAL MARRIAGE IN 1991, BY 2021, THE SOUTH IS NOT
18 DISTINCTIVE ANYMORE. ALL REGIONS OF THE COUNTRY, MOST ADULTS
19 APPROVE, WHITE ADULTS APPROVE OF INTERRACIAL MARRIAGE.

20 Q. DR. ALFORD, AREN'T THERE MORE CURRENT SOCIAL OR POLITICAL
21 ISSUES TO USE TO MEASURE RACIAL POLARIZATION, SUCH AS THINGS
22 LIKE CRIMINAL JUSTICE?

23 A. SO THERE ARE A WHITE RANGE OF THINGS THAT YOU CAN USE TO
24 MEASURE THE KINDS OF ATTITUDES THAT MIGHT DRIVE VOTING BEHAVIOR
25 THAT MIGHT BE RACIALIZED. SO I'M TAKING THESE FROM STUDIES

2:43PM

1 THAT HAVE BEEN CITED BY PLAINTIFFS AND ONES WHERE -- IN THE
2 CASE OF THE INTERRACIAL MARRIAGE, ONE WHERE WE HAVE AT LEAST A
3 BRIEF SORT OF COMPANION SERIES. THE QUESTION ON INTERRACIAL
4 MARRIAGE HISTORICALLY WAS ASKED ABOUT INTERRACIAL MARRIAGE. IT
5 WAS ALSO ASKED ABOUT MARRIAGE ACROSS DIFFERENT RELIGIOUS
6 GROUPS, SO THE ISSUE ABOUT WHETHER A MARRIAGE THAT INVOLVED
7 PEOPLE FROM TWO DIFFERENT RELIGIONS.

8 THE TREND FOR INTERRELIGION MARRIAGE AND INTERRACIAL
9 MARRIAGE ARE VERY SIMILAR. THERE WAS WIDE OPPOSITION TO THAT
10 EARLIER ON AND NOW VERY LITTLE OPPOSITION.

11 MORE RECENTLY, SHANTO IYENGAR AND SOME PEOPLE AT STANFORD
12 HAVE BEEN PULLING TOGETHER DATA ON PEOPLE'S OPINION ABOUT
13 INTERPARTY MARRIAGE, THAT IS, WOULD YOU BE UPSET IF YOUR -- IF
14 A DEAR RELATIVE MARRIED SOMEONE OF A DIFFERENT PARTY OR OF A
15 DIFFERENT IDEOLOGY. AND CONCERN ABOUT OR OPPOSITION TO
16 INTERPARTY MARRIAGE HAS NOT BEEN GOING DOWN. IT HAS BEEN GOING
17 UP. SO PEOPLE ARE NOW MUCH MORE CONCERNED ABOUT THEIR -- ABOUT
18 CLOSE RELATIVES, CHILDREN OR CLOSE RELATIVES MARRYING SOMEONE
19 OF A DIFFERENT PARTY THAN THEY ARE IF THEY ARE MARRYING SOMEONE
20 OF A DIFFERENT RELIGION OR A DIFFERENT RACE. I JUST FIND THAT
21 FASCINATING.

22 AND AGAIN, IT'S AN INDICATION OF THE FACT THAT OUR PARTY
23 POLARIZATIONS HAVE GONE UP NOT JUST IN ELECTIONS BUT IN EVERY
24 ASPECT. THERE ARE SOME VERY GOOD STUDIES THAT SHOW THE
25 TENDENCY OF DEMOCRATS TO SEEK OUT NEIGHBORHOODS THAT ARE MOSTLY

2:45PM

1 DEMOCRATIC WHEN THEY ARE MOVING, AND REPUBLICANS TO SEEK OUT
2 REPUBLICAN NEIGHBORHOODS HAS GONE UP DRAMATICALLY. SO WE SORT
3 BY RESIDENCE. OUR PARTISAN POLARIZATION IS NOT JUST ABOUT
4 ELECTIONS, ALTHOUGH THAT IS PROBABLY THE MOST SALIENT EXAMPLE,
5 BUT IT AFFECTS OTHER ASPECTS OF LIFE.

6 AND WHEN YOU TALK TO PEOPLE -- I'VE INTERVIEWED PEOPLE
7 ABOUT THIS ISSUE, AND WHAT'S INTERESTING IS HOW SIMILAR THE
8 DISCUSSION IS ABOUT PARTY TO WHAT DISCUSSION WOULD HAVE BEEN
9 ABOUT RACE, SAY, 40 YEARS AGO. SO ONE OF THE BIG ISSUES FOR
10 PARENTS IS, YOU KNOW, THEY ALWAYS START BY SAYING MARRIAGE IS
11 DIFFICULT ENOUGH, WHICH I THINK IS A GOOD OBSERVATION. AND
12 THEN WHEN YOU ASKED THAT IN PREVIOUS ERAS ABOUT INTERRELIGION
13 OR INTERRACE, THEY WOULD JUST SAY IT RAISES QUESTIONS FOR -- IT
14 MAKES LIFE MORE DIFFICULT, AND IT WILL MAKE THE CHILDREN'S
15 LIVES MORE DIFFICULT OR MORE COMPLICATED.

16 ONE OF THE FIRST THINGS PARENTS WANT TO -- ARE CONCERNED
17 ABOUT IS HOW THE CHILDREN, IF THEIR DAUGHTER MARRIES A
18 REPUBLICAN AND THEY ARE A DEMOCRATIC FAMILY, THEY WANT THE
19 COUPLE TO THINK ABOUT HOW THEY ARE GOING TO RAISE THEIR
20 CHILDREN. ARE THEY GOING TO RAISE THEM AS DEMOCRATS OR ARE
21 THEY GOING TO RAISE THEM AS REPUBLICANS? THAT'S JUST AN ISSUE,
22 AS FAR AS WE CAN TELL, THAT WAS SIMPLY NOT ON PEOPLE'S RADAR 20
23 YEARS AGO, BUT NOW IT'S SOMETHING THAT PEOPLE THINK VERY
24 SERIOUSLY ABOUT.

25 Q. DR. ALFORD, JUST A COUPLE MORE QUESTIONS. SOME OF THE

2:46PM 1 PLAINTIFFS' EXPERTS IN THIS CASE HAVE CRITICIZED YOUR OPINIONS
2 SAYING THAT YOU CAN'T COMPLETELY SEPARATE RACE AND POLITICS.
3 DO YOU HAVE ANY RESPONSE TO THOSE CRITICISMS?

4 A. I THINK THE ANALYSIS PRESENTED HERE BY DR. HANDLEY AND
5 SUPPLEMENTED NARROWLY BY MYSELF DOES ALLOW YOU TO SEPARATE
6 THOSE TWO CUES, RIGHT? IN A CONTEST WHERE YOU HAVE CANDIDATES,
7 THERE ARE CANDIDATE CUES, AND THOSE CUES INCLUDE CANDIDATE RACE
8 AND CANDIDATE PARTY. AND SO ANALYTICALLY WE CAN SEPARATE THEM,
9 AND I DON'T THINK THE RESULTS ARE IN DISPUTE HERE. RIGHT? THE
10 RESULTS SHOW THAT THE POLARIZATION BY PARTY IS DRAMATIC, AND
11 THAT THE POLARIZATION BY THE RACE OF THE CANDIDATES JUST ISN'T.
12 IT ISN'T THE CAUSE OF THAT -- YOU CAN'T ATTRIBUTE THAT
13 POLARIZATION TO RESPONDING DIFFERENTLY, WILLINGNESS TO SUPPORT
14 OR NOT SUPPORT A CANDIDATE BASED ON THEIR RACE, AND THAT'S JUST
15 WHAT THIS SURVEY SHOWS ABOUT WILLINGNESS TO SUPPORT A BLACK
16 CANDIDATE FOR PRESIDENT, FOR EXAMPLE.

17 Q. DID YOU REVIEW A COPY OF DR. BURCH'S SUPPLEMENTAL REPORT
18 IN THIS CASE?

19 A. I DID.

20 Q. AND YOU RECALL DR. BURCH CITING A NUMBER OF DIFFERENT
21 ARTICLES IN THAT REPORT?

22 A. I WILL SAY THIS. THE FIRST THING THAT I REMEMBER FROM DR.
23 BURCH'S REPORT IS SOMETHING THAT I COMPLETELY AGREE WITH AND I
24 THINK IS VERY IMPORTANT TO REMEMBER HERE. SO THE FIRST THING
25 DR. BURCH SAYS IN RESPONSE TO MY ANALYSIS IS, FIRST OF ALL,

2:48PM 1 LET'S GET THIS OUT OF THE WAY. THIS DOESN'T MATTER. OKAY? IT
2 JUST DOESN'T MATTER WHETHER THIS POLARIZATION IS ABOUT PARTY OR
3 WHETHER THE POLARIZATION IS ABOUT RACE. IT DOESN'T MATTER
4 WHETHER THE RACE OF THE CANDIDATE HAS ANY EFFECT AT ALL BECAUSE
5 THE ISSUE HERE, THE LEGAL ISSUE HERE IS JUST ARE BLACKS AND
6 WHITES VOTING DIFFERENTLY. AND SO SORT OF AT THAT POINT, FULL
7 STOP, WE ARE IN COMPLETE AGREEMENT.

8 I DON'T KNOW -- I'M NOT A LAWYER. THANKFULLY, I'M NOT A
9 FEDERAL JUDGE. SO IF THE ISSUE HERE, IF THE QUESTION HERE IS
10 SORT OF THE QUESTION BRENNAN FRAMED, ARE BLACKS AND WHITES
11 VOTING DIFFERENTLY, THEN DR. BURCH IS EXACTLY CORRECT, AND I
12 AGREE A HUNDRED PERCENT. IF THAT DOESN'T MAKE ANY DIFFERENCE,
13 THEN IT DOESN'T MAKE ANY DIFFERENCE, AND THAT'S THE END OF THE
14 STORY.

15 AS A SUBSTANTIVE MATTER, AS A RESEARCH MATTER, I THINK IT
16 MAKES A HUGE DIFFERENCE. I THINK IT IS VERY IMPORTANT TO
17 UNDERSTAND THAT HISTORICALLY IN THE U.S., OUR ELECTIONS WERE,
18 IN VERY MANY PLACES, WERE DRAMATICALLY RACIALLY POLARIZED, AND
19 THAT CURRENTLY PARTISANSHIP HAS OVERWHELMED THAT, AND PEOPLE
20 WILL SUPPORT A CANDIDATE. REPUBLICANS WILL SUPPORT BLACK
21 REPUBLICANS. DEMOCRATS WILL SUPPORT BLACK OR WHITE DEMOCRATS.
22 THE FACT THAT PARTISANSHIP HAS SORT OF TAKEN FRONT STAGE AND
23 RACE HAS MOVED TO A LESSER POSITION I THINK IS REALLY
24 IMPORTANT. IT MAY NOT BE LEGALLY IMPORTANT. IF BRENNAN IS
25 RIGHT, BRENNAN SAYS, FOR HEAVEN'S SAKE, DON'T PAY ANY ATTENTION

2:49PM

1 TO WHAT IS GOING ON BEHIND THE CURTAIN BECAUSE IT JUST ELEVATES
2 ALL OF THIS TO A RACIAL DISCUSSION.

3 BUT I THINK, AGAIN, IN MY OWN VIEW, I THINK EVEN IF IT'S
4 NOT AN IMPORTANT LEGAL DISTINCTION, IT'S A VERY IMPORTANT
5 EVIDENTIARY DISTINCTION TO SAY THAT VOTERS NOW VOTE ON THE
6 BASIS OF PARTY AND ARE PRETTY MUCH INDIFFERENT TO THE RACE OF
7 CANDIDATES IS A VERY IMPORTANT CHANGE. AND IF THAT CHANGE
8 DOESN'T IMPLICATE WHAT HAPPENS IN THE VOTING RIGHTS ACT, THEN I
9 THINK IT SHOULD BE ACKNOWLEDGED WHEN THE COURT IS -- WHEN A
10 COURT IS OVERRIDING A LOCAL DECISION ABOUT DISTRICTING OR
11 AT-LARGE ELECTIONS, A DECISION THAT SAYS, YOU KNOW, VOTING IN A
12 SCHOOL DISTRICT IS RACIALLY POLARIZED SAYS SOMETHING TO THE
13 PUBLIC ABOUT THE SCHOOL DISTRICT. IT SAYS SOMETHING ABOUT THE
14 VOTERS IN THAT SCHOOL DISTRICT.

15 AND IF THE EVIDENTIARY BASIS WAS THAT MOST MINORITY VOTERS
16 VOTED DEMOCRAT AND MOST WHITE VOTERS VOTED REPUBLICAN, AND
17 NOTHING MORE THAN THAT WAS ACTUALLY DEMONSTRATED IN SPRING
18 BRANCH ISD OR IN THE SEVEN REGIONS OF THE STATE OF LOUISIANA,
19 IT'S REALLY IMPORTANT TO GET THAT RIGHT UP FRONT, THAT YOU ARE
20 NOT SAYING THAT VOTERS IN LOUISIANA ARE VOTING ON A RACES
21 BASIS. YOU ARE JUST SAYING THAT RACIAL GROUPS ARE NOW SORTED
22 INTO TWO DIFFERENT PARTIES, AND THEY ARE VOTING ON THE BASIS OF
23 PARTY. AND AS A LEGAL MATTER, THAT IS SOMETHING THAT'S STILL
24 IMPORTANT IN TERMS OF THE VOTING RIGHTS ACT.

25 SO I DON'T -- I MEAN, I HAVE ALL KINDS OF PERSONAL

2:51PM 1 PREFERENCES, BUT AS A POLITICAL SCIENTIST, WHAT I WANT IS THAT
2 PEOPLE ARE CLEAR ABOUT -- THIS IS WHERE, LOOKING ONLY AT
3 RACIALLY CONTESTED ELECTIONS, I THINK OPENLY, NOT INTENTIONALLY
4 BUT OPENLY ALLOWS FOR THAT PUBLIC MISINTERPRETATION, BECAUSE
5 YOU CAN SAY THERE WERE 16 ELECTIONS HERE, AND IN NOT A SINGLE
6 ONE OF THOSE ELECTIONS WERE WHITE VOTERS WILLING TO GIVE MORE
7 THAN 20 PERCENT OF THEIR VOTE TO A BLACK CANDIDATE. THAT
8 SOUNDS, QUITE FRANKLY, TO ME LIKE OPEN AND VERY LARGE LEVELS OF
9 WHITE RACIAL PREJUDICE, SAYING THE SAME THING ABOUT NONRACIALLY
10 CONTESTED ELECTIONS, THAT BASICALLY THE SAME PROPORTION OF
11 VOTERS ARE UNWILLING TO VOTE FOR A WHITE DEMOCRAT, I THINK IS
12 -- WE LIVE IN A DIFFERENT WORLD.

13 AND I THINK FOR SOME PEOPLE THAT CHANGE IS -- CERTAINLY
14 FOR SOME JUDGES ON THE SUPREME COURT, THAT'S THE CHANGE THEY
15 WERE LOOKING FOR TO INDICATE THAT THE VOTING RIGHTS ACT WORKED,
16 AND FOR THEM THAT MEANS MAYBE WE SHOULDN'T HAVE A VOTING RIGHTS
17 ACT. FOR ME, IT INDICATES THAT THE VOTING RIGHTS ACT WORKED,
18 AND THAT'S WHY I'VE ALWAYS BEEN A SUPPORTER OF THE VOTING
19 RIGHTS ACT. I BELIEVE IN IT. I BELIEVE IT'S AN AMAZING
20 SUCCESS. AND I THINK TO ARGUE ON THE BASIS OF WHAT ARE REALLY
21 BOTH FRAGMENTARY AND I THINK SOMEWHAT MISGUIDED SURVEYS, TO
22 ARGUE THAT THE U.S. IS MORE RACIALLY POLARIZED THAN IT WAS IN
23 PREVIOUS ERAS DOES A DISSERVICE TO THE VOTING RIGHTS ACT AND TO
24 THE VOTERS, FRANKLY.

25 Q. DR. ALFORD, JUST ONE FINAL QUESTION. SO FROM ALL THE

2:52PM 1 ANALYSIS YOU CONDUCTED IN THIS CASE, DID YOU REACH AN OVERALL
2 CONCLUSION REGARDING WHETHER ELECTIONS IN THE SEVEN AREAS OF
3 THE STATE OF LOUISIANA ARE RACIALLY POLARIZED?

4 A. I DID.

5 Q. AND WHAT IS THAT CONCLUSION?

6 A. THOSE ELECTIONS ARE PARTISAN POLARIZED ELECTIONS, VERY
7 POLARIZED ON A PARTISAN BASIS, BUT THERE IS NOT EVIDENCE THAT
8 THEY ARE POLARIZED IN THE SENSE I MEAN IT, AS A MATTER OF
9 RACIAL POLARIZATION.

10 MR. TUCKER: THANK YOU, YOUR HONOR. I TENDER THE
11 WITNESS.

12 THE COURT: OKAY. GO AHEAD. JUST ONE MOMENT. DR.
13 ALFORD, I APOLOGIZE FOR SCOLDING YOU.

14 THE WITNESS: I'M SORRY?

15 THE COURT: FOR SCOLDING YOU FOR YOUR TARDINESS. I
16 APOLOGIZE.

17 THE WITNESS: I WOULD EXPLAIN THE SITUATION, EXCEPT
18 I'VE ALWAYS LIKED THE ADMONITION OF "DON'T COMPLAIN, DON'T
19 EXPLAIN." SO THERE IS AN EXPLANATION --

20 THE COURT: WELL, AND I'M NOT GOING TO EXPLAIN WHY I
21 SCOLDED YOU. I APOLOGIZE.

22 THE WITNESS: I RESPECT YOU, BUT I ALSO, AS A COLLEGE
23 INSTRUCTOR, WHO IS OFTEN REQUIRED TO ADMONISH STUDENTS ON
24 EXACTLY THE SAME ISSUE, WHERE IT'S DUE, IT'S DUE.

25 THE COURT: ALL RIGHT. GOOD. YOU MAY PROCEED WITH

2:53PM

1 YOUR CROSS.

2 **MR. CAMPBELL-HARRIS:** THANK YOU, YOUR HONOR.

3 **CROSS-EXAMINATION**

4 **BY MR. CAMPBELL-HARRIS:**

5 Q. GOOD AFTERNOON, DR. ALFORD. MY NAME IS DAYTON
6 CAMPBELL-HARRIS, AND I HAVE THE PLEASURE OF CROSSING YOU THIS
7 AFTERNOON.

8 A. GOOD AFTERNOON.

9 Q. YOU'VE NEVER -- OR YOU'VE NOT PUBLISHED ANYTHING ABOUT
10 SECTION 2 OF THE VOTING RIGHTS ACT IN ANY ACADEMIC PUBLICATION,
11 CORRECT?

12 A. I DO NOT DO ACADEMIC WORK IN THIS AREA.

13 Q. AND YOU HAVE NOT PUBLISHED ANY PAPERS ABOUT RACIALLY
14 POLARIZED VOTING EITHER?

15 A. THAT IS RIGHT.

16 Q. AND YOU HAVE NOT PUBLISHED ANY PEER-REVIEWED ARTICLES
17 USING ECOLOGICAL INFERENCE METHODS, CORRECT?

18 A. THAT IS CORRECT.

19 Q. AND ARE YOU OKAY IF I USE EI INSTEAD OF ECOLOGICAL
20 INFERENCE?

21 A. I'M FINE.

22 Q. EXCELLENT. I WANT TO ASK YOU SOME GENERAL QUESTIONS ABOUT
23 RACIALLY POLARIZED VOTING. YOU'VE DESCRIBED RACIALLY POLARIZED
24 VOTING AS A PATTERN IN WHICH DIFFERENT RACIAL GROUPS SPOKE
25 DIFFERENTLY AND AT SIGNIFICANT LEVELS AND REASONABLY

2:54PM

1 COHESIVELY. IS THAT CORRECT?

2 A. YES.

3 Q. AND YOU DESCRIBED THE TERM "RACIALLY POLARIZED VOTING" AS
4 PEJORATIVE TOO, RIGHT?

5 A. I THINK IT CAN BE COMPLETELY NONPEJORATIVE, BUT IT ALSO
6 CAN BE USED AS A PEJORATIVE. YES.

7 Q. OKAY. SO YOU'VE DESCRIBED IT AS PEJORATIVE. RIGHT?

8 A. YES, IT IS DEFINITELY -- I THINK IT IS OFTEN RECEIVED TO
9 MEAN WHAT IT FRANKLY SAYS, AND I THINK THAT IS PEJORATIVE.

10 Q. AND YOU WOULD AGREE THAT VOTING IS POLARIZED BETWEEN BLACK
11 VOTERS AND WHITE VOTERS IN LOUISIANA?

12 A. YES.

13 Q. AND YOUR PREFERRED METRIC FOR VOTER COHESION, IS IT
14 75 PERCENT?

15 A. I DON'T KNOW IF IT'S MY PREFERRED METRIC, BUT BECAUSE THE
16 COURT SEEMS TO BE UNABLE TO COME UP WITH ANY TYPE OF METRIC, I
17 KNOW VARIOUS PLAINTIFFS' EXPERTS, FOR THE FIRST TIME THIS
18 DECADE, ROUND, THREE OR FOUR DIFFERENT EXPERTS WHO I HAVE A LOT
19 OF RESPECT FOR, HAVE STARTED PROPOSING 60 PERCENT AS A
20 THRESHOLD TO GET AWAY FROM -- YOU OFTEN SAW PLAINTIFFS' EXPERTS
21 IN PREVIOUS DECADES SAY BASICALLY COHESIVE VOTING OCCURS
22 WHENEVER THERE IS A PREFERRED CANDIDATE. BUT BECAUSE THERE IS
23 ALWAYS A PREFERRED CANDIDATE BY DEFINITION, IT MEANS THAT
24 *GINGLES* II IS NOT JUST NOT A THRESHOLD TEST, IT'S NOT A TEST AT
25 ALL. IT LITERALLY WOULD BE MET IN EVERY SINGLE ELECTION CASE

2:56PM

1 EVER BROUGHT. IT WOULD BE MET IF ALL IT REQUIRED WAS THAT
2 MINORITIES HAVE A PREFERRED CANDIDATE.

3 IT CLEARLY, BECAUSE IT IS A THRESHOLD TEST, THE COURT
4 CLEARLY MEANT IT TO BE COHESIVE VOTING TO BE SOMETHING MORE
5 THAN JUST 50 PERCENT PLUS ONE, BECAUSE THAT -- PARTICULARLY
6 WHEN YOU DON'T TIE IT TO THE RACE OF THE CANDIDATE, IT
7 LITERALLY MEANS THAT IN EVERY ELECTION, THERE IS A PREFERRED
8 CANDIDATE, AND THEREFORE, IN EVERY ELECTION, THE MINORITY GROUP
9 IS COHESIVE BY DEFINITION, AND THAT'S NOT -- THAT'S A
10 DEFINITION WITHOUT A DIFFERENCE.

11 SO I THINK RECOGNIZING THAT, SOME PLAINTIFFS' EXPERTS HAVE
12 SORT OF MOVED UP TO 60 PERCENT, SUGGESTING THAT MIGHT BE A
13 REASONABLE PLACE. AND ALL I'M POINTING OUT ABOUT 75 PERCENT IS
14 THAT 60 PERCENT IS AN ARBITRARY THRESHOLD. THERE IS NOTHING
15 SPECIAL ABOUT 60 PERCENT.

16 THERE IS SOMETHING SPECIAL ABOUT 75 PERCENT. AT
17 75 PERCENT, YOU ARE HALFWAY BETWEEN ABSOLUTELY NO COHESION AND
18 PERFECT COHESION. SO IF YOU WANT TO SAY WE WILL DEFINE
19 COHESION, FOR LEGAL PURPOSES, AS A GROUP VOTING IN A RANGE
20 CLOSER TO PERFECT COHESION THAN THEY ARE TO NONCOHESION, THEN
21 THAT 75 PERCENT WOULD BE A PLACE YOU MIGHT DRAW THE LINE. BUT
22 AGAIN, I'M ONLY SUGGESTING THAT BECAUSE I THINK THE
23 MISUNDERSTANDING OF THIS, FOR EXAMPLE, THE FACT THAT COURTS
24 OFTEN ACCEPT 50 PERCENT PLUS ONE, WHICH IS SOMETIMES PHRASED AS
25 MINORITIES PREFER A DIFFERENT CANDIDATE THAN NONMINORITIES,

2:57PM

1 THAT MINORITIES PREFER A CANDIDATE -- THERE IS A MINORITY
2 PREFERRED CANDIDATE, BUT THAT'S NOT COHESION. CONFLATING THOSE
3 COMES FROM THIS MISUNDERSTANDING THAT AT 50 PERCENT, YOU ARE
4 NOT HALFWAY TO COHESION. YOU ARE AT ZERO COHESION.

5 SO I THINK THAT IT IS HIGHLIGHTED BY PLACING THAT 75
6 PERCENT THERE. IF THE COURT DECIDES THEY WANT TO GO WITH 60,
7 THEY WILL RECOGNIZE THAT THEY ARE PLACING A RELATIVELY LOW
8 THRESHOLD. AND IF YOU WANT TO GO WITH 80, YOU ARE PLACING A
9 RELATIVELY HIGH THRESHOLD.

10 THERE IS NO POLITICAL SCIENCE DEFINITION. AGAIN, WHEN WE
11 TALK ABOUT LEGISLATIVE COHESION, WE ARE USUALLY TALKING ABOUT
12 SOMETHING MUCH CLOSER TO A HUNDRED PERCENT, 90 PERCENT. WHEN
13 25 PERCENT OF THE REPUBLICAN PARTY DEFECTS ON A PARTY LINE
14 VOTE, WE DON'T CALL THAT A COHESION. THEY DON'T CALL THAT
15 PARTY COHESION. WE CALL THAT THE PARTY COLLAPSE.

16 SO IT IS VERY CONTEXT DEPENDENT. THE COURT HAS TO FIGURE
17 OUT WHAT IT MEANS IN THIS CONTEXT. I WILL SAY 60 PERCENT
18 COHESION IS A VERY LOW STANDARD, NOT JUST BECAUSE IT IS CLOSE
19 TO 50 BUT BECAUSE IF MINORITIES ARE VOTING AT 60 PERCENT
20 COHESION AND WHITES ARE VOTING, SAY, 80 PERCENT, LIKE THEY ARE
21 HERE, 80 PERCENT COHESIVE, THE DISTRICT WILL NEED TO BE OVER
22 75 PERCENT MINORITY BEFORE IT WILL PERFORM. SO THAT LEVEL OF
23 COHESION HAS A DRAMATIC EFFECT ON WHAT THE SOLUTION IS.

24 A MAJORITY BLACK DISTRICT WILL NOT PERFORM IF BLACK
25 COHESION IS AT 60 PERCENT AND WHITE OPPOSITION IS AT

2:59PM 1 80 PERCENT. IT WILL NOT PERFORM WITHOUT EXTRAORDINARILY HIGH
2 LEVELS OF CONCENTRATION. AND THIS IS EXACTLY WHAT YOU SEE IN
3 TEXAS. THERE IS NO HISPANIC DISTRICT IN TEXAS THAT PERFORMS
4 THAT IS LESS THAN 75 PERCENT HISPANIC. AND THE REASON FOR THAT
5 IS BOTH SOME TURNOUT ISSUE BUT ALSO BECAUSE HISPANIC COHESION
6 IS DRAMATICALLY LOWER THAN BLACK COHESION. AND SO WHEN YOU
7 HAVE HISPANICS VOTING AT 60 OR 65 PERCENT DEMOCRATIC AND 35,
8 40 PERCENT REPUBLICAN, IT TAKES EXTRAORDINARY CONCENTRATION TO
9 GET THOSE DISTRICTS TO PERFORM.

10 SO THAT -- THE ISSUE OF WHAT THE REMEDY IS IS TIED BACK,
11 AS IT ALWAYS HAS BEEN, YOU KNOW, AS A FUNCTIONAL MATTER IS TIED
12 BACK TO ALL THREE OF THE *GINGLES* THRESHOLDS.

13 Q. OKAY. BUT THAT 75 PERCENT METRIC THAT YOU PREFER, IT
14 WOULD HAVE TO BE DIFFERENT FOR ELECTIONS WITH MORE THAN TWO
15 CANDIDATES, CORRECT?

16 A. FOR ELECTIONS WITH MORE THAN TWO CANDIDATES, YOU HAVE A
17 MORE COMPLEX ISSUE TO ADDRESS THERE, AND I AM WILLING TO STOP
18 AND SIMPLY -- IF THE COURT WILL FIND A METRIC FOR THE SIMPLE
19 TWO-PARTY ELECTIONS, THEN DR. HANDLEY AND I CAN TELL THEM HOW
20 YOU TRANSFER THAT. THERE ARE A LOT OF DIFFERENT WAYS TO DO IT,
21 BUT I'M GUESSING WE COULD PROBABLY AGREE IN AN AFTERNOON ON HOW
22 TO TURN THAT INTO AN APPROPRIATE METRIC FOR LOUISIANA.

23 Q. AND YOU ARE NOT OFFERING AN OPINION HERE ON THE CAUSE OF
24 BLACK VOTERS' VOTING BEHAVIOR, CORRECT?

25 A. SO I'M NOT DOING THIS -- THIS IS NOT A CAUSAL ANALYSIS. I

3:01PM 1 HAVE BEEN DOING THIS FOR A LONG TIME. I'VE NEVER SEEN A CAUSAL
2 ANALYSIS INTRODUCED BY ANYBODY IN ANY VOTING RIGHTS ACT CASE
3 THAT I'VE EVER SEEN. SO THAT'S VERY IMPORTANT.

4 CAUSAL ANALYSIS IS A VERY, VERY DIFFERENT THING. IT'S NOT
5 SOMETHING YOU GET OUT OF A SURVEY. IT'S SURELY NOT SOMETHING
6 YOU GET OUT OF AN ECOLOGICAL INFERENCE ANALYSIS. WE CAN DRAW
7 INFERENCE INFORMATION ABOUT THE NATURE OF THE POLARIZATION
8 AND THE KINDS OF THINGS THAT ARE ASSOCIATED WITH IT. SO WE DO
9 HAVE, IN THE CONTRAST BETWEEN RACIALLY AND NONRACIALLY
10 CONTESTED ELECTIONS, WE DO HAVE -- WE HAVE VERY CLEAR
11 INFORMATION USING -- JUST SIMPLY USING THE BASIC ANALYSIS THAT
12 HAS BEEN USED BY THE COURTS THROUGH THE HISTORY OF THE VOTING
13 RIGHTS ACT.

14 WE HAVE IN THAT ANALYSIS, AGAIN, THE ANALYSIS DR. HANDLEY
15 IS PROVIDING, THE ANALYSIS I'M PROVIDING, IT IS A VERY
16 TRADITIONAL ANALYSIS, IT'S NOT CAUSAL ANALYSIS, BUT IT DOES LET
17 US SEPARATE OUT HOW IMPORTANT IS THE RACE OF THE CANDIDATE
18 VERSUS HOW IMPORTANT IS THE PARTY OF THE CANDIDATE AND WHICH
19 ONE OF THOSE IS ASSOCIATED WITH THE POLARIZATION THAT WE SEE.
20 SO WE CAN ANSWER THE QUESTION TO THE EXTENT THAT WE RELY ON THE
21 SAME KIND OF DATA WE HAVE ALWAYS RELIED ON HERE. WE CAN ANSWER
22 THAT QUESTION AND ANSWER IT QUITE CLEARLY.

23 Q. SO, SIMILARLY, YOU ARE NOT OFFERING AN OPINION AS TO THE
24 CAUSE OF WHITE LOUISIANANS' VOTING BEHAVIOR EITHER?

25 A. BEYOND THE FACT THAT THE ANALYSIS PROVIDED BY MYSELF AND

3:02PM 1 DR. HANDLEY, WHICH IS THE -- AS I UNDERSTAND IT IN THIS CASE,
2 IS THE ONLY ANALYSIS THAT IS DIRECTED LOCALLY TO THE ELECTION
3 AREAS OF INTEREST AND TO THE BEHAVIOR INTEREST. THAT ELECTION
4 ANALYSIS CLEARLY SHOWS THAT WHITE VOTERS IN LOUISIANA VOTE
5 OVERWHELMINGLY FOR REPUBLICANS.

6 Q. OKAY. I WANT TO ASK YOU SOME QUESTIONS ABOUT DR.
7 HANDLEY'S REPORT THAT YOU TESTIFIED TO ON DIRECT. I WANT TO
8 CIRCLE BACK, ACTUALLY, TO ASK AGAIN ABOUT YOUR 75 PERCENT
9 THRESHOLD THAT YOU PREFER. YOU AGREE THAT FOR A VOTING GROUP
10 TO HAVE COHESION IN AN ELECTION WITH MORE THAN TWO CANDIDATES,
11 IT HAS TO BE 75 PERCENT?

12 A. SO --

13 **MR. TUCKER:** I OBJECT TO THE QUESTION, YOUR HONOR. I
14 DON'T THINK THE WITNESS EVER TESTIFIED THAT 75 PERCENT WAS HIS
15 PREFERRED LEVEL OF COHESION.

16 **THE COURT:** DO YOU WANT TO RESPOND TO THE OBJECTION?

17 **MR. CAMPBELL-HARRIS:** I THINK HE MENTIONED THAT IT
18 WAS HIS PREFERRED METHOD AND THAT 60 PERCENT WAS THE PREFERRED
19 FOR OTHER POLITICAL SCIENTISTS, AND THEN THERE WAS OTHER
20 METRICS PREFERRED BY OTHER POLITICAL SCIENTISTS.

21 **THE COURT:** WHAT HE SAID WAS THAT IT'S A CONTINUUM
22 AND THAT COURTS TEND TO TRY TO MAKE IT A DICHOTOMY FOR LEGAL
23 REASONS. I WILL ALLOW THE QUESTION, BUT HE DIDN'T SAY THAT
24 THAT'S WHAT HE PREFERRED.

25 **MR. CAMPBELL-HARRIS:** OKAY. THANK YOU, YOUR HONOR.

3:04PM

1 **THE COURT:** BUT YOU CAN ASK THE QUESTION. DO YOU
2 WANT TO ASK IT AGAIN?

3 **MR. CAMPBELL-HARRIS:** I CAN REPHRASE THE QUESTION,
4 YOUR HONOR.

5 **THE COURT:** ALL RIGHT. ASK IT AGAIN.

6 **BY MR. CAMPBELL-HARRIS:**

7 Q. SO YOU AGREE THAT FOR COHESION TO EXIST FOR BLACK VOTERS
8 OR WHITE VOTERS IN AN ELECTION, THEY HAVE TO OFFER MORE THAN
9 75-PERCENT SUPPORT FOR A CANDIDATE IN A TWO-CANDIDATE RACE?

10 A. IF THE THRESHOLD IS 75 PERCENT, THEN THEY WOULD HAVE TO BE
11 AT 75 PERCENT OR HIGHER FOR THEM TO HAVE MET THE THRESHOLD,
12 YES.

13 Q. OKAY. THANK YOU. SO IN YOUR REPORT, YOU DID NOT EXPRESS
14 ANY CONCERNS ABOUT THE DATA THAT DR. HANDLEY RELIED ON TO REACH
15 YOUR CONCLUSIONS IN THIS CASE, CORRECT?

16 A. I DID NOT EXPRESS ANY CONCERNS IN MY REPORT. THAT IS
17 CORRECT.

18 Q. AND ONE OF THE STATISTICAL TECHNIQUES THAT DR. HANDLEY
19 USED WAS EI R TIMES C, RIGHT?

20 A. EI RXC, THAT IS CORRECT.

21 Q. OKAY. AND YOU AGREE THAT DR. HANDLEY IS AN EXPERT IN THE
22 APPLICATION OF EI R TIMES C?

23 A. I JUST WANT TO MAKE SURE -- SO I'M NOT TRYING TO BE A
24 COLLEGE PROFESSOR HERE, BUT I AM. THE X LOOKS LIKE R TIMES C,
25 BUT IT IS ACTUALLY R BY C, MEANING -- IT LITERALLY MEANS ROW BY

3:05PM 1 COLUMN. SO IT'S NOT ROW TIMES COLUMN, WHICH WOULD BE MATRIX
2 ALGEBRA. IT IS ROW BY COLUMN, WHICH IS DESCRIBING THAT NATURE
3 OF THE SPREADSHEET, BASICALLY. SO IT'S -- TECHNICALLY, IT IS R
4 BY C, BUT ALWAYS WRITTEN AS CAPITAL R, SMALL X, CAPITAL C.

5 Q. OKAY. SO YOU AGREE THAT DR. HANDLEY IS AN EXPERT IN THE
6 APPLICATION OF EI RXC?

7 A. I AGREE.

8 Q. OKAY. AND YOUR REPORT DOES NOT CRITICIZE ANY OF THE
9 STATISTICAL METHODS THAT DR. HANDLEY USED, CORRECT?

10 A. THAT IS CORRECT.

11 Q. OKAY. AND YOU DO NOT DISPUTE ANY OF THE RESULTS THAT DR.
12 HANDLEY REACHED OR PRODUCED BY HER STATISTICAL METHODS, RIGHT?

13 A. AGAIN, I'M BOTH RELYING ON HER DATA. I CAN REPLICATE HER
14 METHODOLOGY, AND I THINK SHE PROVIDES EXACTLY THE KIND OF
15 EVIDENCE THAT A COURT NEEDS TO MAKE THIS DECISION. I'M JUST
16 SAYING THAT BY BROADENING THE SLATE OF ELECTIONS, USING THE
17 SAME METHODS, THE SAME DATA SOURCES, THERE ARE DIFFERENT WAYS
18 TO INTERPRET THE RESULTS SHE BROUGHT, BUT I'M NOT QUESTIONING
19 THE RESULTS THEMSELVES.

20 Q. OKAY. AND YOU REPLICATED THE SELECTIVE RESULTS OF DR.
21 HANDLEY'S ANALYSIS IN YOUR REPORT, CORRECT?

22 A. I DID.

23 Q. OKAY.

24 A. I'M SORRY. I JUST WANT TO -- I'M TRYING TO BE REALLY
25 DIRECT, BUT I WANT TO MAKE SURE THAT I'M NOT MISINFORMING YOU.

3:06PM 1 I'M NOT SAYING THAT THAT WAS THE WAY I WOULD HAVE NECESSARILY
2 DONE THIS IF I WAS COMING AT IT ENTIRELY FRESH, BUT MY CONCERN
3 IS THAT I'M NOT TRYING TO -- I BELIEVE THAT HER RESULTS ARE
4 ACCURATE, AND SO I'M TRYING NOT TO HAVE A METHODOLOGICAL
5 DISPUTE. IT DOESN'T MEAN THAT EVERYTHING SHE CHOSE TO DO I
6 WOULD THINK WAS THE BEST POSSIBLE PRACTICES, BEYOND THE USE OF
7 RXC, WHICH SHE USES AND USES COMPETENTLY, IN MY EXPERIENCE.

8 WE BEEN INVOLVED IN A LOT OF CASES TOGETHER. SHE HAS
9 ALWAYS DONE GOOD ANALYSIS. I HAVE ALWAYS BEEN ABLE TO
10 REPLICATE IT. IT DOESN'T MEAN THAT I WOULD HAVE MADE ALL THE
11 SAME CHOICES DOING IT MYSELF, BUT I DON'T THINK -- I DON'T
12 BELIEVE THAT THOSE CHOICES ARE WHAT MATTERS IN THIS CASE, AND I
13 THINK THAT'S DEMONSTRATED BY THE FACT THAT OUR ANALYSIS IS
14 COMPATIBLE.

15 Q. AND IN YOUR OPINION, YOU WOULD AGREE THAT ALL THINGS BEING
16 EQUAL, BI-RACIAL ELECTIONS ARE MOST PROBATIVE FOR DETERMINING
17 RACIAL POLARIZATION OF VOTING, CORRECT?

18 A. COURTS HAVE MENTIONED THAT, OFTEN MENTION THAT. I DO
19 THINK IT IS IMPORTANT TO SORT OF LOOK BACK AND UNDERSTAND WHAT
20 THAT CONTEXT IS. THE CONTEXT OF THAT IS THAT WHERE YOU HAVE
21 RACIALLY POLARIZED -- I'M SORRY, WHERE YOU HAVE RACIALLY
22 CONTESTED ELECTIONS, YOU CAN LOOK AT THOSE ELECTIONS AND YOU
23 CAN LOOK AT THE NONRACIALLY CONTESTED ELECTIONS AND YOU CAN
24 ANSWER AN IMPORTANT QUESTION, WHICH IS, IS IT THE CASE THAT
25 BASICALLY BLACK VOTERS CAN HAVE ANY CANDIDATE THEY WANT, AS

3:08PM

1 LONG AS IT IS A WHITE DEMOCRAT, BASICALLY. THAT IS,
2 HISTORICALLY -- IT WAS THE CASE THAT IN FACT THE PREFERRED
3 CANDIDATE OF BLACK VOTERS IN LOUISIANA AND IN GEORGIA AND IN
4 ALABAMA WERE ELECTED ALMOST UNIFORMLY IN THE ELECTIONS BECAUSE
5 THEIR PREFERRED CANDIDATE -- THEIR PARTY WAS THE DEMOCRATIC
6 PARTY.

7 ONCE THAT MUCH EARLIER TRANSITION OF BLACKS OUT OF THE
8 REPUBLICAN PARTY OCCURRED, YOU KNOW, PEOPLE THAT WERE -- WHITES
9 THAT WERE ELECTED IN THE GENERAL ELECTION WERE THE PREFERRED
10 CANDIDATE OF BLACK VOTERS, BUT THEY WERE NOT BLACK CANDIDATES.
11 AND IN FACT, BLACK CANDIDATES WOULD NOT HAVE MADE IT TO THAT
12 ELECTION SETTING.

13 SO I DO THINK IT IS IMPORTANT TO UNDERSTAND WHAT HAPPENS
14 WHEN YOU HAVE BLACK CANDIDATES. BUT IF YOU THINK ABOUT IT, THE
15 POINT OF THAT IS, THE POINT OF SAYING IT IS ESPECIALLY
16 PROBATIVE IS BECAUSE THE COURT IS ESPECIALLY INTERESTED IN THE
17 DIFFERENCE BETWEEN WHAT HAPPENS WHEN A BLACK CANDIDATE RUNS AND
18 WHAT HAPPENS WHEN A WHITE CANDIDATE RUNS. WHAT HAPPENS WHEN
19 THE PREFERRED CANDIDATE OF BLACK VOTERS IS A BLACK? IS THAT
20 DIFFERENT THAN IF THE PREFERRED CANDIDATE OF BLACK VOTERS IS A
21 WHITE? THAT'S WHY IT IS PROBATIVE. IT IS PROBATIVE FOR THAT
22 ISSUE. THAT'S THE ISSUE I'M USING IT FOR. I AGREE THAT IT'S
23 PROBATIVE, AND THAT'S WHY I'M PRESENTING EVIDENCE ABOUT IT.

24 Q. OKAY. SO YOU AGREE THAT YOU'VE PREVIOUSLY TESTIFIED THAT
25 BI-RACIAL ELECTIONS, ALL THINGS BEING EQUAL, ARE MOST PROBATIVE

3:09PM

1 OF DETERMINING RACIAL POLARIZATION OF VOTING, RIGHT?

2 A. YES.

3 Q. OKAY. THANK YOU. I WANT TO TALK ABOUT YOUR REPORT A
4 LITTLE BIT. DO YOU STILL HAVE YOUR REPORT IN FRONT OF YOU?

5 A. YES.

6 Q. CAN YOU TURN TO PAGE 7 AT TABLE 2? DO YOU SEE THE TITLE
7 OF THE REPORT, OR THE TITLED TABLE CALLED "PRESIDENTIAL
8 ELECTION RESULTS, AVERAGES OF EI RXC ESTIMATES ACROSS HANDLEY'S
9 SEVEN AREAS OF INTEREST"?

10 A. YES.

11 Q. DID I READ THAT CORRECTLY?

12 A. YES.

13 Q. OKAY. AND BELOW THIS REPORT, YOU SAID, "IF THE RACE OF
14 THE CANDIDATES IS THE FOCUS FOR BLACK VOTERS, THEN WE WOULD
15 EXPECT A CLEAR ORDERING OF BLACK VOTER SUPPORT HIGHEST FOR THE
16 2012 OBAMA/BIDEN TICKET, LOWEST FOR THE 2016 CLINTON/KAINE
17 TICKET, AND SOMEWHERE IN BETWEEN FOR THE 2020 BIDEN/HARRIS
18 TICKET." DID I READ THAT RIGHT?

19 A. YES.

20 Q. JUST FOR THE RECORD, THIS IS LEGISLATIVE DEFENDANT'S
21 EXHIBIT 53. SO GOING BACK TO TABLE 2, THE GENERAL INFERENCE --
22 SORRY, THE GENERAL DIFFERENCES BETWEEN THE LEVEL OF BLACK
23 SUPPORT FOR BIDEN/HARRIS YOU HAVE ESTIMATED HERE AT 96.3,
24 CLINTON/KAINE AT 98.7, AND OBAMA/BIDEN AT 98.5; IS THAT ALL
25 RIGHT?

3:10PM

1 A. THAT IS CORRECT.

2 Q. COULD THESE VARIANCES IN ANY OF THESE NUMBERS BE
3 ATTRIBUTABLE TO SOME OF THE INHERENT VARIATION ASSOCIATED WITH
4 THE EI ESTIMATION?

5 A. YES.

6 Q. OKAY. LET'S TURN TO TABLE 3 ON PAGE 9. DO YOU SEE THAT
7 ON THIS TABLE THERE ARE SEVEN BI-RACIAL ELECTIONS WITH TWO
8 CANDIDATES? I THINK WE MIGHT NEED TO SPLIT IT INTO THE TWO
9 PAGES.

10 A. THAT'S -- I THINK THAT'S THE SAME COUNT I GET.

11 Q. OKAY. AND WOULD YOU AGREE THAT THE BLACK VOTERS ARE
12 COHESIVELY SUPPORTING THE BLACK CANDIDATES IN EACH OF THOSE
13 BI-RACIAL TWO-CANDIDATE RACES?

14 A. AGAIN, BECAUSE THAT BLACK CANDIDATE ALSO HAPPENS TO BE THE
15 DEMOCRATIC CANDIDATE, YES, THEY ARE SUPPORTING THE BLACK
16 DEMOCRAT IN ALL OF THOSE ELECTIONS, OVERWHELMINGLY.

17 Q. OKAY. AND THE WHITE VOTERS IN THOSE ELECTIONS ARE ALSO
18 COHESIVELY SUPPORTING THE WHITE CANDIDATE IN EACH OF THOSE
19 RACES, RIGHT?

20 A. AGAIN, THEY ARE OVERWHELMINGLY SUPPORTING THE WHITE
21 REPUBLICAN IN THOSE CONTESTS.

22 Q. OKAY. AND BASED ON YOUR DATA IN THOSE ELECTIONS, THESE
23 RACES ARE RACIALLY POLARIZED, CORRECT?

24 A. I VIEW THEM, AGAIN, AS PARTISAN POLARIZED BECAUSE I THINK,
25 AGAIN, PRECISELY BECAUSE OF THE WAY YOU'VE ASKED THAT QUESTION,

3:12PM

1 AREN'T THE BLACK VOTERS SUPPORTING OVERWHELMINGLY THE BLACK
2 CANDIDATE? THEY ARE BECAUSE YOU SELECTED ONLY RACES IN WHICH
3 THE DEMOCRATIC CANDIDATE WAS THE BLACK CANDIDATE.

4 SO AGAIN, IF YOU WANT TO USE THAT TO SAY THIS IS RACIAL
5 POLARIZATION -- THAT'S WHY I THINK YOU NEED TO BE CAREFUL.
6 THIS IS PARTISAN POLARIZATION. THE TABLE DOESN'T DEMONSTRATE
7 THAT THIS IS WHAT I'VE CONSIDERED TO BE SOMETHING THAT SHOULD
8 BE LABELED AS RACIAL POLARIZATION.

9 Q. OKAY. LET'S LOOK AT SOME OF THESE INDIVIDUAL RACES THEN.
10 LET'S START WITH THE OCTOBER 2015, SECRETARY OF STATE RACE.
11 YOUR ESTIMATES SHOW THAT 93.3 PERCENT OF BLACK VOTERS OFFERED
12 SUPPORT FOR THE BLACK CANDIDATE IN THAT ELECTION, CORRECT?

13 A. CORRECT.

14 Q. OKAY. AND YOUR ESTIMATES ALSO SHOW THAT WHITE VOTERS
15 OFFERED 85.7 PERCENT SUPPORT FOR THE WHITE CANDIDATE THERE,
16 CORRECT?

17 A. CORRECT.

18 Q. OKAY. AND IN YOUR OPINION, THIS RACE IS NOT RACIALLY
19 POLARIZED?

20 A. AGAIN, IF BY RACIALLY POLARIZED YOU MEAN THAT TWO RACIAL
21 GROUPS ARE VOTING IN A DIFFERENT WAY, THEN THAT IS PERFECTLY
22 FINE. BUT AGAIN, YOU ARE PREFACING -- YOU ARE MAKING THE
23 NATURE OF THE QUESTION -- YOU ARE MAKING THE NATURE OF THE
24 QUESTION ABOUT THE RACE OF THE CANDIDATES. YOU ARE NOT ASKING
25 ME ABOUT WHETHER THE BLACK VOTERS PREFERRED THE DEMOCRAT AND

3:13PM 1 WHITE VOTERS PREFERRED THE REPUBLICAN, WHICH IS WHAT THE
2 OVERALL ANALYSIS SHOWS. YOU ARE SPECIFICALLY SAYING, DON'T
3 BLACK VOTERS PREFER THE BLACK CANDIDATE, DON'T WHITE VOTERS
4 PREFER THE WHITE CANDIDATE? THAT IS EXACTLY WHAT I'M OBJECTING
5 TO, THAT WE HAVE A BROADER ANALYSIS HERE OF THESE ELECTIONS,
6 AND WE KNOW THAT THAT PARTICULAR PHRASING IS ACTUALLY -- IS
7 SORT OF TAKING INFORMATION OUT OF WHAT IS ACTUALLY HERE IN THIS
8 ANALYSIS. WHAT WE KNOW IS THAT BLACK VOTERS OVERWHELMINGLY
9 PREFER DEMOCRATIC CANDIDATES, WHETHER THEY ARE BLACK OR WHITE.

10 AND SO IF YOU ARE GOING TO PHRASE IT THAT WAY, IT'S LIKE
11 THAT IS TRUE. IN THIS PARTICULAR ELECTION, BLACK VOTERS ALSO
12 OVERWHELMINGLY PREFERRED CANDIDATES WHOSE FIRST NAME IS CHRIS,
13 BUT THAT'S REALLY NOT OF ANY USE TO US HERE.

14 Q. OKAY. YOU PREVIOUSLY TESTIFIED A LITTLE BIT EARLIER THAT
15 YOU DESCRIBE RACIALLY POLARIZED VOTING AS A PATTERN IN WHICH
16 DIFFERENT RACIAL GROUPS VOTE DIFFERENTLY AND AT SIGNIFICANT
17 LEVELS AND REASONABLY COHESIVELY, RIGHT?

18 A. YES, THAT IS WHAT IS TRADITIONALLY LABELED AS RACIALLY
19 POLARIZED VOTING. AND AGAIN, IF, AS DR. BURCH SAYS, ALL THAT
20 IS REQUIRED IS THAT THE TWO GROUPS VOTE DIFFERENTLY,
21 IRRESPECTIVE OF WHAT THE REASONS ARE FOR THEM VOTING
22 DIFFERENTLY, BRENNAN'S BASIC MINORITY OPINION HOPE, THEN THAT
23 MEETS THAT TEST. I JUST DON'T -- I DON'T PERSONALLY -- I DON'T
24 LIKE TO CALL SOMETHING RACIALLY POLARIZED VOTING IF I KNOW THAT
25 THE EVIDENCE CLEARLY SHOWS THAT IT'S PARTISAN POLARIZED VOTING,

3:14PM 1 BECAUSE PARTISAN POLARIZED VOTING, AS NASTY AS IT CAN BE, IS A
2 LONG WAY FROM WHERE WE WERE 40 YEARS AGO, WHEN OUR VOTING WAS
3 LITERALLY RACIALLY POLARIZED.

4 Q. OKAY. YOU PREFER NOT TO CALL IT RACIALLY POLARIZED
5 VOTING, BUT YOU AGREE THAT THIS 2015 OCTOBER ELECTION IS
6 RACIALLY POLARIZED, CORRECT?

7 **MR. TUCKER:** OBJECTION, YOUR HONOR. ASKED AND
8 ANSWERED.

9 **MR. CAMPBELL-HARRIS:** I DON'T BELIEVE THE WITNESS
10 ANSWERED THE QUESTION, YOUR HONOR.

11 **THE COURT:** OVERRULED.

12 A. AGAIN, RACIAL GROUPS ARE VOTING DIFFERENTLY. IF THAT'S
13 WHAT YOU WANT TO CALL RACIALLY POLARIZED VOTING, THEN IT'S
14 RACIALLY POLARIZED VOTING. IT IS -- THAT, I THINK, IS AN
15 INAPPROPRIATE DESCRIPTOR BECAUSE IT WOULD LEAD ANY REASONABLE
16 PERSON TO THINK SOMETHING WAS TRUE THAT THIS DOESN'T
17 DEMONSTRATE. THIS ELECTION IS POLARIZED ON THE BASIS OF
18 PARTISAN -- THE PARTISAN LABELS OF THE CANDIDATES.

19 **BY MR. CAMPBELL-HARRIS:**

20 Q. OKAY. LET'S TURN TO TABLE 4 ON PAGE 13. THERE'S A TABLE
21 THERE TITLED "PARTY CONTESTED STATEWIDE ELECTIONS NOT INCLUDED
22 IN THE HANDLEY REPORT, AVERAGES ACROSS HANDLEY'S SEVEN AREAS OF
23 INTEREST." DID I READ THAT CORRECTLY?

24 A. CORRECT.

25 Q. LET'S LOOK AT THE NOVEMBER 2015 GUBERNATORIAL ELECTION.

3:16PM

1 DO YOU SEE THAT?

2 A. YES.

3 Q. WHAT PERCENT OF WHITE VOTERS SUPPORTED JOHN BEL EDWARDS IN
4 THE 2015 NOVEMBER GUBERNATORIAL ELECTION?

5 A. 36.3 PERCENT.

6 Q. OKAY. AND DO YOU SEE THE NOVEMBER 2019 GUBERNATORIAL
7 ELECTION?

8 A. I DO.

9 Q. AND YOU ESTIMATED THAT 28.5 PERCENT OF WHITE VOTERS VOTED
10 FOR JOHN BEL EDWARDS IN THAT ELECTION. CORRECT?

11 A. THAT IS CORRECT.

12 Q. OKAY. CAN YOU IDENTIFY ANY OTHER LOUISIANA ELECTIONS
13 WHERE A BLACK CANDIDATE EARNED THE SAME LEVEL OF SUPPORT AS
14 JOHN BEL EDWARDS FOR WHITE CROSSOVER VOTERS?

15 A. NO.

16 Q. OKAY. AND WITH THE EXCEPTION OF JOHN BEL EDWARDS'
17 GUBERNATORIAL RACES, WHITE CROSSOVER VOTING IS RELATIVELY LOW
18 IN LOUISIANA; IS THAT CORRECT?

19 A. WITH THE EXCEPTION OF JOHN BEL EDWARDS, THAT IS TRUE FOR
20 THE -- SO FOR THE OTHER SITUATIONS IN WHICH THERE IS A WHITE
21 DEMOCRATIC CANDIDATE, AGAIN, JOHN BEL EDWARDS STANDS OUT AMONG
22 THE OTHER WHITE DEMOCRATIC CANDIDATES BECAUSE OF THAT STRONG
23 LEVEL OF CROSSOVER SUPPORT THAT HE WAS ABLE TO OBTAIN. I WOULD
24 ALSO NOTE THAT -- SORRY. I WON'T NOTE IT.

25 Q. OKAY. I ONLY HAVE A FEW MORE QUESTIONS, DR. ALFORD. YOU

3:17PM

1 TESTIFIED IN OTHER CASES THAT PARTY AFFILIATION RATHER THAN
2 RACE IS DRIVING POLARIZATION, RIGHT?

3 A. THE PARTY LABEL OF CANDIDATES IS DRIVING POLARIZATION.
4 AND I WOULD ASSUME IN A CURRENT POLARIZED ATMOSPHERE THAT
5 PROBABLY IS RELATED TO THE PARTY IDENTIFICATION OF CANDIDATES,
6 BUT WE DON'T HAVE PARTY IDENTIFICATION OF CANDIDATES HERE.

7 SO IN TERMS OF WHAT IS IN EVIDENCE HERE, WHAT IS IN
8 EVIDENCE HERE IS INFORMATION ABOUT THE PARTY AFFILIATION OF THE
9 CANDIDATES, WHICH IS ON THE BALLOT, AND THE RACIAL LABELS OR
10 RACIAL ORIENTATION OF CANDIDATES, WHICH IS ALSO PUBLICLY
11 AVAILABLE INFORMATION. SO WE HAVE BOTH OF THOSE PIECES OF
12 INFORMATION IN THIS ANALYSIS. WE KNOW THE RACE OF THE
13 CANDIDATES. WE KNOW THE PARTY AFFILIATION OF THE CANDIDATES.
14 WE KNOW WE ARE ANALYZING RACIAL VOTING BY LOOKING AT THE RACE
15 OF VOTERS, BUT WE ARE NOT ANALYZING PARTY IDENTIFICATION.

16 Q. SO YES, YOU'VE TESTIFIED IN OTHER CASES THAT PARTY
17 AFFILIATION RATHER THAN RACE IS DRIVING POLARIZATION?

18 A. I THINK ONE OF THE CONCLUSIONS YOU COULD DRAW FROM THIS IS
19 THAT IT'S PARTY -- BECAUSE THE PARTY AFFILIATION OF THE
20 CANDIDATES IS WHAT IS DRIVING -- IS WHAT IS IN EVIDENCE HERE
21 FROM THIS POLARIZATION. IT IS CONSISTENT THAT THE PARTY
22 AFFILIATION OF THE CANDIDATES PRODUCES POLARIZED VOTING,
23 WHEREAS THE RACIAL IDENTIFICATION OF THE CANDIDATES DOESN'T.
24 YOU MIGHT INFER FROM THAT, GIVEN THE IMPORTANCE OF -- I'VE
25 SPENT MOST OF MY CAREER STUDYING PARTY IDENTIFICATION. GIVEN

3:19PM 1 THE UNIQUE IMPORTANCE OF PARTY IDENTIFICATION IN THE U.S. AND
2 THE UNIQUE NATURE OF PARTY IDENTIFICATION IN THE U.S., I THINK
3 IT IS A VERY REASONABLE INFERENCE THAT THAT'S PROBABLY RELATED
4 TO PARTY IDENTIFICATION OF VOTERS.

5 I SUSPECT VOTERS WHO CONSIDER THEMSELVES DEMOCRATS, WE
6 HAVE ANY NUMBER OF STUDIES THAT SHOW THAT THEY ACTUALLY DO VOTE
7 OVERWHELMINGLY FOR DEMOCRATS AND REPUBLICANS FOR REPUBLICANS,
8 BUT WE DON'T HAVE THAT EVIDENCE HERE. SO I DON'T THINK WE NEED
9 TO -- I DON'T SEE HOW THAT IS SOMETHING WE HAVE TO REACH
10 BECAUSE THAT'S NOT THE EVIDENCE WE HAVE HERE.

11 Q. OKAY.

12 A. SO AGAIN, I'M NOT TALKING ABOUT A CAUSAL -- IN ANY SENSE A
13 CAUSAL ANALYSIS. I'M JUST TALKING ABOUT WHAT EVIDENCE HAVE THE
14 PLAINTIFFS PRODUCED IN THIS CASE ABOUT ELECTIONS IN THE WAY
15 THAT ELECTION ANALYSIS IS ALWAYS CONDUCTED IN THIS CASE AND
16 WHAT CAN WE DRAW FROM THAT. WE CAN DRAW A CONCLUSION ABOUT HOW
17 TWO DIFFERENT GROUPS VOTE AS GROUPS. WE CAN ALSO DRAW A
18 CONCLUSION ABOUT WHETHER THAT DIFFERENTIAL BEHAVIOR BY GROUPS
19 IS RESPONDING TO THE CUE OF THE PARTY OF THE CANDIDATES OR IS
20 RESPONDING TO THE CUE OF THE RACE OF THE CANDIDATES. THOSE ARE
21 THE TWO CONCLUSIONS WE CAN DRAW.

22 Q. OKAY. SO THE STATISTICAL ANALYSIS AND THE DATA ARE NOT
23 DISPUTED, IT SOUNDS LIKE, BUT THE OPINIONS OF THAT ANALYSIS AND
24 THAT DATA, THAT IS WHAT IS IN DISPUTE, CORRECT?

25 A. IN SOME BROADER SENSE, I SUPPOSE IT IS. I ACTUALLY -- I

3:20PM

1 MEAN, I COULD BE WRONG, BUT I DON'T THINK DR. HANDLEY AND I
2 DISAGREE ABOUT WHAT THE ANALYSIS SHOWS. AGAIN, AS DR. BURCH
3 SAYS, THE ONLY THING THAT MATTERS IS WHETHER THE TWO GROUPS ARE
4 VOTING DIFFERENTLY. IF YOU BELIEVE THAT, THEN YOU BELIEVE THAT
5 AND YOU CAN CALL IT WHAT YOU LIKE.

6 THE DATA IS THE DATA IS THE DATA. MY ANALYSIS AND DR.
7 HANDLEY'S ANALYSIS ARE NOT COMING FROM TWO DIFFERENT UNIVERSES
8 OR -- THEY ARE SHOWING -- IF SHE HAD ANALYZED THE RACIALLY
9 NONCONTESTED ELECTIONS THAT I DID, SHE WOULD HAVE GOTTEN THE
10 SAME RESULT BECAUSE I'M USING THE SAME DATA AND THE SAME
11 TECHNIQUE. SO WE ARE NOT DISAGREEING ABOUT WHAT THE PATTERN OF
12 VOTING IS IN LOUISIANA. WE ARE DISAGREEING MAYBE ABOUT ITS
13 LEGAL SIGNIFICANCE OR MAYBE ABOUT WHAT YOU CALL IT, BUT I THINK
14 WE BOTH RECOGNIZE THAT THIS IS -- THIS IS CONSISTENT PARTY
15 POLARIZATION. AND THEN WHAT YOU MAKE OF THAT IS EITHER A LEGAL
16 ISSUE OR A MUCH DIFFERENT RESEARCH QUESTION THAN ANYBODY IS
17 ANALYZING OR BRINGING TO THE COURT IN THIS OR ANY OTHER CASE
18 I'VE BEEN INVOLVED IN.

19 Q. OKAY. YOU TESTIFIED IN *NAACP V. EAST RAMAPO CENTRAL*
20 *SCHOOL DISTRICT*, CORRECT?

21 A. I DID.

22 Q. AND THE COURT THERE CONCLUDED THAT YOUR TESTIMONY, WHILE
23 SINCERE, DID NOT REFLECT CURRENT ESTABLISHED SCHOLARSHIP AND
24 METHODS OF ANALYSIS OF RACIALLY POLARIZED VOTING AND VOTING
25 ESTIMATES?

3:22PM

1 A. I RECALL THAT JUDGE SEIBEL SAID EXACTLY THAT.

2 Q. AND THE COURT, IN *PATINO V. THE CITY OF PASADENA* IN THE
3 SOUTHERN DISTRICT OF TEXAS, ALSO DISAGREED WITH YOUR OPINIONS
4 ON RACIAL BLOCK VOTING, CORRECT?

5 A. YOU WILL HAVE TO REMIND ME. THERE ARE A LOT OF CASES IN
6 TEXAS THAT SEEM TO GO ON CONTINUOUSLY ACROSS DECADE AFTER
7 DECADE. I HONESTLY DON'T KNOW WHAT CASE YOU ARE TALKING ABOUT.

8 Q. IF YOU DON'T RECALL, THAT IS OKAY. YOU CAN SAY YOU DON'T
9 RECALL.

10 A. I DON'T RECALL.

11 Q. OKAY. AND IN *TEXAS V. UNITED STATES* IN THE DC DISTRICT
12 COURT, THE COURT FOUND THAT YOUR APPROACH LIES OUTSIDE OF
13 ACCEPTED ACADEMIC NORMS AMONG REDISTRICTING EXPERTS AND INSTEAD
14 RELIED HEAVILY ON DR. HANDLEY'S ANALYSIS. DO YOU RECALL THAT?

15 A. I DEFINITELY RECALL THAT.

16 Q. AND IN *MONTES V. CITY OF YAKIMA* IN THE EASTERN DISTRICT OF
17 WASHINGTON, THE COURT THERE ALSO DECLINED TO ACCEPT YOUR
18 ANALYSIS ON THE SECOND AND THIRD *GINGLES* PRECONDITIONS,
19 CORRECT?

20 A. I DON'T THINK THAT IS CORRECT.

21 Q. YOU DON'T THINK THAT IS CORRECT?

22 A. I DON'T.

23 Q. OKAY. AND THEN IN 2009, IN THE NORTHERN DISTRICT OF
24 TEXAS, IN *BENAVIDEZ V. CITY OF IRVING*, THE COURT REJECTED YOUR
25 CONCLUSIONS AND ANALYSIS IN THE SECOND *GINGLES* PRECONDITIONS?

3:23PM 1 A. THAT'S -- THAT'S A LONG TIME AGO. I DON'T -- I'M PRETTY
2 SURE THAT THE PLAINTIFFS WON THAT CASE, SINCE I'M PRETTY SURE
3 THAT THE COURT WOULD HAVE HAD TO REJECT MY VIEW ABOUT WHAT
4 CONSTITUTED COHESION. OTHERWISE, THEY COULDN'T HAVE MADE IT
5 PAST THE SECOND *GINGLES* THRESHOLD. SO, YOU KNOW, PERSONALLY, I
6 VIEW THAT AS A SUCCESS. IF I'M MAKING MY POINT CLEARLY AND THE
7 COURT HAS TO CLEARLY REJECT MY POINT IN ORDER TO GET TO WHERE
8 THEY THINK THEY NEED TO BE, THEN I'VE DONE MY JOB. I'VE MADE
9 THEM DECIDE WHAT IS COHESION OR WHAT ISN'T COHESION IN A
10 PARTICULAR SETTING.

11 SO VERY OFTEN JUDGES DON'T AGREE -- JUDGES COME TO A
12 CONCLUSION THAT IS DIFFERENT THAN WHAT I WOULD COME TO.
13 CERTAINLY MORE AND MORE, AS I'M TESTIFYING ABOUT THE ROLE OF
14 PARTY VERSUS THE ROLE OF RACE, AS AGAIN, I SAID, THAT IS NOT A
15 SETTLED -- IN MY VIEW, NOT A SETTLED LEGAL ISSUE. SO JUDGES
16 OFTEN DON'T COME TO THE SAME CONCLUSION. THEY OFTEN DON'T
17 CREDIT MY TESTIMONY ABOUT PARTISANSHIP AS BEING OF ANY UTILITY.
18 THEY JUST SIMPLY, AS BURCH WOULD HAVE IT, SIMPLY SAY THAT
19 DOESN'T MATTER, AND I ACCEPT -- I AM PERFECTLY WILLING TO
20 ACCEPT THAT.

21 THE ONE THING I WOULD TAKE EXCEPTION TO, THOUGH, JUDGE
22 SEIBEL -- I ONE HUNDRED PERCENT AGREE THAT THE PLAINTIFFS
23 SHOULD HAVE WON THAT CASE, BUT ON THE BASIS OTHER THAN THE
24 METHODOLOGICAL -- IN THE METHODOLOGICAL DISPUTE BETWEEN MYSELF
25 AND DR. BARRETO, I WAS NOT THE ONE WHO WAS METHODOLOGICAL

3:25PM 1 DEFICIENT. I APPARENTLY JUST WAS NOT SUFFICIENTLY PERSUASIVE
2 IN EXPLAINING METHODOLOGY. THE THINGS HE WAS -- I MEAN, HE
3 SAID, FOR EXAMPLE, IN THE SOCIAL SCIENCE AND POLITICAL SCIENCE
4 IN PARTICULAR, WE NO LONGER PLACE ANY EMPHASIS ON CONFIDENCE
5 INTERVALS OR STATISTICAL SIGNIFICANCE AT ALL. WE JUST DON'T
6 USE IT ANYMORE, THAT THAT IS A PRIMITIVE CONCEPT IN MODERN
7 POLITICAL SCIENCE, MODERN SOCIAL SCIENCE DOESN'T RELY ON. HE
8 BASICALLY WAS ARGUING THAT THE COURT SHOULD IGNORE THE
9 CONFIDENCE INTERVALS. I THINK THAT IS WRONG AS A MATTER OF
10 COURT PRECEDENT. IT IS WRONG, WAY WRONG AS A MATTER OF WHAT WE
11 DO IN POLITICAL SCIENCE.

12 I HAVE PUBLISHED A LOT OF ARTICLES IN POLITICAL SCIENCE,
13 AND YOU DON'T PUBLISH ARTICLES BY MAKING ARGUMENTS ABOUT A
14 WHOLE BUNCH OF FINDINGS, NONE OF WHICH ARE STATISTICALLY
15 SIGNIFICANT. SO -- AND THE JUDGE'S VIEW OF THAT WAS THAT
16 DR. BARRETO WAS CORRECTLY EXPLAINING MODERN POLITICAL SCIENCE
17 AND THAT I APPARENTLY WAS LOST IN THE PAST, AND THAT SIMPLY IS
18 -- AS A MATTER OF SORT OF DISCIPLINARY PRIDE, THAT IS JUST
19 INCORRECT. DR. BARRETO WAS MISCHARACTERIZING STATISTICAL
20 SIGNIFICANCE AS IT IS USED IN THE SOCIAL SCIENCES AND IN
21 POLITICAL SCIENCE AND IN THE COURT, AND BECAUSE THE COURT
22 WANTED -- I WON'T SPEAK TO THE MOTIVATIONS OF JUDGE SEIBEL. I
23 HAVE ALL KINDS OF REGARD FOR JUDGE SEIBEL. BUT TO GET TO WHERE
24 JUDGE SEIBEL WANTED TO GET, BERETTA HAD TO BE RIGHT AND I HAD
25 TO BE WRONG, AND THAT'S PART OF THE GAME. I DON'T DISPUTE IT.

3:26PM

1 I JUST, IN THIS PARTICULAR CASE, THERE WERE OTHER WAYS THAT
2 COULD HAVE BEEN PHRASED THAT WOULD HAVE BEEN CORRECT. THE WAY
3 SHE PHRASED IT WAS SIMPLY INCORRECT.

4 Q. OKAY. AND IN NONE OF THESE CASES DID THE COURT ADOPT YOUR
5 OPINION THAT PARTY AFFILIATION INSTEAD OF RACE IS DRIVING
6 POLARIZATION? ISN'T THAT ALSO CORRECT?

7 A. IN THOSE PARTICULAR CASES?

8 Q. IN THOSE PARTICULAR CASES.

9 A. IN THE CASES WHERE THEY DECIDED FOR THE PLAINTIFFS, THEY
10 DID NOT ADOPT THAT. IN OTHER CASES, THE COURT HAS ADOPTED
11 THAT. SO IN THE RECENT CASE REVOLVING AROUND THE SAME ISSUE IN
12 THE CHALLENGE TO THE AT-LARGE ELECTION OF THE SUPREME COURT AND
13 THE COURT OF APPEALS IN TEXAS, THE COURT DID ADOPT THAT
14 OPINION. AND WE COULD CAREFULLY PARSE THAT, BASICALLY SAID
15 THIS IS THE WAY IT WORKS. IT DOESN'T MATTER FOR THE *GINGLES*
16 THRESHOLD. THE *GINGLES* THRESHOLD IS JUST A WAY TO GET TO THE
17 BIG ISSUE. AND SO FOR THE *GINGLES* THRESHOLD PURPOSE, ALL THAT
18 MATTERS, AS DR. BURCH SAID, IS WHETHER THE TWO GROUPS ARE
19 VOTING COHESIVELY AND VOTING DIFFERENTLY.

20 THE COURT THEN SAID THAT WHEN YOU GET TO TOTALITY OF THE
21 CIRCUMSTANCES, IN THE TOTALITY OF THE CIRCUMSTANCES, THAT'S
22 RACIALLY POLARIZED VOTING, NOT *GINGLES* II, NOT *GINGLES* III, BUT
23 PUTTING THEM TOGETHER AND SAYING, OKAY, IS THE VOTING RACIALLY
24 POLARIZED. AND THE COURT THERE SAID THAT IT WAS CLEAR THAT THE
25 VOTING WAS POLARIZED ON THE BASIS OF PARTISANSHIP BUT NOT

3:27PM 1 POLARIZED ON THE BASIS OF RACE, AND THE COURT DECLINED TO RULE
2 AGAINST THE AT-LARGE ELECTION OF SUPREME COURT JUDGES IN TEXAS.

3 **MR. CAMPBELL-HARRIS:** THANK YOU. ONE SECOND, YOUR
4 HONOR, WHILE I CONFER WITH COUNSEL.

5 **THE COURT:** TAKE A MINUTE.

6 **MR. CAMPBELL-HARRIS:** A COUPLE MORE QUESTIONS, YOUR
7 HONOR. CAN WE GO BACK TO TABLE 3 OF DR. ALFORD'S REPORT?

8 **BY MR. CAMPBELL-HARRIS:**

9 Q. IN TABLE 3, ARE ANY OF THE ELECTIONS THAT YOU ANALYZED,
10 WAS THERE A SINGLE REPUBLICAN CANDIDATE THAT RECEIVED -- A
11 BLACK REPUBLICAN CANDIDATE THAT RECEIVED MORE THAN FIVE PERCENT
12 OF THE WHITE VOTE?

13 A. I'M SORRY. COULD YOU REPEAT THE QUESTION?

14 Q. I CAN. IN ANY OF THE TABLES OR THE ELECTIONS THAT YOU
15 ANALYZED, IN EXHIBIT 53, LEGISLATIVE EXHIBIT 53, WAS THERE A
16 SINGLE BLACK REPUBLICAN CANDIDATE WHO RECEIVED MORE THAN FIVE
17 PERCENT OF THE WHITE VOTE?

18 A. I DON'T BELIEVE SO.

19 Q. OKAY. AND I WANT TO GO BACK AGAIN TO THE 75 PERCENT
20 COHESION THRESHOLD ISSUE. YOU TESTIFIED THAT IN AN ELECTION
21 WITH MORE THAN TWO CANDIDATES, THE THRESHOLD FOR COHESION COULD
22 BE LESS THAN 75 PERCENT. IS THAT CORRECT?

23 A. IT COULD BE.

24 **MR. CAMPBELL-HARRIS:** THOSE ARE ALL THE QUESTIONS I
25 HAVE, YOUR HONOR. THANK YOU.

3:30PM 1

THE COURT: MR. TUCKER, ANY REDIRECT?

2

MR. TUCKER: NO REDIRECT, YOUR HONOR.

3

THE COURT: YOU MAY STEP DOWN, SIR. DO YOU HAVE A

4

WITNESS LEFT?

5

MR. TUCKER: WE DO, YOUR HONOR.

6

THE COURT: OKAY. WE ARE GOING TO GO UNTIL 4. WE

7

WILL TAKE JUST A FEW MINUTE RECESS. WE MAY EVEN GO TO 4:30.

8

SEAN TRENDE.

9

(RECESS TAKEN AT 3:30 P.M UNTIL 3:44 P.M.)

10

THE COURT: NEXT WITNESS.

11

MR. STRACH: THANK YOU, YOUR HONOR. THE DEFENDANT'S

12

CALL SEAN TRENDE.

13

(OATH ADMINISTERED.)

14

MR. STRACH: YOUR HONOR, MAY I APPROACH THE WITNESS

15

WITH HIS REPORT?

16

THE COURT: YOU MAY.

17

THE CLERK: SIR, WOULD YOU PLEASE STATE YOUR NAME FOR

18

THE RECORD AND SPELL IT FOR THE RECORD.

19

THE WITNESS: YES, IT IS SEAN TRENDE, T-R-E-N-D-E.

20

SEAN TRENDE,

21

HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

22

DIRECT EXAMINATION

23

BY MR. STRACH:

24

Q. ALL RIGHT. GOOD AFTERNOON, MR. TRENDE. YOU'VE STATED

25

YOUR NAME FOR THE RECORD. CAN YOU TELL THE COURT ABOUT YOUR

3:44PM

1 EDUCATION THROUGH 2001?

2 A. YES. I GRADUATED FROM YALE UNIVERSITY IN 1995 WITH A
3 DOUBLE MAJOR IN HISTORY AND POLITICAL SCIENCE. I WENT TO LAW
4 SCHOOL AT DUKE IN 1998 AND GRADUATED WITH MY JD IN 2001. AND
5 DUKE HAS A PROGRAM WHERE YOU CAN EARN A MASTER'S DEGREE ALONG
6 WITH YOUR JD, SO AT THE SAME TIME, I GOT A MASTER'S DEGREE IN
7 POLITICAL SCIENCE WITH FOCUS ON AMERICAN POLITICS.

8 Q. ALL RIGHT. WHAT DID YOU DO AFTER YOU GRADUATED FROM LAW
9 SCHOOL?

10 A. I CLERKED FOR JUDGE DEANELL TACHA ON THE TENTH CIRCUIT,
11 FOR A YEAR, AND THEN I WENT TO WORK IN LAW FIRMS, KIRKLAND &
12 ELLIS IN WASHINGTON D.C., HUNTON & WILLIAMS IN RICHMOND.

13 Q. ALL RIGHT. WHAT ARE YOU DOING CURRENTLY?

14 A. I'M CURRENTLY -- I RETIRED FROM THE PRACTICE OF LAW IN
15 2010 AND BECAME A POLITICAL WRITER. I WORK FOR REAL CLEAR
16 POLITICS.

17 Q. AND WHAT IS THAT?

18 A. SO REAL CLEAR POLITICS IS A COMPANY THAT PRODUCES A
19 WEBSITE THAT COVERS POLITICAL ISSUES ACROSS THE SPECTRUM.

20 Q. ALL RIGHT. WHAT KIND OF ISSUES DOES IT COVER?

21 A. SO IT'S POLITICS IN GENERAL. IT WILL AGGREGATE NEWS
22 ARTICLES. WE ALSO ARE FAMOUS FOR AGGREGATING POLLS, SO YOU
23 DON'T JUST SEE THE ONE POLL THAT A NEWS CHANNEL MIGHT COVER.
24 YOU CAN GET ALL THE POLLS AT ONCE. AND WE ALSO PRODUCE
25 ORIGINAL CONTENT.

3:46PM

1 Q. ALL RIGHT. DO YOU PRODUCE ANY OF THAT ORIGINAL CONTENT?

2 A. I DO.

3 Q. WHAT KIND OF CONTENT?

4 A. SO MY MAIN FOCUS IS ON UNITED STATES ELECTIONS, WHERE
5 THINGS STAND, WHERE THEY ARE LIKELY TO GO, SOME LEGAL ANALYSIS
6 EVERY NOW AND AGAIN, BUT MOSTLY ANALYSIS OF ELECTIONS.

7 Q. ALL RIGHT. DOES REAL CLEAR POLITICS HAVE EMPLOYEES IN AN
8 OFFICE SOMEWHERE?

9 A. YES, WE'VE GOT ABOUT FIFTY EMPLOYEES, GIVE OR TAKE, AT ANY
10 GIVEN TIME. WE HAVE PHYSICAL OFFICES IN WASHINGTON D.C.

11 Q. ALL RIGHT. AND ARE YOU AFFILIATED WITH ANY OTHER
12 EMPLOYERS?

13 A. YES, I'M A VISITING SCHOLAR AT THE AMERICAN ENTERPRISE
14 INSTITUTE.

15 Q. ALL RIGHT. WE LEFT OFF WITH YOUR EDUCATION IN 2001.
16 SINCE THEN, HAVE YOU COMPLETED ANY ADDITIONAL DEGREES?

17 A. YES. SO IN 2016, I MATRICULATED -- I'M SORRY, I DO HAVE
18 TO SAY IT THIS WAY -- THE OHIO STATE UNIVERSITY. I ENROLLED IN
19 A DOCTORAL PROGRAM IN POLITICAL SCIENCE. AND WHEN I GOT THERE,
20 THEY LOOKED AT THE STATISTICAL WORK THAT I HAD DONE FOR MY
21 MASTER'S DEGREE AND SUBSEQUENT TO IT, AND THEY SUGGESTED THAT
22 RATHER THAN DO THEIR POLITICAL SCIENCE RUN OF STATISTICAL
23 ANALYSIS, THAT I GO TO THE DEPARTMENT OF STATISTICS. SO I DID
24 THAT, AND THREE YEARS LATER I EMERGED WITH MY MASTER'S IN
25 APPLIED STATISTICS, WHICH I EARNED IN 2019.

3:47PM

1 Q. ALL RIGHT. HAVE YOU BEEN WORKING ON A PH.D.?

2 A. I HAVE BEEN.

3 Q. WHAT'S THE STATUS OF THAT?

4 A. I SUCCESSFULLY DEFENDED MY DISSERTATION ABOUT A MONTH AGO
5 AND SHOULD BE AWARDED MY DOCTORATE IN THREE WEEKS.

6 Q. ALL RIGHT.

7 **THE COURT:** AND IS THAT IN STATISTICS OR IN POLITICAL
8 SCIENCE?

9 **THE WITNESS:** I'M SORRY, YOUR HONOR. IT'S IN
10 POLITICAL SCIENCE.

11 **BY MR. STRACH:**

12 Q. WHAT WAS THE FORMAT OF YOUR DISSERTATION? TALK TO THE
13 COURT A LITTLE BIT ABOUT YOUR DISSERTATION.

14 A. SO RATHER THAN DO THE TRADITIONAL DISSERTATION WHERE YOU
15 FOCUS IN ON ONE SUBJECT AND WRITE A BOOK-LENGTH REPORT, I DID
16 WHAT IS KNOWN AS A THREE-PAPERS DISSERTATION WHERE YOU WRITE
17 THREE PUBLISHABLE PAPERS ON A VARIETY OF SUBJECTS.

18 SO THE FIRST PAPER WAS ON ANALYSIS OF SUPREME COURT VOTING
19 BEHAVIOR IN THE EARLY 1900S. THE SECOND PAPER, AND THIS IS A
20 BIT OF A MOUTHFUL, BUT IT WAS A METHODS PAPER ON USE OF
21 INTEGRATED NESTED LAPLACE APPROXIMATIONS FOR BAYESIAN ANALYSIS
22 OF SPATIAL STATISTICS. THEN THE THIRD WAS ON THE USE OF
23 COMMUNITIES OF INTEREST IN REDISTRICTING SIMULATIONS.

24 Q. AND DID YOU STUDY A VARIETY OF SIMULATION TECHNIQUES FOR
25 THIS?

3:49PM

1 A. YES, FOR THAT THIRD PAPER, YOU KNOW, YOU STILL HAVE TO DO
2 THE REGULAR LITERATURE REVIEW THAT YOU WOULD HAVE FOR A REGULAR
3 DISSERTATION, SO I HAD TO LEARN HOW REDISTRICTING SIMULATIONS
4 HAD BEEN INVENTED, WHAT DIFFERENT TECHNIQUES WERE AVAILABLE,
5 HOW TO PROGRAM THEM AND THE LIKE.

6 Q. DID YOU WRITE YOUR OWN SIMULATION CODE FOR THIS?

7 A. I DID.

8 Q. ALL RIGHT. AND WHAT OTHER ASPECTS OF THE REDISTRICTING
9 DID YOU EXAMINE FOR THIS?

10 A. WELL, WHEN YOU ARE WRITING SIMULATION CODE, YOU HAVE TO
11 TELL THE COMPUTER WHAT FACTORS OR CONSTRAINTS TO OPERATE UNDER,
12 SO YOU NEED TO KNOW HOW -- DIFFERENT APPROACHES TO CONTIGUITY,
13 AND THERE ARE DIFFERENT APPROACHES TO IT. YOU HAVE TO KNOW --
14 I HAD TO LOOK AT DIFFERENT WAYS TO DEFINE COMMUNITIES OF
15 INTEREST. AND THEN I ALSO -- MOST SIMULATIONS HAVE A
16 COMPACTNESS PARAMETER, SO I HAD TO EXAMINE THE DIFFERENT WAYS
17 THAT PEOPLE HAD DEFINED COMPACTNESS OVER THE YEARS.

18 Q. ALL RIGHT. AND HAVE YOU TAUGHT COLLEGE LEVEL COURSES?

19 A. I HAVE.

20 Q. WHAT ARE THOSE?

21 A. FOR A SEMESTER AT OHIO WESLEYAN, I TAUGHT MASS MEDIA AND
22 AMERICAN POLITICS. AT OHIO STATE, I TAUGHT THE INTRO TO
23 AMERICAN POLITICS COURSE FOUR TIMES. I TAUGHT -- WELL, I
24 TAUGHT SURVEY METHODS ONCE, AND I WILL TEACH IT AGAIN IN THE
25 SPRING. AND I TAUGHT A CLASS CALLED "VOTING AND AMERICAN

3:50PM

1 POLITICAL PARTICIPATION" FOUR TIMES NOW.

2 Q. ALL RIGHT. SO YOU WILL BE TEACHING IN THE SPRING IF THEY
3 ASK YOU TO STAY ON AT OHIO STATE?

4 A. YES, THEY HAVE ASKED ME TO STAY ON AS A LECTURER.

5 Q. ALL RIGHT. TELL ME ABOUT THE POLITICAL PARTICIPATION AND
6 VOTING BEHAVIOR CLASS. DID IT COVER THE VOTING RIGHTS ACT?

7 A. IT DID. IT STARTS OUT WITH AN EXAMINATION OF THE
8 POLITICAL SCIENCE LITERATURE ON THE DECISION OF WHETHER OR NOT
9 TO VOTE, HOW PEOPLE MAKE THEIR DECISIONS FOR WHOM TO VOTE. THE
10 SECOND HALF OF THE CLASS KIND OF TIES THAT INTO THE LAW, SO WE
11 LOOK AT PHOTO ID LAWS, EARLY VOTE -- THE CASES ON PHOTO ID AND
12 EARLY VOTING AND HOW THE POLITICAL SCIENCE LITERATURE HAS BEEN
13 USED THERE. WE SPEND A LOT OF TIME ON POLITICAL
14 GERRYMANDERING, ON THE VOTING RIGHTS ACT, AND ON RACIAL -- THE
15 14TH AMENDMENT CLAIMS.

16 Q. ALL RIGHT. AND DO YOU COVER THE *GINGLES* FACTORS IN THIS
17 CLASS?

18 A. WE DO. WE DO A FAIRLY DEEP DIVE INTO THE VOTING RIGHTS
19 ACT AND HOW IT IS INTERPRETED BY COURTS.

20 Q. ALL RIGHT. WHAT ABOUT RACIAL GERRYMANDERING; IS THAT
21 COVERED TOO?

22 A. SAME THING. WE SPEND A FAIR AMOUNT OF TIME ON 14TH
23 AMENDMENT CLAIMS AND HOW THEY HAVE EVOLVED AS WELL.

24 Q. ALL RIGHT. HAVE YOU EVER BEEN APPOINTED BY A COURT AS AN
25 EXPERT?

S. TRENDE - DIRECT

3:51PM

1 A. I HAVE. TWICE.

2 Q. ALL RIGHT. TELL US ABOUT THE FIRST INSTANCE.

3 A. SO THE FIRST INSTANCE, I WAS ACTUALLY APPOINTED BY THE
4 SUPREME COURT OF BELIZE AS THE COURT'S EXPERT IN THEIR
5 COUNTRY'S VERSION OF *BAKER V. CARR*. I WAS ASKED TO EXAMINE
6 THEIR MAPS AND DETERMINE WHETHER THEY COMPORTED WITH
7 INTERNATIONAL STANDARDS OF FAIRNESS, AND ALSO TO DESIGN
8 POTENTIAL REMEDIAL MAPS FOR USE.

9 Q. ALL RIGHT. WHAT ABOUT THE SECOND INSTANCE?

10 A. SO THE SECOND INSTANCE, IN VIRGINIA, AFTER THE VIRGINIA
11 REDISTRICTING COMMISSION DEADLOCKED, THE SUPREME COURT OF
12 VIRGINIA APPOINTED TWO SPECIAL MASTERS TO DRAW THE MAPS. AND
13 SO WE PRODUCED I THINK 160 DISTRICTS IN FOUR WEEKS FOR THE
14 COURT.

15 Q. AND WHO WAS THE OTHER EXPERT?

16 A. BERNIE GROFMAN, WHO WAS THE EXPERT IN *GINGLES* FOR THE
17 PLAINTIFFS.

18 Q. AND ARE THE MAPS THAT YOU TWO DREW STILL CURRENTLY IN
19 EFFECT?

20 A. THEY ARE.

21 Q. HAVE YOU EVER BEEN APPOINTED BY A COMMISSION?

22 A. YES. I WAS APPOINTED BY THE ARIZONA INDEPENDENT
23 REDISTRICTING COMMISSION AS ONE OF THE VOTING RIGHTS EXPERTS
24 FOR THE LAWYERS IN THAT CASE.

25 Q. ALL RIGHT. AND HAVE YOU EVER SERVED AS AN EXPERT WITNESS

S. TRENDE - DIRECT

3:53PM 1 FOR PARTIES IN POLITICAL OR RACIAL GERRYMANDERING CASES BEFORE?
2 A. YES, I HAVE BEEN IN SEVERAL CASES, THE TWO CASES THAT WENT
3 UP TO THE -- THE *NICHOLS* CASE AND THE *RUCHO* CASE THAT WENT UP
4 TO THE SUPREME COURT FOR POLITICAL GERRYMANDERING. I TESTIFIED
5 IN THE MICHIGAN LITIGATION A FEW WEEKS AGO ON BEHALF OF
6 PLAINTIFFS THERE. I'VE TESTIFIED ON BEHALF OF DEFENDANTS IN
7 THE SOUTH CAROLINA CASE THAT IS CURRENTLY BEFORE THE SUPREME
8 COURT AND A COUPLE OF OTHER PLACES.
9 Q. WHAT ABOUT VRA CASES? HAVE YOU TESTIFIED IN THOSE CASES?
10 A. YES. SO THE MICHIGAN CASE IS A VOTING RIGHTS ACT CASE.
11 THERE IS TESTIMONY PENDING WHENEVER THE TEXAS CASE GOES TO
12 TRIAL, AND THEN THE SOUTH CAROLINA CASE. WELL, NO, THE SOUTH
13 CAROLINA CASE IS PURE 14TH AMENDMENT.
14 Q. WHAT ABOUT MICHIGAN?
15 A. THE MICHIGAN CASE IS BOTH 14TH AMENDMENT AND VRA.
16 Q. REMIND ME, WHAT WAS YOUR ROLE IN THAT CASE?
17 A. I WAS AN EXPERT FOR THE PLAINTIFFS IN THAT CASE.
18 Q. OKAY. HAVE YOU EVER BEEN EXCLUDED -- HAS YOUR TESTIMONY
19 EVER BEEN EXCLUDED?
20 A. IT HAS BEEN.
21 Q. HOW MANY TIMES?
22 A. ONCE.
23 Q. TELL THE COURT ABOUT THAT CASE.
24 A. YEAH, THAT WAS AN ELECTION, A VOTE DILUTION CASE IN -- I'M
25 SORRY, A VOTE -- THE NONREDISTRICTING TYPE OF VOTING RIGHTS ACT

3:54PM

1 CLAIM THAT I'M BLANKING ON RIGHT NOW, IN GEORGIA, WHERE THE
2 COURT RULED THAT I DIDN'T HAVE SUFFICIENT EXPERTISE IN ELECTION
3 ADMINISTRATION TO GIVE AN OPINION.

4 Q. ALL RIGHT. DID THAT CASE INVOLVE REDISTRICTING AT ALL?

5 A. NOT AT ALL.

6 **MR. STRACH:** YOUR HONOR, AT THIS TIME, WE WOULD LIKE
7 TO TENDER MR. TRENDE AS AN EXPERT IN THE FIELDS OF POLITICAL
8 METHODOLOGY, AMERICAN POLITICS, WITH AN EMPHASIS ON VOTING
9 BEHAVIOR AND REDISTRICTING, AND THE VOTING RIGHTS ACT.

10 **THE COURT:** YOU ARE TENDERING HIM AS AN EXPERT IN THE
11 VOTING RIGHTS ACT?

12 **MR. STRACH:** YES.

13 **THE COURT:** YOU ARE TENDERING HIM IN A LEGAL FIELD?

14 **MR. STRACH:** WELL, BASED ON HIS EXPERIENCE AS AN
15 EXPERT IN NUMEROUS VRA CASES.

16 **THE COURT:** AND SO MY ROLE IN THIS IS WHAT?

17 **MR. STRACH:** WELL, HE WILL BE TESTIFYING ABOUT
18 VRA-RELATED ISSUES. THE COURT IS GOING TO HAVE TO DECIDE
19 WHETHER THEY AGREE WITH MR. TRENDE OR NOT, BUT HE WILL BE
20 TESTIFYING ABOUT THINGS LIKE THE *GINGLES* FACTORS AND THINGS
21 LIKE THAT THAT THE COURT WILL ULTIMATELY HAVE TO RULE UPON.

22 **THE COURT:** SO HE IS GOING TO TELL ME WHAT THE LAW
23 IS?

24 **MR. STRACH:** NO.

25 **THE COURT:** THEN I DON'T UNDERSTAND. OKAY. LET ME

3:55PM

1 JUST HEAR -- DO YOU HAVE A CROSS ON THE TENDER?

2 **MS. THOMAS:** YOUR HONOR, WE DON'T HAVE A CROSS ON THE
3 TENDER AT THIS TIME. WE DID FILE A *DAUBERT* MOTION WHICH THIS
4 COURT HAS ALREADY DECIDED, AND WE ARE WILLING TO STAND ON THAT.
5 WE STILL HAVE SOME RESERVATIONS ABOUT SOME OF MR. TRENDE'S
6 OPINIONS, BUT WE BELIEVE THOSE CAN BE SUFFICIENTLY --

7 **THE COURT:** FULLY EXPLORED ON CROSS-EXAMINATION?

8 **MS. THOMAS:** EXACTLY.

9 **THE COURT:** I WILL ACCEPT HIM IN THOSE FIELDS, BUT
10 I'M NOT GOING TO TAKE LEGAL CONCLUSIONS FROM HIM.

11 **MR. STRACH:** ABSOLUTELY. IN FACT, I'VE ALREADY
12 TALKED TO HIM ABOUT IT.

13 **THE COURT:** ALL RIGHT. LET'S GO.

14 **MR. STRACH:** I'M WITH YOU.

15 **THE COURT:** I'VE BEEN SITTING HERE FOR FOUR DAYS, AND
16 I WOULD LIKE TO -- GO AHEAD. GO AHEAD.

17 **MR. STRACH:** I'M WITH YOU. NO, JUDGE, YOU ARE
18 EXACTLY RIGHT. AT THIS POINT, YOUR HONOR, WE WOULD LIKE TO
19 MOVE THE ADMISSION OF MR. TRENDE'S REPORTS, WHICH ARE SOS
20 EXHIBITS 3 AND 6.

21 **MS. THOMAS:** NO OBJECTION.

22 **THE COURT:** ADMITTED.

23 **BY MR. STRACH:**

24 Q. ALL RIGHT. MR. TRENDE, JUST TELL THE COURT IN GENERAL
25 WHAT YOU WERE ASKED TO DO IN THIS CASE.

3:57PM

1 A. SO I WAS ASKED TO EXAMINE THE DEMONSTRATION DISTRICTS OF
2 MR. COOPER AND EXAMINE WHETHER THE POPULATIONS IN THOSE
3 DISTRICTS WERE COMPACT.

4 Q. ALL RIGHT. WHEN YOU SAY COMPACTNESS OF THE POPULATION,
5 WHAT DO YOU MEAN BY THAT?

6 A. SO THERE'S A DIFFERENCE IN THE LITERATURE I'VE LOOKED AT
7 ON COMPACTNESS BETWEEN THE WAY THAT A DISTRICT OR REALLY ANY
8 ENTITY IS MEASURED IN TERMS OF COMPACTNESS VERSUS POINTS, THE
9 INDIVIDUALS IN IT, AND I UNDERSTAND -- I'M NOT OFFERING A FINAL
10 OPINION ON IT, BUT I UNDERSTAND THAT THE DEFENDANTS' THEORY IN
11 THE CASE IS THAT THE VOTING RIGHTS ACT SHOULD FOCUS ON
12 POPULATION COMPACTNESS RATHER THAN DISTRICT COMPACTNESS, AND SO
13 I WAS EXPLORING THE DIFFERENCES BETWEEN THE TWO.

14 Q. OKAY. DO YOU USE METRICS LIKE REOCK, POLSBY-POPPER AND SO
15 FORTH FOR MEASURING THE COMPACTNESS OF A DISTRICT?

16 A. ABSOLUTELY. THOSE ARE THE PROPER METRICS FOR DETERMINING
17 THE COMPACTNESS OF THE DISTRICT ITSELF. YES.

18 Q. ALL RIGHT. ARE THOSE USEFUL, THOUGH, FOR MEASURING
19 POPULATION COMPACTNESS?

20 A. THEY REALLY ARE NOT. SO YOU CAN THINK OF IT IN TERMS OF
21 THIS COURTROOM. IF YOU WANTED TO KNOW WHETHER THE COURTROOM
22 ITSELF WAS COMPACT, YOU COULD EASILY MEASURE THE BOUNDARIES,
23 THE WALLS OF THE COURTROOM, AND YOU COULD APPLY POLSBY-POPPER,
24 REOCK, YOU COULD SEE HOW MUCH OF THE BOUNDING CIRCLE THE
25 COURTROOM FILLED. BUT IF YOU WANTED TO KNOW WHETHER THE PEOPLE

3:58PM

1 WITHIN THE COURTROOM WERE DISTRIBUTED IN A COMPACT MANNER, YOU
2 CAN'T REALLY MEASURE THE POINTS BECAUSE THERE'S A LOT OF EMPTY
3 SPACE IN BETWEEN US. SO THE LITERATURE EXPLORES DIFFERENT WAYS
4 OF MEASURING THE COMPACTNESS OF THE INDIVIDUALS.

5 Q. ALL RIGHT. SO DID YOU LOOK AT EVERY DISTRICT MR. COOPER
6 DREW?

7 A. I DID NOT.

8 Q. WHICH ONES DID YOU LOOK AT?

9 A. I LOOKED AT THE NEW DEMONSTRATION DISTRICTS OR
10 ILLUSTRATIVE DISTRICTS THAT HE HAD PROVIDED.

11 Q. ALL RIGHT. AND WHY DIDN'T YOU LOOK AT THE OTHER
12 DISTRICTS?

13 A. WELL, FIRST, BECAUSE THOSE ARE THE MOST RELEVANT ISSUES TO
14 THE CASE, BUT IF YOU ARE TALKING ABOUT, SAY, A WHITE MAJORITY
15 DISTRICT, YOU KNOW, AS I UNDERSTAND THE *GINGLES* TEST, IT'S THE
16 POPULATION THAT'S SUFFICIENT TO BE 50 PERCENT PLUS ONE OF THE
17 POPULATION IN THE DISTRICT. WELL, IF IT'S A MAJORITY WHITE
18 DISTRICT, THERE'S NOT GOING TO BE A MINORITY POPULATION, AND IT
19 IS SUFFICIENT TO BE 50 PERCENT PLUS ONE OF THE POPULATION BY
20 DEFINITION. SO IT JUST DIDN'T MAKE SENSE.

21 YOU KNOW, IF THIS WERE A RACIAL GERRYMANDERING CASE OR
22 SOMETHING WHERE YOU WERE INTERESTED -- A 14TH AMENDMENT CLAIM
23 WHERE YOU WERE INTERESTED IN LOOKING AND COMPARING THE WHITE
24 POPULATION, HOW IT IS TREATED, TO THE BLACK POPULATION, THEN
25 YOU MIGHT DO THAT SORT OF ANALYSIS, BUT SINCE THE PRONG OF

S. TRENDE - DIRECT

4:00PM 1 GINGLES I'M LOOKING AT A SOLELY FOCUSED ON, AS I UNDERSTAND IT,
2 ON THE COMPACTNESS OF THE MINORITY POPULATION, I SOLELY LOOKED
3 AT THE DISTRICTS WHERE THERE IS A MINORITY POPULATION
4 SUFFICIENT TO BE 50 PERCENT PLUS ONE OF THE POPULATION.

5 Q. ALL RIGHT. AND IN YOUR OPINION, ARE ALL OF PLAINTIFFS',
6 MR. COOPER'S MAJORITY BLACK DISTRICTS, DO THEY HAVE
7 GEOGRAPHICALLY COMPACT BLACK POPULATIONS?

8 A. I THINK SOME DO. IT'S NOT SOMETHING THAT'S DESIGNED TO
9 FAIL. YOU CAN MEET THIS TEST, AND WE HAVE SOME EXAMPLES OF
10 THAT. BUT FOR THE MOST PART -- BUT THE NEW DISTRICTS THAT HE
11 DRAWS AND INTRODUCES, NO, THEY DO NOT.

12 Q. ALL RIGHT. WELL, LET'S JUST LOOK AT A FEW EXAMPLES, MR.
13 TRENDE. WE ARE GOING TO PULL UP MR. TRENDE'S REPORT AT SOS 3
14 FOR US, AND LOOK AT FIGURE 5, PAGE 13.

15 ALL RIGHT. WOULD YOU JUST BLOW THAT UP A LITTLE BIT, IF
16 IT IS POSSIBLE. AND I BELIEVE, MR. TRENDE, THIS IS HOUSE
17 DISTRICT 1?

18 A. THAT IS CORRECT.

19 Q. IS THIS MR. COOPER'S VERSION OF HD 1?

20 A. THAT IS RIGHT. THIS IS THE DISTRICT AS MR. COOPER DREW
21 IT.

22 Q. ALL RIGHT. WHAT KIND OF MAP -- WHAT DO YOU CALL THIS KIND
23 OF MAP THAT WE ARE LOOKING AT RIGHT NOW?

24 A. SO THIS IS CALLED A DOT DENSITY MAP.

25 Q. OKAY. AND ARE YOU AWARE OF DOT DENSITY MAPS BEING USED IN

4:01PM

1 LITIGATION BEFORE?

2 A. YES. I DON'T KNOW THE FIRST TIME THAT THEY WERE
3 NECESSARILY USED, BUT THE FIRST TIME OF WHICH I'M AWARE WAS IN
4 THE *BETHUNE-HILL* CASE.

5 Q. WHAT ARE THEY USED TO DO?

6 A. SO YOU CAN THINK OF KIND OF THE TRADITIONAL -- WE CALL
7 THEM CHOROPLETH MAPS, BUT THEY ARE THE MAPS -- I HAVE SOME OF
8 THEM IN THE REPORT AS WELL, WHERE YOU WOULD, SAY, ILLUSTRATE A
9 PRECINCT OR BLOCK MAP OF THE AREA, AND YOU WOULD SHADE THE
10 PRECINCTS OR THE BLOCKS BY THE BVAP. SO YOU WOULD HAVE KIND OF
11 A PATCHWORK OF -- THE SIMPLEST EXAMPLE IS THE PRECINCTS. AND
12 THOSE ARE USEFUL. THEY SERVE THEIR PURPOSE OF SHOWING WHERE
13 KIND OF THE PERCENTAGES OF BLACK VERSUS WHITE RESIDENTS LIVE.

14 THE PROBLEM WITH THOSE IS THAT THEY TREAT A -- A PRECINCT
15 THAT HAS ONE RESIDENT THE SAME AS IT TREATS A PRECINCT WITH A
16 HUNDRED RESIDENTS OR A THOUSAND RESIDENTS.

17 SO WHAT THE DOT DENSITY MAP DOES, IT'S REALLY SOMETHING
18 YOU CAN KIND OF USE HAND-IN-GLOVE WITH THE CHOROPLETH MAPS.
19 THE DOT DENSITY MAPS ALLOW US TO SEE THE DISTRIBUTION OF
20 INDIVIDUALS WITHIN THE DISTRICT BETTER THAN A CHOROPLETH MAP.

21 Q. ALL RIGHT. AND WHAT DO THE VARIOUS DOTS ON THIS MAP
22 REPRESENT?

23 A. SO THE DOTS ON THIS MAP, EVERY BLUE DOT REPRESENTS TEN
24 BLACK RESIDENTS OF VOTING AGE, AND AN ORANGE X REPRESENTS TEN
25 WHITE RESIDENTS OF VOTING AGE.

4:03PM 1 Q. OKAY. AND IT LOOKS LIKE THE XS ARE A BIT LARGER THAN THE
2 DOTS. WHY IS THAT?

3 A. SO THE WAY THAT THE SOFTWARE IS DESIGNED TO CREATE THE
4 MAPS IS THAT IT DRAWS THEM IN LAYERS. SO THERE'S THE
5 BACKGROUND MAP THAT IS TAKEN FROM OPEN STREET MAP. THE NEXT
6 LAYER IT WILL DRAW IS THE DISTRICT BOUNDARY. THE NEXT LAYER IT
7 DRAWS YOU HAVE TO SELECT, SO IT DRAWS THE WHITE OR THE ORANGE
8 XS NEXT. AND THEN THE BLUE DOTS ARE DRAWN ON TOP OF THAT.

9 AND IF THE ORANGE XS AND THE BLUE DOTS WERE ALL THE SAME
10 SIZE, THE BLUE DOT WOULD COVER UP AN ORANGE X, AND IT WOULD
11 MAKE A PLACE LOOK LIKE IT HAS ONLY BLACK RESIDENTS, WHEN IN
12 FACT IT IS MULTI-RACIAL. SO MAKING THE ORANGE X A LITTLE BIT
13 LARGER ALLOWS THOSE XS TO STAND OUT WHERE BOTH BLACK AND WHITE
14 RESIDENTS RESIDE IN THE SAME PLACE.

15 Q. ALL RIGHT. COULD SOMEONE TRY THIS IN A DIFFERENT WAY, IF
16 THEY WANTED TO?

17 A. YES, SOMEONE WHO IS FAMILIAR WITH THE R -- THE R, IT'S
18 JUST THE LETTER R -- PROGRAMMING PACKAGE, WHICH IS KIND OF THE
19 STANDARD USE STATISTICAL ANALYSIS TOOL IN POLITICAL SCIENCE AND
20 STATISTICS. THERE IS JUST A SINGLE LABEL THAT HAS TO BE
21 CHANGED. IT'S CALLED SIZE, AND YOU WOULD TAKE THE SIZE AND YOU
22 WOULD MAKE IT 5 INSTEAD OF 3, IF YOU THOUGHT THAT THIS WAS
23 MISLEADING.

24 Q. ALL RIGHT. IS THERE ANY ROUNDING INVOLVED IN THE DOTS?

25 A. NECESSARILY. I MEAN, YOU COULD DRAW THIS MAP WHERE A DOT

4:04PM 1 REPRESENTED ONE PERSON, BUT I WILL TESTIFY IT LOOKS LIKE A MESS
2 BECAUSE THERE'S SO MUCH OVERPLOTING. SO IF YOU WANT TO MAKE
3 THE XS AND DOTS REPRESENT MORE PEOPLE, THERE'S INEVITABLY GOING
4 TO BE SOME ROUNDING THAT GOES ON. SO A DISTRICT WITH 22 WHITE
5 RESIDENTS IS JUST GOING TO GET 2 XS.

6 Q. ALL RIGHT. SO JUST IN GENERAL, LOOKING AT THIS MAP, CAN
7 YOU EXPLAIN TO THE COURT WHAT YOU ARE TRYING TO MEASURE THROUGH
8 THIS MAP?

9 A. SO WHAT THE -- WHAT THE REOCK OR THE POLSBY-POPPER SCORE
10 WOULD MEASURE IS IT WOULD LOOK AT THAT PERIMETER AND TRY TO
11 DETERMINE IF IT IS COMPACT. THE REOCK SCORE WOULD IMAGINE A
12 CIRCLE AROUND THE DISTRICT AND WOULD TELL YOU WHAT PERCENTAGE
13 OF THAT CIRCLE THE DISTRICT FILLS. A REOCK SCORE OF .25
14 LITERALLY MEANS IT FILLS UP 25 PERCENT OF THE BOUNDING DISTRICT
15 OR THE BOUNDING CIRCLE.

16 POLSBY-POPPER WOULD CREATE A CIRCLE WITH THE SAME
17 PERIMETER AS THE DISTRICT AND TELL YOU WHAT PERCENTAGE OF THAT
18 CIRCLE IT FILLED.

19 THE PROBLEM AGAIN IS THAT WE ARE LOOKING AT POPULATIONS
20 HERE. WE ARE TRYING TO FIGURE OUT THESE DOTS. SO WHAT THESE
21 DOTS START US DOWN THE PATH TO DO IS THEY GIVE YOU AN IDEA OF
22 WHAT THE DISTRIBUTION OF BLACK AND WHITE RESIDENTS IN THE
23 DISTRICT THAT MR. COOPER DREW WOULD BE.

24 Q. OKAY. SO ARE THERE DIFFERENT WAYS THE RESIDENTS COULD BE
25 COMBINED TO REACH 50 PERCENT PLUS ONE IN ANY GIVEN DISTRICT?

4:06PM

1 A. SO THAT'S WHERE THIS STARTS TO GET CONCEPTUALLY TRICKY IS
2 THAT BECAUSE THIS DISTRICT IS MORE THAN 50.0001 PERCENT BVAP,
3 THERE'S A LOT OF DIFFERENT WAYS THAT THESE BLUE DOTS COULD BE
4 COMBINED TO CREATE A 50 PERCENT PLUS ONE POPULATION. AND SO
5 THE VOTING RIGHTS ACT JUST REQUIRES ONE, AS I UNDERSTAND IT.
6 IT'S -- AS I UNDERSTAND *GINGLES* 1, IT'S A -- THE MINORITY GROUP
7 SUFFICIENTLY COMPACT TO CONSTITUTE 50 PERCENT PLUS ONE OF THE
8 POPULATION.

9 SO WHAT WE ARE LOOKING FOR IS A WAY TO IDENTIFY THE
10 VARIOUS COMPACT GROUPINGS OF BLACK RESIDENTS OF THIS DISTRICT
11 AND KIND OF GIVE THE BENEFIT OF THE DOUBT TO THE PLAINTIFFS,
12 FRANKLY, BY SELECTING THE MOST COMPACT ONE, KIND OF TRAINING
13 THE EYE ON THOSE DOTS, BECAUSE YOU CAN SEE IN THE BOTTOM, THERE
14 ARE ACTUALLY SOME VERY COMPACT POPULATIONS DOWN THERE. IF
15 THOSE HAD BEEN -- IF THOSE ADDED UP TO 50 PERCENT OF THE
16 DISTRICT'S POPULATION, THEN THIS MAP DOES WHAT IT IS SUPPOSED
17 TO DO. IT DEMONSTRATES -- THE PLAINTIFFS HAVE DEMONSTRATED A
18 SUFFICIENTLY COMPACT POPULATION TO BE 50 PERCENT PLUS ONE. AND
19 THE REST OF THE DOTS ARE JUST THERE BECAUSE YOU HAVE TO MEET
20 THE EQUAL POPULATION REQUIREMENT.

21 SO WHAT WE ARE REALLY TRYING TO DO IS DETERMINE, LIKE, ARE
22 THESE DIFFERENT CLUSTERS DOWN AT THE BOTTOM SUFFICIENT TO GET
23 TO 50 PERCENT PLUS ONE, OR DO YOU HAVE TO TAKE IN ISOLATED OR
24 DISPARATE COMMUNITIES WITHIN THE DISTRICT BOUNDARY.

25 Q. ALL RIGHT. SO HOW DO YOU MEASURE COMPACTNESS OF THE

4:08PM

1 POPULATION THROUGH THIS METHOD?

2 A. SO AS I WAS DOING MY WORK FOR MY DISSERTATION, I CAME
3 ACROSS -- I LOOKED AT EARLY SIMULATIONS, AND AS IT TURNS OUT,
4 MOST OF THE PERIMETER COMPACTNESS MEASURES COME LATER, REOCK --
5 IT'S JUST R-E-O-C-K -- WAS DEVELOPED IN THE EARLY '60S, AND
6 THEN SOMETHING CALLED THE MOMENT OF INERTIA APPROACH IS WHAT
7 APPEARS NEXT. AND THE EARLY COMPUTER SIMULATIONS, WHEN THEY
8 ARE TRYING TO MEASURE COMPACTNESS, USE THIS MOMENT OF INERTIA
9 APPROACH TO DETERMINE THE COMPACTNESS OF INDIVIDUAL RESIDENTS.

10 Q. ALL RIGHT. AND HOW DOES IT DO THAT EXACTLY?

11 A. SO MATHEMATICALLY, IT'S A LITTLE BIT DIFFICULT TO EXPLAIN,
12 FRANKLY, BUT YOU CAN THINK OF IT IN TERMS OF, AGAIN, THE
13 RESIDENTS OR THE PEOPLE WHO LIVE IN THIS COURTROOM RIGHT NOW.
14 YOU FIND THE GEOGRAPHIC CENTER OF THEM, AND THEN YOU START
15 MEASURING DISTANCES FROM THAT CENTER TO EACH INDIVIDUAL.

16 AND THE IDEA IS, IF WE WERE ALL CLUSTERED AROUND THE
17 TABLE, WHICH I THINK MOST PEOPLE WOULD CONSIDER VERY -- THE
18 ESSENCE OF A COMPACT POPULATION, THE DISTANCES FROM THAT CENTER
19 TO THE INDIVIDUALS WOULDN'T BE VERY FAR. IT WOULD JUST BE THE
20 SUM OF A BUNCH OF LINES COMING OUT FROM THE TABLE. BUT IF WE
21 ALL MOVED INTO THE CORNERS OF THE COURTROOM, THOSE DISTANCES
22 WOULD BE VERY LARGE, AND IT WOULD SHOW UP IN THE MOMENT OF
23 INERTIA METRICS. SO THE MOST COMPACT GROUPING WOULD BE HAVING
24 US BE IN A VERY SMALL CONCENTRATED GEOGRAPHIC AREA CLOSE TO OUR
25 POPULATION CENTERS.

4:09PM

1 Q. ALL RIGHT. IN THIS MOMENT OF INERTIA CONCEPT THAT YOU ARE
2 USING HERE, IS THIS SOMETHING THAT YOU FOUND INDEPENDENT OF
3 THIS PARTICULAR CASE?

4 A. ABSOLUTELY. I FOUND IT BEFORE I WAS RETAINED.

5 Q. OKAY. HOW DOES YOUR ALGORITHM MEASURE THE MOMENT OF
6 INERTIA?

7 A. SO LIKE I SAID, THERE'S A BUNCH OF DIFFERENT WAYS THAT YOU
8 CAN COMBINE THESE INDIVIDUALS IN THIS PARTICULAR DISTRICT TO
9 GET TO 50 PERCENT PLUS ONE OF THE DISTRICT POPULATION. SO WHAT
10 THE ALGORITHM DOES IS IT ITERATES ITS STARTING POINT THROUGH
11 DIFFERENT POPULATIONS -- THROUGH DIFFERENT PRECINCTS IN THE
12 DISTRICT. IT ENUMERATES ALL OF THE DIFFERENT COMBINATIONS THAT
13 -- COMPACT COMBINATIONS THERE WOULD BE. AND AS IT IS GOING,
14 IT'S TALLYING WHICH OF THOSE ENUMERATIONS HAS THE SMALLEST
15 MOMENT OF INERTIA.

16 AND AGAIN, I WANT TO EMPHASIZE, THIS IS JUST TO HELP US
17 IDENTIFY IN THIS DISTRICT WHAT IS THE MOST COMPACT POPULATION,
18 WHAT'S THE BEST CASE SCENARIO FOR THE PLAINTIFFS TO SAY THAT
19 THIS PARTICULAR DISTRICT ILLUSTRATES A COMPACT 50 PERCENT PLUS
20 ONE BLACK POPULATION.

21 Q. IN THE LITERATURE, HAS ANYONE EVER DISPUTED, TO YOUR
22 KNOWLEDGE, WHETHER MOMENT OF INERTIA IS A PROPER WAY TO MEASURE
23 POPULATION COMPACTNESS?

24 A. I'M NOT AWARE OF ANY DISPUTES ABOUT IT, AND I'M NOT AWARE
25 OF A LOT OF ALTERNATIVES EITHER, FRANKLY.

4:11PM 1 Q. OKAY. YOU KNOW, I THINK YOU DID USE ONE OTHER POTENTIAL
2 ALTERNATIVE. CAN YOU DESCRIBE TO THE COURT WHAT YOU DID THERE?

3 A. SO ONE ALTERNATIVE WAS, LOOKING AT A DICTIONARY FROM 1978,
4 THE DEFINITION OF COMPACTNESS IN IT EMPHASIZED SMALL AREAS.
5 AND THROUGH MY WORK ON REDISTRICTING SIMULATIONS, ONE OF THE
6 PREMIER SIMULATION TECHNIQUES BY TWO PROFESSORS, JOWEI CHEN AND
7 JONATHAN RODDEN, R-O-D-D-E-N, LOOKS AT -- IT GENERATES COMPACT
8 DISTRICTS BY USING A COMPACTNESS CONCEPT THAT KEEPS THE
9 PRECINCTS CLOSE TOGETHER.

10 AND SO USING -- I THOUGHT THAT MIGHT BE APPROPRIATE
11 BECAUSE THIS IS -- THE 1978 DEFINITION IS WHAT THE COURT WOULD
12 HAVE UNDERSTOOD COMPACTNESS TO MEAN IN 1986 UNDER SOME
13 ARGUMENTS, SO THIS USES THAT SAME CONCEPTION. THE COURT WILL
14 ULTIMATELY DECIDE THAT. I DON'T MEAN TO INVADE THE PROVINCE OF
15 THE COURT. THAT WAS JUST MY THOUGHT PROCESS FOR USING THIS
16 TECHNIQUE.

17 **MS. THOMAS:** I'M JUST GOING TO OBJECT TO THAT ANSWER
18 TO THE EXTENT THAT I'VE GIVEN QUITE A BIT OF LEEWAY AS FAR AS
19 GETTING INTO LEGAL OPINIONS, BUT I THINK THAT LAST ANSWER
20 REALLY CROSSED THE LINE.

21 **THE COURT:** WELL, I'M GOING TO JUST LET IT GO TO THE
22 WEIGHT. I MEAN, I'M GOING TO LET IT GO TO THE WEIGHT. YOUR
23 OBJECTION IS OVERRULED.

24 **MR. STRACH:** THANK YOU, YOUR HONOR.

25 **BY MR. STRACH:**

4:12PM

1 Q. WHAT ARE THE DIFFERENCES BETWEEN WHAT YOU DESCRIBED AS
2 THIS SORT OF CHEN-RODDEN APPROACH VERSUS MOMENT OF INERTIA?

3 A. SO THE DIFFERENCE IS, THE MOMENT OF INERTIA IS LOOKING AT
4 EACH OF THESE DOTS, FINDING THE CENTER OF THE DOTS AND THEN
5 MEASURING THE DISTANCES FROM THAT CENTER TO EACH INDIVIDUAL DOT
6 AND TAKING THE SCORE FROM THERE. THE CHEN AND RODDEN APPROACH
7 IS TAKING A PRECINCT AND THEN SELECTING THE PRECINCT WITH THE
8 CLOSEST CENTROID. AND SO IT BUILDS OUT THE POPULATIONS THAT
9 WAY BY MAKING SURE THE PRECINCT CENTERS ARE CLOSE TO EACH
10 OTHER.

11 AND AGAIN, THAT'S JUST THE WAY THAT SOMEONE IN THE
12 PEER-REVIEWED LITERATURE CONCEPTUALIZED THE IDEA OF
13 COMPACTNESS. SO THAT'S ANOTHER WAY TO THINK ABOUT THIS.

14 Q. ALL RIGHT. SO THERE'S BEEN SOME CRITICISM OF YOU IN THIS
15 CASE BY THE PLAINTIFFS IN THE WAY OF SAYING THAT THESE
16 TECHNIQUES HAVEN'T BEEN USED TO DRAW WHOLE DISTRICTS. DO YOU
17 RECALL THAT CRITICISM?

18 A. YES.

19 Q. WHAT'S YOUR RESPONSE TO THAT?

20 A. WELL, CERTAINLY IN THE REDISTRICTING SIMULATIONS, THAT WAS
21 THE APPLICATION OF THE CONCEPTS. THEY WERE USING THESE
22 CONCEPTS OF COMPACTNESS TO DEFINE COMPACTNESS FOR PURPOSES OF A
23 SIMULATION. BUT IT'S REALLY THE CONCEPTION OF COMPACTNESS THAT
24 MATTERS AND THAT CAN BE APPLIED IN DIFFERENT CIRCUMSTANCES. IN
25 THIS CIRCUMSTANCE, WE HAVE AN ILLUSTRATIVE DISTRICT FROM

4:14PM

1 MR. COOPER THAT PURPORTS TO SHOW THAT YOU CAN IN FACT DRAW A
2 DISTRICT WHERE BLACK RESIDENTS COMPRISE 50 PERCENT PLUS ONE OF
3 THE DISTRICT POPULATION. AND THIS IS JUST THE WAY TO PUT THAT
4 TO THE TEST AND SAY OF THE BLACK RESIDENTS IN THIS DISTRICT, IS
5 THERE A COMBINATION OF THEM THAT ADDS UP TO 50 PERCENT PLUS ONE
6 THAT IS ALSO COMPACT?

7 Q. ALL RIGHT. SO CONCEPTUALLY WITH THIS MOMENT OF INERTIA,
8 CONCEPTUALLY, IS THERE ANYTHING SIMILAR OF THAT TO REOCK AND
9 POLSBY-POPPER IN TERMS OF HOW THEY ARE MEASURED?

10 A. THEY REALLY ARE APPLES AND ORANGES. AND AGAIN, YOU CAN
11 GET THE IDEA BY THINKING, YOU KNOW, WE CAN HAVE EVERYONE IN
12 THIS ROOM CLUSTERED AROUND THE TABLE, WE COULD HAVE EVERYONE IN
13 THIS ROOM SPREAD OUT EQUALLY, WE COULD HAVE EVERYONE IN THIS
14 ROOM PLACED IN THE DIFFERENT CORNERS, AND I THINK WE WOULD
15 UNDERSTAND -- WE WOULD AGREE THAT THE POPULATION IN THOSE THREE
16 DIFFERENT SCENARIOS HAS DIFFERENT DEGREES OF COMPACTNESS, BUT
17 THE COMPACTNESS OF THE ROOM STAYS THE SAME IN ALL THREE OF
18 THOSE SCENARIOS.

19 SO YOU COULD HAVE THIS COURTROOM BE A NICE SQUARE COMPACT
20 FIGURE, BUT THE POPULATIONS WITHIN IT CAN BE EXTREMELY COMPACT
21 OR NOT SO COMPACT, DEPENDING ON HOW THEY ARE DISTRIBUTED. AND
22 THAT'S WHY YOU HAVE A DIFFERENT TEST FOR MEASURING POPULATION
23 COMPACTNESS IN THE LITERATURE THAN PARAMETER OR DISTRICT
24 COMPACTNESS, AERIAL COMPACTNESS.

25 Q. ALL RIGHT. WHEN YOU ARE LOOKING AT DISTRICT COMPACTNESS,

4:16PM 1 REOCK, POLSBY-POPPER, IS THERE ANYTHING ABOUT THOSE MEASURES
2 THAT WOULD TELL YOU WHAT IS COMPACT AND WHAT IS NOT?

3 A. WELL, NOT WITH -- IT WILL TELL YOU WHETHER THE BOUNDARY OF
4 THE UNIT IS COMPACT, BUT FOR THE PARTS THAT ARE WITHIN THE
5 BOUNDARY, IT REALLY DOESN'T. LIKE I SAID, YOU COULD HAVE
6 PEOPLE IN THIS ROOM AROUND A DESK, YOU COULD HAVE THEM SPREAD
7 EQUALLY THROUGH THE ROOM. YOU COULD HAVE THEM PLACED IN THE
8 CORNERS OF THE ROOM. THE PEOPLE IN THE ROOM, THEIR COMPACTNESS
9 CHANGES DEPENDING ON WHERE THEY ARE STANDING OR MILLING ABOUT.
10 THE ROOM ITSELF, WHICH IS WHAT THE POLSBY-POPPER AND THE REOCK
11 ARE ABOUT, THE COMPACTNESS STAYS THE SAME IN EACH ONE OF THOSE
12 EXAMPLES.

13 Q. RIGHT. SO IF A DISTRICT LINE -- IF THE LINES OF A
14 DISTRICT HAD A REOCK SCORE OF, SAY, .20, WOULD THAT TELL YOU
15 ANYTHING ABOUT WHETHER IT WAS, QUOTE, COMPACT OR NOT?

16 A. IT WOULD TELL YOU -- THAT'S ONE OF THE PROBLEMS WITH REOCK
17 IS THAT ALL THAT REALLY TELLS YOU IS THAT THE DISTRICT FILLS
18 20 PERCENT OF A MINIMUM BOUNDING CIRCLE. WHETHER IT IS .2 OR
19 .21, OR .19, AT WHAT POINT IT BECOMES A COMPACT DISTRICT, I
20 DON'T KNOW, BECAUSE INTERPRETING THOSE REOCK SCORES IS
21 DIFFICULT BECAUSE THEY DON'T HAVE A FIXED MEANING OR A LODESTAR
22 WHEN SOMETHING BECOMES COMPACT OR NOT.

23 Q. OKAY. SO LET'S KEEP LOOKING AT HOUSE DISTRICT 1.

24 **MR. STRACH:** FORREST, WE ARE GOING TO PULL UP FIGURE
25 6 ON PAGE 17.

S. TRENDE - DIRECT

4:17PM 1

BY MR. STRACH:

2 Q. ALL RIGHT. MR. TRENDE, DID YOU IDENTIFY THE MOST COMPACT
3 BLACK POPULATION IN THE DISTRICT, IN THIS DISTRICT USING THE
4 MOMENT OF INERTIA APPROACH?

5 A. I DID.

6 Q. SO WHAT DOES THIS FIGURE SHOW?

7 A. SO THIS FIGURE IS THE SAME DOT DENSITY MAP WE HAVE SEEN
8 BEFORE, EXCEPT I HAVE USED DASHED LINES TO IDENTIFY THE OUTER
9 BOUNDARY OF WHERE -- OF THE PRECINCTS CONTAINING THE MOST
10 COMPACT BLACK POPULATION IN THE DISTRICT, SUFFICIENT TO
11 CONSTITUTE 50 PERCENT PLUS ONE OF THE DISTRICT'S POPULATION.

12 Q. ALL RIGHT. I NOTICE THERE'S A LITTLE HOLE IN THERE WITH
13 THE BLUE DASHES. WHAT IS THAT ALL ABOUT?

14 A. SO IN A SIMULATION, IF YOU WERE TRYING TO BUILD OUT THE
15 DISTRICTS THEMSELVES, YOU WOULD PUT IT IN A CONSTRAINT TO KEEP
16 THE HOLE FROM APPEARING IN IT, BUT WE ARE JUST LOOKING AT THE
17 POPULATION. YOU KNOW, YOU COULD BUILD THAT CONSTRAINT IN. I
18 DON'T THINK IT WOULD CHANGE THE ANSWER SUBSTANTIALLY, BUT
19 AGAIN, WE ARE JUST LOOKING AT THE DISTRICTS THAT MR. COOPER
20 DREW TO TRY TO DEMONSTRATE OR ILLUSTRATE THE EXISTENCE OF A
21 50 PERCENT PLUS ONE COMPACT BLACK POPULATION. THIS IS THE BEST
22 CASE SCENARIO FOR WHAT THE MOST COMPACT POPULATION IS USING THE
23 MOMENT OF INERTIA APPROACH.

24 Q. ALL RIGHT. SO WITH RESPECT TO FIGURE 6, WHAT'S YOUR
25 CONCLUSION ABOUT THE COMPACTNESS OF THE BLACK POPULATION IN

S. TRENDE - DIRECT

4:19PM

1 THIS DISTRICT?

2 A. SO WHAT THIS SHOWS IS THAT THE POPULATION CLUSTER IN THE
3 CITY OF SHREVEPORT IS NOT SUFFICIENT TO BE 50 PERCENT PLUS ONE
4 OF THE DISTRICT'S POPULATION. TO GET TO 50 PERCENT PLUS ONE IN
5 THIS DISTRICT, YOU REALLY DO HAVE TO GO OUT INTO THE -- YOU
6 KNOW, CROSS BAYOUS AND RIVERS, GO OUT INTO THE HEAVILY WHITE
7 SUBURBS AND THEN INTO HEAVILY RURAL AREAS IN CADDO PARISH TO
8 GET TO THAT 50 PERCENT PLUS ONE. IN OTHER WORDS, THESE KIND OF
9 DISPARATE GROUPS IN LOCATIONS OF BLACK INDIVIDUALS IN RURAL
10 CADDO PARISH AREN'T INCIDENTAL AND AREN'T JUST AN ARTIFICE OF
11 THE FACT THAT YOU HAVE TO MEET THE EQUAL POPULATION
12 REQUIREMENTS. HE NEEDS THOSE RESIDENTS, NO MATTER WHAT YOU DO,
13 TO GET TO 50 PERCENT PLUS ONE OF THE POPULATION IN THIS
14 DISTRICT. THAT'S NOT ALWAYS GOING TO BE THE CASE, BUT IN THIS
15 PARTICULAR ILLUSTRATIVE DISTRICT, IT IS.

16 Q. ALL RIGHT. AND DID YOU ALSO LOOK AT THIS DISTRICT USING
17 SORT OF THE CHEN AND RODDEN APPROACH?

18 A. YES, CHEN AND RODDEN OR AERIAL APPROACH.

19 Q. WE WILL PULL UP FIGURE 7 ON PAGE 18. WHAT DID YOU FIND
20 HERE USING THAT APPROACH?

21 A. IT'S THE SAME STORY. SO IN THIS PARTICULAR DISTRICT, YOU
22 NEED AT LEAST 16,737 BLACK RESIDENTS OF VOTING AGE TO
23 CONSTITUTE 50 PERCENT PLUS ONE OF THE VOTING AGE POPULATION OF
24 THE DISTRICT.

25 USING THE AERIAL APPROACH, THIS IS THE MOST COMPACT

4:21PM 1 GROUPING OF 16,737 BLACK RESIDENTS OF VOTING AGE. AND IT'S THE
2 SAME STORY. THOSE RESIDENTS IN THE CITY OF SHREVEPORT AREN'T
3 SUFFICIENT TO GET TO 50 PERCENT PLUS ONE. YOU HAVE TO GO OUT
4 INTO BAYOUS, ACROSS EMPTY TERRITORY AND PICK UP ISOLATED
5 POCKETS OF INDIVIDUALS TO REACH THAT 50 PERCENT PLUS ONE
6 THRESHOLD.

7 Q. ALL RIGHT. AND THEN WE WILL JUST SHOW THE COURT AN
8 EXAMPLE OF WHAT YOU CALLED A CHOROPLETH MAP. WE ARE GOING TO
9 PULL UP FIGURE 3 ON PAGE 11. AND DESCRIBE WHAT THIS MAP IS
10 SHOWING US VERSUS THE DOT MAP.

11 A. SO WHEN THESE APPEAR IN MY REPORT, THESE ARE YOUR
12 TRADITIONAL CHOROPLETH MAPS THAT SHOW FOR -- AND THESE ARE
13 CENSUS BLOCKS, AND IT SHOWS THE BVAPS, THE BLACK VOTING AGE
14 POPULATION OF THE CENSUS BLOCKS. SO IT DOES SHOW, YOU KNOW,
15 THE BLOCKS IN SHREVEPORT THEMSELVES ARE DENSELY POPULATED --
16 ARE HEAVILY -- HAVE HIGH BLACK POPULATIONS. THERE IS A DENSE
17 CONCENTRATION THERE. AND THEN WHEN YOU GET OUT INTO THE RURAL
18 AREAS, THERE ARE, AS I SAID, SWATHS WHERE SOME OF THE BLOCKS
19 ARE ENTIRELY WHITE, LARGE SWATHS WHERE NO ONE LIVES BECAUSE IT
20 IS A RIVER OR AN INTERSTATE OR SWAMPLAND, AND THEN SOME POCKETS
21 THAT ARE HEAVILY BLACK.

22 ON THIS MAP, YOU'LL SEE THE DASHED -- I SHOULD HAVE
23 THOUGHT THIS ONE THROUGH BETTER, I SUPPOSE, I APOLOGIZE, BUT
24 THE DASHED BLUE LINE HERE IS THE PARISH BOUNDARY.

25 Q. RIGHT. OKAY. SO THINKING ABOUT MR. COOPER'S OTHER

S. TRENDE - DIRECT

4:22PM 1 DISTRICTS THAT HE DREW IN THE SHREVEPORT AREA, ARE THERE OTHER
2 DISTRICTS OTHER THAN THIS ONE THAT HAD GEOGRAPHICALLY COMPACT
3 BLACK POPULATIONS?

4 A. SOME OF THEM DO. SOME OF THEM, THE POPULATIONS ARE
5 CONCENTRATED WITHIN THE CITY OF SHREVEPORT, AND THOSE ARE
6 DESCRIBED IN THE REPORT, BUT THAT GETS YOU THREE. IT'S THIS
7 FOURTH ONE WHERE UNDER ANY CONCEPT OF A COMPACT POPULATION, I
8 THINK IT IS HARD TO SAY IT IS COMPACT. BUT THAT IS ULTIMATELY
9 SOMETHING FOR THE FINDER OF FACT TO DETERMINE. THAT IS JUST MY
10 INTERPRETATION.

11 Q. ALL RIGHT. LET'S --

12 **MR. STRACH:** JUDGE, I WANT TO BE RESPECTFUL OF YOUR

13 4:30 --

14 **THE COURT:** HOW LONG ARE YOU GOING TO BE?

15 **MR. STRACH:** I'VE PROBABLY GOT ANOTHER TWENTY
16 MINUTES.

17 **THE COURT:** LET'S FINISH IT UP.

18 **MR. STRACH:** OKAY.

19 **BY MR. STRACH:**

20 Q. MR. TRENDE, LET'S SWITCH GEARS TO BATON ROUGE. WE ARE
21 GOING TO BRING UP ENACTED DISTRICT 29, SO THIS IS AN ENACTED
22 DISTRICT.

23 **MR. STRACH:** FORREST, IT IS FIGURE 38 ON PAGE 58.

24 **BY MR. STRACH:**

25 Q. AND MR. TRENDE, DO YOU RECOGNIZE THAT DISTRICT?

S. TRENDE - DIRECT

4:24PM

1 A. I DO.

2 Q. ALL RIGHT. AND WHEN LOOKING AT THE DISTRICT LINES, DOES
3 THAT LOOK LIKE A VERY COMPACT DISTRICT TO YOU JUST BASED ON THE
4 LINES?

5 A. FROM THE LINES ITSELF, NO. YOU CAN IMAGINE THE BOUNDING
6 CIRCLE AROUND IT, AND THE DISTRICT WOULDN'T FILL MUCH OF THAT
7 BOUNDING CIRCLE. IT HAS A LOT OF ZIGS AND ZAGS, SO IT'S GOING
8 TO HAVE A LARGE PERIMETER. SO FOR PURPOSES OF POLSBY-POPPER,
9 IT'S NOT GOING TO FILL MUCH OF A CIRCLE WITH THE SAME PERIMETER
10 AS THE DISTRICT.

11 Q. BUT WHAT DOES THIS TELL YOU USING YOUR MOMENT OF INERTIA
12 APPROACH?

13 A. SO THIS IS WHY IT IS IMPORTANT. IF YOU JUST DID A VISUAL
14 INSPECTION OF THE DISTRICT AS A WHOLE, YOU WOULD LOOK AT IT AND
15 SAY, OKAY, THERE IS A CONCENTRATION AROUND NORTH BATON ROUGE
16 AND THE AIRPORT THAT HAS A LOT OF BLACK RESIDENTS, BUT IT ALSO
17 PICKS UP A LOT OF BLACK RESIDENTS ACROSS THE RIVER, IN HEAVILY
18 WHITE AREAS, ISOLATED, IT GOES ACROSS EMPTY AREAS AND SWAMPS
19 AND WHATNOT, AND YOU MIGHT TREAT THIS THE SAME AS DISTRICT 1.

20 WHY I THINK THIS ONE IS IMPORTANT IS IT ILLUSTRATES THAT
21 THIS ISN'T SOMETHING THAT'S DESIGNED TO FAIL OR MAKE IT
22 IMPOSSIBLE TO DRAW VOTING RIGHTS ACT COMPLIANT DISTRICTS,
23 BECAUSE WHEN YOU LOOK AT A -- WHEN YOU CONSTRAIN YOURSELF TO
24 EXAMINING POPULATIONS THAT CAN CONSTITUTE 16,500 -- THAT HAVE
25 16,519 BLACK RESIDENTS, RESIDENTS SUFFICIENT TO BE 50 PERCENT

4:25PM

1 PLUS ONE OF THE POPULATION, THE PART THAT CROSSES THE RIVER
2 ISN'T NECESSARY, THAT POPULATION, TO GET TO 50 PERCENT PLUS
3 ONE. IT'S JUST -- IN TERMS OF *GINGLES I*, IT'S ALMOST
4 SUPERFLUOUS BECAUSE THOSE RESIDENTS WOULD BE ADDED FOR EQUAL
5 POPULATION REQUIREMENTS.

6 THE BLACK POPULATION THAT IS IN BATON ROUGE EAST OF THE
7 RIVER ALONE GETS YOU TO 50 PERCENT PLUS ONE, SO IT CLEARLY HAS
8 A COMPACT POPULATION OF 16,519 BLACK RESIDENTS THAT ARE ENOUGH
9 TO BE -- THAT'S ENOUGH TO GET TO 50 PERCENT PLUS ONE IN THIS
10 DISTRICT.

11 Q. ALL RIGHT. SO LET'S LOOK AT MR. COOPER'S VERSION, WHICH
12 IS FIGURE 39 ON PAGE 59.

13 A. OKAY. SO THIS IS THE SAME BASIC AREA. YOU CAN SEE IT IS
14 SOUTH OF THE -- THE POPULATION SOUTH OF THE AIRPORT. AND IT
15 DOES CROSS THE RIVER LIKE THE OLD VERSION, BUT UNLIKE THE OLD
16 VERSION, YOU NEED ALMOST EVERY ONE OF THOSE BLACK RESIDENTS TO
17 GET TO A POPULATION OF, AS MR. COOPER DREW THE DISTRICT, 17,076
18 BLACK RESIDENTS. YOU DON'T NEED ALL OF THOSE RESIDENTS TO GET
19 TO 50 PERCENT PLUS ONE. THERE ARE SOME PEOPLE IN THE NORTH OF
20 THE DISTRICT, SOME IN THE SOUTHEAST, BUT IN GENERAL, YEAH, THE
21 BLACK POPULATION IN THIS DISTRICT, THIS DISTRICT CONFIGURATION
22 THAT REPRESENTS 50 PERCENT PLUS ONE OF THE POPULATION IS SPREAD
23 OUT IN RURAL AREAS AND SUBURBS, ACROSS SWAMPLANDS AND RIVERS,
24 NOT COMPACT IN THE DISTRICT LIKE THE ORIGINAL CONFIGURATION IS,
25 BECAUSE HIS APPROACH IS TO TAKE THE COMPACT BLACK POPULATION IN

4:27PM

1 BATON ROUGE AND SPLIT IT UP AMONG MULTIPLE DISTRICTS. HE
2 REDUCES THE NUMBER OF BLACK RESIDENTS FROM BATON ROUGE IN THESE
3 DISTRICTS AND THEN TAKES OUT -- TAKES ON ADDITIONAL RESIDENTS
4 ACROSS THE RIVER TO MAKE UP FOR THAT.

5 **MR. STRACH:** OKAY.

6 **MS. THOMAS:** OBJECTION TO THE EXTENT THAT THIS
7 WITNESS IS GETTING TOWARDS THE INTENT OF MR. COOPER, WHICH THIS
8 COURT HAS ALREADY RULED IS NOT APPROPRIATE FOR ANY OF THE
9 EXPERTS IN THIS CASE.

10 **THE COURT:** SUSTAINED. YOU DON'T KNOW WHAT
11 MR. COOPER WAS THINKING. SUSTAINED.

12 **MR. STRACH:** ALL RIGHT. THANK YOU, JUDGE.

13 **BY MR. STRACH:**

14 Q. LET'S LOOK AT DISTRICT 63 IN BATON ROUGE, WHICH IS FIGURE
15 44, PAGE 66. AND I BELIEVE THIS IS THE ENACTED DISTRICT. IS
16 THAT RIGHT?

17 A. THAT IS CORRECT.

18 Q. WHAT DO YOU CONCLUDE FROM THIS MAP?

19 A. SO THIS IS ANOTHER EXAMPLE OF HOW YOU CAN HAVE A COMPACT
20 BLACK POPULATION IN A DISTRICT AND ALSO HAVE, YOU KNOW, SOME
21 BLACK POPULATION THAT IS SPREAD OUT THROUGHOUT THE DISTRICT.
22 YOU KNOW, THIS WOULD, NEVERTHELESS, IN THE SOUTHEAST PORTION OF
23 THE DISTRICT, HAVE A CONCENTRATION OF BLACK RESIDENTS THAT GETS
24 YOU 16,793 RESIDENTS, WHICH IS 50 PERCENT PLUS ONE OF THE
25 DISTRICT.

4:29PM

1 Q. ALL RIGHT. LET'S LOOK AT MR. COOPER'S VERSION OF THAT
2 DISTRICT, FIGURE 45 ON PAGE 67. SO WHAT DO YOU CONCLUDE ABOUT
3 THIS VERSION OF THE DISTRICT?

4 A. SO AGAIN, YOU START OUT WITH THE SAME BASIC AREA. IT'S
5 RECONFIGURED A LITTLE BIT. BUT TO GET TO 50 PERCENT PLUS ONE,
6 THE POPULATION IS SPREAD OUT INTO RURAL AREAS ACROSS EMPTY
7 PRECINCTS AND BLOCKS INTO -- YOU KNOW, FAR AWAY FROM THE
8 DOWNTOWN CLUSTER.

9 Q. OKAY. LET'S MOVE TO CENTRAL LOUISIANA DISTRICT 23.
10 THAT'S FIGURE 23 ON PAGE 39. WHAT DO YOU CONCLUDE FROM THIS
11 MAP?

12 A. SO IN THIS MAP, IT TURNS OUT THAT BECAUSE THE BVAP IS
13 PRETTY DARN CLOSE TO 17,494 RESIDENTS OF THE DISTRICT AS A
14 WHOLE, WHICH IS WHAT GETS YOU TO 50 PERCENT PLUS ONE, YOU NEED
15 THE ENTIRE POPULATION. SO IN THIS CONFIGURATION, THE MOMENT OF
16 INERTIA/CHEN AND RODDEN LINE FALLS ON THE DISTRICT BOUNDARY.
17 SO YOU CAN SEE THAT THERE'S A BLACK POPULATION, I DON'T KNOW IF
18 THAT'S NATCHITOCHESS OR NOT, BUT IN THE SOUTHEAST OF THE
19 DISTRICT, ANOTHER POPULATION IN THAT LITTLE AREA THAT POINTS
20 NORTHWARD, NORTH OF IT, AND THEN IN THE WEST AREA OF THE
21 DISTRICT, BUT NONE OF THOSE CLUSTERS ARE 50 PERCENT PLUS ONE OF
22 THE POPULATION. HE NEEDS TO JOIN TOGETHER THREE GEOGRAPHICALLY
23 DISPARATE CLUSTERS, A BUNCH OF INDIVIDUALS IN RURAL AREAS AND
24 HEAVILY WHITE AREAS IN ORDER TO GET TO 50 PERCENT PLUS ONE
25 BVAP.

S. TRENDE - DIRECT

4:31PM

1 Q. ALL RIGHT. LET'S LOOK AT THE ST. CHARLES AREA. LET'S
2 LOOK AT HOUSE DISTRICT 34, WHICH IS FIGURE 29 ON PAGE 46. WHAT
3 DO YOU CONCLUDE FROM THIS MAP?

4 A. SO IN ST. CHARLES, MR. COOPER TAKES THE ONE BLACK MAJORITY
5 DISTRICT THAT EXISTS AND SPLITS IT INTO TWO DISTRICTS. SO WHAT
6 YOU SEE -- I GET A LITTLE WHIMSICAL WITH THIS. I THINK THIS
7 LOOKS LIKE A POINTER DOG. BUT YOU CAN SEE THAT THERE'S A
8 CONCENTRATION OF BLACK RESIDENTS OF VOTING AGE IN THIS
9 DISTRICT, BUT BECAUSE HE, I THINK, HAS TEN MORE BLACK RESIDENTS
10 OF VOTING AGE THAN WOULD GET YOU TO 50 PERCENT PLUS ONE, EVERY
11 BLACK RESIDENT IN THIS DISTRICT IS NECESSARY TO GET TO THAT
12 THRESHOLD.

13 SO OUTSIDE OF THE CLUSTER IN ST. CHARLES, THERE ARE, IN
14 KIND OF THE BACK FOOT OF THE POINTER DOG, ISOLATED POCKETS,
15 THERE ARE SOME IN THE HEAVILY WHITE AREA IN THE POINTER HAND OF
16 THE POINTER DOG -- I WILL STOP BEATING THAT ANALOGY FURTHER
17 THAN IT DESERVES TO GO -- BUT AGAIN, NOT TERRIBLY COMPACT.

18 Q. OKAY. THEN LET'S LOOK AT HOUSE DISTRICT 38, WHICH IS
19 FIGURE 34 ON PAGE 51. WHAT DO YOU CONCLUDE FROM THIS MAP?

20 A. SO THIS IS THE SECOND DISTRICT THAT MR. COOPER DRAWS, AND
21 TO GET TO 50 PERCENT PLUS ONE -- ONCE AGAIN, THE MOST
22 COMPACT -- THE BOUNDARY OF THE MOST COMPACT POPULATION FALLS ON
23 THE DISTRICT BOUNDARIES. AND SO THE BLACK POPULATION SPRAWLS
24 OVER EMPTY AREAS AND SWAMPLAND, AS WELL AS CONCENTRATION AROUND
25 LAKE ST. CHARLES ITSELF -- LAKE CHARLES.

S. TRENDE - DIRECT

4:33PM

1 Q. ALL RIGHT. LET'S LOOK AT THE SENATE BRIEFLY. WE ARE
2 GOING TO PULL UP I THINK IT'S FIGURE 97 ON PAGE 133. WHAT DO
3 YOU CONCLUDE FROM THIS ONE?

4 A. SO THIS IS ANOTHER WAY OF ILLUSTRATING THE POPULATIONS OF
5 A SENATE DISTRICT IN THIS INSTANCE, SO, AGAIN, YOU CAN SEE THAT
6 IN THIS DEMONSTRATION, THIS ILLUSTRATIVE DISTRICT, THE
7 POPULATIONS -- AND AGAIN, THE BOUNDARIES OF THE MOST COMPACT
8 50 PERCENT PLUS ONE VOTING AGE POPULATION GROUP LIE ON THE
9 DISTRICT BOUNDARY. YOU CAN SEE THAT -- WELL, THERE'S ONE
10 CARVE-OUT ON THE WEST, SO IT IS MORE OR LESS ON THE DISTRICT
11 BOUNDARY.

12 YOU KNOW, IT IS NOT A COMPACT -- WELL, THE FINDER OF FACT
13 WILL DECIDE IF IT IS COMPACT, BUT THERE ARE DISTINCT GROUPINGS
14 THAT ARE SPREAD OUT THROUGHOUT THE DISTRICT THAT ARE JOINED
15 TOGETHER TO GET TO 50 PERCENT PLUS ONE.

16 Q. OKAY. MR. TRENDE, ARE YOU GENERALLY FAMILIAR WITH THE
17 CONCEPT OF PACKING?

18 A. YES.

19 Q. DOES THIS APPROACH, THE MOMENT OF INERTIA APPROACH,
20 REQUIRE PACKING OF BLACK VOTERS?

21 A. IT REALLY DOESN'T. IT REQUIRES A GROUP THAT IS 50 PERCENT
22 PLUS ONE, WHICH I UNDERSTAND IS YOUR THEORY OF WHAT COMPACTNESS
23 IS, BUT THIS IS ALSO ILLUSTRATIVE DISTRICTS, NOT NECESSARILY
24 THE FINAL REMEDIAL DISTRICTS THAT GET PRODUCED.

25 Q. OKAY. I THINK YOU TESTIFIED EARLIER THAT YOU WERE ONE OF

4:34PM 1 THE SPECIAL MASTERS IN THE VIRGINIA CASE. DID YOU USE MOMENT
2 OF INERTIA THERE?

3 A. WE DID NOT.

4 Q. WHY NOT?

5 A. BECAUSE WE HAD A MONTH TO DRAW 160 DISTRICTS, RECEIVE
6 PUBLIC COMMENTARY, TAKE THAT PUBLIC COMMENTARY AND PRODUCE A
7 SECOND SET, WE DECIDED AT THE OUTSET THAT WE DIDN'T HAVE TIME
8 TO DO A FULL VRA ANALYSIS, WITH BERNIE GROFMAN, WHO WAS ONE OF
9 THE FATHERS OF *GINGLES*, AS MY CO-MAP DRAWER.

10 AS IT TURNS OUT, THANKFULLY IN VIRGINIA, WHEN YOU DO A
11 RACE-NEUTRAL DRAW, WHICH IS WHAT WE DID, THE POLITICAL
12 GEOGRAPHY OF BLACK RESIDENTS OF VIRGINIA IS SUCH THAT YOU DRAW
13 NATURALLY VRA COMPLIANT DISTRICTS. AND SO WE ULTIMATELY DIDN'T
14 GET HEAVY OBJECTIONS IN THE COMMENT PHASE FROM THE NAACP. WE
15 DIDN'T GET EXAMPLES OF OTHER ADDITIONAL VRA DISTRICTS WE COULD
16 HAVE DRAWN, SO IT WORKED OUT. BUT WE NEVER DID A FULL *GINGLES*
17 ANALYSIS THERE.

18 Q. ALL RIGHT. DID YOU EXAMINE MR. COOPER'S DISTRICTS AT ALL
19 TO SEE IF THEY COMPLY WITH ONE-PERSON, ONE-VOTE?

20 A. I DID NOT.

21 Q. DID YOU EXAMINE THE POPULATION DEVIATION OF ANY OF THE
22 ENACTED OR ILLUSTRATIVE DISTRICTS?

23 A. I DID NOT.

24 Q. ALL RIGHT. IF MR. COOPER TESTIFIED THAT YOU CRITICIZED
25 HIM ON THIS POINT, HOW WOULD YOU RESPOND?

4:36PM

1 A. I DIDN'T DO ANY ANALYSIS IN THAT REALM.

2 Q. OKAY. DID YOU OPINE ABOUT MR. COOPER'S ROUNDING PRACTICES
3 IN ANY OF YOUR REPORTS?

4 A. NO, I SAW A REFERENCE IN THE ROUGH, AND I RECOGNIZE THAT
5 THAT IS A ROUGH TRANSCRIPT, BUT I DIDN'T DO ANY OF THAT.

6 Q. DID YOU AT ANY TIME CALCULATE AVERAGES OR MEANS FOR MR.
7 COOPER'S MAJORITY BLACK DISTRICTS?

8 A. AGAIN, I SAW THAT IN THE ROUGH TRANSCRIPTS, AND THOSE ARE
9 ROUGHS, BUT I DIDN'T DO ANY ANALYSIS OF THAT.

10 Q. ALL RIGHT. THANK YOU.

11 **MR. STRACH:** YOUR HONOR, THAT IS ALL THE QUESTIONS WE
12 HAVE AT THIS TIME.

13 **THE COURT:** OKAY. WE ARE GOING TO BREAK FOR THE DAY.
14 WE WILL RECONVENE TOMORROW AT 9:00 A.M. WITH CROSS-EXAMINATION.

15 **MR. STRACH:** MAY I SAY ONE THING, YOUR HONOR?

16 **THE COURT:** YES.

17 **MR. STRACH:** WE HAVE BEEN REASSESSING WHETHER TO CALL
18 MS. HADSKEY. WE'VE BEEN GETTING THE TEAM TOGETHER AND THINKING
19 ABOUT THAT. I THINK WE HAVE DECIDED WE WILL CALL HER, SO OUR
20 ORDER OF WITNESSES TOMORROW WOULD BE FINISH MR. TRENDE, THEN
21 DR. DOUG JOHNSON, THEN DR. BARBER, AND THEN MS. HADSKEY IN THE
22 AFTERNOON.

23 **THE COURT:** OKAY. FRANKLY, I HAD JUST ABSOLUTELY
24 FORGOTTEN THAT I NEEDED TO RULE ON THOSE EXHIBITS, AND I WAS
25 GOING TO GRANT ADMISSION, BUT IF YOU ARE GOING TO CALL

4:37PM

1 MS. HADSKEY, I WILL JUST RESERVE RULING. WE MAY NOT NEED THEM.

2 **MR. STRACH:** OKAY. THANK YOU.

3 **THE COURT:** WE WILL BE IN RECESS UNTIL 9 A.M.

4 (TRIAL RECESSED UNTIL 9:00 A.M. THE FOLLOWING MORNING.)

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4:37PM 1
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CERTIFICATE OF COURT REPORTER

I, TERI B. NORTON, RMR, FCRR, RDR, OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, APPOINTED PURSUANT TO THE PROVISIONS OF TITLE 28, UNITED STATES CODE, SECTION 753, DO HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT OF THE PROCEEDINGS REPORTED BY ME USING THE STENOGRAPHIC REPORTING METHOD IN CONJUNCTION WITH COMPUTER-AIDED TRANSCRIPTION, AND THAT SAME IS A TRUE AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND UNDERSTANDING.

I FURTHER CERTIFY THAT THE TRANSCRIPT FEES AND FORMAT COMPLY WITH THOSE PRESCRIBED BY THE COURT AND THE JUDICIAL CONFERENCE OF THE UNITED STATES.

S/ **TERI B. NORTON**
TERI B. NORTON, RMR, FCRR, RDR
OFFICIAL COURT REPORTER

Attachment 5

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL * CIVIL ACTION
*
VERSUS * NO. 3:22-178-SDD
*
KYLE ARDOIN, ET AL * DECEMBER 1, 2023
* * * * *

DAY 5
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE

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S. TRENDE - CROSS

9:00AM 1

THE COURT: I THINK MR. TRENDE CAN TAKE THE STAND. I
2 THINK WE ARE ON CROSS-EXAMINATION. YOU ARE STILL UNDER OATH,
3 SIR.

4 **THE WITNESS:** YES, YOUR HONOR.

5 **THE COURT:** MS. THOMAS, MAKE AN APPEARANCE FOR THE
6 NEW COURT REPORTER, PLEASE.

7 **MS. THOMAS:** ALORA THOMAS FOR THE HARVARD ELECTION
8 LAW CLINIC. GOOD MORNING, MR. TRENDE. NICE TO SEE YOU AGAIN.
9 I'M SURE THE NEXT TIME I SEE YOU, YOU WILL BE DR. TRENDE.

10 **THE WITNESS:** GOOD TO SEE YOU, TOO.

11 **SEAN TRENDE,**

12 **HAVING PREVIOUSLY BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

13 **CROSS-EXAMINATION**

14 **BY MS. THOMAS:**

15 Q. SO GOING OVER SOME OF THE THINGS THAT YOU DISCUSSED IN
16 YOUR DIRECT, YOU HAVE TWO ALGORITHMS THAT YOU USED IN YOUR
17 EXPERT REPORT; IS THAT CORRECT?

18 A. THAT IS CORRECT.

19 Q. AND THE FIRST WEIGHTS THE BLACK VOTING AGE POPULATION? IF
20 I SAY BVAP, WILL YOU UNDERSTAND WHAT I MEAN?

21 A. YES, I'LL UNDERSTAND THAT. AND YES, THAT'S RIGHT, IT
22 WEIGHTS THAT.

23 Q. AND THE SECOND ALGORITHM WEIGHTS PRECINCT SIZE; IS THAT
24 CORRECT?

25 A. THAT IS CORRECT.

S. TRENDE - CROSS

9:01AM 1 Q. AND NEITHER OF THESE ALGORITHMS CREATE WHOLE MAPS; IS THAT
2 CORRECT?

3 A. THAT'S RIGHT. THEY ARE DESIGNED TO IDENTIFY CLUSTERS OF
4 BLACK RESIDENTS OF VOTING AGE THAT WOULD BE 50 PERCENT PLUS ONE
5 OF THE BVAP IN THE DISTRICT THAT -- THE ILLUSTRATIVE DISTRICT
6 THAT MR. COOPER DREW.

7 Q. AND YOU DID NOT USE EITHER OF THESE EXACT ALGORITHMS IN
8 YOUR DISSERTATION; IS THAT CORRECT?

9 A. THAT IS CORRECT. IT'S THE CONCEPTIONS OF COMPACTNESS THAT
10 I WAS FAMILIARIZED WITH.

11 Q. AND THESE ALGORITHMS ARE BASED ON MOMENT OF INERTIA; IS
12 THAT CORRECT?

13 A. THAT IS CORRECT.

14 Q. AND YOU DID NOT USE MOMENT OF INERTIA IN YOUR
15 DISSERTATION; IS THAT CORRECT?

16 A. THAT'S CORRECT. I USED IT IN MY RESEARCH FOR IT, I CAME
17 ACROSS IT, BUT I DIDN'T USE THAT IN THE DISSERTATION ITSELF.

18 Q. AND FOCUSING ON YOUR DISSERTATION FOR A MINUTE, NONE OF
19 THE CHAPTERS IN YOUR DISSERTATION HAD BEEN PUBLISHED IN A
20 PEER-REVIEWED ARTICLE -- PEER-REVIEWED JOURNAL?

21 A. THAT IS RIGHT.

22 Q. AND YOU ONLY HAVE ONE PEER-REVIEWED ARTICLE; IS THAT
23 CORRECT?

24 A. THAT IS CORRECT.

25 Q. AND YOUR PEER-REVIEWED ARTICLE DID NOT DISCUSS EITHER OF

S. TRENDE - CROSS

9:02AM

1 THE ALGORITHMS YOU ARE USING IN THIS CASE?

2 A. RIGHT.

3 Q. AND YOU DID NOT USE MOMENT OF INERTIA IN YOUR
4 PEER-REVIEWED ARTICLE?

5 A. CORRECT.

6 Q. AND YOUR ONE PEER-REVIEWED ARTICLE DID NOT DISCUSS
7 COMPACTNESS; IS THAT CORRECT?

8 A. CORRECT.

9 Q. AND IT'S YOUR UNDERSTANDING THAT YOU ARE CRITIQUING A
10 *GINGLES I* EXPERT, MR. COOPER; IS THAT CORRECT?

11 A. I'M CRITIQUING MR. COOPER, THAT'S RIGHT.

12 Q. AND DO YOU UNDERSTAND THAT MR. COOPER IS A *GINGLES I*
13 EXPERT IN THIS CASE?

14 A. I DON'T KNOW WHAT HIS PROFFER WAS, BUT I WON'T DISPUTE YOU
15 ON THAT.

16 Q. AND WOULD YOU AGREE THAT A *GINGLES I* EXPERT MUST DRAW A
17 *GINGLES I* COMPLIANT MAP?

18 A. YES.

19 Q. IN MR. COOPER'S WORK, HE USED REOCK AND POLSBY-POPPER,
20 ALONG WITH OTHER MEASURES TO ESTABLISH THE COMPACTNESS OF HIS
21 DISTRICTS; IS THAT CORRECT?

22 A. THAT'S RIGHT.

23 Q. AND YOU DID NOT ANALYZE MR. COOPER'S REOCK SCORES; IS THAT
24 CORRECT?

25 A. THAT'S RIGHT. I HAVE NO REASON TO DISPUTE HIM ON THE

S. TRENDE - CROSS

9:04AM

1 DISTRICT COMPACTNESS.

2 Q. AND YOU DID NOT ANALYZE MR. COOPER'S SCORE ON
3 POLSBY-POPPER?

4 A. THAT'S RIGHT.

5 Q. AND YOU DON'T HAVE A BASIS TO CONCLUDE THAT MR. COOPER'S
6 DISTRICTS ARE NONCOMPACT?

7 A. THAT'S RIGHT. I DON'T ANALYZE THE DISTRICT COMPACTNESS.

8 Q. AND YOU ALSO DID NOT RUN A COMPACTNESS ANALYSIS ON THE
9 ENACTED MAP; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. AND YOU WOULDN'T BE SURPRISED IF MR. COOPER'S ILLUSTRATIVE
12 MAPS EITHER MET OR BEAT THE ENACTED MAP ON COMPACTNESS

13 MEASURES?

14 A. IT WOULDN'T SURPRISE ME EITHER WAY. NO, THAT IS CORRECT.

15 Q. NOW, WHAT YOU DID DO IN THIS CASE IS YOU USED THE MOMENT
16 OF INERTIA METHOD WE'VE BEEN DISCUSSING. COULD THE MOMENT OF
17 INERTIA METHOD GIVE A NUMERIC VALUE?

18 A. YES.

19 Q. AND COULD YOU USE THAT NUMERIC VALUE TO COMPARE DIFFERENT
20 DISTRICTS?

21 A. I SUPPOSE YOU COULD. IT'S TOUGH TO DO A DIRECT COMPARISON
22 BECAUSE WHAT THE MOMENT OF INERTIA VALUE IS IS THE AVERAGE
23 SQUARE -- AVERAGE DISTANCE FROM THE CENTROID. SO COMPARING
24 ACROSS DISTRICTS IS A LITTLE TRICKY, BUT REMEMBER, HERE I'M
25 ONLY USING IT TO HELP IDENTIFY THE MOST COMPACT GROUPING OF

S. TRENDE - CROSS

9:05AM 1 BLACK RESIDENTS OF VOTING AGE IN THE DISTRICT THAT CAN BE
2 50 PERCENT PLUS ONE. SO IT'S TRYING TO FIND THE BEST GROUPING
3 FOR MR. COOPER IN ANALYZING THAT.

4 Q. BUT YOU DID NOT RELAY THE NUMERIC VALUE FOR YOUR MOMENT OF
5 INERTIA IN YOUR REPORT, CORRECT?

6 A. THAT'S RIGHT.

7 Q. INSTEAD OF RELAYING A NUMERIC VALUE, YOU USED A VISUAL
8 DEPICTION; IS THAT CORRECT?

9 A. THAT'S RIGHT. I FOLLOWED THE SUPREME COURT APPROACH IN
10 RACIAL GERRYMANDERING CASES AND IN SOME OF THESE SECTION 2
11 CASES, OR TRIED TO FOLLOW IT, AT LEAST, AND AN ULTIMATE VISUAL
12 ANALYSIS OF THE COMPACTNESS, BECAUSE THIS IS AN AREA, AS
13 JUSTICE O'CONNOR WROTE, WHERE APPEARANCES DO MATTER.

14 Q. AND IN ORDER TO MAKE THE VISUAL COMPARISON, SOMEONE WOULD
15 HAVE TO MAKE A JUDGMENT CALL BASED ON THE VISUALS; IS THAT
16 CORRECT?

17 A. THAT'S RIGHT. THE FINDER OF FACT MAKES THE ULTIMATE
18 CONCLUSION AND JUDGMENT CALL ON THIS.

19 Q. AND I THINK YOU TESTIFIED YESTERDAY AND AGAIN IN YOUR
20 TESTIMONY JUST NOW THAT THE MOMENT OF INERTIA, YOU ARE USING IT
21 TO FIND THE MOST COMPACT POPULATION; IS THAT RIGHT?

22 A. THAT'S RIGHT.

23 Q. AND I THINK YOU TESTIFIED IN THAT -- EARLIER AND AT YOUR
24 DEPOSITION THAT THE ARTICLES THAT YOU CITE FOR THE MOMENT OF
25 INERTIA DO NOT USE THE MOST COMPACT CONCEPT IN THE EXACT WAY

9:07AM

1 THAT YOU DO; IS THAT RIGHT?

2 A. THAT IS RIGHT. THEY PROVIDE THE CONCEPT OF COMPACTNESS,
3 AND THEN THEY APPLY IT TO THE DRAWING OF FULL DISTRICTS. I'M
4 JUST TAKING THE CONCEPT OF COMPACTNESS AND APPLYING IT TO A
5 DIFFERENT SCENARIO.

6 Q. *GINGLES* I DOES NOT REQUIRE THAT A DISTRICT BE DRAWN AROUND
7 THE MOST COMPACT POPULATION; DOES IT?

8 A. OH, NO, NO. I'M JUST SAYING WITHIN THE ILLUSTRATIVE
9 DISTRICT THAT MR. COOPER DREW, WHAT'S THE MOST COMPACT
10 POPULATION SOMEONE COULD POINT TO TO ARGUE THAT THE MINORITY
11 POPULATION IN THE DISTRICT IS COMPACT? THAT'S ALL THE MOMENT
12 OF INERTIA IS BEING USED FOR IS TO FIND THE BEST CASE SCENARIO
13 FOR PLAINTIFFS.

14 Q. AND YOU WOULD AGREE THAT YOU BASE YOUR FINDINGS OF
15 COMPACTNESS ON YOUR OPINION OF WHAT A REASONABLE DEFINITION OF
16 THE TERM WOULD BE?

17 A. COULD YOU REPEAT THAT? I'M SORRY.

18 Q. YOU WOULD AGREE THAT YOU BASE YOUR FINDINGS OF COMPACTNESS
19 ON YOUR OPINION OF WHAT A REASONABLE DEFINITION OF COMPACTNESS
20 WOULD BE?

21 A. RIGHT, RIGHT. THE REPORT HAS MY ANALYSIS OF WHY I THINK
22 IT'S NOT COMPACT, BUT IT'S ULTIMATELY SOMETHING -- IT'S A FINE
23 LINE TO WALK IN THAT REPORT BETWEEN NOT INVADING THE PROVINCE
24 OF THE FACT-FINDER AND YET GIVING SOME TYPE OF ANALYSIS ON
25 COMPACTNESS.

S. TRENDE - CROSS

9:08AM 1 Q. AND YOUR DEFINITION OF COMPACTNESS IS ONE THAT THE
2 FACT-FINDER MIGHT ULTIMATELY DISAGREE WITH. YOU WOULD --

3 A. OH --

4 Q. -- AGREE WITH THAT?

5 A. I'M SORRY. I DIDN'T MEAN TO TALK OVER YOU. A HUNDRED
6 PERCENT.

7 Q. NOW, I THINK YOU TESTIFIED YESTERDAY AND IN YOUR
8 DEPOSITION THAT YOU HAVE BEEN INVOLVED IN DRAWING MAPS IN THE
9 PAST; IS THAT CORRECT?

10 A. THAT'S RIGHT.

11 Q. AND WHEN YOU'VE DRAWN MAPS, YOU'VE USED TRADITIONAL
12 REDISTRICTING CRITERIA; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND BASED ON YOUR EXPERIENCE, *GINGLES* I EXPERTS, WHEN THEY
15 ARE DRAWING MAPS, USE TRADITIONAL REDISTRICTING CRITERIA; IS
16 THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. STATES OFTEN HAVE A LIST OF TRADITIONAL REDISTRICTING
19 CRITERIA THAT THEY PRIORITIZE IN THEIR MAP DRAWING; IS THAT
20 CORRECT?

21 A. YES.

22 Q. AND LOUISIANA HAS A LIST OF TRADITIONAL REDISTRICTING
23 CRITERIA THAT IT PRIORITIZES?

24 A. YES.

25 Q. AND MR. COOPER USED TRADITIONAL REDISTRICTING CRITERIA IN

9:10AM 1 DESIGNING HIS MAP; IS THAT CORRECT?

2 A. THAT'S MY UNDERSTANDING.

3 Q. AND YOU WOULD AGREE THAT IN DRAWING MAPS, TRADE-OFFS ARE
4 SIMPLY INEVITABLE BETWEEN TRADITIONAL REDISTRICTING CRITERIA,
5 RIGHT?

6 A. YES.

7 Q. YOU DIDN'T CONSIDER ANY TRADITIONAL REDISTRICTING CRITERIA
8 IN ANSWERING THIS QUESTION OTHER THAN COMPACTNESS?

9 A. NO, BECAUSE TYPICALLY THE VOTING RIGHTS ACT STANDS FIRST
10 IN TERMS OF PRINCIPLES AND WOULD OVERRIDE STATE CONCLUSIONS
11 ABOUT TRADITIONAL REDISTRICTING PRINCIPLES. SO IF IT'S TRUE
12 THAT IT'S POPULATION COMPACTNESS THAT MATTERS, THAT WOULD BE
13 ONE OF THE PRIME CONSIDERATIONS. THAT'S WHY I DID IT THE WAY I
14 DID.

15 Q. AND AT YOUR DEPOSITION, YOU DID NOT KNOW WHAT EFFECT
16 INCORPORATING TRADITIONAL REDISTRICTING CRITERIA WOULD HAVE HAD
17 IN YOUR ANALYSIS IF YOU WOULD HAVE INCLUDED IT?

18 A. THAT'S RIGHT.

19 Q. IN YOUR DIRECT WE WENT THROUGH ENACTED DISTRICT 29. DO
20 YOU RECALL THAT?

21 A. YES.

22 Q. OKAY. IF WE COULD GET ON THE SCREEN THE SECRETARY OF
23 STATE'S EXHIBIT 3, WHICH I BELIEVE IS MR. TRENDE'S REPORT.

24 YES. WE ARE NOW LOOKING AT DISTRICT 29 FROM YOUR REPORT.
25 IT'S FOUND ON PAGE 8, AND THIS IS FIGURE 38. DO YOU RECALL

S. TRENDE - CROSS

9:11AM

1 THIS?

2 A. YES.

3 Q. OKAY. SO I'M JUST GOING TO ASK YOU A FEW QUESTIONS. YOU
4 DON'T KNOW WHETHER THE COMMUNITIES ON EITHER SIDE OF THE
5 RIVERBANK ARE CONSIDERED SEPARATE COMMUNITIES OF INTEREST?

6 A. THAT'S RIGHT. I DON'T OFFER COMMUNITIES OF INTEREST
7 ANALYSIS.

8 Q. OKAY. IF WE COULD LOOK AT FIGURE 96 ON PAGE 132 OF THE
9 SAME EXHIBIT. THERE'S ANOTHER RIVERBANK IN THE NEW ORLEANS
10 AREA. DO YOU KNOW ANYTHING ABOUT THE TWO COMMUNITIES ON EITHER
11 SIDE OF THE RIVERBANK?

12 A. NO.

13 Q. DO YOU KNOW ANYTHING ABOUT WHAT ROLE COMMUNITIES MAY HAVE
14 PLAYED IN THE DRAWING OF THIS DISTRICT?

15 A. NO.

16 Q. WE'VE LOOKED AT SOME OF THE -- SORRY, STRIKE THAT. I
17 BELIEVE IN YOUR DIRECT EXAMINATION WE LOOKED AT -- AND WE
18 LOOKED AT JUST NOW DISTRICT 29 IN THE ENACTED MAP. DID YOU DO
19 AN EXHAUSTIVE REVIEW OF THE ENACTED MAP'S MAJORITY BLACK
20 DISTRICTS?

21 A. NO.

22 Q. AND AT YOUR DEPOSITION YOU STATED YOU DID NOT KNOW WHETHER
23 ANY OF THE DISTRICTS IN THE ENACTED MAP WERE VOTING RIGHTS ACT
24 COMPLIANT, CORRECT?

25 A. THAT'S RIGHT. THEY MAY ALL NOT BE.

S. TRENDE - CROSS

9:13AM 1 Q. AND YOU TESTIFIED AT YOUR DEPOSITION THAT YOU HAD TURNED
2 OVER YOUR CODE TO THE PLAINTIFFS; IS THAT CORRECT?

3 A. YES.

4 Q. AND IF WE RAN YOUR CODE, WE COULD REPLICATE YOUR ANALYSIS?

5 A. THAT'S RIGHT. YOU WOULD HAVE TO CHANGE SOME OF THE
6 DISTRICT NUMBERS, I THINK, TO BRING UP DIFFERENT DISTRICTS, BUT
7 YEAH, YOU COULD RUN THE CODE ON ANY DISTRICT ON ANY MAP YOU
8 WANTED TO.

9 Q. AND IN YOUR DEPOSITION, WE SPOKE ABOUT DISTRICT 62 IN THE
10 ENACTED MAP, CORRECT?

11 A. I HAVE NO REASON TO DISPUTE YOU ON THAT. WE TALKED ABOUT
12 A LOT OF DISTRICTS.

13 Q. DO YOU NEED ME TO REFRESH YOUR RECOLLECTION?

14 A. I TRUST YOU.

15 Q. OKAY. AND AT YOUR DEPOSITION, YOU AGREED THAT DISTRICT 62
16 OF THE ENACTED MAP CLEARLY FAILS YOUR EYEBALL TEST; IS THAT
17 RIGHT?

18 A. YEAH, DISTRICT 62 IS A -- IT WOULD BE A REMEDIAL, NOT AN
19 ILLUSTRATIVE DISTRICT, BUT I REMEMBER LOOKING AT IT AND
20 THINKING, NO, THAT IS NOT A COMPACT BLACK POPULATION.

21 Q. JUST SO THE RECORD IS CLEAR, WE LOOKED AT DISTRICT 62 IN
22 THE ENACTED MAP, CORRECT?

23 A. RIGHT.

24 Q. AND AT YOUR DEPOSITION YOU SAID THAT YOU WOULD NOT DEFEND
25 DISTRICT 62 AS A VOTING RIGHTS ACT DISTRICT. DO YOU RECALL

S. TRENDE - CROSS

9:14AM

1 THAT?

2 A. THAT'S RIGHT.

3 Q. SO GOING BACK TO TRADITIONAL REDISTRICTING CRITERIA, ONE
4 SUCH CRITERIA IS ONE-PERSON, ONE-VOTE, ALSO KNOWN AS EQUAL
5 POPULATION. ARE YOU FAMILIAR WITH THAT?

6 A. YES.

7 Q. AND DISTRICTS MUST COMPLY WITH ONE-PERSON, ONE-VOTE,
8 BECAUSE IT'S A CONSTITUTIONAL REQUIREMENT, CORRECT?

9 A. ABSOLUTELY.

10 Q. YOUR ALGORITHM DOES NOT ACCOUNT FOR EQUAL POPULATION OR
11 ONE-PERSON, ONE-VOTE; IS THAT CORRECT?

12 A. WELL, NO, BUT WE ARE TAKING THE DISTRICTS THAT MR. COOPER
13 DREW, WHICH WOULD ALREADY BE ONE-PERSON, ONE-VOTE COMPLIANT,
14 AND JUST LOOKING TO SEE IF THERE IS A -- IF THEY DO ILLUSTRATE
15 THE EXISTENCE OF A COMPACT BLACK POPULATION SUFFICIENT TO BE
16 50 PERCENT PLUS ONE OF THE BVAP. SO BECAUSE THE DISTRICTS ARE
17 ALREADY DRAWN, ONE-PERSON, ONE-VOTE COMPLIANT, IT DOESN'T HAVE
18 TO BE CODED IN.

19 Q. THE ALGORITHM STOPS ONCE IT REACHES 50 PERCENT PLUS ONE OF
20 BLACK POPULATION BUT DOES NOT REQUIRE FILLING OUT A FULL
21 POPULATION OF A DISTRICT; IS THAT CORRECT?

22 A. WELL, THAT'S RIGHT, BUT THE DISTRICT IS ALREADY DRAWN.
23 IT'S LOOKING WITHIN THE DISTRICT HOW DO YOU BEST GET TO
24 50 PERCENT PLUS ONE? WHAT IS THAT DISTRICT REALLY
25 ILLUSTRATING?

9:16AM 1 Q. AND YOU TESTIFIED THAT YOUR SECOND ALGORITHM WAS SIMILAR
2 TO THE CHEN AND RODDEN METHOD. DO YOU RECALL THAT?

3 A. THAT'S CORRECT.

4 Q. AND YOU CLAIM THAT THIS METHOD WAS FROM A PAPER THAT THEY
5 WROTE 10 YEARS AGO IN 2013. DO YOU RECALL THAT?

6 A. THAT'S RIGHT.

7 Q. UNLIKE YOUR ALGORITHM, THE CHEN AND RODDEN METHOD USED THE
8 CENTROID OF A PRECINCT, AND YOUR METHOD USED THE CENTROID OF A
9 POPULATION. DO YOU RECALL THAT?

10 A. YES.

11 Q. AS A RESULT, THE CHEN AND RODDEN METHOD DRAWS ACTUAL
12 DISTRICTS WHERE YOUR METHOD DOES NOT DRAW DISTRICTS IN AND OF
13 ITSELF?

14 A. WELL, THAT'S RIGHT. AGAIN, I'M TAKING THE CONCEPTION OF
15 COMPACTNESS AND APPLYING IT TO A DIFFERENT SCENARIO, JUST AS
16 THEY TAKE THE IDEA OF COMPACTNESS AND APPLY IT TO THE DRAWING
17 OF SIMULATED MAPS.

18 Q. AND IN CREATING THEIR DISTRICT, CHEN AND RODDEN'S GOAL WAS
19 TO DESIGN A REDISTRICTING ALGORITHM THAT USES ONLY TRADITIONAL
20 GEOGRAPHIC CRITERIA OF THE KIND FAVORED BY REFORM ADVOCATES.
21 DO YOU RECALL THAT?

22 A. THAT IS RIGHT. ONE OF THOSE CRITERIA IS COMPACTNESS, AND
23 IT IS THAT CONCEPTION OF COMPACTNESS THAT I'M TAKING AND
24 APPLYING TO A DIFFERENT SET OF FACTS.

25 Q. NOT ONLY DOES THE CHEN AND RODDEN METHOD DRAW DISTRICTS,

9:17AM 1 BUT IT ENSURES THAT THESE DISTRICTS MEET THE EQUAL POPULATION
2 REQUIREMENT. DO YOU RECALL THAT?

3 A. YES.

4 Q. AND AS WE HAVE DISCUSSED, YOUR METHOD DOES NOT DO THAT?

5 A. THAT'S RIGHT.

6 Q. AND CHEN AND RODDEN ALSO SOUGHT TO GUARANTEE CONTIGUITY.
7 DO YOU RECALL THAT?

8 A. YES.

9 Q. AND AS WE SAW YESTERDAY, YOUR ALGORITHM CAN CREATE
10 NONCONTIGUOUS PLACES; DO YOU RECALL THAT?

11 A. WELL, THE 50 PERCENT PLUS ONE GROUPING OF BLACK RESIDENTS
12 WILL BE CONTIGUOUS. WHAT IS LEFT OVER DOESN'T HAVE TO BE.
13 BUT, AGAIN, THE DISTRICT IS ALREADY DRAWN. WE ARE JUST LOOKING
14 WITHIN THAT DISTRICT WHAT IS THE MOST COMPACT POPULATION.

15 Q. BUT AS WE SAW YESTERDAY, THERE CAN BE NONCONTIGUOUS SPACES
16 WITHIN YOUR ALGORITHM?

17 A. WITHIN THE MOST COMPACT POPULATION THAT'S 50 PERCENT PLUS
18 ONE OF THE DISTRICT, YES, BUT THE DISTRICT IS ALREADY DRAWN,
19 AND IT'S CONTIGUOUS.

20 Q. AND CHEN AND RODDEN HAD SPECIFIC STEPS IN THEIR ALGORITHM
21 TO ENSURE EQUAL POPULATION AND CONTIGUITY. DO YOU RECALL THAT?

22 A. THAT IS RIGHT. FOR DRAWING THE FULL DISTRICT, THEY
23 ABSOLUTELY DO USE THOSE.

24 Q. AND YOU DID NOT USE THOSE STEPS IN YOUR ALGORITHM,
25 CORRECT?

S. TRENDE - CROSS

9:19AM 1 A. THAT'S RIGHT, BECAUSE I'M NOT DRAWING DISTRICTS.

2 Q. I WOULD LIKE TO TURN TO YOUR PRIOR WORK AS AN EXPERT
3 WITNESS OR AS AN EXPERT IN GENERAL. SOME OF THESE THINGS WILL
4 BE EXPERT WITNESSES AND NOT. BUT YOU HAVE SERVED AS AN EXPERT
5 WITNESS IN SECTION 2 VOTE DILUTION CASES IN THE PAST; IS THAT
6 CORRECT?

7 A. THAT'S RIGHT.

8 Q. AND THE MOST PROMINENT MEASURES OF DISTRICT COMPACTNESS
9 THAT YOU'RE AWARE OF ARE REOCK AND POLSBY-POPPER; IS THAT
10 CORRECT?

11 A. ABSOLUTELY.

12 Q. AND YOU HAVE RUN THE REOCK MEASURE IN YOUR EXPERT
13 REDISTRICTING WORK BEFORE, HAVEN'T YOU?

14 A. OH, YES.

15 Q. AND YOU HAVE RUN THE POLSBY-POPPER COMPACTNESS MEASURE IN
16 YOUR EXPERT REDISTRICTING WORK BEFORE?

17 A. THAT'S RIGHT.

18 Q. AND I BELIEVE YESTERDAY YOU TESTIFIED TO YOUR WORK IN
19 VIRGINIA. DO YOU RECALL THAT?

20 A. YES.

21 Q. AND IN VIRGINIA, YOU USED REOCK AND POLSBY-POPPER?

22 A. YEAH, VIRGINIA HAS A SPECIFIC CONSTITUTIONAL REQUIREMENT
23 THAT THE DISTRICTS WOULD BE COMPACT, AND I ABSOLUTELY AGREE
24 THAT IF YOU ARE LOOKING AT THE COMPACTNESS OF THE DISTRICT,
25 REOCK AND POLSBY-POPPER ARE THE PROPER TOOLS, BUT THAT IS

9:20AM

1 DISTINCT FROM POPULATION COMPACTNESS.

2 Q. AND YOU WERE AWARE IN VIRGINIA THAT THE VOTING RIGHTS ACT
3 MIGHT BE TRIGGERED, GIVEN VIRGINIA'S POPULATION WHEN YOU WERE
4 DRAWING YOUR MAPS?

5 A. THAT'S RIGHT.

6 Q. AND I BELIEVE YOU TESTIFIED YESTERDAY THAT YOU DIDN'T DO
7 MOMENT OF INERTIA IN VIRGINIA BECAUSE YOU DIDN'T HAVE TIME TO
8 DO THAT. IS THAT RIGHT?

9 A. WELL, WE DIDN'T DO ANY *GINGLES* ANALYSIS IN VIRGINIA
10 BECAUSE WE DIDN'T HAVE TIME. AND AS I THINK ABOUT IT, THAT
11 VIRGINIA WORK WAS DONE BEFORE I WOULD HAVE BECOME AWARE OF THE
12 MOMENT OF INERTIA ANALYSIS, BUT IT WOULDN'T HAVE MATTERED
13 BECAUSE WE DIDN'T DO A *GINGLES* STEP I, II OR III ANALYSIS.

14 Q. IN ADDITION TO VIRGINIA, YOU SERVED AS AN EXPERT IN
15 ARIZONA; IS THAT CORRECT?

16 A. THAT'S RIGHT.

17 Q. AND IN ARIZONA, SECTION 2 COMPLIANCE WAS AT ISSUE; IS THAT
18 CORRECT?

19 A. THAT'S RIGHT.

20 Q. AND IN ARIZONA, YOU USED REOCK AND POLSBY-POPPER?

21 A. YEAH, WE WERE LOOKING AT DISTRICT COMPACTNESS THERE.

22 Q. YOU DID NOT USE MOMENT OF INERTIA IN ARIZONA?

23 A. CORRECT.

24 Q. AT THE TIME OF YOUR DEPOSITION, YOU TESTIFIED THAT YOU HAD
25 NOT USED MOMENT OF INERTIA NOT ONLY IN THESE TWO CASES THAT

9:21AM 1 WE'VE DISCUSSED WHERE YOU WERE AN OUTSIDE CONSULTING EXPERT BUT
2 IN YOUR THREE SECTION 2 CASES WHERE YOU WERE RETAINED AS A
3 TESTIFYING EXPERT. DO YOU RECALL THAT?

4 A. OH, THAT'S RIGHT.

5 Q. AND ONE OF THOSE CASES YOU DISCUSSED YESTERDAY WAS
6 MICHIGAN. DO YOU RECALL THAT?

7 A. THAT'S RIGHT. WE WERE ON THE PLAINTIFF'S SIDE IN
8 MICHIGAN.

9 Q. AND THAT WAS A SECTION 2 CASE WHERE YOU WERE A *GINGLES*
10 EXPERT FOR THE PLAINTIFFS?

11 A. THAT'S RIGHT. AND IF YOU LOOK AT THE DISTRICTS IN
12 MICHIGAN, JUST BECAUSE OF THE GEOGRAPHY OF MICHIGAN, THE BLACK
13 POPULATION IN THOSE DISTRICTS PRETTY MUCH HAS TO BE COMPACT.
14 BUT NO ONE CONTESTED POPULATION COMPACTNESS THERE, TO MY
15 KNOWLEDGE.

16 Q. AND YOU RAN REOCK AND POLSBY-POPPER IN MICHIGAN, CORRECT?

17 A. THAT'S RIGHT. IT WAS A -- IT WAS A SECTION 2 CASE, BUT IT
18 WAS ALSO A 14TH AMENDMENT CASE, AND SO THE SHAPE OF THE
19 DISTRICTS IS HIGHLY RELEVANT, IN MY EXPERIENCE, FOR 14TH
20 AMENDMENT CLAIMS.

21 Q. YOU WERE RETAINED AS AN EXPERT IN THE CONGRESSIONAL CASES
22 IN LOUISIANA KNOWN AS *GALMON* AND *ROBINSON*, CORRECT?

23 A. THAT'S RIGHT.

24 Q. AND YOU SUBMITTED A REPORT TO THE PLAINTIFFS IN THAT CASE,
25 CORRECT?

S. TRENDE - CROSS

9:23AM

1 A. THAT'S RIGHT.

2 Q. AND IN THAT REPORT, YOU USED REOCK AND POLSBY-POPPER?

3 A. YES, BECAUSE IN THAT CASE, PART OF THE TESTIMONY OR REPORT
4 WAS THAT RACE PREDOMINATED IN THE DRAWING OF THAT REMEDIAL
5 DISTRICT, AND WE WANTED TO COMPARE THE DISTRICT SHAPE TO
6 DISTRICT SHAPES IN OTHER 14TH AMENDMENT CASES. THAT WASN'T FOR
7 PURPOSES OF A SECTION 2 ANALYSIS.

8 Q. YOU DID NOT RUN MOMENT OF INERTIA IN THE LOUISIANA
9 CONGRESSIONAL CASES, CORRECT?

10 A. NO, THAT WAS A REMEDIAL MAP, NOT AN ILLUSTRATIVE MAP, TO
11 MY UNDERSTANDING.

12 Q. FROM YOUR SECTION 2 WORK, YOU ARE NOT AWARE OF ANY CASE
13 WHERE THE MOMENT OF INERTIA HAS BEEN RUN IN *GINGLES* I?

14 A. WELL, THAT'S RIGHT, BUT I'M NOT AWARE OF THE POPULATION --
15 POPULATION DISTRICT COMPACTNESS DISTINCTION BEING DRAWN EITHER.
16 I AGREE, FOR DISTRICT COMPACTNESS, YOU USE REOCK AND
17 POLSBY-POPPER, BUT I'M NOT AWARE OF ANY OTHER METRIC FOR
18 MEASURING POPULATION COMPACTNESS, AND AS FAR AS I KNOW, NONE
19 HAS BEEN SUGGESTED.

20 Q. AND FROM YOUR SECTION 2 WORK, YOU ARE AWARE OF OTHER CASES
21 WHERE REOCK AND POLSBY-POPPER HAVE BEEN USED IN A *GINGLES* I
22 ANALYSIS, CORRECT?

23 A. RIGHT. AGAIN, TO MY EXPERIENCE, MOST OF THESE CASES HAVE
24 FOCUSED ON DISTRICT COMPACTNESS. IT'S A DIFFERENT THEORY THAN
25 WHAT DEFENDANTS ARE CLAIMING HERE. IF THE DEFENSE THEORY IS

S. TRENDE - CROSS

9:24AM

1 WRONG, THEN IT'S WRONG, BUT IF IT'S RIGHT, THEN YOU HAVE TO
2 LOOK AT POPULATION COMPACTNESS. I DON'T KNOW HOW ELSE YOU DO
3 IT, AND I'M NOT AWARE OF ANY SUGGESTION BEING MADE OF HOW ELSE
4 TO DO IT.

5 Q. AND AT YOUR DEPOSITION, YOU STATED THAT THE MOMENT OF
6 INERTIA IS ONE OF THE OLDEST METHODS FOR ANALYZING COMPACTNESS
7 OF A POPULATION, YET IT STILL HAS NOT MADE AN APPEARANCE IN ANY
8 *GINGLES* I CASE OF WHICH YOU ARE AWARE?

9 A. WELL, THAT'S RIGHT.

10 Q. AND AT YOUR DEPOSITION, YOU ALSO SAID THAT THE LEGAL
11 THEORY BEING PROPOUNDED HERE ISN'T ONE THAT HAS BEEN EXPLORED,
12 RIGHT?

13 A. AS FAR AS I KNOW, IT'S A DIFFERENT INTERPRETATION OF HOW
14 YOU MEASURE COMPACTNESS THAN I'VE ENCOUNTERED IN THE PAST. IF
15 IT IS RIGHT, THIS IS HOW YOU DO IT. IF IT'S NOT, WELL, THEN
16 YOU WOULD USE A REOCK AND POLSBY-POPPER FOR A DISTRICT
17 COMPACTNESS.

18 Q. AND I BELIEVE IN YOUR REBUTTAL REPORT, YOU STATED THAT THE
19 TECHNOLOGY IS FAIRLY NEW TO DO MOMENT OF INERTIA AT THIS LEVEL;
20 IS THAT RIGHT?

21 A. THAT'S RIGHT. SO IF YOU GO BACK TO THOSE EARLY ALGORITHMS
22 IN THE '60S, THEY ARE TYPICALLY USING EITHER THEORETICAL OR
23 USING VERY SMALL NUMBER OF PRECINCTS. IT WASN'T UNTIL THE LATE
24 '90S THAT COMPUTATIONAL POWER WAS STRONG ENOUGH TO RUN
25 REDISTRICTING SIMULATIONS ON WHOLE DISTRICTS. SO IF YOU WANTED

9:26AM 1 TO DO THIS ON A DISTRICT IN THE '80S OR '90S, YOU JUST COULDN'T
2 HAVE DONE IT. PROBABLY COULD HAVE DONE IT IN THE 00S, AUGHTS,
3 WHATEVER THEY ARE CALLED, BUT YOU WOULD HAVE HAD TO HAVE ACCESS
4 TO PROBABLY A SUPER COMMUTER TO DO IT. IT'S JUST IN THE LAST
5 DECADE -- JUST TO PUT IT INTO PERSPECTIVE, I HAVE A PRETTY
6 STATE-OF-THE-ART ALIENWARE COMPUTER, AND IT TAKES ABOUT HALF AN
7 HOUR TO ANALYZE ONE OF THE SENATE DISTRICTS. SO IT'S JUST
8 BECOME PRACTICABLE IN THE LAST COUPLE OF DECADES.

9 Q. AT YOUR DEPOSITION, YOU TESTIFIED THAT EXPERTS HAD ACCESS
10 TO COMPUTERS THAT COULD EFFICIENTLY CALCULATE THE MOMENT OF
11 INERTIA IN THE WAYS IN WHICH WE ARE DISCUSSING IN THE LAST 20
12 YEARS. DO YOU RECALL THAT?

13 A. THAT'S RIGHT. SO IF YOU WERE AN EXPERT WHO HAD ACCESS TO,
14 SAY, A UNIVERSITY SUPER COMPUTER, YOU PROBABLY COULD HAVE DONE
15 THE MOMENT OF INERTIA APPROACH, BUT AGAIN, FOR MUCH OF THE
16 VOTING RIGHTS ACT EXISTENCE, THAT TECHNOLOGY JUST DIDN'T EXIST.

17 Q. OKAY. DO YOU RECALL THAT I ASKED YOU AT YOUR DEPOSITION
18 HOW RECENTLY THIS ANALYSIS COULD BE DONE, AND YOU -- AND I
19 ASKED YOU SPECIFICALLY IF IT WAS THE LAST TEN YEARS, AND YOU
20 ANSWERED NO, IT WOULD BE THE LAST 20 YEARS?

21 A. YEAH.

22 Q. OKAY. SO I WOULD LIKE TO GO TO YOUR PRIOR WORK AS AN
23 EXPERT. I BELIEVE YOU AND MR. STRACH SPOKE ABOUT THE ONE
24 INSTANCE IN WHICH YOU WERE EXCLUDED. DO YOU RECALL THAT?

25 A. YES.

S. TRENDE - CROSS

9:28AM 1 Q. DO YOU RECALL WHETHER COURTS HAVE FOUND YOUR OPINION
2 UNPERSUASIVE?

3 A. OH, I KNOW AT TIMES THEY HAVE.

4 Q. DID YOU RENDER OPINION IN MARYLAND ON COMPACTNESS?

5 A. THE MARYLAND GERRYMANDERING CASE?

6 Q. YES, SIR.

7 A. YES.

8 Q. OKAY. AND DO YOU KNOW WHETHER THE MARYLAND SUPREME COURT
9 AFFORDED ANY WEIGHT TO YOUR COMPACTNESS OPINION?

10 A. OH, THAT WAS THE -- YEAH, THAT WAS DISTRICT COMPACTNESS IN
11 THE STATE LEGISLATIVE CASE, AND THEY DID NOT. IT WAS THE
12 CONGRESSIONAL CASE THAT THE JUDGE DID.

13 Q. AND YOU WOULDN'T BE SURPRISED IF THE MARYLAND SUPREME
14 COURT FOUND YOUR NUMBER CRUNCHING HAD THE APPEARANCE OF RIGOR
15 BUT CONTRIBUTED LITTLE?

16 A. I WOULD NOT BE SURPRISED.

17 Q. AND YOU WOULD NOT BE SURPRISED THAT THE MARYLAND SUPREME
18 COURT FOUND YOUR ANALYSIS OF A SUPERFICIAL QUALITY?

19 A. I WOULD NOT BE SURPRISED.

20 Q. AND YOU WOULD NOT BE SURPRISED IF THE MARYLAND SUPREME
21 COURT FOUND YOUR ANALYSIS NOT INSTRUCTIVE ON THE ISSUES BEFORE
22 THE COURT?

23 A. CORRECT.

24 Q. HAVE YOU ALSO RECENTLY GIVEN TESTIMONY IN A CASE BEFORE
25 THE U.S. DISTRICT COURT IN SOUTH CAROLINA?

9:29AM 1

A. THAT'S RIGHT.

2

Q. DO YOU KNOW WHETHER THAT COURT FOUND YOUR WORK PERSUASIVE?

3

A. THEY DID NOT. THAT'S THE CASE THAT'S UNDER APPEAL TO THE

4

SUPREME COURT RIGHT NOW.

5

MS. THOMAS: LET ME JUST CONFER WITH MY CO-COUNSEL

6

FOR A MINUTE. I CAN TENDER THE WITNESS.

7

THE COURT: ANY REDIRECT?

8

MR. STRACH: NO REDIRECT, YOUR HONOR.

9

THE COURT: YOU MAY STEP DOWN, SIR. NEXT WITNESS.

10

MR. LEWIS: SORRY, YOUR HONOR. WE ARE JUST CHANGING

11

SEATS. YOUR HONOR, PATRICK LEWIS FOR THE LEGISLATIVE

12

DEFENDANTS. THE DEFENDANTS CALL DR. DOUGLAS JOHNSON TO THE

13

STAND.

14

(OATH ADMINISTERED.)

15

THE CLERK: IF YOU WOULD, SIR, PLEASE STATE YOUR NAME

16

AND SPELL IT FOR THE RECORD.

17

THE WITNESS: DOUGLAS JOHNSON, D-O-U-G-L-A-S,

18

J-O-H-N-S-O-N.

19

MR. LEWIS: YOUR HONOR, MAY I APPROACH THE WITNESS

20

WITH A BINDER CONTAINING HIS TWO REPORTS AND CV?

21

THE COURT: YOU MAY.

22

DR. DOUGLAS JOHNSON,

23

HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

24

DIRECT EXAMINATION

25

BY MR. LEWIS:

DR. D. JOHNSON - DIRECT

9:31AM

1 Q. OKAY. GOOD MORNING, DR. JOHNSON.

2 A. GOOD MORNING.

3 Q. DR. JOHNSON, I WOULD LIKE TO CALL UP THE DEFENSE EXHIBIT
4 57 -- OR EXCUSE ME, 59. IF YOU WILL PLEASE TURN TO THE TAB IN
5 YOUR BINDER. IS THIS YOUR RESUMÉ, DR. JOHNSON?

6 A. YES.

7 Q. OKAY. AND CAN YOU DESCRIBE FOR THE COURT YOUR EDUCATIONAL
8 BACKGROUND?

9 A. I HAVE A BACHELOR'S IN GOVERNMENT FROM CLAREMONT MCKENNA
10 COLLEGE. AT CLAREMONT, GOVERNMENT IS WHAT THEY CALL POLITICAL
11 SCIENCE. I HAVE A MASTER'S, AN M.B.A. FROM THE UC LOS ANGELES
12 ANDERSON SCHOOL OF BUSINESS, AND A PH.D. IN POLITICAL SCIENCE
13 FROM THE CLAREMONT GRADUATE UNIVERSITY.

14 Q. OKAY. AND DID YOU STUDY REDISTRICTING ISSUES IN YOUR
15 ACADEMIC WORK?

16 A. YES, BOTH MY UNDERGRADUATE SENIOR THESIS AND MY PH.D.
17 DISSERTATION WERE SPECIFICALLY ON REDISTRICTING, AND I WROTE
18 MANY OTHER PAPERS AS WELL.

19 Q. AND DO YOU HAVE ANY -- I SEE IN YOUR RESUMÉ A REFERENCE TO
20 BEING A FELLOW AT THE ROSE INSTITUTE FOR STATE AND LOCAL
21 GOVERNMENT AT CLAREMONT MCKENNA COLLEGE. CAN YOU EXPLAIN WHAT
22 THAT IS?

23 A. YES, IT IS A RESEARCH INSTITUTE. WE ACTUALLY JUST
24 CELEBRATED OUR 50-YEAR ANNIVERSARY AT CMC THAT WAS FOUNDED TO
25 FOCUS ON STATE AND LOCAL ISSUES, IN PARTICULAR REDISTRICTING

9:33AM 1 AND DEMOGRAPHICS, AND HAS DONE EXTENSIVE RESEARCH AND ORGANIZED
2 CONFERENCES AND THINGS LIKE THAT SINCE THE '70S ON THIS TOPIC.

3 Q. ALL RIGHT. AND DR. JOHNSON, WHERE ARE YOU CURRENTLY
4 EMPLOYED?

5 A. I AM PRESIDENT OF MY OWN FIRM, NATIONAL DEMOGRAPHICS
6 CORPORATION.

7 Q. OKAY. AND HOW LONG HAVE YOU BEEN EMPLOYED BY NATIONAL
8 DEMOGRAPHICS CORPORATION?

9 A. I ACTUALLY STARTED -- THE COMPANY WAS STARTED BY TWO OF MY
10 PROFESSORS, SO I STARTED AS AN UNDERGRAD BACK IN THE '80S, LATE
11 '80S, WORKED FOR THEM IN THE 1991 REDISTRICTING CYCLE, AND THEN
12 LEFT AND WENT OFF AND DID OTHER THINGS, AND THEN CAME BACK IN
13 2001, STARTED WORKING FOR THEM, AND THEN I TOOK OVER THE
14 COMPANY IN 2006. SO I STARTED IN THE 1991 REDISTRICTING CYCLE,
15 CAME BACK AND HAVE BEEN THERE CONTINUOUSLY SINCE 2001.

16 Q. AND WHAT BUSINESSES IS NATIONAL DEMOGRAPHICS CORPORATION
17 ENGAGED IN?

18 A. WE DO DISTRICTING AND REDISTRICTING WORK ESSENTIALLY
19 FULL-TIME.

20 Q. SO HOW LONG WOULD YOU SAY YOU HAVE WORKED PROFESSIONALLY
21 IN THE REDISTRICTING FIELD?

22 A. WELL, IN REDISTRICTING, WE TEND TO THINK IN CYCLES, THE
23 1991 CYCLE, 2001 CYCLE, 2011, 2021. SO SINCE THE 1991 CYCLE,
24 WITH A MID-DECADE BREAK IN THE '90S.

25 Q. OKAY. AND HAVE YOU PUBLISHED ON REDISTRICTING?

DR. D. JOHNSON - DIRECT

9:34AM

1 A. YES.

2 Q. OKAY. AND ARE SOME OF YOUR PUBLICATIONS LISTED ON YOUR
3 CV?

4 A. YES, INDEED.

5 Q. AND HAVE YOU PUBLISHED ON ISSUES OF VOTING RIGHTS?

6 A. IN THE CONTEXT OF DEMOGRAPHICS AND REDISTRICTING, YES.

7 Q. AND HAVE YOU SPOKEN AT PROFESSIONAL CONFERENCES ON
8 REDISTRICTING?

9 A. YES, MANY TIMES.

10 Q. CAN YOU GIVE ME A FEW EXAMPLES OF CONFERENCES YOU SPOKE
11 AT?

12 A. AT A NUMBER OF NATIONAL CONFERENCES OF STATE LEGISLATURE,
13 GENERAL MEETINGS AND SPECIFIC SEMINAR SESSIONS AT NCSL
14 ORGANIZED ON REDISTRICTING, FOR THE ARIZONA LEAGUE OF CITIES
15 AND TOWNS, FOR THE CALIFORNIA LEAGUE OF CITIES. I'M ACTUALLY
16 SPEAKING NEXT WEEK AT THE CALIFORNIA ASSOCIATION OF CITY
17 CLERKS, A NEW LAW CONFERENCE. I'VE SPOKEN TO THE CALIFORNIA
18 SCHOOL BOARD ASSOCIATION, MANY, MANY DIFFERENT ORGANIZATIONS
19 WHOSE JURISDICTIONS HAVE TO GO THROUGH DISTRICTING AND
20 REDISTRICTING ISSUES.

21 Q. AND HAVE YOU PREPARED, IN THE COURSE OF YOUR PROFESSIONAL
22 WORK, DISTRICTING PLANS TO BE ADOPTED BY REDISTRICTING
23 AUTHORITIES?

24 A. YES.

25 Q. APPROXIMATELY HOW MANY HAVE YOU PREPARED?

9:36AM 1 A. I THINK WE ARE NOW AT RIGHT AROUND 500 PROJECTS THAT I'VE
2 EITHER OVERSEEN OR DIRECTLY RUN, AND I'VE DRAWN IN THE COURSE
3 OF THAT THOUSANDS OF MAPS.

4 Q. ALL RIGHT. AND DO YOU USE ANY COMPUTER SOFTWARE IN YOUR
5 REDISTRICTING WORK?

6 A. YES.

7 Q. OKAY. AND WHAT IS THAT SOFTWARE?

8 A. PRIMARILY MAPTITUDE FOR REDISTRICTING.

9 Q. AND HOW MUCH EXPERIENCE DO YOU HAVE WORKING WITH
10 MAPTITUDE?

11 A. I'VE WORKED WITH IT ALMOST EVERY SINGLE DAY FOR THE LAST
12 22 YEARS, PLUS BACK IN -- WITH EARLIER VERSIONS OF A SIMILAR
13 SOFTWARE BACK IN 1991.

14 Q. OKAY. AND DR. JOHNSON, HAVE YOU SERVED AS AN EXPERT
15 WITNESS IN REDISTRICTING LITIGATION?

16 A. YES.

17 Q. IN APPROXIMATELY HOW MANY CASES?

18 A. OH, AROUND A DOZEN OR SO.

19 Q. OKAY. AND HAVE YOU EVER BEEN EXCLUDED AS A WITNESS?

20 A. NO.

21 Q. AND HAVE YOU HAD A CASE WHERE YOU'VE HAD A PORTION OF
22 YOUR -- OF AN EXPERT REPORT YOU DRAFTED EXCLUDED?

23 A. YES.

24 Q. OKAY. AND CAN YOU TELL THE COURT JUST A LITTLE BIT ABOUT
25 THAT?

9:37AM 1 A. SURE. IN *COMMON CAUSE V. LEWIS* IN NORTH CAROLINA, I HAD
2 SEVEN -- I THINK IT WAS SEVEN TOPICS THAT I WROTE ABOUT. IN
3 ONE OF THEM, WHEN I DID THE PROGRAMMING TO DO THE CALCULATIONS,
4 I PROGRAMMED IT WRONG, AND THAT WAS NOT SHARED WITH ME UNTIL I
5 WAS SITTING HERE IN THIS CHAIR, AND IT WAS BROUGHT UP IN THE
6 COURT. IT WASN'T MENTIONED AHEAD OF TIME. OBVIOUSLY, I WOULD
7 HAVE FIXED IT HAD SOMEONE MENTIONED IT AHEAD OF TIME. BUT THAT
8 PIECE WAS EXCLUDED.

9 THERE WAS A MOTION TO EXCLUDE MY WHOLE REPORT BECAUSE I
10 HAD ERRED, AND THE COURT RULED AGAINST THAT MOTION SAYING THAT
11 THE ONLY PROBLEM WAS WITH THAT ONE SECTION.

12 Q. OKAY. ALL RIGHT. AND HAVE ANY OF YOUR CASES INVOLVED --
13 ANY OF YOUR PRIOR CASES INVOLVED THE VOTING RIGHTS ACT?

14 A. YES.

15 Q. AND I BELIEVE SOME OF YOUR CASES ALSO INVOLVED THE
16 CALIFORNIA VOTING RIGHTS ACT; IS THAT RIGHT?

17 A. YES.

18 Q. OKAY.

19 **MR. LEWIS:** YOUR HONOR, AT THIS TIME, WE WOULD MOVE
20 THE ADMISSION OF DR. JOHNSON AS AN EXPERT IN THE FIELDS OF
21 POLITICAL SCIENCE, POLITICAL GEOGRAPHY, REDISTRICTING, AND THE
22 MAPTITUDE SOFTWARE.

23 **THE COURT:** ANY OBJECTIONS?

24 **MS. KEENAN:** WE DON'T HAVE ANY OBJECTIONS TO THE
25 QUALIFICATIONS AS HE HAS JUST DESCRIBED THEM.

DR. D. JOHNSON - DIRECT

9:38AM

1 **THE COURT:** POLITICAL SCIENCE, REDISTRICTING,
2 POLITICAL SCIENCE GEOGRAPHY? IS THAT IT?

3 **MR. LEWIS:** POLITICAL GEOGRAPHY, YOUR HONOR.

4 **THE COURT:** POLITICAL GEOGRAPHY. AND THE MAPTITUDE
5 SOFTWARE. DR. JOHNSON WILL BE PERMITTED TO GIVE OPINION
6 TESTIMONY IN THOSE FIELDS.

7 **MR. LEWIS:** THANK YOU, YOUR HONOR.

8 **THE COURT:** I SHOULD SAY IN THOSE SUBJECTS. I'M NOT
9 SURE. YOU KNOW, SOME OF THEM ARE FIELDS. SOME OF THEM ARE
10 SUBJECTS. THERE YOU GO.

11 **MR. LEWIS:** THANK YOU, YOUR HONOR.

12 **BY MR. LEWIS:**

13 Q. I WOULD LIKE NOW TO TURN TO --

14 **MR. LEWIS:** I GUESS JUST AS A HOUSEKEEPING MATTER, AT
15 THIS POINT, YOUR HONOR, WE HAVE A STIPULATION -- BY STIPULATION
16 OF COUNSEL, WE WOULD LIKE TO MOVE THE ADMISSION OF THE TWO
17 EXPERT REPORTS HE HAS WRITTEN, LDTX51, LDTX58, AND THEN THE CV,
18 WHICH IS LDTX 59.

19 **MS. KEENAN:** YOUR HONOR, MAY I BE HEARD ABOUT THE
20 TREATMENT OF THE REPORT BRIEFLY?

21 **THE COURT:** YOU MAY.

22 **MS. KEENAN:** SO AS WE'VE STATED, WE ARE NOT OBJECTING
23 TO DR. JOHNSON'S QUALIFICATIONS AS DESCRIBED HERE, BUT AFTER
24 THE PARTIES REACHED THEIR STIPULATIONS ABOUT ADMITTING ALL OF
25 THE REPORTS, THIS COURT DID ISSUE A RULING ON PLAINTIFFS'

DR. D. JOHNSON - DIRECT

9:39AM 1 DAUBERT MOTION THAT EXCLUDED SIGNIFICANT PORTIONS OF DR.
2 JOHNSON'S TESTIMONY AND OPINIONS. BECAUSE WE UNDERSTAND THAT
3 YOUR HONOR KNOWS WHICH PARTS OF THE OPINIONS THAT THE COURT HAS
4 EXCLUDED, PLAINTIFFS WOULD BE CONTENT WITH A LIMITING
5 INSTRUCTION THAT THE OPINIONS CONTAINED WITHIN THE REPORT CAN
6 BE ADMITTED TO THE EXTENT THAT THEY ARE CONSISTENT WITH YOUR
7 COURT'S ORDER, EXCLUDING CERTAIN TESTIMONY AND OPINIONS, BUT WE
8 WANT TO MAKE SURE WE PRESERVE OUR OBJECTION TO THE EXCLUDED
9 OPINIONS FOR THE RECORD.

10 THE COURT: MR. LEWIS?

11 MR. LEWIS: YOUR HONOR, I THINK AS WE GO THROUGH THE
12 DIRECT EXAMINATION OF THIS WITNESS, A FEW COMMENTS. I THINK,
13 FIRST OF ALL, WE DO UNDERSTAND THE COURT'S RULING. I THINK WE
14 WOULD WANT TO -- TO THE EXTENT THAT THERE ARE QUESTIONS THAT HE
15 IS NOT ALLOWED TO TESTIFY TO, WE WOULD WANT THE REPORT TO SERVE
16 AS A PROFFER UNDER RULE 103. AND OTHERWISE, I THINK THE
17 LIMITING INSTRUCTION IS FINE.

18 AS TO, FOR EXAMPLE, THE QUESTION ABOUT THE SUBJECTIVE
19 BELIEFS OR INTENTS OF MR. COOPER, WE WOULD SEEK RECONSIDERATION
20 OF THE COURT'S EXCLUSION OF DR. JOHNSON'S ANALYSIS AND THE
21 CHANGES BETWEEN MR. COOPER'S 2022 AND 2023 ILLUSTRATIVE PLANS.
22 I DON'T KNOW IF IT'S APPROPRIATE TO ARGUE THAT NOW OR WHEN IT
23 COMES UP IN THIS QUESTIONING, AS PLAINTIFFS HAVE ELICITED ON
24 DIRECT EXAMINATION TESTIMONY FROM MR. COOPER ABOUT THE NATURE,
25 EXTENT AND REASONING, PURPORTED REASONING FOR THOSE CHANGES.

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9:41AM 1 SO THEY HAVE PLACED THE RELEVANCE OF THOSE CHANGES INTO
2 QUESTION.

3 I BELIEVE THERE IS ALSO -- AND FINALLY, YOUR HONOR, I KNOW
4 THERE WAS A PORTION OF DR. JOHNSON'S REPORT CONCERNING THE
5 ERROR IN THE MAP, THE ORIGINAL ENACTED MAP THAT MR. COOPER
6 ANALYZED, BUT IN LIGHT OF MR. COOPER'S ADMISSION ON THE STAND,
7 I THINK WE WOULD JUST PROFFER HIS REPORT, PROFFER THOSE
8 OPINIONS FOR THE REPORT BUT NOT QUESTION HIM.

9 **THE COURT:** GO AHEAD AND RESPOND.

10 **MS. KEENAN:** SO, YOUR HONOR, WE DON'T HAVE ANY
11 OBJECTION TO THE PROFFER MECHANISM THAT WE DISCUSSED AT THE
12 PRETRIAL CONFERENCE. WE UNDERSTAND THAT THEY HAVE THE RIGHT TO
13 PRESERVE THAT FOR APPEAL. SO AS LONG AS WE ARE ADMITTING THE
14 REPORTING WITH THE LIMITING INSTRUCTION WE HAVE DESCRIBED ABOUT
15 THE OPINIONS YOU'VE EXCLUDED. BUT AS FOR THE MOTION FOR
16 RECONSIDERATION, I GUESS -- DOES YOUR HONOR INTEND TO PERMIT
17 ARGUMENT ON THAT, OR SHOULD I RESPOND TO THAT ISSUE?

18 **THE COURT:** NO, THE MOTION FOR RECONSIDERATION IS
19 DENIED. WITH RESPECT TO THE PROFFER, I MEAN, THIS, QUOTE,
20 LIMITING INSTRUCTION WOULD MAKE SOME SENSE IF THIS WAS A JURY,
21 BUT IT DOESN'T MAKE A WHOLE LOT OF SENSE TO ME. I'M SUPPOSED
22 TO GIVE MYSELF A LIMITING INSTRUCTION, OR I'M SUPPOSED TO GIVE
23 THE COURT OF APPEAL A LIMITING INSTRUCTION? I'M THINKING THE
24 COURT OF APPEAL IS NOT GOING TO TAKE TOO KINDLY TO ME GIVING
25 THEM A LIMITING INSTRUCTION. SO I DON'T KNOW HOW MECHANICALLY

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9:42AM 1 YOU WANT TO WORK THIS OUT.

2 **MS. KEENAN:** SURE, YOUR HONOR. I GUESS IT'S JUST
3 THAT WE DON'T THINK WE NEED TO MOVE TO EXCLUDE EACH INDIVIDUAL
4 PARAGRAPH OF THE REPORT THAT CONTAINS AN OPINION THAT YOU HAVE
5 EXCLUDED. WE CAN, IF YOUR HONOR WOULD LIKE, BUT WE THOUGHT IT
6 MIGHT BE EASIER TO CONSTRUCTIVELY ADMIT THE PORTIONS OF THE
7 REPORT THAT ARE CONSISTENT WITH YOUR HONOR'S OPINION AND NOT TO
8 ADMIT THE PORTIONS THAT ARE INCONSISTENT. THAT'S THE OPTION --

9 **THE COURT:** I THINK THE BEST WAY TO DO THIS, FRANKLY,
10 FOR THE RECORD -- I'M JUST TRYING TO THINK ABOUT IF I'M LOOKING
11 AT A COLD RECORD, WHAT WOULD MAKE SENSE TO ME. THE MOTION IN
12 LIMINE IS -- YOUR MOTION FOR RECONSIDERATION IS DENIED, SO THE
13 MOTION IN LIMINE IS WHAT IT IS, AND THE RULING ON THE MOTION IN
14 LIMINE IS WHAT IT IS.

15 I WILL ADMIT THE REPORTS. HOWEVER, WHAT I WANT YOU TO DO
16 IS TAKE OUT THOSE PORTIONS OF THE REPORT THAT ARE AFFECTED BY
17 THE MOTION IN LIMINE, THAT WOULD BE EXCLUDED BY THE MOTION IN
18 LIMINE, AND EXCISE THOSE AND PRODUCE THEM AS A SEPARATE
19 PROFFER. AND THAT WAY THE COURT -- YOU ARE DOING THE WORK FOR
20 THE COURT OF APPEAL, AND SOMEBODY LATER DOESN'T HAVE TO TRY TO
21 FIGURE OUT, WELL, WHAT -- YOU KNOW, WHAT IS WHAT. I THINK YOU
22 NEED TO SEPARATE OUT YOUR PROFFER.

23 **MR. LEWIS:** OKAY. YOUR HONOR, WE ARE HAPPY TO DO
24 THAT. OBVIOUSLY --

25 **THE COURT:** I KNOW YOU ARE NOT PREPARED TO DO THAT

DR. D. JOHNSON - DIRECT

9:43AM 1 NOW. I'M GOING TO LET YOU DO IT.

2 **MR. LEWIS:** I APPRECIATE THAT, YOUR HONOR. AND I
3 THINK THAT HOPEFULLY THE DIRECT EXAMINATION OF THIS WITNESS
4 WILL AID THE COURT IN ASSESSING AND CERTAINLY WILL AID THE
5 PARTIES IN ASSESSING EXACTLY WHAT IN THE REPORT WOULD BE
6 SUBJECT TO EXCISEMENT.

7 AS YOUR HONOR HAS INDICATED, I THINK THE TWO PIECES ABOUT
8 THE COMPARISON BETWEEN THE ILLUSTRATIVE PLANS AND -- THAT IS
9 FAIRLY OBVIOUS. THERE'S A VERY DEFINED PARAGRAPH RANGE. I
10 THINK THE FIRST TOPIC REGARDING, YOU KNOW, OPINIONS OF MOTIVE
11 OR INTENT, I THINK THAT IS GOING TO BE A FUNCTION OF POSSIBLY
12 SPECIFIC PARAGRAPHS OR SPECIFIC PHRASES, WORDS OR SENTENCES --

13 **THE COURT:** I MEAN, I THINK WITH RESPECT TO THE
14 SUBJECTIVE INTENT TESTIMONY OR PROPOSED TESTIMONY, YOU ARE
15 GOING TO NEED TO PRESERVE THAT BY OBJECTION, AND I WILL RULE ON
16 THE OBJECTIONS AS THEY COME, BECAUSE THIS IS DYNAMIC. I DON'T
17 KNOW HOW THIS EVIDENCE IS GOING TO DEVELOP. I MEAN, THERE MAY
18 BE SOME OF IT THAT YOU ARE SUCCESSFUL WITH. I DON'T KNOW. SO
19 LET'S JUST GO FROM THERE.

20 BUT AS TO THE ADMISSION OF THE EXHIBITS, 79, WHICH IS THE
21 CV, IS ADMITTED. 51 AND 58 WILL BE ADMITTED WITH REDACTIONS,
22 AND THEN YOU CAN MAKE A PROFFER OF WHATEVER IS REDACTED.

23 **MR. LEWIS:** THANK YOU, YOUR HONOR.

24 **THE COURT:** OKAY.

25 **THE CLERK:** 59.

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9:45AM

1 **THE COURT:** OH, 51 AND 59? I'M SORRY.

2 **THE CLERK:** 51 AND 58 WITH THE REDACTIONS, AND 59 WAS
3 THE CV.

4 **THE COURT:** OH, I THOUGHT IT WAS 79. I'M SORRY.
5 OKAY. SO WHERE I SAID -- I WROTE DOWN 79 BOTH TIMES.

6 OKAY. 59 IS ADMITTED. 51 AND 58 WILL BE ADMITTED WITH
7 REDACTIONS AND SUBJECT TO DEFENSE COUNSEL'S PERMISSION TO
8 SUBSTITUTE OR TO FILE NEW RECORDS OR NEW EXHIBITS AS A PROFFER.

9 **MR. LEWIS:** THANK YOU, YOUR HONOR. SO IF WE CAN NOW
10 DISPLAY DEFENDANT'S EXHIBIT 51.

11 **BY MR. LEWIS:**

12 Q. AND DR. JOHNSON, CAN YOU IDENTIFY THIS DOCUMENT FOR THE
13 RECORD?

14 A. YES. THIS IS MY INITIAL REPORT.

15 Q. ALL RIGHT. THANK YOU. AND SO I WOULD LIKE TO START, I
16 THINK -- AND WE WILL SKIP AROUND A LITTLE BIT IN THIS REPORT,
17 AND MY APOLOGIES IN ADVANCE FOR THAT, BUT YOU OFFER IN THIS
18 REPORT OPINIONS ON A NUMBER OF TOPICS, AND I WOULD LIKE TO
19 START WITH SOME ANALYSIS YOU PERFORMED ON SOME GENERAL
20 POPULATION DEMOGRAPHICS IN LOUISIANA.

21 DID YOU REVIEW MR. COOPER'S CLAIMS ABOUT CHANGES IN BLACK
22 POPULATION IN LOUISIANA FROM 2000 TO PRESENT?

23 A. YES.

24 Q. OKAY. AND DID YOU REVIEW MR. COOPER'S CLAIMS ABOUT
25 CHANGES IN THE NUMBER OF MAJORITY BLACK DISTRICTS IN THE

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9:46AM

1 LOUISIANA HOUSE AND SENATE FROM 2000 TO PRESENT?

2 A. YES.

3 Q. OKAY. I WOULD LIKE TO TURN TO PAGE 11 OF THIS REPORT,
4 LDTX51. AND IF WE COULD HIGHLIGHT FIGURE 5 APPEARING ON THAT
5 PAGE. DR. JOHNSON, CAN YOU WALK US THROUGH THIS FIGURE? WHAT
6 IS THIS SHOWING US?

7 A. SURE. THIS IS A SUMMARY OF INFORMATION MR. COOPER HAD IN
8 HIS REPORT LOOKING AT THREE DIFFERENT VARIABLES, EACH LISTED ON
9 THE LEFT-HAND SIDE OF THE CHART: THE BLACK PERCENTAGE OF
10 VOTING AGE POPULATION, THE PERCENTAGE OF HOUSE DISTRICTS THAT
11 ARE MAJORITY BLACK, AND THE PERCENTAGE OF SENATE DISTRICTS THAT
12 ARE MAJORITY BLACK. AND THEN YOU CAN SEE THAT THE MIDDLE
13 COLUMN IS THE 2000 DATA FOR EACH OF THOSE CATEGORIES, AND THEN
14 THE RIGHT-HAND COLUMN IS THE 2020/2022 PERCENTAGES, SO LOOKING
15 AT THE 2020 CENSUS DATA AND THE 2022 MAP.

16 Q. ALL RIGHT. AND JUST FOR THE CLARITY OF THE RECORD, WHEN
17 YOU DESCRIBE BLACK PERCENTAGE OF VOTING AGE POPULATION, WHAT
18 METHOD OF -- LIKE, WHAT VERSION OF BLACK VOTING AGE POPULATION
19 ARE YOU USING?

20 A. AS DID MR. COOPER, I'M USING ANY PART BLACK, SO IT'S BLACK
21 AP VAP, ANY PART BLACK VOTING AGE POPULATION.

22 Q. AND SO YOU HAVE A PERCENTAGE INCREASE IN THIS RIGHT-HAND
23 COLUMN FOR THE PERCENTAGE BLACK VOTING AGE POPULATION. WHAT IS
24 THAT -- WHAT IS THAT VALUE AND WHAT IS IT TELLING US?

25 WE WILL START WITH ONE QUESTION. WHAT IS THE INCREASE IN

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9:48AM

1 BLACK VOTING AGE POPULATION FROM 2000 TO 2020?

2 A. SO 2020, THE BLACK VAP PERCENTAGE HAD INCREASED TO 31.25
3 PERCENT, WHICH WAS A 1.3 PERCENT INCREASE FROM ITS 2000 VALUE.

4 Q. OKAY. AND IF WE LOOK AT THE PERCENTAGE OF MAJORITY OF
5 BLACK DISTRICTS IN THE LOUISIANA HOUSE, HOW HAS THAT NUMBER
6 CHANGED FROM 2000 TO 2022?

7 A. IN 2000, THERE WERE 26 MAJORITY BLACK HOUSE SEATS. AND IN
8 THE 2022 MAP, THERE ARE 29, WHICH IS A 2.8 PERCENT INCREASE. I
9 DID NOTE MR. COOPER HAS OBJECTED THAT RATHER THAN THE MAP IN
10 PLACE IN 2000, HE MEANT THE 2001 MAP, IN WHICH CASE THE 26
11 WOULD BECOME 27. THE INCREASE IN THAT CASE WOULD BE
12 1.9 PERCENT RATHER THAN 2.8 PERCENT.

13 Q. ALL RIGHT. AND THEN JUST FOR THAT BOTTOM ROW, HOW HAVE
14 THE PERCENTAGE OF MAJORITY BLACK SEATS IN THE SENATE CHANGED
15 FROM 2000 TO 2022?

16 A. IT HAS INCREASED FROM -- THERE WERE 10 MAJORITY BLACK
17 SENATE SEATS IN 2000, AND THERE ARE 11 IN THE ENACTED MAP. SO
18 THAT'S A 2.6 PERCENT INCREASE.

19 Q. OKAY. AND DR. JOHNSON, WHAT CONCLUSION DO YOU DRAW FROM
20 THIS ANALYSIS?

21 A. THE NUMBER OF MAJORITY BLACK HOUSE AND SENATE SEATS HAS
22 INCREASED FROM 2000 AND FROM 2021 TO 2022 BY SIGNIFICANTLY MORE
23 THAN THE INCREASE IN BLACK POPULATION. THE NUMBER OF SENATE
24 SEATS HAS GROWN TWICE AS FAST AS THE BLACK PERCENTAGE OF THE
25 STATE'S POPULATION.

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9:50AM 1 AND DEPENDING ON WHETHER WE ARE TALKING ABOUT THE 2000 OR
2 THE 2021 MAP AS THE STARTING POINT, THE MAJORITY BLACK
3 PERCENTAGE OF HOUSE SEATS HAS EITHER GROWN 50 PERCENT FASTER OR
4 TWICE AS FAST AS THE BLACK PERCENTAGE OF VOTING AGE POPULATION
5 HAS INCREASED.

6 Q. ALL RIGHT. WE CAN -- SO I WOULD LIKE -- SO I WOULD LIKE
7 NOW TO TURN TO YOUR EVALUATION OF MR. COOPER'S 2023
8 ILLUSTRATIVE PLAN IN THIS CASE.

9 DR. JOHNSON, WHEN YOU BEGAN YOUR EVALUATION OF
10 MR. COOPER'S ILLUSTRATIVE PLANS, WHAT CRITERIA DID YOU DECIDE
11 TO USE IN YOUR EVALUATION?

12 A. I WAS EVALUATING THE CRITERIA THAT MR. COOPER CITED IN HIS
13 REPORT, SO MY GOAL WAS TO LOOK AT HIS STATED REASONS FOR WHERE
14 LINES WERE DRAWN, WHERE THEY SHOWED UP IN HIS MAP, AND TO
15 REVIEW WHETHER THOSE ACTUALLY EXPLAINED WHERE THOSE LINES WERE
16 DRAWN, IF HIS WORDS MATCHED HIS MAP.

17 Q. AND DID YOU ALSO EVALUATE THE DATA PRODUCED BY MR. COOPER
18 IN CONNECTION WITH HIS REPORTS AS PART OF THAT EVALUATION?

19 A. YES.

20 Q. AND WHAT ARE SOME OF THE CRITERIA THAT YOU UTILIZED WHEN
21 EVALUATING MR. COOPER'S ILLUSTRATIVE PLANS?

22 A. SO MR. COOPER TALKED ABOUT BOTH THE JOINT RULE --
23 LOUISIANA JOINT RULE LIST OF CRITERIA AND TRADITIONAL
24 REDISTRICTING PRINCIPLES. AS HE SPELLED THEM OUT, THEY'RE
25 FOLLOWING VTD'S, EQUAL POPULATION OBVIOUSLY BEING CONTIGUOUS,

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9:52AM

1 BEING COMPACT, AND THEN LOOKING AT COMMUNITIES OF INTEREST,
2 WHICH SOMETIMES HE REFERRED TO GENERALLY AND SOMETIMES HE
3 CALLED OUT PARISHES AND CITY BORDERS AND THINGS LIKE THAT AS
4 SPECIFIC COMMUNITIES. AND THEN HE ALSO MENTIONED HIS KIND OF
5 SUPER COMMUNITIES THAT WERE MUCH LARGER REGIONAL AREAS.

6 Q. OKAY. AND I BELIEVE WHEN YOU REFER TO SUPER REGIONS, ARE
7 THOSE, FOR EXAMPLE, SOME OF THE CULTURAL REGIONS THAT HE
8 REFERENCED?

9 A. EXACTLY. HE HAD PLANNING AREAS, HE HAD THE CENSUS
10 DEFINED, MSAS, OR METROPOLITAN STATISTICAL AREAS, AND HE HAD
11 WHAT HE CALLED HIS KEY REGIONS OR KEY CULTURAL REGIONS, EACH OF
12 WHICH WAS A MAP OF EITHER THE WHOLE STATE OR MOST OF THE STATE
13 BROKEN UP INTO LARGE REGIONAL PIECES.

14 Q. OKAY. AND DID MR. COOPER'S REPORT INDICATE THAT RACE WAS
15 A CONSIDERATION IN THE CONSTRUCTION OF HIS PLAN?

16 **MS. KEENAN:** OBJECTION TO RACE AS A CONSIDERATION TO
17 THE EXTENT THAT FOCUSES ON HIS INTENT.

18 **THE COURT:** GIVE ME YOUR SPECIFIC QUESTION AGAIN,
19 BECAUSE I'M NOT SURE THAT -- I WANT TO HEAR THE QUESTION AGAIN.

20 **MR. LEWIS:** SURE.

21 **BY MR. LEWIS:**

22 Q. DR. JOHNSON, WAS RACE IDENTIFIED BY MR. COOPER AS A
23 CONSIDERATION IN THE CONSTRUCTION OF HIS ILLUSTRATIVE PLAN?

24 **MS. KEENAN:** I'LL WITHDRAW THE OBJECTION. I MISHEARD
25 IT. THANK YOU.

DR. D. JOHNSON - DIRECT

9:54AM

1 A. YES.

2 **BY MR. LEWIS:**

3 Q. OKAY. AND WAS COMPACT -- DISTRICT COMPACTNESS A CRITERION
4 IDENTIFIED BY MR. COOPER?

5 A. YES.

6 **COURT REPORTER:** COULD YOU SPEAK UP A LITTLE BIT?

7 **BY MR. LEWIS:**

8 Q. I HAVE TO REPEAT THE QUESTION. WAS COMPACTNESS A MEASURE
9 OR, EXCUSE ME, A CRITERION THAT MR. COOPER IDENTIFIED?

10 A. YES.

11 Q. NOW, DR. JOHNSON, SPEAKING METHODOLOGICALLY, WHEN YOU ARE
12 EVALUATING A PLAN'S COMPLIANCE WITH CRITERIA, HOW DO YOU GO
13 ABOUT PERFORMING THAT ANALYSIS?

14 A. WELL, EACH OF THESE CRITERIA ARE SOMETHING YOU CAN SEE ON
15 A MAP. SO COMPACTNESS, YOU CAN MEASURE IT. COMMUNITIES OF
16 INTEREST, YOU IDENTIFY THE BOUNDARIES OF THAT COMMUNITY OF
17 INTEREST. CONTIGUITY, OBVIOUSLY, YOU LOOK AT THE MAP AND SEE
18 IT. SO YOU CAN LOOK AT THE MAP AND SAY, DOES THIS -- DOES EACH
19 DISTRICT OR THE DISTRICT THAT WE ARE LOOKING AT IN PARTICULAR
20 AT A GIVEN TIME FOLLOW THOSE ELEMENTS OF THE MAP: IS IT
21 COMPACT, IS IT FOLLOWING THE BOUNDARY OF A COMMUNITY OF
22 INTEREST, IS IT FOLLOWING A PARISH BOUNDARY? IT IS A PRETTY
23 STRAIGHTFORWARD WAY OF LOOKING AT THE MAP AND LOOKING AT THE
24 WORDS TO SEE IF THEY MATCH.

25 Q. AND IS IT -- IS IT IMPORTANT, WHEN DRAWING A MAP, FOR THE

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9:55AM 1 MAP-MAKER TO DOCUMENT THE BASES FOR SPECIFIC LINE DRAWING
2 DECISIONS?

3 A. YES.

4 Q. AND WHY IS THAT A GOOD PRACTICE?

5 A. REDISTRICTING MAPS OFTEN END UP IN COURT, AND YOU WANT TO
6 HAVE YOUR METHOD AND YOUR RATIONALE ON THE RECORD. SOME COURTS
7 HAVE REJECTED KIND OF POST -- I NEVER GET MY LATIN TERMS RIGHT,
8 BUT POST FACTO EXPLANATIONS THAT WERE NOT PUT IN THE RECORD AND
9 EXPLAINED AT THE TIME THE MAP WAS DRAWN AND DISCUSSED.

10 Q. SO, FOR EXAMPLE, IN YOUR OWN REDISTRICTING PRACTICE, DR.
11 JOHNSON, DO YOU GO ABOUT PROVIDING A RECORD OF THE BASES FOR
12 DECISIONS AT THE TIME MAPS ARE DRAWN?

13 A. YES.

14 Q. OKAY. NOW, DR. JOHNSON, AS PART OF YOUR EVALUATION OF A
15 REDISTRICTING PLAN, DO YOU JUST REVIEW THE MAPS, OR DO YOU
16 REVIEW THE DATA ASSOCIATED WITH THE MAPS TOO?

17 A. BOTH.

18 Q. OKAY. NOW, WHEN YOU EVALUATED MR. COOPER'S 2023
19 ILLUSTRATIVE PLANS, WHAT DID YOU EVALUATE?

20 A. WELL, OBVIOUSLY HE GAVE US THE MAP FILES, SO I BROUGHT
21 THOSE INTO MY MAPTITUDE MAPPING SYSTEM. AND THEN I LOOKED AT
22 HIS DATA AND ALSO HAD MY OWN DATA IN MAPTITUDE FROM THE STATE'S
23 DATABASE. SO I WAS LOOKING AT BOTH THE ACTUAL DISTRICT LINES,
24 THE DEMOGRAPHIC DATA THAT MATCH UP WITH THOSE LINES, AND THEN,
25 OF COURSE, IN THE MAPPING SOFTWARE WE HAVE ALL KINDS OF LAYERS

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9:57AM 1 WE CAN LAY ON THERE. SO WE HAVE PARISHES, CITY LINES, CENSUS
2 DESIGNATED PLACE LINES, RIVERS, ALL KINDS OF GEOGRAPHY AND
3 POLITICAL BOUNDARIES.

4 Q. AND IS THAT DATA ON THE POLITICAL BOUNDARIES AND SO FORTH,
5 WHERE DOES THAT DATA COME FROM?

6 A. IT COMES SOME OF IT FROM THE STATE AND SOME OF IT FROM THE
7 CENSUS BUREAU.

8 Q. ALL RIGHT. NOW, DR. JOHNSON, BEFORE WE GET TOO MUCH
9 FURTHER, I WOULD LIKE TO HAVE YOU KIND OF EXPLAIN THE BASICS OF
10 HOW ALL OF THIS DATA WE HAVE BEEN TALKING ABOUT IS USED IN
11 MAPTITUDE. SO IF WE COULD TURN TO PAGE 9 OF YOUR REPORT, AND
12 THEN ZOOM IN TO FIGURE 4.

13 ALL RIGHT. DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS
14 FIGURE? WHAT IS IT SHOWING US?

15 A. SO THIS IS THE MAPTITUDE MAPPING SOFTWARE, AND THIS IS
16 WHAT IT LOOKS LIKE WHEN YOU ARE WORKING ON A PLAN IN THE
17 SOFTWARE. AND SO AT DIFFERENT PIECES OF THE SCREEN, OBVIOUSLY
18 THERE IS A LOT OF INFORMATION GOING ON. OBVIOUSLY YOU HAVE
19 YOUR MAP, AND YOU CAN SEE THE MAP OF LOUISIANA IN THIS CASE.
20 IN THIS CASE, EACH DISTRICT IS SHADED IN. IT IS POSSIBLE, AS
21 OTHER FIGURES IN MY REPORT SHOW, TO COLOR THINGS IN BASED ON
22 DIFFERENT FACTORS. IN THIS CASE, THE DISTRICTS THEMSELVES ARE
23 SHADED.

24 OVER WHERE THERE IS THE YELLOW 1, YOU CAN SEE THE LIST OF
25 ALL OF THOSE DIFFERENT LAYERS. SO YOU CAN SEE, YOU KNOW, FIRST

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9:58AM 1 IS THE SENATE MAP. THAT'S THE MAP WE ARE LOOKING AT. AND THEN
2 WHERE THERE'S A RED X, THOSE LAYERS ARE NOT SHOWN. AND WHERE
3 THERE'S A GREEN CHECK, THOSE LAYERS ARE SHOWN. SO YOU CAN SEE
4 IN THIS MAP I JUST HAVE THE DISTRICTS AND THE PARISH LINES ON.
5 BUT AVAILABLE TO BE CLICKED AND TURNED ON ARE ALL OF THESE
6 OTHER LAYERS, FROM TRIBAL RESERVATIONS TO CENSUS PLACES TO
7 OTHER MAP -- YOU CAN SEE AT THE BOTTOM IN THE LIST THAT THE
8 HOUSE MAP IS THERE, SO IT CAN BE OVERLAID. SO YOU HAVE ALL OF
9 THOSE GEOGRAPHIC LAYERS AVAILABLE.

10 THEN UP IN THE AREA LABELED 2 IS THE DATA. SO THOSE ARE
11 SHOWING -- THAT BOX IS SHOWING THE DISTRICT NUMBER, THE TOTAL
12 POPULATION, THE DEVIATION FROM THE IDEAL, AND THEN ALL THE
13 VARIOUS DEMOGRAPHIC VARIABLES THAT ARE AVAILABLE IN THE
14 DATASET.

15 ONE OF THE THINGS MAPTITUDE DOES THAT'S SO HANDY IS, IN
16 THE TOP BOX LABELED 2 ARE THE TOTALS FOR THE DISTRICTS WE ARE
17 LOOKING AT. IF I WANT TO LOOK AT CHANGING A DISTRICT, AS I
18 CLICK ON EACH CENSUS BLOCK TO POTENTIALLY MOVE THAT, BLOCK 3
19 WILL POP UP AND SHOW ME THE CHANGE. AND SO IT WILL GIVE BOTH
20 THE -- IN BOX 2, I SEE THE CURRENT POPULATION AND ALL THE
21 ETHNIC PERCENTAGES. IN BOX 3, AS I CLICK ON EACH BLOCK, IT
22 WILL INSTANTLY SHOW ME HOW THE DYNAMICS OR THE DEMOGRAPHICS OF
23 THAT DISTRICT CHANGE AS I CLICK BLOCK BY BLOCK, AND I CAN
24 DECIDE IF THAT'S MAKING -- ACHIEVING THE GOAL I WANT OR IF IT'S
25 NOT.

DR. D. JOHNSON - DIRECT

10:00AM

1 Q. AND, DR. JOHNSON, IS IT POSSIBLE FOR YOU TO ASSIGN -- WHEN
2 YOU ARE DRAWING A MAP WITH MAPTITUDE, TO ASSIGN TERRITORY TO A
3 DISTRICT BY, FOR EXAMPLE, PRECINCT INSTEAD OF BY CENSUS BLOCK?

4 A. YES, THE SOFTWARE IS VERY GOOD. IN THE BOTTOM LEFT, YOU
5 CAN SEE THE LITTLE BOX WHERE IT SAYS TARGET AND SOURCE AND
6 SELECTION LAYER. THAT'S HOW YOU CONTROL WHAT LAYER YOU ARE
7 PICKING AT. YOU CAN SEE THE SELECTION LAYER. IT SAYS BLOCK.
8 THAT COULD ALSO BE VOTING DISTRICT. IT COULD EVEN BE A WHOLE
9 CITY OR PARISH. THE SOFTWARE IS VERY, VERY FLEXIBLE TO EASILY
10 SWITCH BACK AND FORTH BETWEEN THEM.

11 Q. OKAY. ALL RIGHT. SO, FOR EXAMPLE, IF YOU WERE TO BE
12 ASSIGNING TERRITORY TO A DISTRICT BY PRECINCT, WOULD THAT
13 SCREEN NUMBER 3, THAT DATA VIEW SCREEN, ALSO SHOW YOU PROPOSED
14 CHANGES BY PRECINCT?

15 A. YES, EXACTLY. WHATEVER AREA YOU CHOOSE, BE IT A BLOCK,
16 BLOCK GROUP OR PRECINCT OR WHATEVER, THE SOFTWARE WILL PICK
17 THAT AREA AND SHOW YOU THE CHANGES.

18 Q. OKAY. AND DR. JOHNSON, IS IT POSSIBLE TO LOAD ELECTION
19 DATA INTO MAPTITUDE?

20 A. YES, IT'S POSSIBLE AND VERY COMMON.

21 Q. AND ARE THERE -- IS IT POSSIBLE TO LOAD SOCIO-ECONOMIC
22 DATA INTO MAPTITUDE?

23 A. YES. FOR THE REDISTRICTING SOFTWARE TO WORK RIGHT, YOU
24 HAVE TO -- ALL THE DATA HAS TO BE THE SAME AT THE BLOCK AND THE
25 VTD AND THE TRACT LEVEL SO THAT AS YOU SWITCH FROM LAYER TO

10:02AM

1 LAYER, THE SOFTWARE CAN KEEP UP WITH YOU AND KNOW WHICH DATA TO
2 SHOW. SO YOU HAVE TO BREAK THE DATA DOWN, AND SOCIO-ECONOMIC
3 DATA USUALLY COMES AT THE BLOCK OR THE TRACT LEVEL, BUT THERE
4 ARE VERY COMMONLY USED AND WIDELY ACCEPTED METHODS FOR BREAKING
5 THAT DOWN BY BLOCK, AND THEN YOU AGGREGATE IT BACK UP TO VTD
6 AND ALL THE HIGHER LEVELS OF GEOGRAPHY.

7 Q. AND IS THERE A GENERALLY ACCEPTED WAY THAT ONE CAN USE
8 SOCIO-ECONOMIC DATA TO DRAW MAPS?

9 A. YES. IT'S VERY COMMONLY USED, AND YOU PUT IT IN THE
10 DATABASE SO THAT AS YOU DRAW YOUR LINES, YOU CAN TELL WHAT THE
11 IMPACT IS.

12 I'M WORKING IN A JURISDICTION NOW WHERE RENTERS IS A BIG
13 ISSUE. SO WE HAVE THE RENTER DATA BROKEN DOWN INTO THE MAPPING
14 SOFTWARE, AND AS WE CHANGE EACH LINE, WE CAN INSTANTLY KNOW
15 WHAT PERCENTAGE OF EACH DISTRICT'S RESIDENTS ARE RENTERS, FOR
16 EXAMPLE. SO YOU CAN DO THAT FOR INCOME LEVELS, ANY OF THE
17 SOCIO-ECONOMIC DATA THAT YOU HAVE AVAILABLE.

18 **THE COURT:** LET ME JUST MAKE SURE I UNDERSTAND. SO
19 THE SOCIO-ECONOMIC DATA IS COLLECTED BY BLOCK, BUT THEN YOU
20 AGGREGATE IT UP TO THE VTD. DID I HEAR THAT RIGHT?

21 A. IT'S THE SECOND STEP. THERE'S A FIRST STEP -- IT'S
22 ACTUALLY COLLECTED AT WHAT THEY CALL THE BLOCK GROUP -- THE
23 TERM IS CONFUSING -- OR AT THE TRACT LEVEL. BUT TO MAKE IT
24 WORK IN THE SOFTWARE, WE BREAK IT DOWN INTO BLOCK AND THEN
25 BRING IT BACK UP. YOU HAVE TO GET IT DOWN TO THE SMALLEST UNIT

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10:03AM 1 OF GEOGRAPHY IN ORDER FOR THE SOFTWARE TO PROPERLY USE IT AS
2 YOU COME BACK UP.

3 **THE COURT:** OKAY. GOT IT.

4 **BY MR. LEWIS:**

5 Q. AND DR. JOHNSON, MAYBE JUST TO MAKE SURE WE MAKE A CLEAN
6 RECORD ABOUT THAT, CAN YOU EXPLAIN THE DIFFERENCE BETWEEN A
7 BLOCK AND A BLOCK GROUP?

8 A. SURE. A BLOCK IS THE SMALLEST UNIT OF CENSUS GEOGRAPHY,
9 SO IN A CITY, IT IS GOING TO BE A CITY BLOCK. THAT'S THE TERM.
10 WHEN YOU GET OUTSIDE OF THE CITY OR IF YOU GET INTO AREAS WHERE
11 THERE ARE CUL-DE-SACS AND HILLS, IT GETS A LITTLE -- THEY GET A
12 LITTLE MORE ODD-SHAPED AND STRANGE-LOOKING. BUT THAT'S THE
13 BASIC UNIT OF GEOGRAPHY. IT'S THE SMALLEST UNIT OF GEOGRAPHY
14 WHERE THE CENSUS RELEASES POPULATION DATA.

15 THE NEXT LEVEL UP IS BLOCK GROUP. USUALLY IT'S ANYWHERE
16 FROM 2 TO MAYBE 10 OR SO CENSUS BLOCKS, SO IT'S STILL A PRETTY
17 SMALL AREA. IT COULD BE TWO CITY BLOCKS OR TEN CITY BLOCKS.
18 AND IT'S REALLY KIND OF AN INTERMEDIATE STEP. IT DOESN'T SERVE
19 A LOT OF PURPOSE OTHER THAN AS A DATA-GATHERING MEASURE.

20 THE NEXT LEVEL UP IS TRACTS, AND THOSE WERE DEFINED LONG
21 AGO AS VERY, VERY ROUGH NEIGHBORHOODS. THEY TEND TO BE
22 ANYWHERE FROM 2,000 TO 4,000 PEOPLE, ALTHOUGH THERE IS A LOT OF
23 VARIATION IN THAT. AND THE CENSUS BUREAU TRIES TO KEEP THOSE
24 FAIRLY CONSISTENT OVER TIME SO THAT RESEARCHERS CAN HAVE A
25 STEADY DATA SOURCE. SO BLOCKS AND BLOCK GROUPS MAY CHANGE A

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10:05AM 1 LOT AS DEVELOPMENT HAPPENS. SOMETIMES TRACTS CHANGE, BUT THEY
2 TRY NOT TO.

3 AND THEN THE NEXT LEVEL UP FROM TRACTS IS COUNTIES, WHICH
4 IS OBVIOUSLY A CLEAR LEVEL. ON THE SIDE PATH, THAT IS KIND OF
5 -- THE CENSUS BUREAU HAS A LITTLE TREE OF DATA THEY SHOW.
6 THAT'S THEIR STANDARD TREE IS BLOCK, BLOCK GROUP, TRACT,
7 COUNTY, STATE.

8 ON KIND OF A BRANCH OFF FROM THAT TREE ARE VTDS, WHICH THE
9 CENSUS BUREAU CALCULATES BECAUSE THE STATES ASK THEM TO. SO
10 THE STATES SUBMIT THEIR PRECINCT LINES, AND THEN THE CENSUS
11 BUREAU THEN ADDS UP ALL OF THE CENSUS BLOCKS IN THAT PRECINCT
12 AND GIVES YOU THE VTD DATA. SO IT IS USUALLY SOMEWHERE BETWEEN
13 A BLOCK GROUP AND A TRACT, BUT IT'S A BRANCH, NOT IN THE SAME
14 TREE.

15 Q. ALL RIGHT. AND THANK YOU FOR THAT, DR. JOHNSON.

16 NOW, WHAT ADVANTAGES DOES INCLUDING SOCIO-ECONOMIC DATA IN
17 YOUR MAPTITUDE SOFTWARE OFFER A REDISTRICTING PROFESSIONAL?

18 A. WELL, IF -- WE ARE TRYING TO DRAW MAPS TO KEEP TOGETHER A
19 GIVEN COMMUNITY, AND THAT COMMUNITY IS DEFINED BASED ON THE
20 SOCIO-ECONOMIC FACTOR. THEN THE DATA TELLS US IF WE ARE
21 SUCCEEDING WITH THAT GOAL OR NOT. AND IF WE DON'T HAVE THE
22 DATA IN THE SYSTEM, THEN IT'S KIND OF AN EYEBALL SWING AND A
23 MISS, HOPE AND A PRAYER APPROACH. SO WE PUT THE DATA IN SO
24 THAT -- AS I MENTIONED, THE ONE JURISDICTION, THEY ARE VERY
25 INTERESTED IN ARE WE KEEPING THE RENTERS TOGETHER IN A

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10:07AM 1 DISTRICT. WELL, AS I DRAW THE LINES, I CAN SEE RIGHT FROM THE
2 NUMBERS WE ARE KEEPING THE RENTERS TOGETHER.

3 YOU CAN SEE ON THE SCREEN, YOU KNOW, OBVIOUSLY IN A VOTING
4 RIGHTS SITUATION, WE ARE LOOKING AT THE PROTECTED CLASS IN
5 QUESTION. WHERE ARE THOSE NUMBERS SHIFTING? IF WE ARE LOOKING
6 AT INCOME LEVELS -- THE ONE I DEAL WITH A LOT IN CALIFORNIA IS
7 LANGUAGE SPOKEN AT HOME. DO THEY SPEAK SPANISH AT HOME? WELL,
8 LET'S KEEP THAT COMMUNITY TOGETHER. OR ARE THEY LIMITED
9 ENGLISH SPEAKERS? SO ALL OF THOSE DIFFERENT FACTORS CAN ALL BE
10 DONE.

11 IF YOU HAVE THE DATA IN YOUR SYSTEM, YOU CAN SEE THE
12 IMPACT OF EVERY CHANGE ON THAT COMMUNITY, AND ARE YOU KEEPING
13 IT TOGETHER OR ARE YOU BREAKING IT UP? IF YOU DON'T HAVE THE
14 DATA IN THE SYSTEM, YOU ARE JUST KIND OF WINGING IT.

15 Q. AND DR. JOHNSON, I WILL REPRESENT TO YOU THAT MR. COOPER
16 TESTIFIED THAT HE RELIED ON PARISH OR CITY LEVEL CENSUS ACS
17 DATA. DO YOU RECALL THAT?

18 A. YES.

19 Q. AND IS THAT COMMON IN MODERN REDISTRICTING PRACTICE?

20 A. NO.

21 Q. WHY NOT?

22 A. IT REALLY DOESN'T DO YOU ANY GOOD UNLESS YOU ARE DEALING
23 WITH A REALLY SMALL PARISH OR A REALLY SMALL CITY, BECAUSE, FOR
24 EXAMPLE, IF YOU ARE IN EAST BATON ROUGE, KNOWING THE AVERAGE
25 HOUSEHOLD INCOME OF THE PARISH AS A WHOLE DOESN'T TELL YOU

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10:08AM

1 ANYTHING ABOUT WHERE TO DRAW THE LINES OF THE, YOU KNOW,
2 HOWEVER MANY DISTRICTS YOU ARE DRAWING IN THAT PARISH. WHAT
3 YOU NEED TO KNOW IS WHERE THE COMMUNITY THAT YOU ARE LOOKING
4 AT, WHATEVER SOCIO-ECONOMIC DEFINED COMMUNITY YOU ARE LOOKING
5 AT, IS WITHIN THE PARISH.

6 AND SO, YOU KNOW, IT'S AS IF YOU ARE LOOKING AT THE STATE
7 OF LOUISIANA. IF I KNOW THE INCOME LEVEL OF THE STATE OF
8 LOUISIANA, THAT TELLS ME NOTHING ABOUT THE INCOME LEVEL OF AN
9 INDIVIDUAL PARISH. SAME THING IN A CITY OR WITHIN A PARISH.
10 THE INCOME LEVEL OF THE PARISH AS A WHOLE TELLS ME NOTHING
11 ABOUT WHERE PEOPLE -- OR HOW MUCH MONEY PEOPLE IN EACH
12 INDIVIDUAL SECTION OF THE PARISH EARN.

13 Q. AND SO IS MR. COOPER'S METHOD A REASONABLE ONE TO FOLLOW
14 IF ONE WAS TO USE SOCIO-ECONOMIC DATA WHEN CONSTRUCTING A PLAN?

15 A. NO.

16 Q. I WOULD LIKE NOW TO TURN TO MR. COOPER'S MULTI-PARISH
17 CULTURAL REGIONS. SO I WOULD LIKE TO TURN TO PAGE 13 OF YOUR
18 REPORT, AND SPECIFICALLY HIGHLIGHTING PARAGRAPHS 33 AND 34. SO
19 IT APPEARS YOU HAVE SOME QUESTIONS OR SOME CONCERNS ABOUT THE
20 METHODOLOGY MR. COOPER EMPLOYED WHEN DEFINING HIS MULTI-PARISH
21 CULTURAL REGIONS. CAN YOU DISCUSS SOME OF THOSE CONCERNS?

22 A. YES. MY FATHER-IN-LAW IS A FORMER LSU PROFESSOR, AND AT
23 THE -- WITH THE STUDENTS, WE WOULD NEVER ACCEPT WIKIPEDIA AS A
24 RELIABLE SOURCE FOR ANY OFFICIAL DATA OR BASIS OF ANY ACTION.
25 YOU JUST DON'T DO IT. ANYONE CAN WRITE ANYTHING IN WIKIPEDIA,

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10:10AM

1 AND IT'S NOT A RELIABLE SOURCE.

2 SIMILARLY, HE HAD A KEY REGION DEFINED BY THE REGION'S
3 CHARACTERISTICS IN 1812, YOU KNOW, OVER 200 YEARS AGO. YOU
4 KNOW, THAT'S 50 YEARS BEFORE THE CIVIL WAR. IT JUST DOESN'T
5 MAKE ANY SENSE OR HAVE ANY RELEVANCE TO TODAY. IF THERE WERE
6 FACTORS BACK THEN THAT ARE INFLUENCING LIFE IN THOSE AREAS
7 TODAY, LOOK AT THE FACTORS TODAY.

8 SO WHEN YOU ARE LOOKING AT A KEY REGION, TO HIS CREDIT,
9 ACADIANA, AS HE NOTES, IS A LEGISLATIVE CAUCUS. THEY HAVE
10 SHARED ISSUES THAT THEY WORK ON. THAT'S THE KIND OF THING WE
11 ARE LOOKING FOR WHEN WE ARE TRYING TO DEFINE A COMMUNITY OF
12 INTEREST THAT'S RELEVANT TO REDISTRICTING TODAY. WIKIPEDIA,
13 WHAT WAS HAPPENING IN THE AREA IN 1812, NO, THOSE ARE NOT
14 SOURCES THAT I WOULD EVER RELY ON TO DEFINE MY COMMUNITIES.

15 Q. ALL RIGHT. SO IF WE TURN, THEN, TO THE NEXT SECTION OF
16 THIS REPORT, BEGINNING ON THE SAME PAGE, I WOULD LIKE TO TURN
17 TO YOUR ANALYSIS OF HOW THE KEY REGIONS IN MR. COOPER'S PLANS
18 WERE TREATED. DID YOU ASSESS WHETHER MR. COOPER ADHERED TO HIS
19 VARIOUS KEY REGIONS IN THE ILLUSTRATIVE PLANS?

20 A. I DID ASSESS THAT, YES.

21 Q. OKAY. AND DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY
22 FROM WEDNESDAY?

23 A. YES.

24 Q. OKAY. AND AGAIN, I WILL REPRESENT TO YOU DURING THAT
25 TESTIMONY ON WEDNESDAY, PAGES 41 AND 42 OF THE TRANSCRIPT,

DR. D. JOHNSON - DIRECT

10:12AM

1 MR. COOPER DESCRIBED, QUOTE, CULTURAL REGIONS, END QUOTE, AND
2 REPORTED THAT HE WAS, QUOTE, LOOKING AT THE REGIONS AND TRIED
3 TO KEEP THEM TOGETHER AS CLOSE AS POSSIBLE, END QUOTE. WHAT
4 DID YOU UNDERSTAND THAT CLAIM TO MEAN?

5 A. SO KEEPING A COMMUNITY OF INTEREST TOGETHER IS A VERY
6 COMMON PRACTICE. IT IS OFTEN LEGALLY REQUIRED WHEN DRAWING
7 DISTRICTS. AND WHAT THAT MEANS IS THAT WHEN A DISTRICT GETS
8 CLOSE TO THE COMMUNITY BORDER, THE DISTRICT BOUNDARY FOLLOWS
9 THE COMMUNITY BORDER. YOU DON'T CROSS IT AND SPLIT THE
10 DISTRICT AMONGST MULTIPLE COMMUNITIES OF INTEREST BECAUSE THEN
11 YOU ARE BREAKING UP THAT COMMUNITY BETWEEN THE DIFFERENT
12 DISTRICTS.

13 SO HIS CLAIM IS A COMMON STATEMENT MADE THAT WHEN YOU DO
14 THAT, YOU ARE KEEPING THE DISTRICTS SO THAT THEIR BOUNDARIES
15 FOLLOW THE COMMUNITY OF INTEREST BOUNDARY.

16 Q. OKAY. AND WHAT DID YOU CONCLUDE ABOUT WHETHER MR. COOPER
17 ADHERED TO HIS KEY REGIONS?

18 A. HE DID NOT.

19 Q. AND I WOULD LIKE TO TURN TO PAGE 14 OF YOUR REPORT, AND I
20 WILL KIND OF GO THROUGH A FEW OF THESE, AND I WOULD LIKE TO
21 START HERE ON PARAGRAPH 38 AT THE BOTTOM OF THE PAGE HERE. AND
22 WHAT DO YOU REPORT HERE ABOUT MR. COOPER'S ILLUSTRATIVE SENATE
23 PLAN?

24 A. THAT IT SPLITS THE PLANNING DISTRICT REGIONS BY HAVING
25 ANYWHERE FROM THREE TO SEVEN HOUSE DISTRICTS CROSS THAT

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10:14AM 1 BOUNDARY. SO IT'S NOT FOLLOWING THAT BOUNDARY. IT'S NOT EVEN
2 CLOSE TO FOLLOWING THE PLANNING DISTRICT BOUNDARIES AS
3 COMMUNITIES OF INTEREST.

4 Q. AND JUST TO MAKE SURE THAT I'M NOT LEADING YOU ASTRAY, DR.
5 JOHNSON, WE ARE TALKING ABOUT REGIONS THAT I BELIEVE YOU
6 ANALYZED. HOW MANY DIFFERENT TYPES OF CULTURAL REGIONS DID YOU
7 ANALYZE?

8 A. I FOCUSED ON TWO SETS, THE PLANNING DISTRICTS AND THE KEY
9 CULTURAL REGIONS. I ALSO LOOKED AT THE MSAS AS WELL. MSAS
10 DON'T COVER THE ENTIRE STATE, SO IT'S A LITTLE BIT OF A
11 DIFFERENT COMPARISON, BUT I DID LOOK AT THOSE. BUT PRIMARILY
12 ON THE PLANNING DISTRICTS AND THE KEY CULTURAL REGIONS.

13 Q. OKAY. SO, FOR EXAMPLE, IF WE THEN LOOK AT -- OKAY. SO IF
14 WE THEN LOOK AT PARAGRAPH 39, WHICH LOOKS AT, I BELIEVE, THE
15 ILLUSTRATIVE, HOW MANY -- SENATE MAP -- EXCUSE ME. HOW MANY
16 TIMES DOES MR. COOPER DIVIDE PLANNING DISTRICTS IN THE
17 ILLUSTRATIVE SENATE PLAN?

18 A. HE HAS ONE THAT HE DIVIDES AND CROSSES A BOUNDARY WITH
19 ONLY TWO DISTRICTS. I SAY ONLY. YOU MIGHT HAVE TO DO TWO, BUT
20 GENERALLY YOU HAVE TO DO ONE FOR POPULATION BALANCING. SO ONE
21 IS NOT TOO BAD. IT KIND OF FOLLOWS THE PLANNING DISTRICT
22 BOUNDARY. BUT EVERY OTHER PLANNING DISTRICT IS CROSSED
23 ANYWHERE FROM THREE TO AS MANY AS EIGHT TIMES, SO HE IS CLEARLY
24 NOT USING PLANNING DISTRICTS AS A GUIDING CONSIDERATION IN
25 DRAWING THE LINES.

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10:16AM

1 **MS. KEENAN:** OBJECTION, YOUR HONOR. THAT SAYS WHAT
2 HE WAS USING AS A CONSIDERATION TO DRAW THE LINES. THAT DOES
3 GO TO MR. COOPER'S INTENT.

4 **THE COURT:** WELL, IT'S A SUMMARY. I'M GOING TO
5 OVERRULE THE OBJECTION. I MEAN, IT KIND OF STATES WHAT I THINK
6 THAT HE IS SHOWING THAT THE DATA -- OR THAT HIS DATA SHOWS.
7 OVERRULED.

8 **BY MR. LEWIS:**

9 Q. AND DR. JOHNSON, JUST TO BE VERY CLEAR, YOU ARE NOT
10 OFFERING TESTIMONY TODAY ABOUT YOUR -- ABOUT WHAT WAS
11 SUBJECTIVELY IN MR. COOPER'S HEAD; IS THAT RIGHT?

12 A. CORRECT.

13 Q. ALL RIGHT. AND SO I JUST WANT TO MAKE SURE -- I MAY NOT
14 HAVE ASKED THAT QUESTION INITIALLY AND INTENDED TO, BUT WHEN
15 YOU ARE LOOKING AT THESE PLANNING DISTRICTS, HOW MANY TIMES DO
16 YOU HAVE TO DIVIDE THEM IN ORDER TO ACHIEVE POPULATION
17 EQUALITY?

18 A. HOPEFULLY THE NUMBERS WOULD BALANCE OUT AND YOU WOULDN'T
19 HAVE TO CROSS THE BORDER AT ALL. OFTEN THAT DOESN'T WORK OUT,
20 BECAUSE THE POPULATION REQUIREMENTS ARE PRETTY STRICT. SO YOU
21 MAY HAVE TO CROSS A LINE ONCE IF THE NUMBER OF PEOPLE IN THE
22 COMMUNITY DOESN'T ALMOST PERFECTLY MATCH UP WITH A MULTIPLE OF
23 DISTRICTS. SOMETIMES WE WILL GET STUCK, AND IN ORDER TO
24 BALANCE THE POPULATIONS OF THE COMMUNITY NEXT TO YOU AND THE
25 COMMUNITY ON THE OTHER SIDE OF YOU, YOU MAY HAVE TO CROSS A

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10:17AM 1 BORDER TWICE, ONCE TO LET POPULATION OUT OF THE AREA, FOR
2 EXAMPLE, TO THE EAST, AND ONCE TO SPILL OVER EXTRA POPULATION
3 TO THE WEST. BUT FOR POPULATION BALANCING REASONS, YOU SHOULD
4 NEVER HAVE TO CROSS A BOUNDARY MORE THAN TWICE.

5 Q. ALL RIGHT. AND I WOULD LIKE TO NOW TURN TO PARAGRAPH 42.
6 AND THIS, I BELIEVE, IS WHERE YOU ADDRESS MR. COOPER'S KEY
7 REGIONS. IS THAT RIGHT?

8 A. YES.

9 Q. OKAY. AND DID YOU CALCULATE THE NUMBER OF TIMES THAT, FOR
10 POPULATION BALANCE, A KEY REGION WOULD HAVE TO BE DIVIDED?

11 A. YES.

12 Q. AND HOW MANY TIMES IS THAT?

13 A. ACTUALLY, IF WE GO TO -- 42 IS JUST WHAT WE WERE JUST
14 TALKING ABOUT. 43, 44 ARE THE SPECIFICS, REGION BY REGION.
15 BUT YES, THERE -- IN 43, IT TALKS ABOUT AN UNNAMED REGION THAT
16 DIDN'T HAVE A TITLE IN HIS MAP. IT IS CROSSED ONLY ONCE. BUT
17 THEN WE GET TWICE INTO TWO REGIONS, THREE TIMES, FIVE TIMES,
18 AND ACADIANA IS ACTUALLY CROSSED SEVEN TIMES IN THE HOUSE MAP.
19 AND THEN IN THE SENATE MAP, SIMILAR RESULTS, THREE, FOUR, FIVE
20 OR EVEN EIGHT TIMES THAT BOUNDARY IS BEING CROSSED BY
21 DISTRICTS.

22 Q. OKAY. AND DO THOSE DISTRICT BOUNDARIES REFLECT ADHERENCE
23 TO THE KEY CULTURAL REGIONS IN THE CONSTRUCTION OF THE 2023
24 ILLUSTRATIVE MAPS?

25 A. NO. UNLESS YOU -- UNLESS A DISTRICT HAS TO CROSS THE LINE

10:19AM 1 FOR POPULATION BALANCING, YOU ARE NOT LETTING THAT COMMUNITY
2 BOUNDARY CONTROL YOUR DISTRICTING WHEN YOU CROSS IT.

3 Q. AND SIMILARLY, IF WE TURN TO PARAGRAPH 46 OF YOUR REPORT,
4 DR. JOHNSON, DO YOU PERFORM A SIMILAR ANALYSIS OF THE
5 METROPOLITAN STATISTICAL AREAS THAT MR. COOPER CONSIDERED?

6 A. YES.

7 Q. AND CAN YOU WALK THE COURT THROUGH THAT ANALYSIS?

8 A. YES. AS IT -- WHEN YOU GET IN THE MIDDLE OF THE PARAGRAPH
9 THERE, IT TALKS ABOUT THE -- THERE'S ONE MSA THAT THE SENATE
10 MAP IS PRETTY GOOD ON. IT JUST CROSSES TWICE. ARGUABLY THAT
11 WOULD BE REQUIRED FOR POPULATION BALANCING. BUT THE OTHER
12 EIGHT MSAS ARE CROSSED, AGAIN, THREE, FOUR, FIVE, EVEN SIX
13 TIMES BY THE SENATE DISTRICTS. AS THE SENATE DISTRICTS CROSS
14 THESE LINES, THEY ARE CLEARLY NOT USING THE COMMUNITY OF
15 INTEREST AS A DEFINITION THAT SHOULD GUIDE WHERE THE BOUNDARIES
16 GO.

17 AND ON THE HOUSE SIDE, YOU ARE SEEING THE SAME THING, MSA
18 BOUNDARIES BEING CROSSED EIGHT TIMES, SEVEN TIMES. THESE KINDS
19 OF NUMBERS ARE SHOWING THAT THE COMMUNITY AS DEFINED IN THE MAP
20 IS NOT CONTROLLING WHERE THE LINES ARE DRAWN.

21 Q. I WOULD LIKE TO RETURN BRIEFLY TO -- YOU HAVE A FIGURE,
22 FIGURE 4 ON PAGE 14. IF WE COULD TURN BACK TO THAT. THIS
23 FIGURE APPEARS TO DEPICT ILLUSTRATIVE HOUSE DISTRICTS 55 AND 54
24 IN LAFOURCHE AND JEFFERSON PARISHES; IS THAT RIGHT?

25 A. I THINK IT IS ACTUALLY 84. IT'S A LITTLE HARD TO READ ON

DR. D. JOHNSON - DIRECT

10:21AM

1 THERE, BUT 54 AND 84.

2 Q. I MAY HAVE MISSPOKEN. THAT IS MY MISTAKE. WHAT IS THAT
3 FIGURE SHOWING US?

4 A. SO THE PURPLE AREA, HOUSE DISTRICT 54, IS ON THE LEFT, AND
5 THEN THE YELLOW LINE IS THE PARISH BOUNDARY. SO YOU CAN SEE 84
6 IS COMING IN JEFFERSON. BUT 54, DOWN AT THE SHORELINE, HAS A
7 PENINSULA THAT STICKS OVER, THAT CROSSES THE PARISH LINE AND
8 CROSSES -- THIS IS ACTUALLY SOME OF THE REGIONAL LINES THAT
9 MR. COOPER SHOWED IN HIS MAP WHEN HE TRIED TO DEFINE THESE BIG
10 REGIONS. AND 54 IS JUST CROSSING RIGHT THROUGH THEM IN ORDER
11 TO PICK UP THAT PENINSULA.

12 Q. OKAY. APPROXIMATELY HOW MANY PEOPLE LIVE IN THE
13 PENINSULA?

14 A. JUST OVER A THOUSAND. IT IS 1005.

15 Q. ALL RIGHT. WE CAN TAKE THAT DOWN.

16 SO DR. JOHNSON, JUST TAKING A STEP BACK, BASED ON WHAT WE
17 HAVE TALKED ABOUT IN TERMS OF THESE PLANNING DISTRICTS,
18 CULTURAL REGIONS, WHAT CONCLUSIONS DID YOU DRAW ABOUT
19 MR. COOPER'S ADHERENCE TO THESE REGIONAL BOUNDARIES?

20 A. THE VARIOUS DEFINITIONS OF REGIONS, WHETHER THEY BE
21 PLANNING, KEY CULTURAL OR MSA, ARE NOT LINES THAT THE
22 ILLUSTRATIVE DISTRICT LINES FOLLOW. SO THESE COMMUNITY LINES
23 ARE NOT CONTROLS THAT ARE GUIDING THE DRAWING OF THOSE LINES.

24 Q. AND COULD A MAP-MAKER HAVE REDUCED THE NUMBER OF DIVISIONS
25 OF THESE REGIONS?

DR. D. JOHNSON - DIRECT

10:23AM 1 A. CERTAINLY. IF A MAP-MAKER WAS ACTUALLY TRYING TO KEEP A
2 COMMUNITY TOGETHER, YOU DRAW DISTRICTS TO THE REGIONAL OR
3 COMMUNITY BOUNDARY AND STOP. AND ONE WOULD KEEP THOSE
4 DISTRICTS IN THAT COMMUNITY IN ORDER TO AVOID EXCESSIVE
5 DIVISION OF THE COMMUNITY AMONGST THE MAP.

6 Q. ALL RIGHT. DR. JOHNSON, I WOULD NOW LIKE TO SWITCH GEARS
7 AND TO TAKE YOU THROUGH YOUR ANALYSIS OF THE DIFFERENT 2023
8 ILLUSTRATIVE MAJORITY BLACK DISTRICTS THAT MR. COOPER
9 CONSTRUCTED. SO I WOULD LIKE TO PULL UP FIGURE 16 APPEARING ON
10 PAGE 27 OF YOUR REPORT.

11 OKAY. AND DR. JOHNSON, I BELIEVE THIS IS A FIGURE
12 DEPICTING ILLUSTRATIVE SENATE DISTRICTS 38 AND 39. DOES THAT
13 LOOK RIGHT?

14 A. YES.

15 Q. OKAY. AND CAN YOU ORIENT -- AND THIS IS IN THE SHREVEPORT
16 AREA; IS THAT RIGHT?

17 A. YES.

18 Q. AND DR. JOHNSON, CAN YOU ORIENT US TO THE FIGURE? EXPLAIN
19 THE COLORS AND THE LINES ON THIS PAGE.

20 A. HAPPY TO, YES.

21 Q. ALL RIGHT.

22 A. SO I MENTIONED BEFORE THE MAPTITUDE SCREEN THAT WE LOOKED
23 AT WHERE EACH INDIVIDUAL DISTRICT WAS COLORED IN. IN THIS
24 CASE, THE BLUE DASHED LINES ARE THE DISTRICT LINES FOR THE
25 ILLUSTRATIVE SENATE MAP. AND THE COLORS THAT WE ARE SEEING ARE

10:25AM

1 THOSE CENSUS BLOCKS. SO THIS IS A -- WE HAVE A FAIRLY DENSELY
2 POPULATED AREA IN SHREVEPORT. PRETTY CONSISTENTLY EACH CITY
3 BLOCK IS ITS OWN CENSUS BLOCK.

4 THE COLORING THAT YOU ARE SEEING HERE, YOU CAN SEE THE
5 CODING ON THE LEFT, THE PURPLE AREAS ARE 25 PERCENT BLACK VAP,
6 ANY PART BLACK VAP OR LOWER. THE DARKER BLUE AND LIGHTER BLUE
7 ARE 25 TO 50 PERCENT. AND THEN THE AREAS THAT ARE GREEN,
8 YELLOW OR RED ARE MAJORITY BLACK. THEY ARE 50 TO 65, 65 TO 75,
9 OR 75 TO 100 PERCENT OF THE VOTING AGE POPULATION IS BLACK. SO
10 YOU CAN SEE THROUGH THE CENTER OF THIS AREA, GOING NORTH/SOUTH,
11 CERTAINLY OVERWHELMINGLY 75 PERCENT OR HIGHER OF THE VOTING AGE
12 POPULATION IS ANY PART BLACK.

13 THE OTHER LINES SHOWN ON HERE, UP IN THE TOP RIGHT, YOU
14 CAN SEE KIND OF THE DASHED -- THE THICK DASHED LINES. THOSE
15 ARE THE PARISH BOUNDARIES SHOWN IN BROWN IN THE TOP RIGHT.
16 THEN WE HAVE THE FREEWAYS IN ORANGE SHOWN THERE. AND IT DIDN'T
17 TRANSLATE VERY WELL TO PDF. ON THE COMPUTER SCREEN IT SHOWS
18 VERY WELL, BUT THERE ARE THE THIN RED LINES THAT DON'T REALLY
19 COME THROUGH ON THIS THAT ARE THE CENSUS PLACE OR CITY
20 BOUNDARIES. YOU CAN SEE THE DIFFERENT CENSUS PLACE NAMES,
21 RIGHT IN THE MIDDLE OF SHREVEPORT AND UP IN THE TOP RIGHT,
22 BUT -- I THINK IT'S PRONOUNCED BOSSIER. DON'T HOLD ME TO ANY
23 OF MY PRONUNCIATION OF NAMES DOWN HERE. I'M VERY BAD OF THAT.
24 MY FATHER-IN-LAW WOULD BE ASHAMED. BUT TO THE BEST I CAN,
25 BOSSIER PARISH UP IN THE TOP RIGHT.

10:27AM

1 Q. AND WHAT STANDS OUT AT YOU ABOUT THE BOUNDARY LINE ON THIS
2 IMAGE RUNNING BETWEEN ILLUSTRATIVE SENATE DISTRICT 38 AND
3 ILLUSTRATIVE SENATE DISTRICT 39?

4 A. IT DEFINITELY CURVES IN LINES IN ODD WAYS. YOU KNOW, IT'S
5 NOT FOLLOWING THE FREEWAY, EXCEPT FOR A VERY SHORT PERIOD.
6 RIGHT IN THE MIDDLE, NEXT TO SHREVEPORT, YOU CAN SEE WHERE THE
7 FREEWAY LINE IS. IN THAT LITTLE STRETCH IT FOLLOWS THE
8 FREEWAY.

9 YOU KNOW, I CAN SEE AN ARGUMENT THAT FOLLOWING THE
10 BOUNDARY OF THE AIRPORT COULD BE A CONSIDERATION. BUT OTHER
11 THAN THAT, THE LINES KIND OF ZIG AND ZAG IN VERY ODD WAYS THAT
12 DON'T FOLLOW COMPACTNESS, THAT DON'T FOLLOW CITY BOUNDARIES,
13 THAT DON'T FOLLOW SOCIO-ECONOMIC BOUNDARIES, THAT DON'T FOLLOW
14 KEY REGIONS. ALL THE CRITERIA THAT MR. COOPER LISTED, THE LINE
15 ISN'T FOLLOWING. SOME OF IT MIGHT BE BECAUSE OF ODD-SHAPED
16 VTDS, BUT STILL, WE ARE PICKING AND CHOOSING VTDS NOT BASED ON
17 TRADITIONAL CRITERIA. WE ARE JUST WEAVING AROUND AND GOING
18 LEFT AND RIGHT FOR REASONS THAT ARE NOT EXPLAINED BY ANY OF THE
19 CRITERIA THAT MR. COOPER OFFERED AS EXPLANATIONS.

20 Q. OKAY. AND IS FOLLOWING A PARISH BOUNDARY, I THINK YOU
21 SAID MAJOR ROADWAYS AND NEIGHBORHOODS, ARE THOSE TRADITIONAL
22 CRITERIA?

23 A. YES.

24 Q. AND SO DOES THIS BOUNDARY APPEAR TO RESPECT A NONRACIAL
25 REDISTRICTING CRITERION THAT MR. COOPER SAYS IN HIS REPORT THAT

DR. D. JOHNSON - DIRECT

10:29AM

1 HE FOLLOWED?

2 A. NO.

3 Q. AND YOU KNOW, WE HAVE -- I THINK IN THE MIDDLE OF THIS
4 FIGURE, YOU CAN SEE THESE SORT OF JAGGED LINES. ABOUT HOW MANY
5 PEOPLE RESIDE IN THE AREA BOUNDED IN THOSE JAGGED LINES?

6 A. THIS IS VERY DENSELY POPULATED AREAS, OBVIOUSLY BEING IN
7 SHREVEPORT, SO WE ARE TALKING THOUSANDS OF PEOPLE IN EACH OF
8 THESE ZIGS AND ZAGS.

9 Q. AND WHAT IS THE RANGE OF BLACK VOTING AGE POPULATION IN
10 THE AREA OF THESE ZIGS AND ZAGS?

11 A. ALL THROUGH THE MIDDLE, IT IS OVERWHELMINGLY RED, WHICH
12 MEANS 75 TO A 100 PERCENT OF THE VOTING AGE POPULATION IS AT
13 LEAST PART BLACK.

14 Q. AND I KNOW IT'S REPORTED IN A HUNDRED PLACES, BUT ARE YOU
15 AWARE OF THE BLACK VOTING AGE POPULATION IN ILLUSTRATIVE SENATE
16 DISTRICTS 38 AND 39?

17 A. YES, THEY BOTH END UP 50-PERCENT MAJORITY BLACK.

18 Q. MAYBE A LITTLE -- MAYBE A LITTLE ABOVE?

19 A. OH, YEAH, SORRY, NOT PRECISELY 50 PERCENT, BUT JUST OVER
20 50 PERCENT.

21 Q. OKAY. AND SO DO YOU SEE ANY TRADITIONAL CRITERIA -- I
22 THINK YOU'VE ALREADY ANSWERED THAT, BUT IN THE ABSENCE OF
23 TRADITIONAL CRITERIA, WHAT EXPLANATION MIGHT THERE BE FOR A
24 DISTRICT CONFIGURATION LIKE THIS ONE?

25 A. WELL, JUST GOING BY MR. COOPER'S OWN WORDS, HE TALKS

10:30AM

1 ABOUT -- HE USED TRADITIONAL CRITERIA AND RACE. AND IF THE
2 LINES DON'T REFLECT ANY TRADITIONAL CRITERIA, THEN BY HIS OWN
3 WORDS, HE IS FOLLOWING RACE.

4 Q. AND JUST LOOKING AT THE DATA, DOES THE LINE -- COULD THE
5 LINE BE CONSISTENT WITH FOLLOWING RACE?

6 A. YES. IF YOU ARE TRYING TO GET THE TWO NUMBERS TO BALANCE
7 OUT JUST RIGHT, THAT TAKES -- WHETHER YOU ARE DOING IT BECAUSE
8 YOU HAVE TO UNDER COURT ORDER OR WHATEVER REASON, OR BECAUSE
9 YOU HAVE YOUR OWN GOAL, YOU ARE GOING TO BALANCE OUT THE
10 DIFFERENT SHADING AREAS, YOU KNOW, THE DIFFERENT
11 CONCENTRATIONS. AND YOU CAN SEE HERE -- YOU KNOW, I DIDN'T
12 MENTION IT, BUT OVER ON THE EAST SIDE, YOU CAN SEE THE THICK
13 BLUE DASHED LINE AROUND THE PURPLE AREA. THAT IS ANOTHER
14 DISTRICT COMING IN AND TAKING THAT AREA AWAY FROM DISTRICT 38.
15 SO YOU ARE GOING TO OFTEN END UP WITH STRANGE SHAPED LINES IF
16 YOU ARE TRYING TO GET JUST TO A CERTAIN RACIAL PERCENTAGE IN
17 YOUR DISTRICTS.

18 Q. SURE. AND NOW, DR. JOHNSON, I WOULD LIKE TO TURN TO
19 IBERVILLE PARISH, NOT FAR FROM HERE. SO IF WE COULD TURN TO
20 FIGURE 17 ON PAGE 28. AND WHAT ARE WE LOOKING AT HERE, DR.
21 JOHNSON? CAN YOU ORIENT US TO THIS FIGURE?

22 A. SO IT'S NOT A CRYSTAL CLEAR MAP. MY APOLOGIES FOR THAT.
23 BUT WHAT WE ARE LOOKING AT IS SENATE DISTRICT 17. AGAIN, THE
24 BLUE DASHED LINES IN THE TOP LEFT ARE THE BOUNDARIES OF 2023
25 ILLUSTRATIVE MAP, SENATE DISTRICT 17. THEN --

DR. D. JOHNSON - DIRECT

10:32AM

1 **THE COURT:** 17 OR 19?

2 **THE WITNESS:** 17.

3 **THE COURT:** OKAY.

4 A. THEN, AGAIN, THE THICK BROWN HASH MARKS ARE THE PARISH
5 BOUNDARIES. AND THE COLOR CODING, THERE ARE PURPLES, GREENS
6 AND REDS, ARE THE SAME AS THEY WERE IN THE LAST MAP. THE
7 PURPLES ARE 25 PERCENT BLACK OR LOWER. THE GREENS, YELLOWS AND
8 REDS ARE MAJORITY BLACK. SO WE HAVE GOT THE SENATE DISTRICT 17
9 IN THE ILLUSTRATIVE MAP, SENATE DISTRICT 17 IN THE TOP LEFT
10 FOLLOWING THE BLUE DASHED LINES.

11 THE ENACTED SENATE DISTRICT 17 ALSO INCLUDED THE KIND OF
12 RED-TINTED AREA GOING ALL THE WAY DOWN TO THE PARISH LINE. SO
13 THERE'S A RED LINE THAT RUNS OVER THE PARISH LINE AT THE SOUTH
14 END OF THE PARISH, AND THEN OVER BY THE RIVER IN THE TOP RIGHT,
15 YOU CAN SEE THE RED LINE OUTLINING THE RED SHADED AREA.

16 SO THE ENACTED MAP TOOK EVERYTHING THAT IS IN THE
17 ILLUSTRATIVE 17 IN THE TOP LEFT AND KEPT GOING ALL THE WAY TO
18 THE PARISH BOUNDARY, USING -- FOLLOWING THE PARISH BOUNDARY AS
19 THE DISTRICT BOUNDARY, THE STANDARD CRITERIA LISTED IN THE
20 STATE'S JOINT RULE AND THE TRADITIONAL REDISTRICTING PRINCIPLE.

21 THE ILLUSTRATIVE MAP REMOVED ALL OF THAT RED SHADED AREA
22 FROM SENATE DISTRICT 17. AND AS YOU CAN SEE, IT IS MOSTLY BLUE
23 AND PURPLE, SO IT IS MOSTLY WHITE. IT TOOK THE MOSTLY WHITE
24 AREA OUT AND STOPPED THE BOUNDARY AT THE BLUE DASHES, KIND OF
25 IN THE MIDDLE OF NOWHERE, AND THAT BOUNDARY IS NOT FOLLOWING

10:34AM 1 ANY TRADITIONAL REDISTRICTING PRINCIPLE. IT DOESN'T FOLLOW THE
2 PARISH, IT DOESN'T FOLLOW A MAJOR ROAD, IT DOESN'T FOLLOW A
3 COMMUNITY LINE, IT DOESN'T FOLLOW A KEY CULTURAL REGION. IT
4 JUST IS DRAWN OUT IN THE MIDDLE OF NOWHERE. AND THE RESULT IS
5 THAT YOU TOOK OUT THESE HEAVILY WHITE AREAS AND IT INCREASED
6 THE BLACK PERCENTAGE OF ILLUSTRATIVE SENATE DISTRICT 17.

7 **BY MR. LEWIS:**

8 Q. AND AGAIN, RECOGNIZING WE HAVE THIS NUMBER IN A HUNDRED
9 PLACES, BUT DO YOU KNOW THE BVAP OF ILLUSTRATIVE SENATE
10 DISTRICT 17?

11 A. AGAIN, IT IS OVER 50 PERCENT BLACK.

12 Q. AND SO DO YOU SEE ANY -- JUST BASED ON THE LINES, DO YOU
13 SEE ANY NONRACIAL REDISTRICTING CRITERION THAT COULD EXPLAIN
14 THIS CONFIGURATION?

15 A. NO.

16 Q. AND COULD A RACIAL CONSIDERATION EXPLAIN THIS
17 CONFIGURATION?

18 A. IT COULD.

19 Q. AND WHAT CONSIDERATION WOULD THAT BE?

20 A. IF ONE'S GOAL WAS TO INCREASE SENATE DISTRICT 17 TO BE
21 OVER 50 PERCENT BLACK, CUTTING OUT THIS AREA, ESSENTIALLY NOT
22 GOING TO THE PARISH BOUNDARY, TO THE TRADITIONAL REDISTRICTING
23 BOUNDARY, AND INSTEAD STOPPING THE LINE IN THE MIDDLE OF
24 NOWHERE, WOULD HELP ACHIEVE THAT RACIAL TARGET.

25 Q. ALL RIGHT. AND SO FINALLY, DR. JOHNSON, WE GET TO -- WE

10:36AM 1 COME TO ILLUSTRATIVE SENATE DISTRICT 19 IN JEFFERSON PARISH. I
2 WOULD LIKE TO TURN TO FIGURE 18 ON PAGE 29.

3 SO IT LOOKS LIKE, DR. JOHNSON, IT LOOKS LIKE YOU HAVE A
4 MAP OF THE DISTRICT AND THEN AN INSET. AND MAYBE IT'S BEST TO
5 START WITH THE FULL MAP, AND THEN WE CAN GET TO THE INSET. BUT
6 CAN YOU WALK THE COURT THROUGH WHAT YOU ARE SHOWING IN THIS
7 MAP?

8 A. SURE. VERY SIMILAR TO THE EARLIER MAPS, WE ARE LOOKING AT
9 THE BLUE LINES BEING THE ILLUSTRATIVE SENATE DISTRICT 19
10 BOUNDARY. WE HAVE GOT THE THICK BROWN DASHES BEING THE PARISH
11 BOUNDARY. YOU CAN REALLY SEE THEM BEST OVER ON THE RIGHT-HAND
12 SIDE OF THE MAP, AND THEN THROUGH THE KIND OF LEFT MIDDLE OF
13 THE MAP, YOU CAN SEE THE PARISH BOUNDARIES COMING DOWN.

14 THERE IS ALSO -- THE BLUE HATCHING AT THE TOP IS WATER,
15 AND YOU CAN SEE THE RIVER ALSO IN THE BLUE HATCHING GOING
16 THROUGH THE LEFT OR RIGHT, THROUGH THE MIDDLE OF THE MAP.

17 AND THEN WE'VE GOT THE SAME COLOR SHADING, SO CITY BLOCKS
18 BY CITY BLOCKS, AND WE'RE IN THE HEAVILY POPULATED AREA. WE
19 HAVE GOT THE PURPLE BEING 25 PERCENT OR LESS, THE BLUE BEING
20 LESS THAN 50 PERCENT BLACK, AND THEN THE GREENS, YELLOWS AND
21 REDS BEING MAJORITY BLACK. AND REALLY AT A GLANCE, YOU CAN SEE
22 THERE ARE SOME EDGE COMMUNITIES, BUT THE MAP IS VERY HEAVILY
23 EITHER PURPLE OR RED. IT IS EITHER LESS THAN 25 PERCENT BLACK
24 OR OVER 75 PERCENT BLACK. ONLY AMONG THE EDGES WHERE THE TWO
25 COLORS MEET ARE THERE MORE BLENDED NEIGHBORHOODS.

10:38AM 1 Q. SO JUST TO HIGHLIGHT JUST A FEW AREAS ON THIS MAP, SO
2 MOVING TO THE FAR WEST, I DON'T THINK EITHER ONE OF US ARE
3 GOING TO PRONOUNCE THESE CORRECTLY, BUT IS IT BOOT
4 (PRONOUNCING), B-O-U-T-T-E?

5 **THE COURT:** BOUTTE.

6 **THE WITNESS:** BOUTTE.

7 **BY MR. LEWIS:**

8 Q. BOUTTE. OKAY.

9 A. SO BOUTTE IS A COMMUNITY THAT'S JUST OUTSIDE THE BOUNDARY
10 OVER THERE ON THE WEST SIDE.

11 **BY MR. LEWIS:**

12 Q. AND THEN MOVING NORTH, IT LOOKS LIKE KENNER AND RIVER
13 RIDGE. WHAT IS GOING ON THERE?

14 A. OH, YES. SO THIS IS WHERE THE -- THE ARROWS KIND OF
15 HIGHLIGHT NOTABLE AREAS, AS I LOOK AT THIS MAP, WHERE THE
16 BOUNDARY LINE IS -- IT STARTS IN THE TOP LEFT ON THE LAKE, IF
17 THAT MAKES SENSE, AND THEN IT STARTS TO COME DOWN ALONG THE
18 PARISH LINE. YOU CAN SEE THE THICK BROWN DASHED LINE THERE,
19 BUT INSTEAD OF FOLLOWING THE PARISH, IT ZIGS IN, AND IT'S NOT
20 FOLLOWING A FREEWAY, IT'S NOT FOLLOWING A COMMUNITY BOUNDARY.
21 IT ZIGS IN TO GET A PART OF KENNER. AND THEN IT CROSSES A
22 FREEWAY, COMES DOWN. THE WHITE AREAS HAVE NO PEOPLE IN THEM.
23 THEY ARE OPEN SPACE. SO IT COMES DOWN THROUGH OPEN SPACE AND
24 THEN AGAIN ZIGS TO THE EAST TO PICK UP A RED, 75-PERCENT BLACK
25 OR MORE COMMUNITY FROM OUT OF AN OTHERWISE PURPLE AREA.

DR. D. JOHNSON - DIRECT

10:39AM

1 **MS. KEENAN:** OBJECTION, YOUR HONOR. MAY I EXPLAIN?

2 **THE COURT:** YOU MAY.

3 **MS. KEENAN:** AGAIN, IT'S ABOUT PRECISION OF LANGUAGE
4 HERE. HE CAN TALK ABOUT THE WAY THAT THE DISTRICT IS SHAPED
5 AND WHAT TERRITORY IT DOES PICK UP, BUT WHAT HE IS TESTIFYING
6 RIGHT NOW IS THAT A DISTRICT ZIGS OR ZAGS IN A CERTAIN WAY TO
7 PICK UP A SPECIFIC COMMUNITY, AND THAT'S GOING TO THE INTENT OF
8 MR. COOPER, NOT JUST TO WHAT THE MAPS ACTUALLY SHOW ON THE
9 SCREEN. IT IS JUST THE PRECISION HERE.

10 **THE COURT:** MR. LEWIS?

11 **MR. LEWIS:** YOUR HONOR, HE IS DESCRIBING -- I
12 THINK -- I AM INTERPRETING HIS LANGUAGE AS THE LANGUAGE OF THE
13 FACT THAT THE LINE COMES OVER. HE'S NOT SAYING MR. COOPER DREW
14 THIS CONFIGURATION FOR THIS PURPOSE. HE IS DESCRIBING THE
15 EFFECT.

16 **THE COURT:** WELL, IT SOUNDS TO ME LIKE THAT IT IS FOR
17 THIS PURPOSE, SO I WOULD SUSTAIN THE OBJECTION. YOU CAN ASK IT
18 A DIFFERENT WAY, AND MAYBE DR. JOHNSON WILL ANSWER IT USING
19 DIFFERENT TERMINOLOGY.

20 **MR. LEWIS:** YES, YOUR HONOR.

21 **BY MR. LEWIS:**

22 Q. SO, DR. JOHNSON, YOU WERE TALKING ABOUT RIVER RIDGE. WHAT
23 IS THE EFFECT OF THE -- YOU DESCRIBED THIS DISTRICT BOUNDARY
24 COMING IN FROM THE PARISH BORDER AND SURROUNDING RIVER RIDGE.
25 WHAT IS THE EFFECT OF THAT LINE BEING DRAWN IN THAT LOCATION?

DR. D. JOHNSON - DIRECT

10:41AM 1 A. SURE. AS IT COMES SOUTH ALONG THE PARISH, THE LINE THEN
2 MOVES TO THE EAST, AND IT PICKS UP THE AREA OF KENNER. IT IS
3 NO LONGER FOLLOWING THE PARISH BOUNDARY, IT'S NOT FOLLOWING THE
4 FREEWAY BOUNDARY, IT'S NOT FOLLOWING A COMMUNITY, A CITY OR
5 OTHER COMMUNITY OF INTEREST BOUNDARY. IT KIND OF JUST ZIGS AND
6 ZAGS THROUGH THE NEIGHBORHOODS. IN SO DOING IT, IT ENCOMPASSES
7 A MAJORITY BLACK AREA IN KENNER. IT THEN -- THE BOUNDARY LINE
8 THEN MOVES SOUTH THROUGH THE WHITE -- WHITE MEANS THERE'S NO
9 POPULATION IN THAT AREA -- THROUGH THAT OPEN AREA, AND THE LINE
10 THEN MOVES TO THE EAST AND AROUND THE RIVER RIDGE AREA. AS IT
11 GOES EAST, IT TAKES IN THE RED 75-PERCENT BLACK AREA, WITH THE
12 EFFECT OF TAKING THAT AREA INTO THE ILLUSTRATIVE SENATE
13 DISTRICT 19, AND LEAVING OUTSIDE OF THE DISTRICT THE PURPLE
14 25 PERCENT OR LESS AREA THAT GEOGRAPHICALLY SURROUNDS RIVER
15 RIDGE OR THE PART OF RIVER RIDGE IT IS PICKING UP.

16 IT THEN MOVES SOUTH AND GETS TO THE RIVER AND THEN FOLLOWS
17 THE RIVER AND THE PARISH BOUNDARY, WHICH IS THE RIVER IN THAT
18 SECTION, FOR A CONSIDERABLE WAY, AND THAT IS FOLLOWING A
19 TRADITIONAL PRINCIPLE, OBVIOUSLY. THE RIVER IS A BIG
20 GEOGRAPHIC FEATURE, AND IT'S VERY CLEAR TO RESIDENTS WHERE THAT
21 IS, AND THAT'S AN EASILY UNDERSTOOD BOUNDARY, WHICH IS A
22 TRADITIONAL PRINCIPLE. BUT THEN AS IT GETS TO ITS EASTERN
23 EDGE, THE BLUE DASHES, WHICH ARE THE BOUNDARY OF SENATE
24 DISTRICT 17, TURN SOUTH. THEY DON'T CONTINUE ON JUST THAT
25 SHORT DISTANCE TO CONTINUE FOLLOWING THE RIVER AND THE PARISH.

DR. D. JOHNSON - DIRECT

10:42AM 1 THEY STOP, AND THE LINE MOVES SOUTH. YOU CAN SEE IT, AND THIS
2 PART IS THE PART THAT IS IN THE INSET MAP IN A LITTLE MORE
3 DETAIL TO THE RIGHT.

4 WE ARE GOING THROUGH -- DOWN TO WOODMERE. SO AS IT GOES
5 DOWN TO WOODMERE, IT HAS VARIOUS BUMPS AND INLETS THAT IT TAKES
6 IN AND LEAVES OUT AS -- I DON'T KNOW IF YOU CALL IT THE CLUB OR
7 THE FOOT, I DON'T KNOW HOW TO DESCRIBE THAT, THE SOUTHEASTERN
8 KIND OF CLUB OF ILLUSTRATIVE SENATE DISTRICT 19. IT GETS DOWN
9 TO THE OPEN SPACE, BUT THEN IT COMES BACK UP. AND AS YOU CAN
10 SEE ON BOTH THE MAPS, THE INSET AND THE BIG MAP, IT THEN CARVES
11 AROUND A POPULATION AREA, IT CARVES AROUND ESTELLE, LEAVING THE
12 PURPLE AREA OUT OF SENATE DISTRICT 19, KIND OF ISOLATING THAT
13 AGAINST THE WHITE UNPOPULATED AREA AND COMES AROUND TO MARRERO,
14 I HOPE I SAID THAT RIGHT, AND GOING OVER TO AVONDALE AND THOSE
15 AREAS UNTIL IT GETS BACK OVER AND AGAIN CROSSES, BRIEFLY
16 FOLLOWS, A PARISH BOUNDARY AS IT MOVES UP TO THE NORTHWEST, AND
17 THEN AGAIN LEAVES THE PARISH BOUNDARY, NOT FOLLOWING A
18 TRADITIONAL PRINCIPLE, AND HEADS WEST AND THEN ZIGS AND ZAGS
19 AROUND -- FROM BOUTTE BACK TO THE LAKE.

20 SO IT'S AN ALMOST SERPENTINE DISTRICT AS IT KIND OF
21 SOMETIMES FOLLOWS THE PARISH BOUNDARY, SOMETIMES FOLLOWS THE
22 RIVER BUT MOST OF THE TIME DOES NOT.

23 Q. AND WHEN YOU ARE DESCRIBING PURPLE AREAS, DR. JOHNSON,
24 JUST TO MAKE SURE I'M CLEAR, IS THAT A REFERENCE TO REGIONS
25 THAT HAVE 25 PERCENT OR LESS BLACK VOTING AGE POPULATION?

DR. D. JOHNSON - DIRECT

10:44AM

1 A. EXACTLY. THERE'S, YOU KNOW -- THERE'S A STRONG
2 CORRELATION BETWEEN WHERE THE LINES ENDED UP AND THE --
3 INCLUDING THE 75 PERCENT AND HIGHER BLACK VAP AREAS AND
4 EXCLUDING THE 25 PERCENT AND LESS AREAS, WHETHER INTENTIONALLY
5 OR NOT.

6 Q. OKAY. AND DR. JOHNSON, DOES THE -- TAKEN AS A WHOLE, DOES
7 THE DISTRICT BOUNDARY FOR ILLUSTRATIVE SENATE DISTRICT 19
8 APPEAR TO RESPECT NONRACIAL REDISTRICTING CRITERIA THAT
9 MR. COOPER SAYS THAT HE FOLLOWED?

10 A. ONLY IN VERY LIMITED SMALL SECTIONS OF IT. THE
11 OVERWHELMING MAJORITY OF THE BOUNDARY DOES NOT.

12 Q. OKAY. AND IS THERE A RACIAL REDISTRICTING CRITERION THAT
13 COULD EXPLAIN THIS PARTICULAR CONFIGURATION?

14 A. YES.

15 Q. AND WHAT WOULD THAT CRITERIA BE?

16 A. THE END RESULT IS THAT IT'S A MAJORITY BLACK SENATE
17 DISTRICT.

18 Q. OKAY. NOW, YOU MENTIONED THAT YOU REVIEWED MR. COOPER'S
19 TRIAL TESTIMONY FROM WEDNESDAY. IS THAT RIGHT?

20 A. YES.

21 Q. AND DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY ABOUT
22 THESE THREE DISTRICTS?

23 A. YES.

24 Q. DID THAT TESTIMONY CHANGE ANY OF YOUR OPINIONS?

25 A. NO.

DR. D. JOHNSON - DIRECT

10:46AM

1 Q. WHY NOT?

2 A. HE STATED THAT IT -- HE FOLLOWED TRADITIONAL REDISTRICTING
3 CRITERIA AND RACE. AND WHEN I LOOK AT THESE LINES, THEY ARE
4 NOT FOLLOWING TRADITIONAL REDISTRICTING PRINCIPLES, SO THAT
5 LEAVES, JUST IN HIS OWN WORDS, RACE.

6 **MR. LEWIS:** YOUR HONOR, JUST AS A TIME KEEPING, I
7 KNOW WE ARE PAST 10:30.

8 **THE COURT:** YOU ARE MOVING ON TO HOUSE DISTRICTS NOW?

9 **MR. LEWIS:** YES.

10 **THE COURT:** THIS IS A GOOD TIME TO TAKE A BREAK. I
11 WAS GOING TO SUGGEST THAT WE TAKE A BREAK AT THAT POINT.

12 **MR. LEWIS:** YES, YOUR HONOR.

13 **THE COURT:** FIFTEEN MINUTES.

14 (RECESS TAKEN AT 10:46 A.M. UNTIL 11:02 A.M.)

15 **THE COURT:** DR. JOHNSON, WOULD YOU TAKE THE STAND
16 AGAIN, PLEASE? MR. LEWIS, YOU MAY CONTINUE.

17 **BY MR. LEWIS:**

18 Q. THANK YOU, DR. JOHNSON. I WOULD LIKE TO NOW TURN TO YOUR
19 REVIEW OF MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS. AND THE
20 FIRST TWO I WOULD LIKE TO LOOK AT ARE ILLUSTRATIVE HOUSE
21 DISTRICTS 1 AND 2 IN SHREVEPORT. IF WE COULD TURN TO FIGURE 19
22 ON PAGE 3.

23 SO DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS FIGURE?
24 WHAT ARE WE SEEING HERE?

25 A. WE ARE LOOKING AT ROUGHLY THE SAME AREA WE WERE LOOKING AT

DR. D. JOHNSON - DIRECT

11:03AM 1 IN THE SENATE MAP OF THE SHREVEPORT AREA. ONE CHANGE IS THE
2 PARISH BOUNDARIES ARE NOW THE BLACK DASHED LINES RATHER THAN
3 THE THICK BROWN DASHED LINES. AND IN THIS CASE, THE RED LINES
4 ARE A LITTLE THICKER, SO THEY ARE A LITTLE EASIER TO SEE THE
5 CITY AND CENSUS PLACE BOUNDARIES. BUT YOU CAN SEE THE FREEWAY
6 RUNNING THROUGH THE MIDDLE AND THE RIVER STARTING AND THE TOP
7 AND COMING OFF THE EAST SIDE. SO IT IS ROUGHLY THE SAME AREA.
8 IN THIS CASE, THE PURPLE-BLUE LINES ARE THE ILLUSTRATIVE HOUSE
9 MAP.

10 Q. I SEE. OKAY. AND THE COLOR SHADING FOR CENSUS BLOCKS,
11 THAT'S THE SAME SCALE OF BLACK VOTING AGE POPULATION WE'VE BEEN
12 USING?

13 A. CORRECT.

14 Q. SO WHAT DID YOU FIND NOTEWORTHY ABOUT THE CONFIGURATION OF
15 -- LET'S START WITH ILLUSTRATIVE HOUSE DISTRICT 1. WHAT DID
16 YOU FIND NOTEWORTHY ABOUT THE CONFIGURATION OF THIS DISTRICT
17 BOUNDARY?

18 A. WELL, YOU CAN SEE THE PARISH BOUNDARY AT THE TOP PART OF
19 THE MAP, AGAIN, THE BLACK DASHED LINE. DISTRICT 1 GOES RIGHT
20 ACROSS THAT. SO IT'S NOT FOLLOWING THE PARISH BOUNDARY. IN
21 ADDITION, YOU CAN SEE THE RIVER COMING DOWN, THE BLUE HATCHING
22 ON THE WHITE AREA. DISTRICT 1 GOES RIGHT ACROSS THAT. SO IT'S
23 NOT FOLLOWING THE PARISH BOUNDARY, IT'S NOT FOLLOWING THE
24 RIVER, IT'S NOT FOLLOWING MAJOR ROADS.

25 YOU CAN SEE ALONG THE TOP THERE IT IS CLOSE TO BUT ALSO

DR. D. JOHNSON - DIRECT

11:04AM 1 NOT FOLLOWING THE CITY OR CENSUS PLACE BOUNDARIES. SO IT'S
2 JUST TAKING BOTH SIDES OF THE RIVER, NOT FOLLOWING ANY
3 TRADITIONAL BOUNDARY -- ACTUALLY, I SHOULD SAY BOTH SIDES OF
4 THE RIVER, BOTH SIDES OF THE PARISH BOUNDARY, NOT FOLLOWING ANY
5 TRADITIONAL REDISTRICTING PRINCIPLE.

6 Q. OKAY. AND DO YOU HAPPEN -- WELL, I MEAN -- OKAY. AND IF
7 WE THEN TURN TO -- AND DOES IT KEEP BOSSIER CITY WHOLE?

8 A. NO, IT DOES NOT.

9 Q. AND IF WE TURN TO ILLUSTRATIVE HOUSE DISTRICT 2 TO ITS
10 SOUTH, WHAT IS NOTEWORTHY TO YOU ABOUT THIS BOUNDARY LINE?

11 A. AGAIN, WE ARE GETTING ZIGS AND ZAGS. WHAT IS RATHER
12 TELLING IS IT HAS AN ODD-SHAPED WESTERN BOUNDARY, BUT IT IS
13 FAIRLY WIDE AS YOU GO FROM THE WEST END OVER TO THE FREEWAY,
14 RIGHT ALONG WHERE THE 02 LABEL IS, AND THEN IT GETS REALLY
15 NARROW. AND IT'S GETTING NARROW TO NOT GO NORTH INTO ONE, AND
16 IT IS GETTING NARROW IN A WAY THAT AVOIDS GOING INTO THE PURPLE
17 OR VERY LOW BLACK PERCENTAGE AREA TO THE SOUTH SHOWN IN
18 DISTRICT 6. SO IT GETS A NARROW NECK THROUGH THAT AREA AS IT
19 MOVES FROM WEST TO EAST, AND THEN IT WINDS BACK OUT AS YOU GET
20 MORE REDS, MORE GREENS. AND AGAIN, IT CROSSES THE PARISH LINE,
21 IT CROSSES THE RIVER. AND THEY DON'T SHOW THE WHOLE THING OUT
22 TO THE EAST, BUT IT REALLY IS SPLITTING. YOU CAN SEE ONE NECK
23 JUST ABOVE WHERE IT SAYS 09. ONE NECK OF IT IS GOING THAT WAY,
24 AND THEN ONE NECK GOING DOWN TO THE RIGHT THERE. SO IT SPLITS
25 AND GOES OFF IN TWO BRANCHES.

DR. D. JOHNSON - DIRECT

11:06AM 1 SO AGAIN, IT'S A VERY UNUSUAL GEOGRAPHIC SHAPE THAT DOES
2 NOT FOLLOW A PARISH BOUNDARY, DOES NOT FOLLOW THE RIVER, DOES
3 NOT FOLLOW A FREEWAY, DOES NOT FOLLOW A CITY BOUNDARY. IT
4 DOESN'T SEEM TO FOLLOW ANY TRADITIONAL REDISTRICTING PRINCIPLE.

5 Q. OKAY. AND DOES IT APPEAR TO RESPECT ANY COMMUNITIES
6 DEFINED BY, FOR EXAMPLE, SHARED SOCIO-ECONOMIC FACTORS OR
7 ANYTHING LIKE THAT?

8 A. NO. AGAIN, WE ARE LOOKING WITHIN A CITY, SO THERE'S --
9 IT'S NOT FOLLOWING ANY SOCIO-ECONOMIC FACTORS THAT I SEE ON THE
10 MAP, AND MR. COOPER SAID HE DID NOT HAVE SOCIO-ECONOMIC DATA
11 WITHIN THE CITY. HE ONLY HAD THE CITY TOTALS. AND SO IF ALL
12 YOU HAVE IS THE CITY TOTALS, THERE IS NO WAY TO FOLLOW THE
13 SOCIO-ECONOMIC LINES WHEN YOU ARE DRAWING WITHIN THE CITY.

14 Q. SO, DR. JOHNSON, IS THERE A RACIAL REDISTRICTING CRITERIA
15 THAT COULD EXPLAIN THE CONFIGURATION OF DISTRICTS 1 AND 2?

16 A. YES. IT DOES END UP WITHIN BOTH RESULTING AT MAJORITY
17 BLACK.

18 Q. OKAY. ALL RIGHT. AND I WOULD LIKE TO NOW MOVE SOUTH FROM
19 HERE TO LOOK AT MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICT 23
20 CENTERED IN NATCHITOCHE PARISH. SO IF WE COULD GO TO FIGURE
21 20 ON PAGE 31. AND DR. JOHNSON, CAN YOU ORIENT THE COURT TO
22 THIS FIGURE? WHAT ARE WE LOOKING AT?

23 A. SIMILAR LAYOUT OF LAYERS. WE HAVE GOT OUR COLOR-CODED
24 CENSUS BLOCKS AT THE BOTTOM THAT ARE THE SAME SHADING OF PURPLE
25 TO RED THAT WE'VE BEEN LOOKING AT ALL THE MAPS. YOU CAN SEE

11:08AM

1 THE BLUE HATCH ON WHITE THAT ARE THE LAKES AND RIVERS ON THE
2 MAP.

3 THE RED LINES HERE ARE THANKFULLY EASIER TO SEE THAN THAT
4 FIRST MAP AROUND THE CITIES AND CENSUS DESIGNATED PLACES. AND
5 THEN OVER ON THE RIGHT-HAND SIDE, YOU CAN SEE THE BLACK DASHED
6 LINES OF THE PARISH BOUNDARIES AS WELL.

7 BUT WE ARE LOOKING PRIMARILY AT DISTRICT 23 AS IT COMES
8 INTO NATCHITOCHEES AND THEN A LITTLE BIT OF 22 AS IT SENDS A
9 FINGER DOWN INTO NATCHITOCHEES, PULLING OUT THAT NORTHEASTERN
10 CORNER OF THE CITY AND KIND OF SENDING DISTRICT 23 AROUND IT TO
11 GET UP TO THE PORTION OF CLARENCE THAT DISTRICT 22 AND 23
12 SPLIT.

13 Q. SO IF WE LOOK AT THE PORTION OF CLARENCE THAT'S IN HD 23,
14 WHAT IS THE BLACK VOTING AGE POPULATION RANGE IN THAT AREA?

15 A. IT'S GOT THE -- RIGHT WHERE THE C-L-A-R IN CLARENCE IS,
16 IT'S GOT A LITTLE LIGHT BLUE, BUT THEN ABOVE WHERE THE TITLE
17 IS, IT'S THE RED, THE 75 PERCENT BLACK OR HIGHER.

18 Q. OKAY. AND THE PORTION OF NATCHITOCHEES THAT IS ASSIGNED
19 INTO HD 22, WHAT IS THE RACIAL MAKEUP OF THAT REGION?

20 A. IT'S PURPLE AND BLUE, SO LESS THAN 50 PERCENT BLACK, AND
21 THE PURPLE AREAS ARE LESS THAN 25 PERCENT BLACK.

22 Q. OKAY. AND DO YOU HAPPEN TO KNOW THE BVAP OF ILLUSTRATIVE
23 HOUSE DISTRICT 23?

24 A. IT IS MAJORITY BLACK.

25 Q. IS IT FAIRLY CLOSE TO THE 50 PERCENT LINE OR HIGHER?

DR. D. JOHNSON - DIRECT

11:10AM

1 A. YES.

2 Q. WHICH ONE?

3 A. PARDON?

4 Q. I ASKED A BAD QUESTION, DR. JOHNSON. IS IT CLOSE TO THE
5 50 PERCENT LINE?

6 A. YES.

7 Q. OKAY. AND DR. JOHNSON, DOES THE BOUNDARY OF HOUSE
8 DISTRICT -- ILLUSTRATIVE HOUSE DISTRICT 23 APPEAR TO FOLLOW A
9 NONRACIAL REDISTRICTING CRITERION THAT MR. COOPER REPRESENTED
10 THAT HE FOLLOWED?

11 A. NO.

12 Q. ALL RIGHT. SO MAJOR ROADS?

13 A. YES. THERE'S A LITTLE BIT -- IT'S WEIRD. IT FOLLOWS THE
14 RIVER ON THE NORTH SIDE OF 23, BETWEEN 22 AND 23, KIND OF WHERE
15 22, 23 AND 13 ALL COME TOGETHER OVER BY ST. MAURICE. IT DOES
16 FOLLOW THE RIVER. BUT THEN TO THAT AREA, YOU ARE JUST TALKING
17 ABOUT IT ZIGS OFF THE RIVER TO COME IN AND TAKE OUT A CHUNK OF
18 NATCHITOCHE, NOT FOLLOWING A MAJOR ROAD, NOT FOLLOWING A WATER
19 FEATURE, NOT FOLLOWING -- ACTUALLY DELIBERATELY OR OTHERWISE
20 CROSSING RIGHT OVER THE CITY BOUNDARY TO TAKE OUT THAT CHUNK OF
21 THE CITY AND FORCE 23 AROUND IT, WHICH BOTH DIVIDE THE
22 COMMUNITY AND MAKES 23 LESS COMPACT.

23 Q. OKAY. AND DR. JOHNSON, IS THERE A RACIAL REDISTRICTING
24 CRITERIA THAT COULD EXPLAIN THIS CONFIGURATION?

25 A. YES.

DR. D. JOHNSON - DIRECT

11:12AM

1 Q. AND WHAT IS THAT?

2 A. THE -- CAREFULLY OR COINCIDENTALLY, THE CARVING OUT OF
3 THAT VERY LOW BLACK AREA OF NATCHITOCHEES FROM DISTRICT 23 HELPS
4 MAKE DISTRICT 23 MAJORITY BLACK.

5 Q. OKAY. ALL RIGHT. SO DR. JOHNSON, JUST CONTINUING SOUTH
6 TO THE LAKE CHARLES AREA, I WOULD NOW LIKE TO TURN TO YOUR
7 ANALYSIS OF ILLUSTRATIVE HOUSE DISTRICT NUMBERS 38 AND 34. SO
8 IF WE COULD TURN TO FIGURE 21 ON PAGE 32. WE HAVE A FAIR
9 NUMBER OF DISTRICTS ON THE SCREEN, DR. JOHNSON. CAN YOU ORIENT
10 THE COURT TO WHAT WE HAVE SHOWN HERE?

11 A. YES. SO THE GEOGRAPHY IS THE SAME. WE HAVE GOT OUR
12 CENSUS BLOCKS WITH THE SAME BLACK COLOR CODING TO THEM AS
13 BEFORE, WITH THE PURPLES BEING LOW AND REDS BEING HIGH. WE
14 HAVE THE SAME PURPLE -- THICK PURPLE LINES ARE THE ILLUSTRATIVE
15 MAP BOUNDARIES, AND THE RED LINES ARE THE CITY AND CENSUS PLACE
16 LINES. AND THEN YOU CAN SEE THE FREEWAYS AND THE VARIOUS WATER
17 FEATURES ALSO ON THE MAP.

18 THIS IS A DENSE AREA, LOTS OF POPULATION, SO WE ARE
19 GETTING A LOT OF DISTRICTS, BUT THE MAIN FOCUS OF MY ANALYSIS
20 IS 34 AND 38 AND THE IMPACT THAT 36 HAS ON 34.

21 Q. OKAY. AND SO LET'S START WITH -- WHY DON'T WE START WITH
22 ILLUSTRATIVE DISTRICT 38. NOW, ARE THERE ANY FEATURES OF THIS
23 DISTRICT'S CONFIGURATION THAT STAND OUT TO YOU?

24 A. YES. IN THE TOP OF THE MAP, BY WHERE IT SAYS MOSS BLUFF,
25 IT IS COMING DOWN, IT IS ACTUALLY FOLLOWING A WATER FEATURE AS

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11:14AM 1 IT GOES AROUND THERE. IT IS FOLLOWING A RIVER MAINLY. BUT
2 THEN WHEN IT GETS OVER TO WESTLAKE, IT LEAVES THE RIVER, IT
3 STOPS FOLLOWING THE RIVER, AND IT CUTS RIGHT THROUGH WESTLAKE.
4 SO IT IS CARVING OUT THE SOUTHEASTERN PORTION OF WESTLAKE,
5 GOING AROUND, GETTING KIND OF THE BIG OPEN AREA THERE THAT IS
6 PURPLE, BUT WHEN CENSUS BLOCKS ARE THAT BIG, IT TENDS TO
7 INDICATE THEY ARE RELATIVELY LOW POPULATION USUALLY.

8 AND THEN IT GETS INTO THE MORE CITY TYPE CITY BLOCK BY
9 CITY BLOCK SOUTHERN PORTION OF WESTLAKE WHERE YOU CAN SEE THE
10 DENSE CONCENTRATION OF YELLOW AND RED AREAS. SO AS THE LINE,
11 THE PURPLE LINE GOES AROUND THROUGH THE CITY, IT HAS THE IMPACT
12 OF OR THE EFFECT OF BRINGING IN THAT SOUTH WESTLAKE
13 NEIGHBORHOOD INTO DISTRICT 38 AND SPLITTING THE CITY.

14 AND THEN IT COMES DOWN AND KIND OF WEAVES AROUND THE WATER
15 FEATURE AGAIN BEFORE GETTING TO THE DISTRICT 34 AND DISTRICT 38
16 BOUNDARY, WHICH DOESN'T FOLLOW A FREEWAY, DOESN'T FOLLOW A CITY
17 OR OTHER CLEAR COMMUNITY BOUNDARY.

18 AGAIN, WE ARE WITHIN A PARISH AND WITHIN A CITY THERE, SO
19 IF YOU ONLY HAVE CITY LEVEL SOCIO-ECONOMIC DATA, THAT CAN'T BE
20 -- THAT DOESN'T GIVE YOU ANY INFORMATION THAT COULD BE FOLLOWED
21 WITHIN THE CITY AS YOUR BOUNDARY LINE. SO IT COMES ALONG AND
22 CARVES THROUGH THE CITY, NOT FOLLOWING ANY TRADITIONAL
23 REDISTRICTING PRINCIPLE.

24 Q. AND WHEN YOU TALKED ABOUT THAT SOUTHERN PORTION OF
25 WESTLAKE THAT WAS ASSIGNED -- THAT WAS SPLIT FROM THE REST OF

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11:16AM 1 THE CITY AND ASSIGNED INTO ILLUSTRATIVE HOUSE DISTRICT 38, WHAT
2 WAS THE RACIAL COMPOSITION OF THAT PIECE?

3 A. IT'S A MAJORITY BLACK. THE CITY BLOCKS ARE ALL YELLOW AND
4 RED, SO IT IS INDICATING 65 PERCENT OR HIGHER.

5 Q. OKAY. ALL RIGHT. AND SO TURNING TO ILLUSTRATIVE HOUSE
6 DISTRICT 34 TO THE SOUTH OF ILLUSTRATIVE HOUSE DISTRICT 38,
7 WHAT FEATURES OF THIS DISTRICT CONFIGURATION STOOD OUT TO YOU?

8 A. WELL, IT HAS THE SAME CONCERN THAT I MENTIONED ABOUT
9 DISTRICT 38 IN TERMS OF ITS NORTHERN BOUNDARY, WHERE IT BORDERS
10 WITH 38. AND THEN ON -- IT'S HARD TO DESCRIBE THE SOUTHERN AND
11 SOUTHWESTERN BOUNDARIES OF 34. IT'S A LOT OF FINGERS. YOU
12 KNOW, IT DOES GO WEST FOLLOWING THE FREEWAY, I WILL GIVE CREDIT
13 FOR THAT, TO THE RIVER AND FOLLOWS THE RIVER ON THE WEST EDGE
14 OR STOPS AT THE RIVER ON THE WEST EDGE, BUT THAT'S AN ODD
15 FINGER STICKING OUT.

16 THEN I MENTIONED I LOOKED AT 36 AS IT IMPACTS 34. 36
17 COMES INTO LAKE CHARLES, THAT KIND OF WRAPAROUND EFFECT THAT
18 THEY HAVE GOING ON THERE. IT'S NOT FOLLOWING A CITY BOUNDARY,
19 IT'S NOT FOLLOWING A COMMUNITY BOUNDARY. BUT 34 THEN HAS THE
20 ODD FINGER DOWN TO THE LEFT. IT'S PURPLE, SO I DON'T KNOW WHAT
21 THE REASON FOR THAT IS, AND THERE'S NO VISIBLE REASON ON THE
22 MAP THERE.

23 THEN 36 AGAIN KIND OF HAS TEETH COMING UP INTO 34, PULLING
24 OUT THE -- IN ONE CASE FOLLOWING THE CITY BOUNDARY AND THE
25 EASTERN OF THE TWO TEETH, BUT ON THE WESTERN TOOTH, IT'S

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11:18AM

1 CUTTING RIGHT IN THE CITY, PICKING UP AN AREA THAT IS PURPLE,
2 SO 25 PERCENT BLACK OR LESS. AND THEN THE AREAS THAT ARE
3 35 PERCENT, WHAT IS IT, 25 -- EVEN 25 TO 50 PERCENT END UP IN
4 34, WHILE THE 25 PERCENT AND BELOW END UP IN 36. AND THEN IT
5 KEEPS CARVING AROUND AND AGAIN PICKS UP THE -- KIND OF GOES
6 AROUND THE PURPLE AREA AND PICKS UP THE BLUE AREA AS IT OF
7 CRISS-CROSSES AND ZIG ZAGS ACROSS THE CITY BOUNDARY.

8 Q. AND AGAIN, DR. JOHNSON, IS THERE A NONRACIAL REDISTRICTING
9 CRITERIA THAT EXPLAINS THIS DISTRICT CONFIGURATION FOR YOU?

10 A. THERE'S NO TRADITIONAL REDISTRICTING PRINCIPLE THAT
11 EXPLAINS THIS CONFIGURATION.

12 Q. AND DO YOU KNOW THE BVAP OF ILLUSTRATIVE HOUSE DISTRICTS
13 34 AND 38?

14 A. THEY ARE MAJORITY BLACK.

15 Q. ARE THEY CLOSE TO THE 50 PERCENT LINE?

16 A. 38 IS RIGHT AT, JUST BARELY OVER 50 PERCENT. 34 IS
17 HIGHER.

18 Q. ALL RIGHT. AND SO COULD THERE BE A RACIAL REDISTRICTING
19 CRITERIA THAT WOULD EXPLAIN THIS CONFIGURATION?

20 A. YOU KNOW, CAREFULLY OR COINCIDENTALLY, WHATEVER THE REASON
21 IS, 38 GETS JUST ENOUGH OF THE BLACK POPULATION ALONG THE
22 BORDER WITH 34 TO END UP JUST BARELY OVER 50 PERCENT.

23 Q. OKAY. FINALLY, DR. JOHNSON, I WOULD LIKE TO TURN TO
24 MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS CENTERED IN THE BATON
25 ROUGE AREA. SO IF WE COULD TURN TO FIGURE 22 ON PAGE 34.

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11:20AM

1 OKAY. ALL RIGHT. SO NOW, DR. JOHNSON, IT LOOKS LIKE
2 YOU'VE ADDED SOME PERCENTAGES TO YOUR LABELS FOR THE DIFFERENT
3 ILLUSTRATIVE HOUSE DISTRICTS. CAN YOU IDENTIFY WHAT THAT
4 PERCENTAGE IS BENEATH EACH?

5 A. YES, SO THE BLACK ON BLUE, OR BLACK ON TEAL -- I'M NOT
6 SURE HOW TO DESCRIBE THAT -- LABELS, IT GIVES THE DISTRICT
7 NUMBER FIRST AND THEN THE BLACK -- ANY PART BLACK VAP
8 PERCENTAGE FOR EACH DISTRICT THAT'S LABELED ON THIS MAP.

9 Q. OKAY. ALL RIGHT. I SAW A REFERENCE IN YOUR REPORT, DR.
10 JOHNSON, FOR THIS FIGURE. I BELIEVE YOU DESCRIBED SOME OF
11 THESE DISTRICTS AS A PINWHEEL. CAN YOU EXPLAIN WHAT YOU MEAN
12 BY A PINWHEEL?

13 A. YES. SO, OF COURSE, THE PINWHEEL IS THE KID'S TOY ON A
14 STICK. YOU HAVE THE LITTLE SPINNER WITH IT THAT HAS THE
15 DIFFERENT LEAVES OR PETALS COMING OFF THE PINWHEEL.
16 SIMILARLY -- ACTUALLY, JUST UP THE ROAD HERE, RIGHT NEXT TO THE
17 LITTLE FREEWAY SYMBOL THERE THAT YOU SEE, THE DISTRICTS ALL
18 COME TOGETHER. SO YOU CAN SEE WHERE 29, 63, 65, 69, 68, 61 AND
19 67 ALL KIND OF MEET AT ONE POINT. AND THEN EACH ONE IS A PETAL
20 COMING OFF OF THAT CENTRAL SPINNER POINT.

21 SO WE ARE COMBINING THE CORE AREA RIGHT AROUND THE
22 PINPOINT AND THEN TAKING EACH OF THESE DISTRICTS OUT INTO --
23 THROUGH THE COMMUNITY AND OUT INTO THE OUTER REACHES OF EAST
24 BATON ROUGE AND WEST BATON ROUGE PARISH.

25 Q. NOW, IN PARAGRAPH 76, I BELIEVE, OF YOUR REPORT, YOU ALSO

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11:22AM 1 DISCUSS CENTRAL, LOUISIANA, JUST EAST OF EAST BATON ROUGE. AND
2 HOW DOES THE ILLUSTRATIVE PLAN TREAT CENTRAL?

3 A. JUST UNDER 30,000 RESIDENTS OF CENTRAL ARE DIVIDED AMONG
4 THREE DIFFERENT DISTRICTS.

5 Q. OKAY. NOW, YOU REPORT THE BLACK VOTING AGE POPULATIONS OF
6 SEVERAL DISTRICTS IN THIS AREA. AND HOW MANY OF THOSE
7 DISTRICTS ARE MAJORITY-MINORITY?

8 A. THE EIGHT THAT ARE LABELED IN THE MAP ARE ALL
9 MAJORITY-MINORITY.

10 Q. AND HOW MANY OF THOSE ARE JUST BARELY OVER 50 PERCENT?

11 A. ESSENTIALLY HALF OF THEM. WE HAVE 50.2, 50.2, 50.8, AND
12 51.6.

13 Q. JUST FOR THE RECORD, WHICH DISTRICT NUMBERS WERE YOU
14 IDENTIFYING THERE?

15 A. OH, THANK YOU. 61, 69, 101 AND 67.

16 Q. AND DR. JOHNSON, I KNOW WE WERE FOCUSING ON THE
17 ILLUSTRATIVE DISTRICTS HERE. DO THESE DISTRICT BOUNDARIES
18 APPEAR TO RESPECT NONRACIAL REDISTRICTING CRITERIA?

19 A. NO. SIMILAR TO THE EARLIER DISCUSSION ABOUT THE BIG
20 REGIONS, THESE -- WHAT THE PINWHEEL DOES IS IT ACTUALLY CUTS
21 THROUGH COMMUNITIES. SO YOU ARE TAKING THE CENTRAL CORE OF THE
22 CITY AND TAKING EACH OF THESE DISTRICTS, HAVING A PIECE OF THAT
23 CORE ALL THE WAY OUT. AS YOU LOOK AT THE COLOR CODING, YOU CAN
24 REALLY SEE THE RED KIND OF CENTRAL PORTION OF THE PARISH, AND
25 THEN AS YOU GET FARTHER OUT, YOU ARE GETTING INTO BLUES AND

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11:24AM 1 THEN ULTIMATELY PURPLE AREAS WHERE THE BLACK PERCENTAGE IS
2 BELOW 25 PERCENT.

3 SO EACH OF THESE DISTRICTS IS STARTING IN THE 75 PERCENT
4 CORE AND THEN STRETCHING OUT AND BLENDING PIECES OF THE
5 COMMUNITIES AS YOU GO OUT FROM THE RED TO THE PURPLE PORTIONS
6 OF THE PARISH.

7 Q. AND ARE THERE TRADITIONAL CRITERIA THAT MR. COOPER
8 IDENTIFIED THAT EXPLAIN THESE BOUNDARIES?

9 A. NO.

10 Q. OKAY. AND IS THERE A RACIAL REDISTRICTING CRITERIA THAT
11 COULD EXPLAIN THE CONFIGURATION OF THE DISTRICTS IN THIS AREA?

12 A. YES. THE END RESULT IS THAT YOU HAVE A NUMBER OF
13 DISTRICTS THAT JUST ALMOST PERFECTLY BALANCE THE PURPLE AND
14 GREEN AREAS WITH THE RED AREAS, WITH THE END RESULT BEING THEY
15 ARE JUST BARELY OVER 50-PERCENT BLACK.

16 Q. OKAY. AND I DO WANT TO CLEAN UP ONE POINT FROM TESTIMONY
17 WE HEARD EARLIER THIS WEEK. DR. JOHNSON, YOU REVIEWED
18 MR. COOPER'S DIRECT EXAMINATION ON WEDNESDAY; IS THAT RIGHT?

19 A. YES.

20 Q. AND I WILL REPRESENT TO YOU ON PAGE 76 OF THE
21 NOVEMBER 29TH TRANSCRIPT, THAT MR. COOPER TESTIFIED THAT,
22 QUOTE, CURRENTLY THERE ARE 12 DISTRICTS IN THE HOUSE PLAN THAT
23 CONVERGE ON EAST BATON ROUGE PARISH IN WHOLE OR IN PART, AND I
24 HAVE REDUCED THAT NUMBER TO 8 IN THE ILLUSTRATIVE PLAN, END
25 QUOTE. DID THAT ASSERTION SURPRISE YOU?

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11:25AM

1 A. YES.

2 Q. OKAY. I WOULD LIKE TO DISPLAY THE DEMONSTRATIVE EXHIBIT
3 THAT WE HAVE FOR YOU, AND I WILL REPRESENT THAT THIS WAS
4 PRODUCED TO PLAINTIFFS' COUNSEL YESTERDAY PER OUR AGREEMENT.

5 OKAY. NOW, DR. JOHNSON, CAN YOU EXPLAIN HOW THIS
6 DEMONSTRATIVE WAS CREATED?

7 A. YES. SO IN THE MAPTITUDE SOFTWARE, THE RED AREA IN THE
8 MIDDLE IS EAST BATON ROUGE PARISH. SO I'VE HIGHLIGHTED THE
9 PARISH IN RED. AND THEN THE BLACK LINES ARE THE
10 ILLUSTRATIVE -- THE 2023 ILLUSTRATIVE HOUSE MAP. YOU CAN SEE
11 THE DISTRICT NUMBERS ON THEM. AND THE BLUE AROUND THE OUTSIDE
12 ARE DISTRICTS THAT ARE PARTIALLY IN AND PARTIALLY OUT OF EAST
13 BATON ROUGE PARISH. SO 62, 71, 29 ON THE OUTSIDE ARE ALL
14 PARTIALLY IN THE PARISH AND PARTIALLY OUT.

15 Q. OKAY. AND JUST TO BE VERY CLEAR, DR. JOHNSON, THE
16 DISTRICT NUMBERING COMES FROM MR. COOPER'S 2023 ILLUSTRATIVE
17 HOUSE PLAN; IS THAT RIGHT?

18 A. YES.

19 Q. OKAY. AND DR. JOHNSON, HOW MANY OF MR. COOPER'S 2023
20 ILLUSTRATIVE HOUSE DISTRICTS ARE, QUOTE, IN WHOLE OR IN PART
21 LOCATED IN EAST BATON ROUGE PARISH?

22 A. TWELVE.

23 Q. OKAY. CAN YOU IDENTIFY THOSE FOR THE RECORD?

24 A. SURE. 29, 62, 71 ARE ALL PARTIALLY IN AND PARTIALLY OUT,
25 AND THEN GOING FROM NORTH TO SOUTH, 63, 65, 101, 69, 61, 68,

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11:27AM

1 70, 67, AND 66 ARE ALL IN THE PARISH.

2 Q. OKAY. WE CAN TAKE THAT DOWN. THANK YOU.

3 DR. JOHNSON, I BELIEVE YOU -- DID YOU REVIEW MR. COOPER'S
4 TRIAL TESTIMONY ABOUT THESE SIX ILLUSTRATIVE MAJORITY-MINORITY
5 DISTRICTS IN THE HOUSE?

6 A. I'M SORRY. ABOUT THE WHAT?

7 Q. DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY ABOUT THESE
8 SIX ILLUSTRATIVE MMDS IN THE HOUSE THAT WE HAVE TALKED ABOUT?

9 A. YES.

10 Q. AND DID HIS TESTIMONY CHANGE ANY OF YOUR OPINIONS?

11 A. NO.

12 Q. ALL RIGHT. NOW, STEPPING BACK FROM THE -- FROM YOUR
13 DISTRICT-BY-DISTRICT EVALUATION OF MR. COOPER'S ILLUSTRATIVE
14 HOUSE DISTRICTS, I WOULD LIKE TO TALK ABOUT YOUR ANALYSIS OF
15 THOSE PLANS MORE -- MORE BROADLY. COULD WE START ON PARAGRAPH
16 82 ON PAGE 36. TURN TO THAT.

17 ALL RIGHT. AND YOU DISCUSS YOUR POINT ABOUT WHERE A
18 PORTION OF THE BLACK VOTING AGE POPULATION THAT WAS MOVED FROM
19 THE ENACTED PLANS TO CREATE THE NEW ILLUSTRATIVE
20 MAJORITY-MINORITY DISTRICTS. CAN YOU EXPLAIN THIS ANALYSIS?

21 A. SO WHEN WE ARE TALKING ABOUT DISTRICTS THAT ARE MAJORITY
22 BLACK, OBVIOUSLY THERE ARE VARIATIONS IN HOW MUCH OVER
23 50 PERCENT EACH DISTRICT CAN BE. AND SO IN ORDER TO GET A
24 DISTRICT THAT, IN THE ENACTED MAP, IS NOT MAJORITY BLACK UP TO
25 MAJORITY STATUS, YOU CAN EITHER FIND BLACK POPULATION THAT IS

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11:29AM 1 IN OTHER DISTRICTS THAT ARE NOT MAJORITY AND ADD THEM IN OR YOU
2 CAN TAKE A MAJORITY BLACK DISTRICT AND REDUCE ITS PERCENTAGE,
3 SO BRING IT DOWN FROM, SAY, 57 PERCENT TO 50.2 PERCENT, OR
4 SOMETHING LIKE THAT, IN ORDER TO FREE UP BLACK POPULATION THAT
5 YOU THEN ADD TO YOUR NEW DISTRICT IN AN EFFORT TO MAKE IT
6 MAJORITY BLACK.

7 Q. OKAY. AND WHAT DO YOU -- WHAT DO YOU CONCLUDE ABOUT
8 THAT -- THE NATURE OF THAT REASSIGNMENT OF BLACK VOTING AGE
9 POPULATION IN MR. COOPER'S ILLUSTRATIVE HOUSE PLAN?

10 A. MUCH OF THE BLACK POPULATION THAT'S ADDED TO CERTAIN
11 DISTRICTS TO BRING THEM UP TO BE MAJORITY BLACK COMES FROM
12 EXISTING MAJORITY BLACK DISTRICTS. SO IT MAKES THOSE MAJORITY
13 BLACK SEATS IN THE ENACTED MAP LESS -- LESS BLACK VAP OR LOWER
14 BLACK VAP PERCENTAGES.

15 Q. OKAY. AND IF WE CAN TURN TO THE NEXT PAGE, PAGE 37 IN
16 PARAGRAPH 83. SO I WANT TO FOCUS ON THE MIDDLE OF THAT
17 PARAGRAPH, AND JUST A FEW QUICK QUESTIONS. THE FIRST IS HOW
18 MANY MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE HOUSE PLAN
19 ARE UNDER 53-PERCENT BLACK VOTING AGE POPULATION?

20 A. ELEVEN.

21 Q. OKAY. AND IS THAT MORE OR LESS THAN WHAT WAS UNDER THE
22 ENACTED PLAN?

23 A. THAT'S EIGHT MORE. THERE ARE ONLY THREE SUCH BORDERLINE
24 DISTRICTS, BORDERLINE HOUSE DISTRICTS IN THE ENACTED MAP.

25 Q. AND TURNING TO THE ILLUSTRATIVE SENATE PLAN, HOW MANY OF

11:31AM 1 THE MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE SENATE PLAN
2 ARE UNDER 53 PERCENT BVAP?

3 A. IT'S A HUGE PERCENTAGE OF THEM. 11 OF THE 16 MAJORITY
4 BLACK VAP DISTRICTS ARE JUST BARELY MAJORITY BLACK. THEY ARE
5 BETWEEN 50 AND 53 PERCENT BLACK.

6 Q. DR. JOHNSON, IN YOUR EXPERIENCE, IS IT LIKELY TO GET SO
7 MANY DISTRICTS JUST OVER THE 50 PERCENT LINE BUT NONE JUST
8 UNDER BY CHANCE?

9 A. IT IS EXTREMELY UNLIKELY.

10 Q. SO I WOULD LIKE TO TURN NOW TO YOUR SURREBUTTAL REPORT,
11 LDTX058, AND SPECIFICALLY LOOK AT THE FIGURE APPEARING ON THE
12 TOP OF PAGE 9. AND THIS IS ONE -- I BELIEVE THIS IS ONE OF THE
13 ILLUSTRATIVE HOUSE DISTRICTS, BUT DO YOU REPORT IN YOUR REPORT
14 THE BLACK VOTING AGE POPULATION OF ILLUSTRATIVE DISTRICT 69?

15 A. YES. IN PARAGRAPH 33, I MENTION THAT IT IS 50.2 PERCENT
16 ANY PART BLACK VAP.

17 Q. AND IN YOUR EXPERIENCE, IS THAT A VERY PRECISE BVAP NUMBER
18 TO ARRIVE AT?

19 A. YES. IT'S ABOUT AS CLOSE TO 50 PERCENT PLUS ONE AS ONE
20 CAN GET WHEN YOU ARE USING AGGREGATED CENSUS BLOCK DATA.

21 Q. OKAY. AND WITHOUT READING, YOU KNOW, GOING THROUGH THE
22 ENTIRE DATA, IS THERE A NONRACIAL EXPLANATION FOR THE LINES IN
23 THIS DISTRICT?

24 A. THE WEST SIDE, PROBABLY. THAT STRAIGHT DIAGONAL LINE
25 MAKES SENSE AND COULD BE JUSTIFIED AS A TRADITIONAL

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11:34AM 1 REDISTRICTING PRINCIPLE, BUT THE KIND OF EASTERN ARM, THE WAY
2 IT ZIGS OUT AT THE NORTH PART IN THE RED AND YELLOW AREA AND
3 THEN JUST ABOVE THE HIGHWAY RATHER THAN FOLLOWING THE HIGHWAY,
4 IT IS PICKING UP THE GREEN AND YELLOW AREAS THAT ARE MAJORITY
5 BLACK, AND THEN IT GOES DOWN AND KIND OF ZIGS OVER AGAIN.

6 SO THE WAY -- WE CALL IT KIND OF A STAIR STEP AS THAT
7 EASTERN LINE IS DRAWN. JUST IN ONE PART IT IS FOLLOWING THE
8 CITY BORDER, BUT OTHERWISE, IT DOESN'T SEEM TO FOLLOW ANY
9 TRADITIONAL REDISTRICTING PRINCIPLE.

10 Q. COULD THERE BE A RACIAL CRITERIA THAT COULD EXPLAIN THIS
11 CONFIGURATION?

12 A. YES. CAREFULLY OR COINCIDENTALLY, IT ENDS UP JUST BARELY
13 MAJORITY BLACK.

14 Q. WE CAN TAKE THAT DOWN. I WOULD LIKE TO NOW TURN TO SOME
15 CONCERNS THAT YOU'VE RAISED IN YOUR INITIAL REPORTS. WE ARE
16 GOING TO GO BACK TO LDTX51, YOUR INITIAL REPORT, AND DISPLAY
17 PARAGRAPH 84 BETWEEN PAGES 37 AND 38.

18 AND I BELIEVE, DR. JOHNSON -- THERE WE GO -- THAT YOU
19 PROVIDE HERE SOME CONCERNS ABOUT THE SPECIFIC BVAP LEVELS THAT
20 ARE EMPLOYED IN MANY OF MR. COOPER'S ILLUSTRATIVE HOUSE
21 DISTRICTS. I BELIEVE THE FIRST IS DIFFERENTIAL PRIVACY. DO
22 YOU SEE THAT?

23 A. YES.

24 Q. CAN YOU EXPLAIN TO THE COURT WHAT DIFFERENTIAL PRIVACY IS?

25 A. SO DIFFERENTIAL PRIVACY IS NEW THIS REDISTRICTING CYCLE.

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11:36AM

1 FOR THE 2020 CENSUS, THE CENSUS BUREAU WAS WORRIED THAT DATA
2 MINING FIRMS WERE GETTING GOOD ENOUGH THAT THEY COULD GO INTO
3 THE CENSUS BLOCK LEVEL DATA AND FIGURE OUT WHAT AN INDIVIDUAL
4 HAD ANSWERED IN TERMS OF THEIR AGE AND ETHNICITY, AND SO THEY
5 WERE WORRIED THAT WE ARE LOSING THE PRIVACY OF THE CENSUS
6 RESPONSES.

7 SO THE BUREAU'S APPROACH TO FIXING THAT PROBLEM WAS TO
8 ADD -- REALLY TO ADD ERROR, TO ADD WHAT THEY CALL NOISE INTO
9 THE DATA SO THAT IN EACH CENSUS BLOCK, THE NUMBERS WOULD BE
10 CHANGED A LITTLE BIT IN A WAY THAT WOULD, AS THEY SAY, BLUR THE
11 CENSUS DATA AND MAKE IT HARD FOR THOSE DATA MINERS TO FIGURE
12 OUT INDIVIDUAL CENSUS RESPONDENTS AND TO PROTECT THE PEOPLE WHO
13 ANSWERED THE CENSUS, THEIR PRIVACY. A GOOD GOAL, BUT THE END
14 RESULT IS THAT CENSUS DATA HAS NEVER BEEN PERFECT, EVER. IT IS
15 IMPOSSIBLE TO HAVE A PERFECT CENSUS, BUT NOW WE HAVE AN
16 INTENTIONAL STEP OF INTENTIONALLY BLURRING THE DATA AND MAKING
17 THE DATA LESS PRECISE.

18 **MS. KEENAN:** OBJECTION, YOUR HONOR, TO THE RELEVANCE
19 OF THE INTENTIONAL STEP TAKEN BY THE CENSUS BUREAU. HE HAS
20 JUST TESTIFIED THAT CENSUS DATA IS ALWAYS IMPERFECT. I'M NOT
21 SURE WHY IT MATTERS THAT THERE WAS AN INTENTIONAL STEP VERSUS
22 AN UNINTENTIONAL STEP ABOUT THE BLURRING.

23 **THE COURT:** THE COURT WILL NOT CONSIDER THE TERM
24 "INTENTIONAL," BUT I WANT TO UNDERSTAND HOW THIS DIFFERENTIAL
25 PRIVACY RESULTS IN, IF IT IS YOUR OPINION THAT IT DOES, THAT IT

11:37AM 1 RESULTS IN A BLURRING OF THE DATA. I WANT YOU TO EXPLAIN THAT.
2 A. IT'S ACTUALLY ON PURPOSE, AND PERHAPS NEW IS A BETTER WORD
3 THAN INTENTIONAL. IT'S A NEW WAY. SO ESSENTIALLY WHERE WE
4 USED TO KNOW THAT THE DATA IN EACH BLOCK WAS THE ACTUAL COUNT
5 OF PEOPLE THAT THE CENSUS BUREAU COUNTED AND ASSIGNED TO A
6 BLOCK, NOW THE BUREAU WILL CHANGE THOSE NUMBERS A LITTLE BIT IN
7 ORDER TO KIND OF DISRUPT THE ALGORITHMS THAT THE DATA MINERS
8 USE TO TRY TO IDENTIFY THE DATA. AND SO THEY TRY, AS YOU GET
9 TO EACH LEVEL, TO MAKE, LIKE, EACH CENSUS TRACT RIGHT AND EACH
10 COUNTY RIGHT, BUT THE BLOCKS AND THE SMALLER UNITS OF GEOGRAPHY
11 THE BUREAU JUST ADMITS WILL BE OFF.

12 **THE COURT:** BY PLUS OR MINUS WHAT?

13 A. THAT'S A GOOD QUESTION. WE DON'T KNOW. AND SO THE BUREAU
14 HAS NOT YET RELEASED THOSE NUMBERS. THEY DO -- THEY'VE HAD A
15 LOT OF CALLS. THIS WAS OBVIOUSLY A VERY MUCH DISCUSSED PROCESS
16 LEADING UP TO THE CENSUS, AND SO THEY DO THESE NATIONAL CALLS
17 FOR NTSL AND OTHER ORGANIZATIONS THAT I'M ON, AND THEY'VE SAID
18 AT THE CONGRESSIONAL LEVEL, IT'S PROBABLY ABOUT A ONE-PERCENT
19 ERROR. YOUR TOTAL POPULATION NUMBERS ARE GOING TO BE OFF OR
20 SHOULD BE WITHIN ONE PERCENT. AS THE UNITS OF GEOGRAPHY GET
21 SMALLER, SO AT THE LEGISLATIVE DISTRICT LEVEL, THAT ERROR IS
22 GOING TO BE BIGGER. AND AS YOU GET DOWN TO THE COUNTY OR
23 PARISH AND CITY LEVEL, THEY WILL GET BIGGER.

24 **MS. KEENAN:** OBJECTION, YOUR HONOR, TO LACK OF
25 FOUNDATION. HE'S NOT EXPLAINED WHAT THE SOURCE OF THIS

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11:39AM 1 TESTIMONY IS ABOUT THE DIFFERENT LEVELS AND THE INCREASE TO NOT
2 JUST SMALLER UNITS, BUT HE'S NOW LISTING SPECIFIC TYPES OF
3 DISTRICTS. HE'S NOT TESTIFIED THAT THE CENSUS BUREAU HAS
4 STATED ANYTHING ABOUT DISTRICT LEVELS OTHER THAN CONGRESS.

5 **THE COURT:** WELL, I GUESS I WOULD SUSTAIN THAT
6 OBJECTION TO MY QUESTION.

7 **MS. KEENAN:** I'M SORRY, YOUR HONOR.

8 **THE COURT:** WHY DON'T YOU ASK THE QUESTION AND SEE IF
9 YOU CAN DO A BETTER JOB.

10 (GROUP LAUGHTER)

11 **MR. LEWIS:** ALL RIGHT.

12 **BY MR. LEWIS:**

13 Q. SO DR. JOHNSON, IF YOU -- TO TRY TO CUT THROUGH THIS A
14 LITTLE BIT, DR. JOHNSON, ARE YOU --

15 **THE COURT:** I'VE RENDERED HIM SPEECHLESS.

16 **BY MR. LEWIS:**

17 Q. IS DIFFERENTIAL PRIVACY A MATTER THAT HAS AFFECTED YOUR
18 WORK AS A REDISTRICTING PROFESSIONAL?

19 A. YES. IT IS A BIG CONCERN, IN PARTICULAR BECAUSE, AS I
20 MENTIONED, I'VE DONE AROUND 500 OF THESE PROJECTS. I HAVEN'T
21 DONE 500 STATE PROJECTS OR CONGRESSIONAL PROJECTS. 99 PERCENT
22 OF MY WORK IS SCHOOL DISTRICTS, CITIES, YOU KNOW, COMMUNITY
23 COLLEGE DISTRICTS, THESE SMALL GEOGRAPHIC -- RELATIVELY SMALL
24 GEOGRAPHIC AREAS.

25 SO WHERE WE HAVE A ONE PERCENT ESTIMATED ERROR AT THE

11:40AM

1 CONGRESSIONAL LEVEL, AND THAT'S JUST KIND OF A BALLPARK TERM
2 AND THE CENSUS BUREAU HAS NOT GIVEN ANY SPECIFICS ABOUT WHAT
3 THE ERROR IS, I WILL NOTE AT THE BOTTOM OF PAGE 38 I HAVE A
4 FOOTNOTE THAT LINKS TO THE CENSUS BUREAU'S FULL DISCUSSION OF
5 DIFFERENTIAL PRIVACY AND BACKGROUND INFORMATION, BUT THAT'S
6 WHERE THEY TALK ABOUT THE ERROR GETS BIGGER AS YOU GET INTO
7 SMALLER GEOGRAPHY. THAT IS TRUE OF ALL CENSUS DATA, BUT
8 PARTICULARLY TRUE OF DIFFERENTIAL PRIVACY.

9 SO A ONE-PERCENT ERROR AT THE CONGRESSIONAL LEVEL COULD BE
10 A TEN-PERCENT ERROR IN A SCHOOL DISTRICT, WHICH WOULD THEN MAKE
11 OUR SCHOOL DISTRICT DISTRICTS OUT OF THE POPULATION RANGE AND
12 ILLEGAL.

13 **MS. KEENAN:** YOUR HONOR, OBJECTION, THESE NUMBERS ARE
14 NOT -- HE JUST SAID THE CENSUS BUREAU HASN'T ACTUALLY GIVEN A
15 NUMBER, AND NOW HE IS TESTIFYING TO SPECIFIC PERCENTAGES THAT A
16 MARGIN OF ERROR MIGHT BE IN A SMALLER PLAN. THERE IS NO
17 FOUNDATION FOR THAT.

18 **THE COURT:** DO YOU WANT TO RESPOND?

19 **MR. LEWIS:** YOUR HONOR, HE WAS OFFERING -- I BELIEVE
20 HE WAS OFFERING THE TEN PERCENT AS A HYPOTHETICAL, AND I
21 BELIEVE PLAINTIFFS' COUNSEL CAN INQUIRE OF THE WITNESS ON
22 CROSS-EXAMINATION IF --

23 **THE COURT:** THE COURT WILL CONSIDER IT AS A
24 HYPOTHETICAL BASED ON HIS EXPERIENCE IN DRAWING MAPS THAT
25 INVOLVE SMALLER GEOGRAPHIC AREAS.

DR. D. JOHNSON - DIRECT

11:42AM

1 **BY MR. LEWIS:**

2 Q. AND DR. JOHNSON, JUST -- HAVE YOU REVIEWED -- HAVE YOU
3 RELIED UPON INFORMATION PROVIDED BY THE U.S. CENSUS BUREAU TO
4 INFORM YOUR KNOWLEDGE OF DIFFERENTIAL PRIVACY?

5 A. YES, I'VE BEEN ON MANY WEBINARS, READ MANY REPORTS AND
6 RAISED MANY QUESTIONS WITH THE BUREAU STAFF ABOUT THIS ISSUE.

7 Q. OKAY. AND YOU'VE CITED -- I BELIEVE YOU'VE MENTIONED AND
8 YOU'VE CITED INFORMATION FROM THE CENSUS BUREAU IN THE FOOTNOTE
9 ACCOMPANYING PAGE 38 OF YOUR REPORT, CORRECT?

10 A. YES.

11 Q. AND THE CENSUS BUREAU -- HAS THE CENSUS BUREAU PROVIDED
12 THE ESTIMATE OF ERROR AT THE CONGRESSIONAL LEVEL?

13 A. THEY GAVE THE BALLPARK FIGURE OF ABOUT 1 PERCENT, BUT THEY
14 HAVE NOT RELEASED THE PRECISE FIGURES.

15 Q. OKAY. NOW, HOW CAN DIFFERENTIAL PRIVACY POTENTIALLY
16 IMPACT AN EFFORT TO DRAW A DISTRICT TO A SPECIFIC RACIAL
17 PERCENTAGE?

18 A. SO IF THE CENSUS BUREAU -- I'M SORRY. IF THE CENSUS DATA
19 SAYS THAT A DISTRICT IS 50.2 PERCENT BLACK, IT MAY OR MAY NOT
20 BE OVER 50 PERCENT. WE HAVE THIS MARGIN OF ERROR THAT WE KNOW
21 IS -- BECAUSE LEGISLATIVE DISTRICTS ARE SMALLER THAN
22 CONGRESSIONAL DISTRICTS, THE BUREAU HAS BEEN CLEAR, LEGISLATIVE
23 DISTRICTS WILL HAVE A LARGER ERROR THAN A CONGRESSIONAL
24 DISTRICT. BUT WE KNOW THAT THERE'S SOME ERROR. WE DON'T KNOW
25 HOW MUCH. SO THE CLOSER YOU GET TO THAT 50-PERCENT POINT, THE

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11:43AM 1 MORE LIKELY THAT AN ERROR, BE IT A HALF PERCENT, A ONE PERCENT
2 OR WHATEVER NUMBER THAT IS, THAT THAT ERROR WOULD MEAN THE
3 DISTRICT THAT LOOKS LIKE IT IS MAJORITY BLACK ISN'T.

4 Q. SO YOU GO ON, DR. JOHNSON, TO DESCRIBE SOMETHING CALLED A
5 SENSITIVITY ANALYSIS IN PARAGRAPHS 85 AND 90 OF YOUR REPORT.
6 JUST GENERALLY SPEAKING, WHAT IS THE SENSITIVITY ANALYSIS?

7 A. SO A SENSITIVITY ANALYSIS IS A STANDARD PRACTICE IN
8 SOCIOLOGY, IN FINANCE AND ECONOMICS WHERE YOU TAKE AN
9 ASSUMPTION AND SAY, OKAY, WE HAVE ASSUMED FOR OUR MODEL OR
10 ALGORITHM, OR WHATEVER WE ARE DOING, A CERTAIN NUMBER. IN THIS
11 CASE, REDISTRICTING, SO IT WOULD BE THE CENSUS POPULATION
12 COUNTS. A BANK MIGHT SAY WE EXPECT THE INTEREST RATE TO BE
13 THIS IN A YEAR. AND THEN YOU TEST. WELL, IF OUR NUMBER IS
14 OFF, HOW MUCH DOES THAT IMPACT US? SO IF YOU ARE A BANK,
15 YOU'RE LIKE, WELL, IF THE INTEREST RATE ACTUALLY IS HIGHER THAN
16 WE THOUGHT IT WAS GOING TO BE, HOW DOES THAT IMPACT OUR
17 PROFITS? IF THE NUMBER IS LOWER THAN WHAT WE EXPECT IT WOULD
18 BE, HOW IS THAT GOING TO IMPACT OUR PROFITS? AND YOU SEE WHAT
19 THE RISK IS AND THE DANGER EITHER WAY.

20 SAME WAY HERE. A SENSITIVITY ANALYSIS WOULD LOOK AND SAY,
21 OKAY, SAY THERE'S A ONE-PERCENT ERROR, JUST TO PICK A NUMBER, A
22 HYPOTHETICAL NUMBER. IF THE 50 PERCENT IS ACTUALLY 49 PERCENT,
23 OR IF THE ACTUAL -- I'M SORRY, IF THE BLACK VOTING AGE
24 POPULATION IS ACTUALLY ONE PERCENT LOWER, HOW MANY DISTRICTS DO
25 WE LOSE? AND ON THE FLIP SIDE, IF THE BLACK VOTING AGE

11:45AM 1 POPULATION IS ONE PERCENT HIGHER, HOW MANY MORE DISTRICTS WOULD
2 WE GAIN THAT WOULD BE MAJORITY BLACK?

3 SO THAT'S THE SENSITIVITY ANALYSIS, ACKNOWLEDGING THAT
4 THERE'S AN ERROR AND LOOKING AT THE RISK TO THE OVERALL POLICY
5 GOAL OR THE OVERALL END RESULT THAT THAT ERROR COULD GENERATE.

6 IN THE CASE OF A BANK, IT'S WHAT IMPACT WOULD THERE BE IN
7 THE PROFITS. IN THE CASE OF THIS EXERCISE WE'VE BEEN LOOKING
8 AT, WHAT'S THE IMPACT ON THE NUMBER OF MAJORITY BLACK
9 DISTRICTS?

10 Q. SO, DR. JOHNSON, I WOULD JUST LIKE TO TURN TO FIGURE 28,
11 WHICH I BELIEVE PROVIDES SOME INFORMATION ABOUT THE 2023
12 ILLUSTRATIVE SENATE MAPS. IF WE COULD TURN TO THAT ON PAGE 42.
13 DR. JOHNSON, WHAT DOES FIGURE 28 SHOW US?

14 A. SO THIS IS A CHART OF THE ENACTED AND ILLUSTRATIVE SENATE
15 DISTRICTS. THE PURPLE -- EACH PURPLE BAR REPRESENTS AN ENACTED
16 MAP SENATE DISTRICT. EACH GREEN BAR REPRESENTS AN ILLUSTRATIVE
17 2023 MAP SENATE DISTRICT. AND THE HEIGHT OF EACH BAR INDICATES
18 THE BLACK VOTING AGE PERCENTAGE OF THAT DISTRICT. SO ON THE
19 FAR LEFT, DISTRICT 15 IN THE ENACTED MAP IS A LITTLE OVER
20 70-PERCENT BLACK. DISTRICT 15 IN THE ILLUSTRATIVE MAP IS
21 AROUND 55-PERCENT BLACK.

22 AND THEN WE GO LEFT TO RIGHT. IT'S ARRANGED IN ORDER OF
23 THE ENACTED MAP'S BLACK VOTING AGE POPULATION. SO 15 IS THE
24 HIGHEST IN THE ENACTED MAP. 13 ON THE FAR RIGHT IS THE LOWEST
25 ON THE ENACTED MAP.

11:47AM

1 Q. AND SO -- AND THEN IF WE TURN TO FIGURE 29, WHICH MAY
2 ILLUSTRATE THIS A LITTLE BETTER, BUT IF WE FLIP TO 29, WHAT
3 DOES THIS SHOW US ON THE SAME PAGE?

4 A. SO I HAVE ZOOMED IN ESSENTIALLY ON JUST THE MAJORITY BLACK
5 SENATE DISTRICTS IN THE ILLUSTRATIVE MAP AND THEIR
6 CORRESPONDING ENACTED MAP PERCENTAGES. SO YOU CAN SEE THE
7 50 PERCENT LINE THERE AT 50 PERCENT GOING ACROSS. YOU CAN SEE
8 THERE ARE TWO PURPLE BARS, THE ENACTED MAPS THAT ARE JUST
9 BARELY ABOVE 50 PERCENT, AND THERE ARE, AS I MENTIONED BEFORE,
10 A LOT OF ILLUSTRATIVE SENATE MAP -- ILLUSTRATIVE SENATE MAP
11 DISTRICTS THAT ARE JUST BARELY OVER 50 PERCENT.

12 Q. AND SO FROM A SENSITIVITY ANALYSIS PERSPECTIVE, LET ME
13 JUST ASK, ARE THERE ILLUSTRATIVE SENATE DISTRICT PLANS HERE
14 THAT ARE JUST -- THAT ARE JUST BELOW 50 PERCENT?

15 A. NO.

16 Q. OKAY. AND SO IF WE ARE OFF BY -- IF THE TRUE BVAP NUMBER
17 IS OFF BY JUST A LITTLE BIT, WHAT IMPACT WOULD THAT HAVE ON THE
18 NUMBER OF MAJORITY-MINORITY DISTRICTS IN THE
19 ILLUSTRATIVE SENATE PLAN?

20 **MS. KEENAN:** OBJECTION, YOUR HONOR. MAY I EXPLAIN?

21 **THE COURT:** YES.

22 **MS. KEENAN:** HE'S NOT ACTUALLY DONE ANY EFFECTIVENESS
23 OR SENSITIVITY ANALYSIS EITHER, SO TO ASK HIM WHAT EFFECT IT
24 WOULD HAVE ON THE DISTRICT IS IMPROPER AT THIS POINT BASED ON
25 THE FOUNDATION THEY HAVE LAID.

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11:49AM

1 **THE COURT:** WHERE IS THE SENSITIVITY OR EFFECTIVENESS
2 ANALYSIS, OTHER THAN THE ORANGE LINE RUNNING ACROSS THAT PAGE?

3 **MR. LEWIS:** EFFECTIVELY, YOUR HONOR, THAT'S THE POINT
4 THAT HE IS TRYING TO MAKE. HE IS TRYING TO MAKE THE POINT
5 THAT IF THERE -- I DON'T WANT TO TESTIFY FOR THE WITNESS, BUT
6 THIS IS ESSENTIALLY THE POINT THAT HE IS MAKING.

7 **THE COURT:** I'M GOING TO SUSTAIN THE OBJECTION IN
8 TERMS THAT IT CALLS FOR HIM TO CHARACTERIZE THIS AS SOME SORT
9 OF A SENSITIVITY ANALYSIS. IT IS PLOTTED OUT -- I'M REFERRING
10 TO FIGURE 29 FOR THE RECORD. IT'S PLOTTED OUT THE ILLUSTRATIVE
11 MAPS OR THE ILLUSTRATIVE DISTRICTS COMPARED TO THE ENACTED
12 DISTRICTS, AND IT JUST IS A CHART SHOWING WHICH OF THOSE ARE
13 ABOVE OR BELOW 50-PERCENT BVAP. I MEAN, THERE'S NO NUMBER
14 CRUNCHING THAT LED TO THAT 50 PERCENT LINE. I CAN DRAW THAT
15 LINE. SO I WOULD SUSTAIN THE OBJECTION. YOU CAN REPHRASE.

16 **MR. LEWIS:** ALL RIGHT.

17 **BY MR. LEWIS:**

18 Q. SO, DR. JOHNSON, JUST FROM A -- WHAT SENSITIVITY ANALYSIS
19 HAVE YOU PERFORMED IN TERMS OF THE ILLUSTRATIVE SENATE? WHAT
20 HAVE YOU DONE?

21 A. SO USING THE DATA THAT'S SHOWN IN THIS CHART, IF YOU LOOK
22 AT PARAGRAPH 93 RIGHT BEFORE IT, IT SHOWS THE RESULTS OF THE
23 SENSITIVITY ANALYSIS WHERE I RAN THE NUMBERS FOR IF THE
24 SENSITIVITY ANALYSIS WAS 3 PERCENT EITHER WAY. LOOKING AT
25 3 PERCENT ERROR BELOW AND 3 PERCENT ERROR ABOVE, HOW MANY

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11:50AM 1 DISTRICTS WOULD FLIP? AND THE 50-PERCENT NUMBER I USED BECAUSE
2 THAT'S MR. COOPER'S NUMBER.

3 THE WHOLE FOCUS OF MR. COOPER'S MAPPING APPROACH HAS BEEN
4 TO LOOK AT THE NUMBER OF DISTRICTS THAT ARE 50 PERCENT. SO I
5 PERFORMED THE SENSITIVITY ANALYSIS LOOKING AROUND THAT
6 50 PERCENT LINE, AND THE ILLUSTRATIVE -- IF THE SENSITIVITY
7 MEASURE IS 3 PERCENT, ONLY 5 DISTRICTS IN THE ILLUSTRATIVE
8 SENATE MAP WOULD BE MAJORITY BLACK, AND THUS FROM THE NUMBERS
9 THAT WE HAVE SEEN FOR MR. COOPER, MAJORITY BLACK AND LIKELY TO
10 ELECT COMPARED TO 10 DISTRICTS IN THE ENACTED MAP.

11 AND ON THE FLIP SIDE, THERE ARE NO DISTRICTS THAT ARE JUST
12 BELOW THE 50 PERCENT LINE AS DRAWN, IN EITHER THE ENACTED OR
13 THE ILLUSTRATIVE MAP. SO A 3-PERCENT ERROR THE OTHER WAY WHEN
14 I RAN THOSE NUMBERS WOULD NOT ADD ANY MAJORITY BLACK DISTRICTS.

15 Q. AND DO YOU PERFORM A SIMILAR ANALYSIS IN THE STATE HOUSE?

16 A. YES. I WENT THROUGH THE SAME PROCESS AND SAME COUNTING OF
17 HOW MANY DISTRICTS WOULD NO LONGER BE MAJORITY IF THE DATA ARE
18 OFF BY 3 PERCENT.

19 Q. OKAY. AND IS THAT SENSITIVITY ANALYSIS IN THE HOUSE
20 INCLUDED IN YOUR REPORT, INCLUDING AROUND PARAGRAPHS 85 THROUGH
21 90?

22 A. YES.

23 Q. OKAY. WE CAN TAKE THAT DOWN. I JUST HAVE A FEW WRAP-UP
24 QUESTIONS FOR YOU, DR. JOHNSON.

25 WE'VE SPENT A LOT OF TIME EXAMINING, BOTH AT THE DISTRICT

11:53AM

1 AND PLAN LEVEL, MR. COOPER'S ILLUSTRATIVE MAJORITY-MINORITY
2 DISTRICTS AND THE DATA THAT WERE USED. WHAT CONCLUSIONS DO YOU
3 DRAW FROM THE DISTRICT BOUNDARIES AND THE UNDERLYING DATA ABOUT
4 THE CONFIGURATION OF THOSE MAJORITY-MINORITY DISTRICTS RELATIVE
5 TO TRADITIONAL REDISTRICTING CRITERIA?

6 A. AS WE'VE WALKED THROUGH IN DETAIL FOR EACH ONE OF THEM,
7 THE DISTRICTS WE HAVE BEEN LOOKING AT ARE NOT DRAWN BASED ON
8 TRADITIONAL REDISTRICTING CRITERIA.

9 Q. OKAY. DOES ANY EXPLANATION GIVEN BY MR. COOPER FOR THE
10 CONFIGURATION OF HIS ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE
11 UP WITH HOW THE LINES ARE DRAWN?

12 A. SO IN HIS REPORT, HE REPEATEDLY CITES THAT HE LOOKS --
13 WELL, IN HIS TESTIMONY, I GUESS, HE CONSISTENTLY CITES THAT HE
14 LOOKED AT TRADITIONAL REDISTRICTING PRINCIPLES AND RACE. SO IF
15 THE TRADITIONAL REDISTRICTING PRINCIPLES DON'T DICTATE WHERE
16 THE LINES ARE, THE ONLY EXPLANATION IS RACE, USING HIS OWN
17 WORDS.

18 Q. OKAY. AND DR. JOHNSON, BASED ON THIS DATA OFFERED, DO YOU
19 HAVE AN OPINION ON THE PREDOMINANT FACTOR EXPLAINING THE
20 BOUNDARIES OF THE ILLUSTRATIVE DISTRICTS IN MR. COOPER'S
21 ILLUSTRATIVE PLANS?

22 **MS. KEENAN:** OBJECTION, YOUR HONOR, THE PREDOMINANT
23 FACTOR OPINION IS EXACTLY THE ONE THIS COURT EXCLUDED.

24 **THE COURT:** I THINK IT IS A QUESTION TOO FAR. YOU
25 MAY RESPOND.

11:54AM

1 **MR. LEWIS:** YOUR HONOR, WE ARE NOT TRYING TO GET AT
2 HIS SUBJECTIVE INTENT. WE ARE ASKING FOR THE FACTOR THAT BEST
3 EXPLAINS THE DATA. THAT IS SOMETHING THAT IS WITHIN THE
4 PURVIEW OF A POLITICAL SCIENTIST. WE ARE NOT ASKING FOR
5 SUBJECTIVE INTENT.

6 **THE COURT:** I MEAN, HE HAS BASICALLY SAID IT ABOUT, I
7 DON'T KNOW, 15 TIMES. I'M GOING TO SUSTAIN THE OBJECTION.

8 **MR. LEWIS:** OKAY. THEN AT THIS POINT, I HAVE NO
9 FURTHER QUESTIONS, YOUR HONOR. WE WOULD TENDER THE WITNESS
10 SUBJECT TO, OF COURSE, THE PROFFER OF THE EXCLUDED PORTIONS OF
11 DR. JOHNSON'S REPORT.

12 **THE COURT:** OKAY. AND THAT BRINGS UP A QUESTION
13 BEFORE WE TAKE OUR NOON BREAK. GIVEN THE TESTIMONY, YOU HAVE A
14 RIGHT TO A PROFFER, AND I'M NOT SUGGESTING OTHERWISE, BUT I
15 WOULD ASK THAT YOU MAYBE CONFER AND THINK ABOUT WHETHER YOU
16 EVEN NEED THAT 2022-23 COMPARISON PROFFER INFORMATION. IF YOU
17 DO, GREAT. I'M JUST TRYING TO SAVE YOU THE HEADACHE OF KIND OF
18 PARSING THROUGH THIS EXPERT REPORT FOR MAKING THE REDACTIONS
19 FOR WHAT IS COMING IN IN YOUR CASE-IN-CHIEF AND WHAT IS COMING
20 IN IN YOUR PROFFER. JUST GIVE IT SOME THOUGHT.

21 **MR. LEWIS:** YOUR HONOR, WE APPRECIATE THAT. I THINK
22 WE DO BELIEVE THAT PARTICULARLY GIVEN THAT MR. COOPER --
23 PLAINTIFFS ELICITED QUITE A BIT OF TESTIMONY FROM MR. COOPER
24 ABOUT THE NATURE, EXTENT AND BASES OF THOSE CHANGES. WE DO
25 BELIEVE THERE IS RELEVANCE, SO I THINK WE CAN --

11:56AM

1 **THE COURT:** YEAH, I DON'T DOUBT THAT THERE MIGHT BE
2 RELEVANCE ON THE PROFFER. IT IS JUST A QUESTION OF PROOF. YOU
3 ARE ENTITLED TO DO YOUR PROFFER. SO I WOULD ASK THAT BEFORE WE
4 CLOSE THE CASE, WHETHER THAT IS TODAY OR MONDAY, THAT YOU GET
5 WITH YOUR CO-COUNSEL AND FIGURE OUT WHAT PARTS OF THE REPORT
6 ARE COMING IN AS SUBSTANTIVE EVIDENCE AND WHAT PARTS OF THE
7 REPORT ARE GOING TO COMPRISE YOUR PROFFER.

8 **MR. LEWIS:** OKAY. YOUR HONOR, WE ARE HAPPY TO
9 INVITE CO-COUNSEL. I THINK YOU WERE MEANING PLAINTIFF'S
10 COUNSEL?

11 **THE COURT:** THAT'S WHAT I MEAN, OPPOSING COUNSEL.

12 **MR. LEWIS:** YES, YOUR HONOR, WE WILL MEET AND CONFER.
13 HOPEFULLY IT WILL BE -- I THINK WITH RESPECT TO THE 2022 AND
14 2023, IT WILL BE VERY EASY. IT IS A NICE SELF-CONTAINED
15 SECTION.

16 **THE COURT:** IT IS. OKAY.

17 **MR. LEWIS:** I THINK THE PREDOMINANT INTENT WILL BE A
18 LITTLE MORE WORDSMITHING, BUT WE WILL COMPLY WITH THE COURT'S
19 DIRECTIVE.

20 **THE COURT:** OKAY. ALL RIGHT. WE WILL BE IN RECESS
21 UNTIL 1:15.

22 (RECESS TAKEN AT 11:57 A.M. UNTIL 1:17 P.M.)

23 **THE COURT:** PLEASE RETAKE THE STAND. OKAY. IT'S THE
24 PLAINTIFFS' CROSS. YOU MAY PROCEED.

25 **MS. KEENAN:** THANK YOU.

1:17PM 1

CROSS-EXAMINATION

2 **BY MS. KEENAN:**

3 Q. GOOD AFTERNOON, DR. JOHNSON. MY NAME IS MEGAN KEENAN FOR
4 THE ACLU, REPRESENTING THE PLAINTIFFS IN THIS CASE. I WANT TO
5 START WHERE I BELIEVE YOU STARTED WITH YOUR DIRECT EXAMINATION
6 WITH POPULATION CHANGE. DO YOU RECALL TALKING ABOUT THAT
7 EARLIER TODAY?

8 A. IN THE STATE AS A WHOLE?

9 Q. YES.

10 A. YES.

11 **MS. KEENAN:** CAN THE TECH PLEASE PULL UP WHAT IS
12 MARKED AS LDTX51, PAGE 11, SPECIFICALLY?

13 **BY MS. KEENAN:**

14 Q. OKAY. AND YOU SEE ON THE SCREEN THAT FIGURE 5 THAT YOU
15 TALKED ABOUT IN YOUR DIRECT EXAMINATION, RIGHT?

16 A. YES.

17 Q. YOU TESTIFIED ABOUT THE RATE AT WHICH THE NUMBER OF BLACK
18 MAJORITY SEATS INCREASED IN THE HOUSE AND THE SENATE, RIGHT?

19 A. YES.

20 Q. AND THIS TABLE SHOWS THE INCREASE IN THE PERCENTAGE OF
21 TOTAL MAJORITY BLACK DISTRICTS FROM 2000 TO 2020?

22 A. YES.

23 Q. YOU DIDN'T ANALYZE WHETHER THE PERCENTAGE OF SEATS
24 ALLOCATED TO MAJORITY BLACK DISTRICTS WERE PROPORTIONAL TO THE
25 BVAP OF LOUISIANA IN EITHER YEAR?

1:18PM

1 A. ARE YOU ASKING A QUESTION?

2 Q. YES. DID YOU DO THAT?

3 A. OH, NO, I DID NOT.

4 Q. THIS FIGURE ALSO DOESN'T SHOW ANYTHING ABOUT LOUISIANA'S
5 DECLINING WHITE POPULATION, DOES IT?

6 A. NO.

7 Q. AND SO THIS TABLE DOESN'T OFFER ANY ANALYSIS ABOUT HOW THE
8 DECLINING WHITE POPULATION IN LOUISIANA WOULD AFFECT THE
9 APPROPRIATE NUMBER OF MAJORITY BLACK DISTRICTS IN THE STATE,
10 DOES IT?

11 A. I DON'T KNOW HOW YOU WOULD SHOW THAT.

12 Q. OKAY. SO THAT'S A NO?

13 A. CORRECT, IT DOESN'T SHOW THAT.

14 Q. OKAY. YOU ALSO TALKED A BIT ABOUT SOCIO-ECONOMIC DATA IN
15 YOUR DIRECT EXAMINATION. DO YOU RECALL THAT?

16 A. YES.

17 Q. YOU REVIEWED MR. COOPER'S REBUTTAL REPORT IN THIS CASE,
18 DIDN'T YOU?

19 A. YES.

20 Q. YOU ACTUALLY PREPARED A SURREBUTTAL REPORT RESPONDING TO
21 THAT REPORT, RIGHT?

22 A. YES.

23 **MS. KEENAN:** COULD THE TECH PLEASE PULL UP PLAINTIFFS
24 EXHIBIT 89, AND TURN TO PAGE 12, PLEASE. I'M SORRY. IT'S
25 PLAINTIFFS 89. AND COULD WE TURN TO PAGE 12, PLEASE.

1:19PM

1 **BY MS. KEENAN:**

2 Q. DO YOU RECALL WHETHER YOU READ PARAGRAPHS 47 AND 48 OF
3 MR. COOPER'S REBUTTAL REPORT?

4 A. YES.

5 Q. AND YOU WOULD AGREE THAT IT SAYS, STARTING IN PARAGRAPH
6 47, QUOTE, I HAVE PREPARED A SET OF MAP EXHIBITS WHICH
7 DEMONSTRATE THAT THE ADDITIONAL MAJORITY BLACK DISTRICTS IN THE
8 ILLUSTRATIVE PLAN GENERALLY KEEP TOGETHER LOW AND MODERATE
9 INCOME NEIGHBORHOODS, INDEPENDENT OF RACE. DO YOU SEE WHERE IT
10 SAYS THAT?

11 A. YES, AFTER HE DREW THE MAPS, HE DID DO THAT.

12 Q. RIGHT. HAVE YOU REVIEWED PLAINTIFFS EXHIBITS 107 THROUGH
13 115 WHICH SHOW THE MAP EXHIBITS DISCUSSED IN PARAGRAPH 47?

14 A. I GLANCED AT THEM.

15 Q. OKAY. AND LIKE YOU SAID EARLIER, YOU PREPARED A
16 SURREBUTTAL REPORT RESPONDING TO MR. COOPER'S REBUTTAL REPORT,
17 RIGHT?

18 A. YES.

19 Q. IN THAT SURREBUTTAL REPORT, YOU DIDN'T INCLUDE ANY
20 OPINIONS ABOUT WHETHER THOSE EXHIBITS TO MR. COOPER'S REBUTTAL
21 REPORT SHOW THAT HIS MAJORITY BLACK ILLUSTRATIVE DISTRICTS
22 GENERALLY KEEP TOGETHER LOW INCOME NEIGHBORHOODS, DID YOU?

23 A. I DID NOT LOOK INTO WHETHER AFTER-THE-FACT ANALYSES
24 RETROACTIVELY EXPLAINED A CORRELATION THAT HE WASN'T LOOKING AT
25 AT THE TIME HE DREW THE MAPS.

1:20PM

1 Q. SO YOU DON'T KNOW WHETHER THE DISTRICTS THAT WERE DRAWN
2 COMPLY WITH THE DATA THAT IS IN THOSE EXHIBITS; IS THAT RIGHT?

3 A. IF I HAD FOUND A FACTUAL ERROR IN THEM, I WOULD HAVE
4 HIGHLIGHTED THAT, AND I DID NOT.

5 Q. OKAY. NOW, YOU TOLD US TODAY THAT THE ILLUSTRATIVE
6 DISTRICTS WERE INCONSISTENT WITH ALL OF THE TRADITIONAL
7 REDISTRICTING FACTORS THAT MR. COOPER TESTIFIED TO IN HIS
8 REPORT WITH THE EXCEPTION OF RACE. DID I GET THAT RIGHT?

9 A. I WOULD -- YOU ARE TRYING TO ENCOMPASS ALL OF MY EARLIER
10 DIRECT TESTIMONY IN ONE SUMMARY. I'M NOT SURE IT'S A
11 COMPLETELY FULL ONE-SENTENCE SUMMARY.

12 Q. SURE. I CAN BE MORE SPECIFIC. GIVE ME ONE MOMENT.

13 I WROTE DOWN WHAT MR. LEWIS ASKED YOU IN ONE OF HIS
14 WRAP-UP QUESTIONS. SPECIFICALLY, HE ASKED, "DOES ANY
15 EXPLANATION GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS
16 ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE UP WITH HOW THE
17 DISTRICTS WERE DRAWN?" DO YOU RECALL THAT QUESTION?

18 A. YES.

19 Q. AND YOU SAID NO, RIGHT?

20 A. CORRECT.

21 Q. OKAY. I WANT TO TALK A BIT ABOUT THAT. I'M SHOWING THE
22 WITNESS HIS REPORT MARKED LDTX51. IF WE COULD TURN TO PAGE 26.
23 SO YOU RECOGNIZE THIS AS THE SECTION OF YOUR REPORT YOU
24 DISCUSSED WHERE YOU TALK ABOUT SPECIFIC ILLUSTRATIVE DISTRICTS
25 IN MR. COOPER'S MAP, RIGHT?

1:22PM 1 A. ARE YOU TALKING ABOUT THE TOP FIGURE OR THE PARAGRAPHS
2 BELOW?

3 Q. STARTING AT THE TITLE THAT SAYS, "CORRELATION OF RACE AND
4 THE ILLUSTRATIVE PLAN DISTRICT LINES." THIS IS THE TOP OF THE
5 SECTION IN YOUR REPORT WHERE YOU DISCUSS THE SPECIFIC
6 ILLUSTRATIVE DISTRICTS. RIGHT?

7 A. YES.

8 Q. OKAY. NOW, IN DISCUSSING THE ILLUSTRATIVE DISTRICTS, YOUR
9 REPORT DOESN'T EXPLAIN HOW YOU RULED OUT THE OTHER TRADITIONAL
10 REDISTRICTING FACTORS WITH RESPECT TO EACH DISTRICT, DOES IT?

11 A. IT DOES. I LOOKED AT THE MAPS AND COMPARED THEM TO THE
12 TRADITIONAL PRINCIPLES THAT HE HAD LISTED. THE NICE THING
13 ABOUT MAPS AND COMMUNITY BOUNDARIES IS THERE IS NO ALGORITHM.
14 IT'S A MAP. YOU JUST LOOK AT IT.

15 Q. OKAY. SO I WANT TO BREAK THAT DOWN A LITTLE BIT. IN
16 PARAGRAPH 69, TO START, YOU STATE THAT MR. COOPER DREW HIS NEW
17 MAJORITY BLACK SD 38, QUOTE, WITHOUT ANY REFERENCE TO
18 COMPACTNESS, MAJOR ROADS, COMMUNITIES, NEIGHBORHOODS, CLEAR
19 VISIBLE FEATURES, OR ANY OTHER REDISTRICTING PRINCIPLE. AM I
20 READING THAT QUOTE CORRECTLY?

21 A. YES.

22 Q. OKAY. AND YOU ARE OFFERING THE OPINION, AS I UNDERSTAND
23 IT, THAT JUST LOOKING AT EACH OF THOSE DISTRICTS AND THE
24 FIGURES YOU PROVIDED, YOU CAN TELL THAT THE DISTRICT WAS DRAWN,
25 QUOTE, WITHOUT ANY REFERENCE, CLOSE QUOTE, TO TRADITIONAL

1:23PM

1 REDISTRICTING FACTORS; IS THAT RIGHT?

2 A. WELL, IT IS ACTUALLY MR. COOPER WHO IS GIVING THE FACTORS
3 THAT HE USED TO DRAW THE MAPS, AND THEN I'M REVIEWING THOSE.
4 AND HE DIDN'T PROVIDE ANY OF THESE FACTORS THAT EXPLAIN WHY
5 THAT LINE IS DRAWN THERE.

6 Q. RIGHT. SO YOU ARE OFFERING THE OPINION THAT BY JUST
7 LOOKING AT THE DISTRICTS AS YOU'VE SHOWN THEM IN YOUR REPORT,
8 YOU CAN TELL THAT THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE
9 TO THE FACTORS MR. COOPER IDENTIFIED IN HIS REPORT. IS THAT
10 YOUR OPINION?

11 **MR. LEWIS:** OBJECTION, YOUR HONOR, MISCHARACTERIZES
12 THE WITNESS'S TESTIMONY.

13 **THE COURT:** ACTUALLY, IT IS NOT. HE SAID THAT THESE
14 AREN'T -- THAT THE NICE THING ABOUT MAPS IS THAT THEY ARE MAPS
15 AND THAT YOU DON'T HAVE TO DO ANY ANALOGUES ON THEM, YOU JUST
16 LOOK AT THEM. SO IT REALLY DOESN'T. YOUR OBJECTION IS
17 OVERRULED. IF YOU NEEDED TO REPHRASE OR RESTATE THE QUESTION,
18 IF THAT HAS CAUSED YOU TO FORGET IT, I WOULD UNDERSTAND.

19 A. IF YOU COULD RESTATE IT, PLEASE.

20 **BY MS. KEENAN:**

21 Q. SURE. SO JUST TO BE CLEAR, YOU ARE OFFERING THE OPINION
22 THAT JUST BY LOOKING AT EACH DISTRICT, LIKE YOU SAID, YOU COULD
23 TELL THAT THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE TO THE
24 OTHER TRADITIONAL REDISTRICTING FACTORS THAT MR. COOPER
25 SPECIFIED IN HIS REPORT?

1:24PM

1 A. NO, THE REFERENCE IS BOTH ON THE MAP AND IN MR. COOPER'S
2 REPORT. SO MR. COOPER DID NOT PROVIDE ANY REFERENCE TO THESE
3 FACTORS THAT STAND UP WHEN YOU LOOK AT THE MAP.

4 Q. RIGHT. SO YOU ARE SAYING HE DIDN'T MAKE ANY REFERENCE IN
5 HIS MAPS TO THE FACTORS THAT HE IDENTIFIED IN HIS REPORT. I
6 JUST WANT TO MAKE SURE I'M UNDERSTANDING YOUR CRITICISM
7 CORRECTLY BEFORE I ASK YOU SOME MORE QUESTIONS ABOUT IT.

8 A. OKAY. SO MR. COOPER GAVE HIS STATEMENTS IN HIS REPORT FOR
9 WHY HE DREW THE LINES WHERE THEY WERE, AND HE LISTED THE
10 FACTORS AND THE THINGS THAT HE CONSIDERED. YOU CAN LOOK AND
11 SEE DO THE FACTORS THAT HE LISTS EXPLAIN WHERE THE LINES ARE.
12 HE CITED HIS KEY CULTURAL REGIONS, THE PLANNING AREAS, THE
13 VTDS, AND NONE OF THOSE FACTORS THAT HE CITED WOULD EXPLAIN WHY
14 THE LINE BETWEEN 38 AND 39 IS DRAWN WHERE IT IS.

15 Q. OKAY. SO I WANT TO WALK THROUGH SOME OF THOSE FACTORS AND
16 HOW YOU CONSIDERED THEM IN TRYING TO RULE THEM OUT. LET'S
17 STICK WITH MAJORITY BLACK SD 38, WHICH IS STILL ON THE SCREEN
18 IN PARAGRAPH 69 OF YOUR REPORT. YOU SAID THAT THIS DISTRICT
19 WAS DRAWN WITHOUT ANY REFERENCE TO COMMUNITIES. IS THAT RIGHT?

20 A. YES.

21 Q. YOU WERE NOT TENDERED AS AN EXPERT ON COMMUNITIES OF
22 INTEREST IN THIS CASE. DO YOU AGREE?

23 A. YES.

24 Q. AND YOUR REPORT DOESN'T IDENTIFY ANY EXAMPLES OF
25 COMMUNITIES OF INTEREST IN LOUISIANA, DOES IT?

1:26PM

1 A. I'M JUST RESPONDING TO MR. COOPER, SO THERE'S EXTENSIVE
2 DISCUSSION OF COMMUNITIES IN MY REPORT BECAUSE I'M DISCUSSING
3 MR. COOPER'S IDENTIFIED COMMUNITIES.

4 Q. SURE. SO YOU TALK ABOUT SOME OF THE THINGS IN MR.
5 COOPER'S REPORT, BUT YOU DON'T IDENTIFY ANY ADDITIONAL OR
6 CONTRARY COMMUNITIES OF INTEREST IN YOUR REPORT, RIGHT?

7 A. I DON'T GO BEYOND WHAT MR. COOPER DID, NO.

8 Q. OKAY. YOU TOLD US THAT YOU REVIEWED MR. COOPER'S
9 TESTIMONY FROM THE TRIAL THIS WEEK. DID YOU REVIEW ANYBODY
10 ELSE'S TESTIMONY FROM THE TRIAL THIS WEEK?

11 A. NO.

12 Q. OKAY. SO YOUR REPORT DOESN'T ADDRESS THE COMMUNITIES OF
13 INTEREST SPECIFIC REPORT OF DR. CRAIG COLTEN, DOES IT?

14 A. NO.

15 Q. YOU DIDN'T REVIEW THAT REPORT, DID YOU?

16 A. NO.

17 Q. AND YOU DIDN'T REVIEW MR. COLTEN'S TESTIMONY HERE AT THIS
18 TRIAL, RIGHT?

19 A. NO.

20 Q. SO YOU'RE NOT AWARE OF WHETHER THAT REPORT OR THAT
21 TESTIMONY WOULD CHANGE YOUR OPINION ABOUT WHETHER THE
22 ILLUSTRATIVE MAP IS CONSISTENT WITH COMMUNITIES OF INTEREST IN
23 LOUISIANA, ARE YOU?

24 A. AGAIN, I'M FOCUSING ON WHAT MR. COOPER CITED AS WHY HE
25 DREW THE LINES, AND HE HIMSELF SAID THAT THAT REPORT ONLY HAD A

1:27PM 1 VERY TINY IMPACT ON THE REVISIONS TO THE ILLUSTRATIVE MAP.

2 Q. I'M NOT ASKING YOU ABOUT WHAT MR. COOPER WAS TRYING TO DO
3 OR HOW HE DREW THE MAP, JUST ABOUT WHETHER YOU ARE AWARE
4 WHETHER HIS MAPS WERE ULTIMATELY CONSISTENT WITH THE
5 COMMUNITIES OF INTEREST REFLECTED IN DR. COLTEN'S OPINIONS.
6 AND YOU ARE NOT AWARE OF THAT, ARE YOU?

7 A. I DID NOT REVIEW MR. COLTEN'S OPINIONS, SO I DON'T HAVE AN
8 OPINION ON THAT.

9 Q. OKAY. SO YOUR REPORT DOESN'T RULE OUT THAT ANY OF THE
10 DISTRICT LINES CAPTURE ANY OF THE COMMUNITIES DISCUSSED IN
11 DR. COLTEN'S REPORT, DOES IT?

12 A. NO, BECAUSE DR. COLTEN DIDN'T DRAW THE MAP.

13 Q. YOUR REPORT ALSO DOESN'T COMPARE THE ILLUSTRATIVE MAP'S
14 TREATMENT OF COMMUNITIES OF INTEREST TO THE ENACTED MAP'S
15 TREATMENT OF COMMUNITIES OF INTEREST, DOES IT?

16 A. CORRECT.

17 Q. OKAY. I WANT TO MOVE ON TO COMPACTNESS. YOU ALSO OFFER
18 THE OPINION HERE IN PARAGRAPH 69, "THE DISTRICT WAS DRAWN
19 WITHOUT ANY REFERENCE TO COMPACTNESS." AM I READING THAT
20 CORRECTLY?

21 A. YES.

22 Q. BUT YOUR REPORT DOESN'T COMPARE THE ILLUSTRATIVE MAP'S
23 COMPACTNESS SCORES TO THE ENACTED MAP'S COMPACTNESS SCORES,
24 DOES IT?

25 A. WELL, JUST IN TERMS OF -- WELL, I'M WANDERING INTO IN

1:29PM

1 LIMINE TERRITORY.

2 Q. I'M SORRY. I'M TALKING SPECIFICALLY ABOUT COMPACTNESS
3 SCORES HERE TO START, AND YOUR REPORT DOESN'T COMPARE THE
4 ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO THE ENACTED MAP'S
5 COMPACTNESS SCORES, RIGHT?

6 A. OH, TO THE ENACTED MAP, CORRECT.

7 Q. AGAIN, YOU ARE JUST VISUALLY INSPECTING THE MAPS, LIKE YOU
8 TALKED ABOUT EARLIER, WHEN IT COMES TO COMPACTNESS, RIGHT?

9 A. NO, I'M LOOKING AT WHAT MR. COOPER CITED AS THE REASONS
10 WHY HE DREW THE LINES FOR THAT DISTRICT AND DOES COMPACTNESS
11 EXPLAIN WHY THAT LINE WOULD END UP WHERE IT DID.

12 Q. RIGHT, BUT I WANT TO TALK ABOUT HOW YOU DETERMINED WHETHER
13 COMPACTNESS WOULD COMPLY WITH MR. COOPER'S RATIONALE. WHAT YOU
14 DID WAS YOU LOOKED AT THE PICTURES OF THE MAPS, RIGHT?

15 A. YES.

16 Q. OKAY.

17 A. I MEAN, I ALSO REVIEWED THE NUMBERS BUT DID SO ONLY BASED
18 ON HOW IT LOOKS, AS DR. POLSBY OR POPPER CALLED IT, THE
19 INTRAOCULAR TEST.

20 Q. SURE. BUT YOU SAID YOU LOOKED AT THE NUMBERS. JUST TO BE
21 PERFECTLY CLEAR, YOUR REPORT DOES NOT INCLUDE ANY OF THOSE
22 NUMBERS COMPARING THE ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO
23 THOSE IN THE ENACTED MAP, CORRECT?

24 A. CORRECT.

25 Q. YOU ALSO SAY IN PARAGRAPH 69 AGAIN THAT THE MAP WAS

1:30PM 1 DRAWN -- OR, I'M SORRY, MAJORITY BLACK SD 38 WAS DRAWN WITHOUT
2 ANY REFERENCE TO MAJOR ROADS. DID I READ THAT CORRECTLY?

3 A. YES.

4 Q. I'M NOW SHOWING THE WITNESS PAGE 27 OF THE SAME REPORT,
5 LDTX51. THIS IS A PICTURE OF ILLUSTRATIVE SENATE DISTRICT 38
6 IN FIGURE 16 OF YOUR REPORT, RIGHT?

7 A. YES.

8 Q. THIS IS IMMEDIATELY BELOW THE PARAGRAPH WE JUST DISCUSSED
9 ABOUT ILLUSTRATIVE SENATE DISTRICT 38?

10 A. YES.

11 Q. OKAY. AND THIS IS THE SAME FIGURE YOU DISCUSSED IN YOUR
12 DIRECT EXAMINATION, RIGHT?

13 A. YES.

14 Q. I WANT YOU TO TAKE A LOOK AT THIS PICTURE. YOU WOULD
15 AGREE THAT THIS PICTURE OF SENATE DISTRICT 38 IN FIGURE 16 DOES
16 DEPICT LINES THAT FOLLOW MULTIPLE MAJOR ROADS, RIGHT?

17 A. A TINY FRACTION OF IT DOES, YES.

18 Q. LET'S WALK THROUGH A COUPLE OF THEM. YOU WOULD AGREE THAT
19 SOME OF THE BORDERS IN THIS MAP, SPECIFICALLY IN THE BOTTOM
20 LEFT CORNER OF THIS IMAGE, TRACK INTERSTATE 220. WOULD YOU
21 AGREE WITH THAT?

22 A. FOR A SHORT SEGMENT, YES.

23 Q. AND YOU WOULD AGREE THAT SOME OF THE BORDERS IN THIS MAP
24 TRACK I-20, LIKE RIGHT IN THE CENTER OF FIGURE 16 IN YOUR
25 REPORT, RIGHT?

1:31PM

1 A. A VERY BRIEF SEGMENT, YES.

2 Q. YOU WOULD AGREE SOME OF THE BORDERS TRACK OTHER ROADS,
3 LIKE THE BORDER IN THE TOP RIGHT CORNER OF FIGURE 16 OF YOUR
4 REPORT, THE STRAIGHT DIAGONAL ONE PROCEEDING INTO THE BORDER?

5 A. THE ONE RIGHT BY BUT NOT QUITE BY THE PARISH LINE?

6 Q. YES.

7 A. YES, IT DOES FOLLOW THE STREET RATHER THAN FOLLOWING THE
8 PARISH LINE.

9 Q. AND YOU WOULD AGREE THAT ANOTHER BORDER TRACKS THE
10 BOUNDARIES AT THE SHREVEPORT REGIONAL AIRPORT LIKE YOU TALKED
11 ABOUT IN YOUR REPORT -- OR SORRY, LIKE YOU TALKED ABOUT EARLIER
12 TODAY?

13 A. YES.

14 Q. NOW, YOU STATED REPEATEDLY IN YOUR DIRECT THAT THE FIGURES
15 IN YOUR REPORT SHOW HOW THE ILLUSTRATIVE DISTRICTS DO NOT
16 FOLLOW ANY OF THE TRADITIONAL REDISTRICTING CRITERIA THAT
17 MR. COOPER MENTIONED IN HIS REPORT, RIGHT?

18 A. YES.

19 Q. I NOTICED THAT YOUR REPORT DOESN'T CITE JOINT RULE 21, BUT
20 YOU ARE FAMILIAR WITH THAT RULE, RIGHT?

21 A. YES.

22 Q. OKAY. AND YOU KNOW THAT'S THE LOUISIANA LEGISLATURE'S
23 SPECIFIC CRITERIA THAT NEED TO BE CONSIDERED WHEN DRAWING MAPS
24 IN THE STATE?

25 A. YES.

1:32PM

1 Q. YOU ARE AWARE THAT ONE OF THOSE CRITERIA IS KEEPING
2 PRECINCTS AS REPRESENTATIVES' VOTING DISTRICTS OR VTDS WHOLE,
3 RIGHT?

4 A. YES.

5 Q. YOU ACKNOWLEDGED ON DIRECT THAT MR. COOPER LOOKED AT THE
6 JOINT RULE, RIGHT?

7 A. YES.

8 Q. THAT HE LOOKED AT THE TRADITIONAL FACTORS IDENTIFIED IN
9 THAT JOINT RULE, RIGHT?

10 A. YES.

11 Q. AND THAT ONE OF THOSE TRADITIONAL REDISTRICTING FACTORS
12 WAS FOLLOWING VTD LINES?

13 A. YES.

14 Q. SPECIFICALLY NOT SPLITTING VTD LINES, RIGHT?

15 A. YES, I GUESS -- THE VTDS ARE IN THE JOINT RULE. THEY ARE
16 A LITTLE SEPARATE FROM TRADITIONAL FACTORS, BUT MORE OR LESS IT
17 IS THE SAME THING.

18 Q. SURE. SO WE CAN BE SPECIFIC, UNDER LOUISIANA'S JOINT RULE
19 SPECIFYING THE REDISTRICTING CRITERIA THAT MAP DRAWERS NEED TO
20 USE, MR. COOPER SAID THAT HE COMPLIED WITH THE REQUIREMENT TO
21 FOLLOW THE VTD LINES, RIGHT?

22 A. I BELIEVE HE SAID TO THE EXTENT PRACTICABLE.

23 Q. RIGHT. WOULD YOU AGREE THAT PRECINCT LINES OR VTD LINES
24 CAN SOMETIMES SPLIT MUNICIPALITIES?

25 A. WELL, I DON'T KNOW IN LOUISIANA IF THEY CROSS MUNICIPALITY

1:34PM 1 BOUNDARIES, BUT CERTAINLY THERE ARE MANY PRECINCTS OR VTDS IN A
2 BIG CITY LIKE SHREVEPORT.

3 Q. SURE. AND THERE ARE PRECINCT LINES THAT CAN SPLIT MAJOR
4 ROADS, FOR EXAMPLE?

5 A. YES.

6 Q. WERE YOU HERE WHEN MR. TRENDE TESTIFIED EARLIER TODAY?

7 A. JUST FOR THE CROSS AT THE VERY END.

8 Q. OKAY. DID YOU HAPPEN TO HEAR HIM STATE THAT TRADE-OFFS
9 BETWEEN TRADITIONAL REDISTRICTING CRITERIA ARE SIMPLY
10 INEVITABLE?

11 A. I WASN'T PAYING THAT CLOSE OF ATTENTION, TO BE HONEST.

12 Q. WOULD YOU AGREE WITH THAT STATEMENT, THAT TRADE-OFFS
13 BETWEEN TRADITIONAL REDISTRICTING CRITERIA ARE INEVITABLE WHEN
14 YOU'RE DRAWING MAPS?

15 A. MOST OF THE TIME, YES.

16 Q. DID YOU TAKE PRECINCT OR VTD LINES INTO ACCOUNT IN
17 CRITIQUING MR. COOPER'S MAPS?

18 A. NOT AT THE TIME I WROTE THE ORIGINAL REPORT. OBVIOUSLY IN
19 MY DIRECT, I WAS REFERRING TO THEM.

20 Q. SURE. I WANT TO BE CLEAR ABOUT WHAT YOU REVIEWED AT THE
21 TIME YOU PREPARED YOUR REPORT. TO REVIEW MR. COOPER'S MAPS IN
22 MAPTITUDE, YOU USED A GIS SOFTWARE PACKAGE CALLED MAPTITUDE FOR
23 REDISTRICTING DEVELOPED BY THE CALIPER CORPORATION, RIGHT?

24 A. YES.

25 Q. THE PL94171 DATA WAS IN THAT MAPTITUDE DATABASE, RIGHT?

1:35PM

1 A. YES.

2 Q. AND THE PRECINCT INFORMATION WAS CONTAINED WITHIN THE
3 PL94171 DATASET, RIGHT?

4 A. YES.

5 Q. THE SOFTWARE THAT YOU USED MERGES THE DEMOGRAPHIC DATA
6 FROM THE PL94171 FILES TO MATCH UP WITH THE RELEVANT DECENNIAL
7 CENSUS GEOGRAPHY, RIGHT?

8 A. IT CAN.

9 Q. SO YOU HAD THE ABILITY TO LOOK AT THOSE PRECINCT OR VTD
10 LINES AS A LAYER IN MAPTITUDE WHEN YOU WERE REVIEWING MR.
11 COOPER'S MAPS, RIGHT?

12 A. YES.

13 Q. YOU TESTIFIED ON DIRECT THAT THESE LAYERS CAN BE CLICKED
14 ON AND OFF TO SHOW DIFFERENT FACETS OF THE DATASET, RIGHT?

15 A. YES.

16 Q. OKAY. YOU ALSO TOLD US ON DIRECT THAT YOU DID NOT JUST
17 LOOK AT MR. COOPER'S MAPS. YOU ALSO REVIEWED THE DATA
18 ASSOCIATED WITH THOSE MAPS TOO, RIGHT?

19 A. YES.

20 Q. USING THE MAPTITUDE SOFTWARE, YOU WOULD ALSO AGREE IT IS
21 POSSIBLE TO DRAW MAPS AT THE PRECINCT OR VTD LEVEL, RIGHT?

22 A. SURE.

23 Q. AND YOU WOULD AGREE THAT'S WHAT MR. COOPER SAID THAT HE
24 DID IN DRAWING THE MAPS IN THIS CASE, RIGHT?

25 A. TO THE EXTENT PRACTICABLE.

1:36PM 1 Q. RIGHT. NOW, THIS FIGURE IN FRONT OF US, YOU TESTIFIED
2 THAT IT DIVIDES UP THE AREA IN CENSUS BLOCKS, RIGHT?

3 A. THE MAP IS SHOWING THE ETHNIC DATA BY BLOCK.

4 Q. RIGHT. HAVE YOU LOOKED AT THIS FIGURE WITH THE PRECINCT
5 DATA LOADED ONTO IT?

6 A. NO, BUT THE PRECINCTS ARE GOING TO BE GROUPINGS OF BLOCKS,
7 SO I CAN TELL WHAT THE PRECINCT SHADING IS GOING TO LOOK LIKE
8 BY LOOKING AT THE BLOCKS.

9 Q. SURE. WELL, LET'S TAKE A LOOK. I'M GOING TO SHOW THE
10 WITNESS ILLUSTRATIVE AID 39, WHICH DEPICTS THE SAME AREA
11 DEPICTED IN FIGURE 16 OF HIS REPORT BUT WITH AN OVERLAY OF THE
12 PRECINCT LINES THAT WE JUST TALKED ABOUT.

13 DO YOU HAVE ANY REASON TO DISPUTE THAT THIS IS AN
14 ILLUSTRATIVE AID SHOWING THE PRECINCT LINES ON THE SAME AREA WE
15 JUST DISCUSSED IN YOUR REPORT?

16 A. I DON'T KNOW EITHER WAY.

17 Q. OKAY. DO YOU SEE THE 2021 CALIPER STAMP AT THE BOTTOM
18 CENTER OF THIS ILLUSTRATIVE AID?

19 A. YES.

20 Q. THAT'S THE SAME SOFTWARE THAT YOU USED TO CREATE THE
21 FIGURES IN YOUR REPORT, RIGHT?

22 A. YES.

23 Q. OKAY. WOULD YOU AGREE THAT MANY OF THE PLACES WHERE MR.
24 COOPER'S LINES DIVERGE FROM THE MAJOR ROADS YOU JUST TALKED
25 ABOUT ACTUALLY TRACK PRECINCT BOUNDARIES?

1:37PM

1 A. I MEAN, ALL THE LINES TRACK PRECINCT BOUNDARIES.

2 Q. I WANT TO TAKE A LOOK SPECIFICALLY AT THE MAJOR ROADS AND
3 WHERE THE LINES DIVERGE FROM THOSE ROADS. SO LET'S LOOK AT THE
4 BOTTOM CORNER, TRACKING THE SAME BOTTOM CORNER OF FIGURE 16 IN
5 YOUR REPORT. YOU SEE THAT WHERE THE LINE DIVERGES FROM I-220,
6 LIKE WE TALKED ABOUT, THE LINE IS FOLLOWING THAT PRECINCT
7 HIGHLIGHTED IN BLUE, RIGHT?

8 A. NOT IN THE PART TO THE RIGHT.

9 Q. I'M SORRY. I'M JUST TALKING ABOUT WHERE THE LINE DIVERGES
10 FROM 220 IN THE BOTTOM LEFT CORNER. AND YOU CAN SEE THAT WHEN
11 IT BREAKS OFF OF 220, IT IS FOLLOWING A PRECINCT LINE EXACTLY
12 AND THEN REJOINING I-220 ON THE OTHER SIDE OF THAT PRECINCT
13 LINE. DO YOU SEE THAT IN THE CORNER?

14 A. IN THAT LITTLE PIECE OF IT, YES, BUT OVER ON THE RIGHT,
15 NO.

16 Q. NOW, I WANT TO ZOOM BACK OUT FOR A MOMENT AND LOOK AT
17 WHERE THE LINES DIVERGE FROM I-20. THIS IS DIRECTLY ABOVE THE
18 NUMBER 38 IN BOTH FIGURES, SO THIS ALSO TRACKS FIGURE 16 IN
19 YOUR REPORT. YOU WOULD AGREE THAT BOTH PLACES THAT THE LINE
20 DIVERGES FROM THE MAJOR ROAD HERE, SPECIFICALLY ABOVE THE
21 NUMBER 38, IT IS FOLLOWING A PRECINCT LINE, RIGHT?

22 A. NOT IN BOTH.

23 Q. OKAY. LET'S TALK ABOUT THAT, THEN. NO, NO, CAN YOU
24 PLEASE ZOOM BACK INTO THE SAME SPOT? ABOVE 38, YOU CAN SEE
25 THAT -- CAN I DRAW ON IT? I'M NOT SURE IF I CAN DRAW ON IT.

1:39PM 1 **THE COURT:** YOU CAN. WELL, I DON'T KNOW IF YOU
2 CAN'T --

3 **MS. KEENAN:** THAT'S OKAY. NO WORRIES. I CAN EXPLAIN
4 IT ORALLY BECAUSE IT'S NOT GOING TO BE IN EVIDENCE.

5 **THE COURT:** I THINK HE CAN ACTIVATE IT. I KNOW THE
6 WITNESS CAN DRAW, BUT SINCE YOU ARE USING YOUR COMPUTER, I'M
7 JUST NOT A HUNDRED PERCENT SURE. JAVI, DO YOU KNOW?

8 **THE CLERK:** SHE SHOULD BE ABLE TO DRAW ON THERE.

9 **MS. KEENAN:** IS THERE A MOUSE?

10 **THE CLERK:** NO, IT IS TOUCH SCREEN.

11 **MS. KEENAN:** I THINK IT'S OKAY. I DON'T NEED TO DRAW
12 ON IT. I CAN ASK THE QUESTIONS WITHOUT DRAWING.

13 **THE COURT:** OKAY.

14 **BY MS. KEENAN:**

15 Q. SO YOU CAN FIRST LOOK AT THE LINE HIGHLIGHTED HERE. YOU
16 WOULD AGREE THAT THERE, WHERE THE LINE DIVERGES FROM I-20, IT
17 IS FOLLOWING A PRECINCT LINE, YES?

18 A. YES, THERE IT IS.

19 Q. OKAY. THE SAME IS TRUE ON THE LEFT SIDE OF THE IMAGE YOU
20 SEE HERE, AND ALSO ON FIGURE 16, YOU WOULD AGREE THAT THERE'S A
21 PORTION THAT BREAKS OFF FROM I-20 WHERE THE BLUE PRECINCT LINE
22 IS, AND THEN IT FOLLOWS THE YELLOW PRECINCT LINE. AGAIN, IT IS
23 FOLLOWING THE PRECINCT LINE EXACTLY, RIGHT?

24 A. BUT IN THAT CASE, THE PRECINCT DOES NOT CROSS THE FREEWAY.
25 IF HE HAD FOLLOWED THE FREEWAY -- HE COULD USE PRECINCTS AND

1:40PM

1 FOLLOWED THE FREEWAY THERE. HE JUST CHOSE NOT TO.

2 Q. YOU WOULD AGREE, THOUGH, THAT IN THE FIRST LINE THAT WE
3 TALKED ABOUT, HE WOULD ACTUALLY HAVE TO SPLIT TWO PRECINCTS IN
4 ORDER TO FOLLOW THE MAJOR ROAD, RIGHT?

5 A. YES.

6 **MS. KEENAN:** CAN WE ZOOM BACK OUT AND REMOVE THE
7 HIGHLIGHTS?

8 **BY MS. KEENAN:**

9 Q. DURING YOUR DIRECT TESTIMONY, YOU TALKED ABOUT HOW THE
10 LINES CURVE AND WIND IN VERY ODD WAYS THAT DON'T FOLLOW THE
11 CRITERIA THAT MR. COOPER LISTED. DO YOU RECALL TESTIFYING TO
12 THAT?

13 A. CERTAINLY SOMETHING TO THAT EFFECT, YES.

14 Q. DO YOU AGREE -- I'M SORRY. I'M NOT SURE WHY THAT RED IS
15 ON THE SCREEN. YOU CAN IGNORE IT.

16 A. NO, I UNDERSTAND. YOUR LINES FINALLY SHOWED UP.

17 **THE COURT:** YOU CAN CLEAR IT. THERE YOU GO.

18 **MS. KEENAN:** CAN WE PUT THE IMAGE BACK ON THE SCREEN?
19 THANK YOU.

20 **BY MS. KEENAN:**

21 Q. EACH OF THE LINES THAT MR. COOPER DRAWS FOLLOWS A PRECINCT
22 LINE, YES?

23 A. AND IT CURVES AND SHIFTS IN ODD WAYS, PICKING PRECINCTS
24 THIS AND THAT IN ODD WAYS.

25 Q. BUT CAN YOU SEE ANY LINE IN THIS ILLUSTRATIVE AID OF

1:41PM 1 SENATE DISTRICT 38 WHERE THE LINES DO NOT TRACK A PRECINCT
2 LINE?

3 A. NO.

4 Q. OKAY. NONE OF THE IMAGES IN YOUR REPORT SHOW PRECINCT
5 BOUNDARIES APART FROM THE CENSUS BLOCK BOUNDARIES UNDERNEATH
6 THEM, RIGHT?

7 A. CORRECT.

8 Q. OKAY. AND YOU RECALL TESTIFYING THAT THE DISTRICT LINES
9 WEREN'T CONSISTENT WITH ANY, QUOTE, VISIBLE REASON ON THE MAPS
10 IN YOUR REPORT, RIGHT?

11 A. CORRECT.

12 Q. BUT LOOKING AT THE FIGURES IN YOUR REPORT, YOU WOULD NOT
13 BE ABLE TO SEE WHETHER MR. COOPER WAS COMPLYING WITH THE JOINT
14 RULE 21 REQUIREMENT OF FOLLOWING VTD LINES, WOULD YOU?

15 A. NO, BUT THERE ARE MANY WAYS TO COMPLY WITH THAT. HE COULD
16 HAVE CHOSEN PRECINCTS THAT WERE MORE COMPACT THAT FOLLOWED
17 MAJOR FEATURES AND FOLLOWED CITY BOUNDARIES.

18 Q. I'M NOT ASKING ABOUT THE OTHER WAYS HE COULD COMPLY WITH
19 THAT SAME FACTOR, BUT YOU WOULD AGREE THAT IN THE AREAS WHERE
20 YOU TALK ABOUT HOW A DISTRICT LINE ZIGS AND ZAGS, YOU CANNOT
21 RULE OUT THAT MR. COOPER WAS SIMPLY FOLLOWING A PRECINCT LINE
22 BASED ON THE FIGURES IN YOUR REPORT, RIGHT?

23 A. I CAN'T RULE OUT THAT HE WAS SIMPLY FOLLOWING IT.

24 Q. YOU CANNOT RULE OUT THAT MR. COOPER WAS TRACKING THE
25 BORDERS OF A PRECINCT LINE EXACTLY WHEN HE WAS ZIGGING AND

1:43PM

1 ZAGGING IN THE FIGURES IN YOUR MAPS?

2 A. CORRECT. I HAVE NO REASON TO THINK HE WASN'T FOLLOWING
3 PRECINCT LINES.

4 Q. OKAY. SO I WANT TO RETURN TO THE WRAP-UP QUESTION THAT
5 MR. LEWIS ASKED YOU EARLIER. HE SAYS, "DOES ANY EXPLANATION
6 GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS ILLUSTRATIVE
7 DISTRICTS CONSISTENTLY LINE UP WITH HOW THE DISTRICTS ARE
8 DRAWN?" DO YOU RECALL THAT QUESTION?

9 A. YES.

10 Q. AND YOU SAID NO. CORRECT?

11 A. CORRECT.

12 Q. BUT YOU WOULD AGREE THAT MR. COOPER'S LINES ARE
13 CONSISTENTLY DRAWN TO REFLECT THE VTD LINES THAT JOINT RULE 21
14 REQUIRES, RIGHT?

15 A. I HAVEN'T GONE THROUGH TO SEE WHY HE INCLUDED THE PHRASE
16 "TO THE EXTENT PRACTICABLE." I HAVEN'T LOOKED FOR WHAT
17 PRECINCTS HE SPLIT, IF ANY, BUT HIS TENDENCY CERTAINLY IS TO
18 FOLLOW VTDS.

19 Q. I WANT TO TALK ABOUT THAT "TO THE EXTENT PRACTICABLE"
20 PHRASE QUICKLY BEFORE WE MOVE ON. YOU HAVE REVIEWED JOINT RULE
21 21, HAVEN'T YOU?

22 A. YES.

23 **MS. KEENAN:** I BELIEVE IT IS JOINT EXHIBIT 56. CAN
24 WE PULL THAT UP? I'M GOING FROM MEMORY. OH, THERE WE GO.
25 COULD WE TAKE A LOOK AT SECTION G OF JOINT RULE NUMBER 21.

1:44PM

1 **BY MS. KEENAN:**

2 Q. I'M JUST GOING TO START READING AT SECTION G1 HERE. IT
3 SAYS, "TO THE EXTENT PRACTICABLE, EACH DISTRICT WITHIN A
4 REDISTRICTING PLAN SUBMITTED FOR CONSIDERATION SHALL CONTAIN
5 WHOLE ELECTION PRECINCTS AS THOSE ARE REPRESENTED AT VOTING
6 DISTRICTS VTDS." DID I READ THAT CORRECTLY?

7 A. YES.

8 Q. OKAY. IS IT -- DO YOU HAVE ANY REASON TO BELIEVE THAT THE
9 PHRASE "TO THE EXTENT PRACTICABLE" DIDN'T COME DIRECTLY FROM
10 JOINT RULE 21?

11 A. NO.

12 Q. OKAY. I WANT TO TURN BACK TO LDTX51, PAGE 29 THIS TIME.
13 NOW, YOU ALSO TALKED ABOUT THIS FIGURE IN YOUR DIRECT, RIGHT?

14 A. YES.

15 Q. YOU WOULD AGREE THIS FIGURE ALSO DOESN'T SHOW PRECINCT
16 LINES, DOES IT?

17 A. NO, IT DOES NOT.

18 Q. OKAY. SPECIFICALLY YOU CRITICIZE MR. COOPER HERE FOR
19 DRAWING THE DISTRICT LINE ACROSS THE MISSISSIPPI RIVER IN THE
20 LEFT SIDE OF THIS IMAGE INSTEAD OF CONTINUING TO FOLLOW THE
21 RIVER. DO YOU RECALL THAT?

22 A. YES, ON THE LEFT SIDE, HE CROSSES IT. ON THE RIGHT SIDE,
23 HE TURNS AWAY FROM IT.

24 Q. BECAUSE YOU DIDN'T REVIEW DR. COLTEN'S OPINIONS, YOU DON'T
25 KNOW WHETHER HIS DISCUSSION OF COMMUNITIES OF INTEREST WOULD

1:45PM 1 CHANGE YOUR OPINIONS ABOUT WHETHER CROSSING THE RIVER HERE
2 COMPLIED WITH TRADITIONAL REDISTRICTING FACTORS, RIGHT?

3 A. I DO KNOW THAT.

4 Q. YOU TESTIFIED EARLIER THAT YOU HAD NOT REVIEWED
5 DR. COLTEN'S OPINIONS, RIGHT?

6 A. CORRECT.

7 Q. AND YOU'VE TALKED ABOUT HOW COMMUNITIES OF INTEREST ARE A
8 TRADITIONAL REDISTRICTING FACTOR, RIGHT?

9 A. CORRECT.

10 Q. SO YOU WOULD AGREE IF THERE IS A COMMUNITY OF INTEREST ON
11 EITHER SIDE OF THE RIVER THAT IS SHARED, IT COULD REFLECT A
12 TRADITIONAL REDISTRICTING FACTOR TO KEEP THE DISTRICT AROUND
13 THE ENTIRE COMMUNITY OF INTEREST STRADDLING THE RIVER, RIGHT?

14 A. MY OPINION IS THAT THE LINE DID NOT FOLLOW ANY OF THE
15 TRADITIONAL REDISTRICTING CRITERIA CITED BY MR. COOPER. I
16 DIDN'T REVIEW ANYTHING THAT MR. COOPER DIDN'T REVIEW.

17 **MS. KEENAN:** YOUR HONOR, I WOULD MOVE TO STRIKE THAT
18 ANSWER AS NONRESPONSIVE.

19 **THE COURT:** WELL, THE RECORD IS THE RECORD. SO IT'S
20 NONRESPONSIVE. ASK YOUR QUESTION AGAIN, BUT WE ARE NOT GOING
21 TO STRIKE ANYTHING OUT OF THE RECORD.

22 **MS. KEENAN:** OKAY.

23 **BY MS. KEENAN:**

24 Q. I WILL REPEAT THE QUESTION, THEN. YOU WOULD AGREE THAT IT
25 IS CONSISTENT -- IT COULD BE CONSISTENT WITH TRADITIONAL

1:47PM 1 REDISTRICTING PRINCIPLES TO DRAW A DISTRICT ON BOTH SIDES OF A
2 RIVER IN ORDER TO CAPTURE A COMMUNITY OF INTEREST THAT IS
3 SHARED ACROSS THAT RIVER, RIGHT?

4 A. I WOULD SAY THAT IS OUTSIDE THE SCOPE OF MY REPORT, BUT IF
5 YOU WOULD LIKE ME TO OPINE ON THINGS OUTSIDE THE SCOPE OF MY
6 REPORT, I'M HAPPY TO.

7 Q. WE CAN MOVE ON FROM THAT QUESTION. THAT IS FINE.

8 YOU HAVE REVIEWED THE ENACTED SENATE MAP, HAVEN'T YOU?

9 A. I HAVE LOOKED AT IT.

10 Q. RIGHT. YOU TALKED ABOUT EARLIER HOW YOU LOOKED AT THAT IN
11 PARTICULAR TO COMPARE THE SHAPES AND THE CONFIGURATION OF THE
12 DISTRICTS, RIGHT, WITH THE ILLUSTRATIVE MAPS?

13 **MR. LEWIS:** OBJECTION. MISSTATES THE WITNESS'S
14 TESTIMONY ON DIRECT.

15 **MS. KEENAN:** I'M SORRY. THAT WAS ON CROSS, YOUR
16 HONOR, BUT I CAN REPHRASE IT.

17 **THE COURT:** REPHRASE.

18 **BY MS. KEENAN:**

19 Q. EARLIER ON CROSS-EXAMINATION, YOU TESTIFIED THAT THE ONLY
20 WAY YOU LOOKED AT THE ENACTED MAP AND THE ILLUSTRATIVE MAP WAS
21 WITH REGARD TO THE SHAPES OF THOSE TWO DISTRICTS TO DETERMINE
22 COMPACTNESS. YOU SAID THAT WAS THE ONLY WAY YOU REVIEWED
23 COMPACTNESS ACROSS THE TWO MAPS, RIGHT?

24 A. NO, THAT'S NOT WHAT I SAID.

25 Q. WOULD YOU AGREE THAT YOU LOOKED AT BOTH MAPS AND

1:48PM 1 CONSIDERED THE COMPACTNESS OF THE ENACTED AND THE ILLUSTRATIVE
2 MAPS?

3 A. NO, MY EARLIER TESTIMONY -- WHY I MENTIONED THAT IT WAS
4 GETTING IN THE IN LIMINE REALM IS I LOOKED AT THE FIRST
5 ILLUSTRATIVE MAP AND THE SECOND ILLUSTRATIVE MAP.

6 Q. SO IS IT YOUR TESTIMONY THAT YOU'VE NEVER EVEN LOOKED AT
7 THE ENACTED MAP?

8 A. NO, THAT'S NOT MY TESTIMONY.

9 Q. OKAY. SO YOU DID REVIEW THE ENACTED SENATE MAP THEN,
10 RIGHT?

11 A. AS I JUST SAID A MINUTE AGO, YES.

12 Q. AND YOU LOOKED AT THE SHAPES OF THOSE DISTRICTS?

13 A. BRIEFLY.

14 Q. OKAY. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 31,
15 WHICH DEPICTS ENACTED SENATE DISTRICT 5 WITH RACIAL SHADING. I
16 WOULD LIKE TO PUT THESE TWO SIDE BY SIDE ACTUALLY WITH THE
17 FIGURE WE WERE JUST LOOKING AT. THAT WAS LDTX51, PAGE 29.

18 **MS. KEENAN:** AND IF WE COULD ZOOM IN ON THE FIGURE
19 AGAIN, THAT WOULD BE GREAT, STEPHEN. THANK YOU SO MUCH.

20 **BY MS. KEENAN:**

21 Q. YOU CAN SEE FROM THE TWO IMAGES ON THE SCREEN THAT THIS
22 IMAGE OF THE ENACTED MAP AND THE ILLUSTRATIVE MAP SHOW ROUGHLY
23 THE SAME TERRITORY IN THE STATE, RIGHT?

24 **MR. LEWIS:** OBJECTION, YOUR HONOR. THIS GOES BEYOND
25 THE SCOPE OF DIRECT EXAMINATION. IT GOES BEYOND THE SCOPE OF

1:49PM 1 THE WITNESS' REPORT. THE WITNESS DID NOT ANALYZE THE DISTRICT
2 LINES OF THE ENACTED PLAN.

3 **MS. KEENAN:** MAY I EXPLAIN, YOUR HONOR?

4 **THE COURT:** YOU MAY RESPOND.

5 **MS. KEENAN:** IN DISCUSSING THE COMPACTNESS OF A
6 DISTRICT OR THE SHAPE OF A DISTRICT AND WHETHER IT WAS DRAWN IN
7 A WAY THAT'S CONSISTENT WITH TRADITIONAL REDISTRICTING
8 PRINCIPLES, IT MAKES SENSE TO CONSIDER WHETHER THE ENACTED MAP
9 MADE SOME OF THE SAME TYPES OF DECISIONS THAT MR. JOHNSON IS
10 CRITIQUING IN HIS REPORT HERE. IT GOES TO WHETHER MR. COOPER'S
11 MAPS ARE REASONABLY CONFIGURED, WHETHER THEY COMPLY WITH
12 TRADITIONAL REDISTRICTING PRINCIPLES. AND IF I CAN MAKE A
13 PROFFER OF WHAT THIS WILL SHOW.

14 **THE COURT:** MR. LEWIS?

15 **MR. LEWIS:** AGAIN, YOUR HONOR, MR. COOPER DREW HIS
16 PLAN. DR. JOHNSON EVALUATED MR. COOPER'S PLAN. GETTING INTO
17 AN ANALYSIS OF THE ENACTED PLAN, IT GOES BEYOND THE SCOPE OF
18 THE WITNESS' TESTIMONY. IT IS BEYOND THE SCOPE OF DIRECT,
19 BEYOND THE SCOPE OF THE REPORT.

20 **MS. KEENAN:** MAY I RESPOND?

21 **THE COURT:** YOU MAY.

22 **MS. KEENAN:** I THINK IT GOES TO THE WEIGHT OF HIS
23 OPINION, WHETHER SOMETHING THAT MR. COOPER DID THAT HE
24 CRITICIZED IS SOMETHING THAT THE ENACTED MAP ALSO DID,
25 SPECIFICALLY, CROSSING THE MISSISSIPPI RIVER IN THIS EXACT AREA

1:50PM

1 OF THE STATE.

2 **THE COURT:** YEAH, IT REALLY IS ALMOST IN THE WAY OF,
3 FOR LACK OF A BETTER WORD, IMPEACHMENT. I'M GOING TO OVERRULE
4 THE OBJECTION.

5 **BY MS. KEENAN:**

6 Q. SO JUST TO CONFIRM, YOU CAN SEE FROM THE TWO IMAGES ON
7 YOUR SCREEN ROUGHLY THE SAME TERRITORY OF THE STATE WITH THE
8 ENACTED MAP ON THE LEFT-HAND SIDE AND THE ILLUSTRATIVE MAP ON
9 THE RIGHT-HAND SIDE. WOULD YOU AGREE WITH THAT?

10 A. I'M TRYING TO GET MY BEARINGS BETWEEN THE TWO MAPS. I
11 MEAN, I CAN SEE THE MIDDLE CURVE OF THE RIVER COMPARES, BUT
12 THEY ARE VERY DIFFERENT SCALE MAPS.

13 Q. SURE. WELL, YOU DON'T NEED TO WORRY ABOUT THE SCALE FOR
14 THE QUESTIONS I'M GOING TO ASK YOU. YOU WOULD AGREE THIS IS
15 THE MISSISSIPPI RIVER THAT YOU ARE LOOKING AT?

16 A. OH, SURE.

17 Q. AND THAT THIS IS ROUGHLY ORLEANS PARISH AND JEFFERSON
18 PARISH, ALONG WITH THE SURROUNDING AREA? YES?

19 A. PIECES OF THEM, YES.

20 Q. OKAY. I WANT YOU TO LOOK AT ENACTED SD 5, JUST TO REFRESH
21 YOUR RECOLLECTION OF THE SHAPE OF THAT DISTRICT. WOULD YOU
22 AGREE THAT THE PORTION OF SD 5 THAT TOUCHES THE RIVER USES THE
23 MISSISSIPPI RIVER AS A BORDER IN PART?

24 A. IN PART, YES.

25 Q. AND YOU WOULD AGREE THAT THE OTHER PART OF SD 5 REACHES

1:51PM

1 ACROSS THE RIVER. WOULD YOU AGREE WITH THAT?

2 A. YES.

3 Q. YOU WOULD ALSO AGREE THAT IN EFFECT, IT CAPTURED A BLACK
4 POPULATION IN JEFFERSON PARISH IN DOING SO?

5 A. ARE YOU TALKING ABOUT THE RED AREA AT THE BOTTOM OF SD 5?

6 Q. I AM.

7 A. OKAY. YES, THAT IS BROUGHT INTO 5.

8 Q. OKAY. I WOULD NOW LIKE TO TALK ABOUT LDTX51, PAGE 14. WE
9 CAN REMOVE THE SIDE BY SIDE. THIS IS FIGURE 7 WHICH YOU TALKED
10 ABOUT ON DIRECT AS WELL, RIGHT?

11 A. YES.

12 Q. HERE YOU CALLED ATTENTION TO WHAT YOU CALLED A PENINSULA
13 OR A FINGER EXTENDING FROM DISTRICT 54 IN THIS FIGURE, RIGHT?

14 A. YES.

15 Q. ARE YOU AWARE THAT THE CROSSING FROM LAFOURCHE PARISH INTO
16 JEFFERSON PARISH THAT YOU CALLED A FINGER ACTUALLY CAPTURES AN
17 ISLAND?

18 A. I ACTUALLY -- WELL, I THOUGHT IT WAS A PENINSULA. I GUESS
19 THE BRIDGE IS CONNECTING TO THE ISLAND.

20 Q. THAT'S BECAUSE THIS MAP DOESN'T SHOW WATERWAYS IN THE
21 STATE, DOES IT?

22 A. NO.

23 Q. ARE YOU AWARE THAT THE ONLY WAY TO GET TO THAT ISLAND FROM
24 JEFFERSON PARISH IS ACTUALLY BY LAND THROUGH LAFOURCHE PARISH?

25 A. SURE.

1:53PM

1 Q. OKAY. YOU TALKED ABOUT HOW THE MAP DOESN'T -- HOW MR.
2 COOPER'S DISTRICTS DON'T COMPLY WITH VISIBLE FEATURES IN YOUR
3 MAPS. WOULD YOU AGREE THIS IS AN EXAMPLE WHERE SEEING A WATER
4 FEATURE MIGHT BE HELPFUL IN DETERMINING WHETHER MR. COOPER'S
5 MAPS WERE CONSISTENT WITH VISIBLE FEATURES ON YOUR MAP?

6 A. NO. I MEAN, WHEN I DESCRIBED IT, I MENTIONED IT ON THE
7 SHORELINE. I THINK EVERYONE KNOWS THAT WE ARE DOWN AT THE GULF
8 HERE.

9 Q. OKAY. SO YOU DON'T THINK IT WOULD BE HELPFUL TO INCLUDE
10 THE WATERWAYS AND THE IMAGES IN YOUR REPORT?

11 A. NOT FOR ME.

12 Q. OKAY. NEXT I WANT TO TALK ABOUT THE LAKE
13 CHARLES/CALCASIEU AREA THAT YOU DISCUSSED EARLIER TODAY. YOU
14 TALKED ABOUT THE ILLUSTRATIVE MAP'S TREATMENT OF THE LAKE
15 CHARLES AREA IN CALCASIEU. THAT INCLUDES HD 34. DO YOU RECALL
16 THAT TESTIMONY?

17 A. GENERALLY, YES.

18 Q. AGAIN, ARE YOU AWARE OF HOW THE ENACTED AND THE
19 ILLUSTRATIVE PLANS TREAT THE CALCASIEU PARISH AREA WITH RESPECT
20 TO DRAWING DISTRICT LINES?

21 A. AGAIN, I DID NOT SPEND MUCH TIME ON THE ENACTED MAP. I
22 LOOKED AT IT, BUT I DID NOT LOOK AT IT IN DETAIL. MY REPORT,
23 YOU KNOW, IS ALL ABOUT THE ILLUSTRATIVE MAPS.

24 Q. WOULD IT SURPRISE YOU TO LEARN THAT MR. COOPER REDUCED THE
25 NUMBER OF PARISH SPLITS IN CALCASIEU PARISH FROM THE ENACTED

1:54PM

1 MAP?

2 A. OFF THE TOP OF MY HEAD, I DON'T REMEMBER THE COUNTS OF
3 SPLITS IN ANY GIVEN PARISH, BUT I WOULD NOTE THE IMAGE ON THE
4 SCREEN RIGHT NOW HIGHLIGHTS THAT IT IS IMPORTANT TO UNDERSTAND
5 WHY A PARISH IS SPLIT. THERE ARE SOME VERY UNDERSTANDABLE
6 REASONS TO SPLIT IT. SO REDUCING THE NUMBER OF SPLITS, IT
7 SOUNDS NICE, BUT IT REALLY IS WHAT IS THE IMPACT OF REDUCING
8 THE SPLITS. IF YOU WERE TO REDUCE THE SPLIT THAT WE ARE
9 LOOKING AT NOW, JEFFERSON, YOU WOULD ACTUALLY BE CUTTING OFF
10 THAT ISLAND, AS YOU SAID.

11 Q. I KNOW YOU ARE SAYING THAT REDUCING THE NUMBER OF PARISH
12 SPLITS SOUNDS NICE, BUT YOU WOULD ALSO AGREE IT IS A
13 TRADITIONAL REDISTRICTING FACTOR, RIGHT?

14 A. IT IS ONE OF THE CONSIDERATIONS, BUT AS THIS MAP SHOWS,
15 THERE ARE OTHER CONSIDERATIONS THAT CAN JUSTIFY A SPLIT.

16 Q. OF COURSE. THOSE ARE THE TYPES OF TRADE-OFFS THAT WE
17 TALKED ABOUT EARLIER, RIGHT?

18 A. YES.

19 Q. BUT KEEPING DISTRICTS WITHIN PARISH BOUNDARIES IS ONE OF
20 THE TRADITIONAL REDISTRICTING FACTORS, YES?

21 A. YES.

22 Q. OKAY. ON DIRECT EXAMINATION YOU ALSO TESTIFIED ABOUT AN
23 ILLUSTRATIVE AID IN THE BATON ROUGE AREA. DO YOU RECALL THAT?

24 A. YES.

25 Q. OKAY. I'M GOING TO SHOW THE WITNESS THAT ILLUSTRATIVE AID

1:56PM 1 WHICH OUR TECH HAS LABELED AS I4. THIS IS THE FIGURE YOU
2 TALKED ABOUT DURING YOUR DIRECT EXAMINATION. IS THAT RIGHT?

3 A. YES.

4 Q. OKAY. I WANT TO BE CLEAR ABOUT WHAT IT SHOWS CURRENTLY
5 BEFORE I MOVE ON WITH MY TESTIMONY. SO LIKE YOU SAID, THIS
6 INCLUDES ANY ILLUSTRATIVE DISTRICT THAT TOUCHES EAST BATON
7 ROUGE PARISH, RIGHT?

8 A. WELL, THAT INCLUDES A PIECE OF EAST BATON ROUGE PARISH,
9 YES.

10 Q. SURE. THE ILLUSTRATIVE DISTRICT BORDERS ARE IN BLACK
11 HERE. YES?

12 A. YES.

13 Q. AND THE PORTIONS OF THE DISTRICT WITHIN EAST BATON ROUGE
14 ARE SHADED IN RED?

15 A. CORRECT.

16 Q. AND THE PORTIONS OF THE DISTRICTS THAT ARE NOT IN EAST
17 BATON ROUGE PARISH ARE SHADED IN BLUE, RIGHT?

18 A. YES.

19 Q. SO FIRST I WANT TO TALK ABOUT MR. COOPER'S TESTIMONY. YOU
20 TOLD US YOU REVIEWED THE TRANSCRIPT OF HIS TESTIMONY ABOUT THIS
21 AREA OF THE STATE, RIGHT?

22 A. YES.

23 Q. IN THAT TRANSCRIPT YOU SAW THAT DEFENSE COUNSEL DIDN'T ASK
24 HIM ANY QUESTIONS ABOUT THIS STATEMENT, RIGHT?

25 A. I DON'T RECALL.

1:56PM 1 Q. YOU DON'T KNOW WHETHER MR. COOPER HAPPENED TO MISSPEAK
2 ABOUT THE NUMBERS IN THIS AREA?

3 A. I DIDN'T SEE ANY CORRECTION TO IT.

4 Q. WOULD YOU AGREE IT IS NOT UNCOMMON TO MAKE A MISTAKE IN
5 RECITING NUMBERS WHEN YOU ARE TESTIFYING AND TO ACCIDENTALLY
6 FAIL TO CORRECT THEM?

7 A. GOOD LORD, THAT'S A GENERAL QUESTION.

8 Q. I CAN BE MORE SPECIFIC.

9 A. OKAY.

10 Q. FOR EXAMPLE, YOU TESTIFIED EARLIER TODAY THAT 11 OF 16
11 SENATE MAJORITY-MINORITY DISTRICTS ARE BETWEEN 50 AND
12 53 PERCENT BVAP. DO YOU REMEMBER THAT?

13 A. I DON'T REMEMBER THE SPECIFIC WORDING, BUT THAT WAS
14 READING FROM MY REPORT, I BELIEVE.

15 Q. WOULD YOU AGREE THERE ARE ACTUALLY ONLY 14 TOTAL SENATE
16 MAJORITY-MINORITY DISTRICTS?

17 A. I WAS LOOKING AT ALL OF THIS DISTRICT BY DISTRICT, SO I
18 DON'T HAVE THE TOTAL COUNTS OFF THE TOP OF MY HEAD, BUT IT IS
19 IN MY CHART HERE.

20 Q. SURE. IT IS POSSIBLE YOU MADE A MISTAKE, RIGHT?

21 A. YEAH. IN THE ILLUSTRATIVE MAP, THERE ARE 14.

22 Q. RIGHT. YOU WOULD AGREE THAT MISTAKE DIDN'T AFFECT
23 ANYTHING ELSE YOU TESTIFIED ABOUT ON YOUR DIRECT EXAMINATION,
24 RIGHT?

25 A. CORRECT.

1:58PM

1 Q. YOU DON'T OFFER ANY CONCLUSIONS ABOUT THE NUMBER OF
2 DISTRICTS IN THE BATON ROUGE AREA IN YOUR REPORTS, RIGHT?

3 A. NO.

4 Q. BUT JUST LIKE WITH THE OTHER DISTRICTS YOU TALKED ABOUT
5 TODAY, YOU DO OFFER CRITIQUES ABOUT WHETHER THE DISTRICTS IN
6 THIS AREA COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES,
7 RIGHT?

8 A. YES.

9 Q. AND AGAIN, ON -- IN YOUR REPORT, YOU STATE THAT THESE
10 DISTRICTS WERE DRAWN WITHOUT REGARD TO THOSE PRINCIPLES,
11 INCLUDING CITY BORDERS. DO YOU RECALL THAT?

12 A. AS SPECIFIED BY MR. COOPER IN HIS REPORT.

13 Q. NO, BUT I WANT TO BE CLEAR. YOU CONCLUDED THAT MR.
14 COOPER'S DISTRICTS WERE DRAWN WITHOUT REGARD TO CITY BORDERS,
15 RIGHT?

16 A. AS FAR AS HIS EXPLANATION OF WHY HE DREW THE LINES WHERE
17 THEY WERE, HIS CLAIM THAT HE FOLLOWED CITY BORDERS DID NOT
18 MATCH UP WITH HIS MAP.

19 Q. BEFORE WE GET INTO CITY BORDERS, I WANT TO SHOW YOU AN
20 ILLUSTRATIVE AID ON THIS ILLUSTRATIVE AID 35, WHICH IS A MOCKUP
21 OF DR. JOHNSON'S OWN ILLUSTRATIVE AID WE WERE JUST TALKING
22 ABOUT THAT ADDS AN OVERLAY DISPLAYING THE PRECINCTS IN GREEN
23 DOTTED LINES --

24 (AUDIO DISRUPTION.)

25 **THE COURT:** WE ARE GOING TO TAKE A RECESS.

1:59PM

1 (RECESS TAKEN AT 1:59 P.M. UNTIL 2:04 P.M.).

2 THE COURT: OKAY. IT REPAIRED ITSELF BEFORE IT EVEN
3 GOT HERE. I THINK WE HAVE A POLTERGEIST.

4 MS. KEENAN: CAN I PROCEED, YOUR HONOR?

5 THE COURT: OH, YES, PLEASE. PLEASE PROCEED. I
6 THOUGHT YOU WERE ALREADY UP THERE.

7 MS. KEENAN: BEFORE WE PULL THAT SAME THING BACK UP,
8 I'M GOING TO ASK YOU TO SHOW ANOTHER EXHIBIT, JUST A QUESTION I
9 FORGOT TO ASK ABOUT EARLIER. COULD THE TECH PLEASE PULL UP
10 EXHIBIT 20 -- IT'S PLAINTIFF'S EXHIBIT 20, I'M SORRY, PAGE 42.

11 BY MS. KEENAN:

12 Q. OKAY. DR. JOHNSON, DO YOU RECOGNIZE THIS AGAIN AS THAT
13 SAME ORLEANS/JEFFERSON PARISH AREA WE TALKED ABOUT A MOMENT
14 AGO?

15 A. YES.

16 Q. ON YOUR DIRECT, DO YOU RECALL TALKING ABOUT HOW THE BOTTOM
17 OF THE ILLUSTRATIVE DISTRICT HAS A CLUB-LIKE SHAPE REACHING
18 DOWN INTO JEFFERSON PARISH?

19 A. YES.

20 Q. ARE YOU AWARE OF HOW THIS IMAGE SHOWS THE ENACTED AND THE
21 ILLUSTRATIVE BORDERS?

22 A. IF I'VE SEEN THIS BEFORE, I DON'T RECALL IT.

23 Q. OKAY. I CAN REPRESENT TO YOU THAT THE RED LINE SHOWN ON
24 YOUR SCREEN IS THE ILLUSTRATIVE DISTRICT. DO YOU RECOGNIZE
25 THAT CONFIGURATION BASED ON WHAT YOU'VE TALKED ABOUT IN YOUR

2:05PM

1 REPORT?

2 A. YES.

3 Q. SURE. AND THE SHADED DISTRICTS THAT ARE NUMBERED ARE THE
4 ENACTED DISTRICT. DOES THAT LOOK FAMILIAR WITH THE ENACTED
5 SENATE DISTRICT 5 THAT WE JUST TALKED ABOUT A MOMENT AGO?

6 A. YES.

7 Q. CAN YOU TAKE A LOOK AT ENACTED DISTRICT 7 SHADED IN PEACH
8 ON THE JEFFERSON PARISH SIDE OF THE RIVER?

9 A. YES.

10 Q. YOU WOULD AGREE IT INCLUDES THE SAME BORDERS AT THAT
11 BOTTOM PART OF THE DISTRICT THAT YOU CALLED A CLUB, RIGHT?

12 A. WELL, IT'S MUCH WIDER. RIGHT WHERE THE 7 IS, IN THAT PART
13 OF THE CLUB, IT DOESN'T HAVE THE NARROW HANDLE, ALTHOUGH IT
14 DOES GO DOWN TO THE BOTTOM END OF IT, SIMILARLY.

15 Q. YOU WOULD AGREE THAT THE BOTTOM OF THAT DISTRICT IS THE
16 SAME BORDERS, RIGHT?

17 A. YES, THERE IS VERY LITTLE PEOPLE DOWN AT THE BOTTOM. THE
18 MAIN PART IS THE HANDLE THROUGH THE -- AROUND WHERE THE 7 IS.

19 Q. I WANT TO GO BACK TO THE BATON ROUGE AREA THAT WE WERE
20 JUST TALKING ABOUT, STARTING WITH ILLUSTRATIVE AID 35, WHERE WE
21 LEFT OFF BEFORE THE TECH ISSUE. OKAY. SO I WILL REPRESENT --
22 AGAIN, THIS IS A MOCKUP OF THE DEMONSTRATIVE AID THAT YOU
23 TESTIFIED ABOUT ON DIRECT THAT ADDS AN OVERLAY DISPLAYING THE
24 PRECINCTS IN GREEN DOTTED LINES. BASED ON WHERE THOSE BLACK
25 BORDERS THAT YOU TOLD US ABOUT OF THE ILLUSTRATIVE DISTRICTS

2:07PM

1 AND THE GREEN DOTTED LINES OVERLAP, CAN YOU IDENTIFY ANY LINE
2 IN THIS ILLUSTRATIVE AID OF THE BATON ROUGE AREA THAT DOES NOT
3 TRACK A PRECINCT LINE?

4 A. JUST A QUICK REVIEW. I DON'T SEE ANY.

5 Q. DO YOU RECALL TALKING ABOUT THE CITY OF CENTRAL IN YOUR
6 REPORT?

7 A. YES.

8 Q. YOU TALKED ABOUT HOW THE ILLUSTRATIVE MAP SPLITS THE CITY
9 OF CENTRAL, AND YOU REPRESENTED THAT THE ENACTED MAP KEEPS
10 CENTRAL WHOLE. DO YOU RECALL THAT?

11 A. YES.

12 Q. I'M NOW SHOWING THE WITNESS ILLUSTRATIVE AID 36, WHICH IS
13 DR. JOHNSON'S -- AGAIN, A MOCKUP OF DR. JOHNSON'S ILLUSTRATIVE
14 AID, BOTH AN OVERLAY OF THE CITY OF CENTRAL IN WHITE BORDERS,
15 AS WELL AS AN OVERLAY OF THE ENACTED MAP IN YELLOW BORDERS.

16 DR. JOHNSON, AGAIN, YOU RECOGNIZE THAT 2021 CALIPER STAMP AT
17 THE BOTTOM OF THIS IMAGE?

18 A. YES.

19 Q. YOU SEE THAT THE KEY IS SIMILAR TO THE ONES THAT YOU USE
20 IN THE FIGURES IN YOUR OWN REPORT, RIGHT?

21 A. YES.

22 Q. OKAY. AND SO YOU CAN SEE THAT THE CITY LIMITS OF CENTRAL
23 ARE REPRESENTED IN WHITE BASED ON THE KEY?

24 A. OKAY.

25 Q. AND THAT THE ENACTED HOUSE DISTRICT BORDERS ARE

2:08PM

1 REPRESENTED IN YELLOW, RIGHT?

2 A. THAT'S WHAT IT SAYS, YES.

3 Q. WOULD YOU AGREE, THEN, THAT THE ENACTED HOUSE DISTRICT 65
4 DOES SPLIT THE CITY OF CENTRAL?

5 A. ARE YOU REFERRING TO THE WHITE SLIVER AT THE VERY -- THE
6 LITTLE SLIVER AT THE VERY TOP?

7 Q. I AM.

8 A. IT DOES APPEAR THAT. NOW, WHEN LINES CORRESPOND IN THE
9 GIS SYSTEM AS CLOSELY AS THOSE DO, THAT'S PROBABLY JUST A
10 PROJECTION ERROR. IT PROBABLY MEANS THAT THE TWO LINES ARE NOT
11 DRAWN SIMILARLY AND THAT THEY COULD VERY WELL CORRELATE WHEN
12 THEY ARE THAT CLOSE TOGETHER, BECAUSE I'M NOT AWARE OF THE
13 ENACTED SPLITTING OFF FROM VTDS EITHER. I WOULD BE SURPRISED
14 IF A SLIVER LIKE THAT IS A VTD.

15 Q. YOU WOULD AGREE AGAIN, THOUGH, THAT VTDS AND MUNICIPALITY
16 LINES DON'T ALWAYS TRACK EACH OTHER, RIGHT?

17 A. IT DEPENDS ON THE STATE. I DON'T KNOW WHAT THE RULE IS IN
18 LOUISIANA.

19 Q. OKAY. CAN WE GO TO LDTX51 ON PAGE 34. THIS IS FIGURE 22
20 OF YOUR REPORT SHOWING THE SAME AREA.

21 A. YES.

22 Q. DO YOU SEE THE CITY OF CENTRAL WHERE THOSE PURPLE LINES
23 CONVERGE ON THE RIGHT SIDE OF THE IMAGE?

24 A. YES.

25 **MS. KEENAN:** AND COULD THE TECH ZOOM TO SHOW THE RED

2:09PM

1 LINE AT THE TOP?

2 **BY MS. KEENAN:**

3 Q. DO YOU SEE THAT RED LINE IN THE FIGURE IN YOUR OWN REPORT?

4 A. YES.

5 Q. YOU WOULD AGREE THAT'S WHAT YOU USE TO SHOW THE CITY
6 LIMITS OF CENTRAL, RIGHT?

7 A. CORRECT.

8 Q. AND WOULD YOU AGREE THAT THE CITY LIMITS IN THAT LINE
9 MATCH THE ONES IN THE ILLUSTRATIVE MAP THAT WE JUST SHOWED --
10 OR THE ILLUSTRATIVE AID THAT WE JUST SHOWED?

11 A. YES.

12 Q. OKAY. DID YOU ALSO REVIEW THE EXHIBITS TO MR. COOPER'S
13 REPORT?

14 A. THERE WERE A LOT OF THEM, SO, YES, I HAD THEM, AND I
15 LOOKED AT SOME OF THEM IN DETAIL AND SOME OF THEM JUST VERY,
16 VERY BRIEFLY.

17 **MS. KEENAN:** COULD THE TECH PULL UP PLAINTIFFS
18 EXHIBIT 44.

19 **BY MS. KEENAN:**

20 Q. YOU RECOGNIZE THIS AS AN ANALYSIS OF SPLITS OF CERTAIN
21 CENSUS PLACES?

22 A. YES.

23 Q. OKAY. COULD WE GO TO PAGE 2? DO YOU SEE THAT ABOUT IN
24 THE MIDDLE OF THE PAGE NEXT TO DISTRICT 64 AND DISTRICT 65,
25 CENTRAL IS LISTED TWICE?

2:10PM

1 A. YES.

2 Q. AND IF WE COULD ZOOM BACK OUT, YOU WOULD AGREE THIS IS THE
3 SPLIT FOR THE LA ENROLLED HOUSE, OR THE ENACTED MAP IN THIS
4 CASE, RIGHT?

5 A. YES.

6 Q. SO YOU WOULD AGREE THAT THESE SPLITS ALSO SHOW THAT THE
7 ENACTED MAP SPLITS THE CITY OF CENTRAL, CONTRARY TO WHAT YOU
8 SAID IN YOUR REPORT; IS THAT RIGHT?

9 A. YES, IT LOOKS LIKE I MISSED THAT ABOUT THREE-QUARTERS OF
10 ONE PERCENT OF THE CITY'S POPULATION WERE NOT INCLUDED IN THE
11 DISTRICT.

12 Q. YOU WOULD AGREE IT SPLITS THE CITY OF CENTRAL, JUST TO BE
13 CLEAR?

14 A. JUST A TINY BIT.

15 Q. I WANT TO GO BACK TO ILLUSTRATIVE AID 36.

16 A. I ACTUALLY GAVE THE NUMBER RIGHT THERE, 99.16 PERCENT OF
17 THE CITY WAS KEPT INTACT.

18 Q. SURE. BUT IT DIDN'T FOLLOW THE CITY LINE, RIGHT?

19 A. CORRECT.

20 Q. YOU MENTIONED CENTRAL IN YOUR REPORT, BUT DID YOU TAKE A
21 LOOK AT HOW THE ENACTED -- HOW THE ILLUSTRATIVE MAPS TREAT ANY
22 OF THE OTHER NEARBY CITIES?

23 A. I DID LOOK AT THEM AS THEY WERE IN THE MAP AS AN OVERLAY.
24 I DID NOT GO INTO DETAIL OR COMMENT ON THEM, OTHER THAN TO
25 COMMENT THAT I DO NOT SEE THE ILLUSTRATIVE MAP FOLLOWING THE

2:12PM

1 CITY BOUNDARIES IN ANY SIGNIFICANT EXTENT.

2 Q. SURE. YOU SPECIFICALLY MENTION THE CITY OF BAKER IN
3 ADDITION TO THE CITY OF CENTRAL IN YOUR REPORT. DO YOU RECALL
4 THAT? IT'S PARAGRAPH 76 OF YOUR REPORT.

5 A. YES, I DON'T REMEMBER WORD FOR WORD OF IT, BUT I CAN FLIP
6 TO THAT.

7 Q. SURE.

8 **MS. KEENAN:** THIS IS PAGE 33, STEPHEN.

9 A. YES.

10 **BY MS. KEENAN:**

11 Q. SO YOU SEE THE IMAGE IN BOTH CENTRAL AND BAKER HERE?

12 A. YES.

13 Q. DID YOU CHECK HOW THE ILLUSTRATIVE MAP TREATS THE CITY OF
14 BAKER OR ANY OF THE OTHER NEARBY CITIES TO CENTRAL?

15 A. NO, BECAUSE THAT WASN'T WHAT I WAS DISCUSSING HERE.

16 Q. OKAY. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 37.
17 THIS IS THE SAME AID WE WERE JUST DISCUSSING BUT WITH THE
18 ADDITION OF THE CITY LIMITS IN THE NEARBY CITIES OF BAKER AND
19 MERRYDALE, ALSO IN WHITE BORDERS.

20 DR. JOHNSON, AS YOU CAN SEE HERE, THE ILLUSTRATIVE MAP
21 BORDERS REMAIN IN BLACK, AND THE ENACTED MAP BORDERS REMAIN IN
22 YELLOW. DOES THAT COMPORT WITH YOUR UNDERSTANDING OF WHAT IS
23 ON THE SCREEN HERE?

24 A. YES.

25 Q. YOU CAN SEE, BASED ON THIS ILLUSTRATIVE AID, THAT THIS IS

2:13PM 1 AN AREA WHERE THERE'S A TRADE-OFF MADE IN THE TWO MAPS, RIGHT?

2 A. I'M NOT SURE WHAT YOU MEAN BY TRADE-OFF.

3 Q. SURE. SO THE ILLUSTRATIVE MAP -- I'M SORRY. THE ENACTED
4 MAP KEEPS MOST OF CENTRAL WHOLE, RIGHT?

5 A. YES.

6 Q. BUT IT SPLITS BAKER AND MERRYDALE RIGHT DOWN THE MIDDLE?

7 A. IT SPLITS THEM. I DON'T KNOW THE PERCENTAGES, BUT YES.

8 Q. SURE. IN CONTRAST, THE ILLUSTRATIVE MAP SPLITS CENTRAL,
9 LIKE YOU TALKED ABOUT IN YOUR REPORT, RIGHT?

10 A. YES.

11 Q. BUT IT APPEARS TO KEEP BAKER AND MERRYDALE WHOLE OR AT
12 LEAST NEARLY WHOLE, RIGHT?

13 A. IT'S HARD TO TELL FROM THIS BECAUSE THE BLACK LINES
14 DISAPPEAR UNDER THE YELLOW LINES.

15 Q. I CAN PUT UP A SIDE-BY-SIDE OF THIS WITH THE INITIAL OF
16 I4.

17 **MS. KEENAN:** STEPHEN, COULD YOU PUT THEM NEXT TO EACH
18 OTHER? AND COULD YOU ZOOM IN ON THIS PLACE WHERE THOSE THREE
19 LINES DIVERGE ABOVE 65, AS WELL AS THE EAST BATON ROUGE
20 BORDERS, SO WE CAN SEE THE SAME TERRITORY. I'M SORRY. IT'S A
21 BIT HIGHER THAN THAT. STARTING AT THE TOP. THERE YOU GO.
22 EXACTLY. THANK YOU.

23 **BY MS. KEENAN:**

24 Q. CAN YOU SEE THE TWO SETS OF LINES NOW?

25 A. YES.

2:15PM 1 Q. AND WOULD YOU AGREE THAT THE ENACTED MAP KEEPS BAKER AND
2 MERRYDALE LARGELY WHOLE?

3 A. YES.

4 Q. OH, SORRY. I WITHDRAW THE QUESTION BECAUSE I MISSTATED.
5 IT'S THE ILLUSTRATIVE MAP THAT KEEPS BAKER AND MERRYDALE
6 LARGELY WHOLE, RIGHT, DR. JOHNSON?

7 A. I WAS WITH YOU. YES.

8 Q. THANK YOU. SORRY FOR THE CONFUSION.

9 ARE YOU AWARE OF THE POPULATION OF ANY OF THESE THREE
10 CITIES?

11 A. I KNOW THE POPULATION COUNT OF CENTRAL IS JUST BELOW
12 30,000, AND MY REPORT MENTIONS THE POPULATION DENSITY, I THINK,
13 OF THE OTHERS.

14 Q. THAT'S RIGHT. AND YOU MENTIONED THE POPULATION OF CENTRAL
15 TO SHOW THAT IT WAS SMALL ENOUGH TO BE DRAWN INTO A SINGLE
16 HOUSE DISTRICT, RIGHT?

17 A. YES.

18 Q. ARE YOU ALSO AWARE OF THE BVAP OF ANY OF THESE THREE
19 CITIES?

20 A. NO.

21 Q. OKAY. I'M NOW SHOWING THE WITNESS ILLUSTRATIVE AID 38,
22 AGAIN, SAME AID BUT WITH THE ADDITION OF THE POPULATION AND
23 BVAP OF EACH CITY. SO YOU WOULD AGREE THAT THE POPULATION OF
24 CENTRAL COMPORTS WITH THE NUMBER IN YOUR REPORT THAT IS 29,565
25 PEOPLE IN CENTRAL, RIGHT?

2:16PM

1 A. YES.

2 Q. DO YOU AGREE THAT'S SMALL ENOUGH TO BE DRAWN INTO A SINGLE
3 HOUSE DISTRICT, LIKE YOU SAID?

4 A. YES.

5 Q. THIS AID SHOWS THAT MERRYDALE AND BAKER BOTH HAVE SMALLER
6 POPULATIONS, RIGHT?

7 A. YES.

8 Q. ALSO SMALL ENOUGH TO BE DRAWN INTO A SINGLE HOUSE
9 DISTRICT, RIGHT?

10 A. YES.

11 Q. DO YOU HAVE ANY REASON TO DISPUTE THAT THE BVAP OF CENTRAL
12 IS 10.94 PERCENT?

13 A. I DON'T KNOW WHAT IT IS.

14 Q. OKAY. DO YOU HAVE ANY REASON TO DISPUTE THAT THE BVAP OF
15 BAKER IS 80.80 PERCENT?

16 A. I DON'T KNOW WHAT IT IS.

17 Q. AND DO YOU HAVE ANY REASON TO DISPUTE THE BVAP OF
18 MERRYDALE IS 94.73 PERCENT?

19 A. I DO NOT KNOW WHAT IT IS.

20 Q. ALTHOUGH YOU DON'T KNOW WHAT IT IS RIGHT NOW, YOU WOULD
21 AGREE THAT YOU HAD THAT INFORMATION AVAILABLE TO YOU WHEN YOU
22 WERE REVIEWING MR. COOPER'S MAPS, RIGHT?

23 A. YES. IT'S IN THE LAYER. I COULD HAVE PULLED IT AND SEEN
24 WHAT IT WAS.

25 Q. WHEN YOU TALKED ABOUT THE CITY OF CENTRAL, YOU PULLED SOME

2:17PM 1 OF THAT INFORMATION, INCLUDING THE POPULATION OF CENTRAL,
2 RIGHT?

3 A. I THINK THAT WAS WHAT I PULLED WAS THE POPULATION OF
4 CENTRAL.

5 Q. YOU'VE TALKED ABOUT HOW YOU'VE DRAWN MAPS IN THE
6 REDISTRICTING CONTEXT, RIGHT?

7 A. YES.

8 Q. EARLIER I THINK YOU TESTIFIED YOU HAD DRAWN THOUSANDS?

9 A. YES.

10 Q. YOU'VE TESTIFIED PREVIOUSLY THAT WHEN YOU HAVE TO CHOOSE
11 BETWEEN DIVIDING ONE OF TWO COMMUNITIES OF INTEREST IN YOUR OWN
12 MAPS, YOU TRY TO MAKE SURE THAT THE ONE YOU ARE DIVIDING IS NOT
13 ONE OF THE ONES THAT IS HEAVILY MADE UP OF A PROTECTED CLASS.
14 DO YOU RECALL THAT TESTIMONY?

15 A. IS THAT FROM THE DEPOSITION?

16 Q. IT IS.

17 A. I DON'T RECALL SPECIFICALLY SAYING, BUT IT DOES SOUND
18 FAMILIAR.

19 **MS. KEENAN:** I CAN REFRESH THE WITNESS' RECOLLECTION.
20 COULD THE TECH PLEASE PULL UP PAGE 198 OF HIS DEPOSITION.

21 **BY MS. KEENAN:**

22 Q. COULD YOU TAKE A LOOK AT LINES 10 THROUGH 25 OF THIS
23 DEPOSITION. YOU CAN JUST READ IT TO YOURSELF. LET ME KNOW
24 WHENEVER YOU ARE DONE, PLEASE.

25 A. (WITNESS COMPLIES.) SURE. I'M DONE.

2:18PM

1 Q. I WILL ASK THE QUESTION AGAIN. CAN YOU TAKE DOWN THE
2 DEPOSITION, PLEASE. WHEN YOU HAVE TO CHOOSE BETWEEN DIVIDING
3 ONE OF TWO COMMUNITIES OF INTEREST IN YOUR OWN MAPS, YOU
4 TESTIFIED THAT YOU TRY TO MAKE SURE THAT THE ONE YOU ARE
5 DIVIDING IS NOT ONE OF THE ONES THAT IS HEAVILY MADE UP OF A
6 PROTECTED CLASS, RIGHT?

7 A. IN GENERAL, YES. THE ISSUE CHANGES IF BOTH DISTRICTS
8 DIVIDING IT ARE MAJORITY PROTECTED CLASS. THAT IS A DIFFERENT
9 SITUATION. BUT IN GENERAL, YES.

10 Q. AND BEFORE WE MOVE ON TO BATON ROUGE, YOUR REPORT OFFERED
11 THE OPINION THAT EACH DISTRICT IS DRAWN WITHOUT REGARD TO MAJOR
12 ROADS IN BATON ROUGE AS WELL. DO YOU RECALL THAT?

13 A. YES.

14 Q. OKAY. THE ILLUSTRATIVE AID YOU TALKED ABOUT IN COURT
15 TODAY DOESN'T SHOW MAJOR ROADS, DOES IT, THE ONE WITH THE
16 DISTRICTS OF -- THAT TOUCH ON EAST BATON ROUGE?

17 A. THE ONE WITH THE PARISH COLORED RED?

18 Q. YES.

19 A. NO, THAT WAS JUST COUNTING HOW MANY DISTRICTS ARE IN THE
20 PARISH.

21 Q. RIGHT. BUT YOUR REPORT DOES SHOW THE MAJOR ROADS IN BATON
22 ROUGE, RIGHT?

23 A. YES.

24 Q. SO YOU WOULD RECOGNIZE THE MAJOR ROADS IN THE CITY OF
25 BATON ROUGE IF YOU SAW THEM?

2:19PM 1 A. CERTAINLY THE FREEWAYS AND HIGHWAYS, THINGS LIKE THAT.

2 MS. KEENAN: COULD THE TECH PLEASE PULL UP

3 ILLUSTRATIVE AID 12.

4 BY MS. KEENAN:

5 Q. DO YOU RECOGNIZE THESE AS THE MAJOR STREETS IN BATON
6 ROUGE? SPECIFICALLY, YOU RECOGNIZE THE HIGHWAYS AND FREEWAYS?

7 A. YES.

8 Q. OKAY. ARE YOU FAMILIAR WITH AIRLINE HIGHWAY?

9 A. I DON'T KNOW THE INDIVIDUAL NAMES.

10 Q. ARE YOU FAMILIAR WITH THE ROAD MARKED U.S. 61, U.S. 190,
11 RIGHT HERE IN THE CENTER OF THIS ILLUSTRATIVE AID?

12 A. I CAN SEE IT, YES.

13 MS. KEENAN: CAN THE TECH PULL UP ILLUSTRATIVE AID
14 113 NEXT.

15 BY MS. KEENAN:

16 Q. THIS IS A DEPICTION OF THE ILLUSTRATIVE DISTRICTS IN BATON
17 ROUGE THAT YOU CRITICIZED, RIGHT?

18 A. YES, IT'S SHIFTED A LITTLE BIT SOUTH OF WHAT I WAS
19 SHOWING, BUT YES.

20 Q. AND ALTHOUGH YOU'VE TESTIFIED THAT THE LINES AREN'T
21 CONSISTENT WITH MAJOR ROADS, YOU CAN SEE THAT THE MAJOR BORDER
22 BETWEEN ILLUSTRATIVE HOUSE DISTRICT 68 AND 69 IS AIRLINE
23 HIGHWAY, RIGHT?

24 A. THAT ONE BORDER, YES.

25 Q. THE ONE BORDER BETWEEN THE TWO ILLUSTRATIVE MAJORITY BLACK

2:20PM

1 DISTRICTS, YES.

2 A. BUT THERE ARE MORE THAN TWO MAJORITY BLACK DISTRICTS HERE.

3 Q. DO YOU AGREE THAT ILLUSTRATIVE HD 68 IS A MAJORITY BLACK
4 DISTRICT?

5 A. YES.

6 Q. YOU WOULD AGREE THAT ILLUSTRATIVE HOUSE DISTRICT 69 IS A
7 MAJORITY BLACK DISTRICT?

8 A. JUST BARELY.

9 Q. AND DO YOU AGREE THAT THE BORDER BETWEEN THOSE TWO
10 DISTRICTS IS AIRLINE HIGHWAY?

11 A. YES.

12 Q. I KNOW WE TALKED A LITTLE BIT ABOUT THIS, BUT YOU DIDN'T
13 REVIEW DR. COLTEN'S OPINIONS ABOUT THIS AREA OF THE STATE
14 EITHER?

15 A. CORRECT.

16 Q. SO AGAIN, YOU DON'T KNOW WHETHER HIS OPINIONS WOULD IMPACT
17 YOUR TESTIMONY ABOUT WHETHER THESE DISTRICTS ARE CONSISTENT
18 WITH COMMUNITIES OF INTEREST IN THE CITY?

19 A. WITH HIS VIEW OF COMMUNITIES OF INTEREST?

20 Q. YES. CORRECT. YOU CAN TAKE THE DEMONSTRATIVE DOWN.
21 THANK YOU.

22 YOU TALKED A LITTLE BIT ABOUT THE CONCEPT OF DIFFERENTIAL
23 PRIVACY EARLIER TODAY. DO YOU REMEMBER THAT?

24 A. YES.

25 Q. OKAY. ON DIRECT EXAMINATION, YOU SAID, AND I'M QUOTING

2:22PM 1 FROM YOUR TESTIMONY, "WE USED TO KNOW THAT THE DATA IN EACH
2 BLOCK WAS THE ACTUAL COUNT OF PEOPLE THAT THE CENSUS BUREAU
3 COUNTED." RIGHT?

4 A. YES.

5 Q. AND IT'S YOUR UNDERSTANDING THAT THE NEW PROCEDURE THE
6 CENSUS BUREAU INTRODUCED THIS YEAR DISRUPTED THAT ACTUAL COUNT
7 OF PEOPLE THAT YOU USED TO HAVE INFORMATION ABOUT. IS THAT
8 RIGHT?

9 A. IT ADDS NOISE OR CHANGES THE DATA, YES.

10 Q. IT'S NOT YOUR OPINION, THOUGH, THAT THE CONCEPT OF
11 DIFFERENTIAL PRIVACY IS NEW FOR THE CENSUS BUREAU, IS IT?

12 A. THE POLICY IS NEW. I DON'T KNOW WHAT YOU MEAN BY THE
13 CONCEPT.

14 Q. SURE. ARE YOU AWARE THAT THE CENSUS BUREAU HAD
15 IMPLEMENTED A DATA SWAPPING PROCESS TO PROTECT PRIVACY SINCE
16 1990?

17 A. OH, YEAH, BUT THAT IS COMPLETELY DIFFERENT THAN
18 DIFFERENTIAL PRIVACY.

19 Q. THE REASON IT IS DIFFERENT IS THAT UNDER -- ONE REASON IT
20 IS DIFFERENT, AS YOU EXPLAINED, IS THAT YOU MAY HAVE KNOWN THE
21 ACTUAL COUNT OF PEOPLE BEING SWAPPED, RIGHT, UNDER THE DATA
22 SWAPPING MACHINE?

23 A. IT'S NOT REALLY AN ACCURATE DESCRIPTION OF IT.

24 Q. YOU WOULD AGREE, THOUGH, THAT THE DIFFERENCE, ONE
25 DIFFERENCE BETWEEN THE DATA SWAPPING AND THE NEW DISCLOSURE

2:23PM 1 AVOIDANCE PROCESS IS THAT IT AFFECTS THE ACTUAL COUNT OF PEOPLE
2 THAT SHOW UP IN THE CENSUS BLOCKS?

3 A. THE DIFFERENTIAL PRIVACY DOES SO, YES.

4 Q. WHEN YOU SAY DIFFERENTIAL PRIVACY, YOU WOULD AGREE THAT'S
5 THE SAME AS THE DISCLOSURE AVOIDANCE PROCESS THAT THE CENSUS
6 BUREAU HAS DISCUSSED, JUST TO BE PRECISE?

7 A. WELL, DISCLOSURE AVOIDANCE IS THE BIG TENT. DATA SWAPPING
8 WAS AN OLD PIECE OF IT. DIFFERENTIAL PRIVACY IS THE NEW
9 APPROACH TO IT.

10 Q. OKAY. SO LET'S MAKE SURE WE ARE USING THE SAME TERMS
11 THEN. YOU WOULD DESCRIBE DISCLOSURE AVOIDANCE AS THE UMBRELLA
12 TERM, RIGHT, OF THOSE TWO CONCEPTS WE JUST TALKED ABOUT?

13 A. I GUESS SO, YES.

14 Q. AND YOU WOULD SAY THAT DATA SWAPPING AND DIFFERENTIAL
15 PRIVACY ARE TWO DIFFERENT WAYS OF GETTING AT DISCLOSURE
16 AVOIDANCE BY THE CENSUS BUREAU?

17 A. TWO RADICALLY DIFFERENT WAYS.

18 Q. BUT YOU WOULD AGREE THAT EVEN UNDER DATA SWAPPING, PRIOR
19 TO THE INTRODUCTION OF DIFFERENTIAL PRIVACY, YOU DID NOT KNOW
20 THE EXACT RACIAL COMPOSITION OF EACH BLOCK, EVEN IF YOU KNOW
21 THE ACTUAL COUNT OF PEOPLE?

22 A. DATA SWAPPING IS RARE. IT DOESN'T HAPPEN IN EVERY BLOCK.
23 IT ONLY HAPPENS IN CERTAIN CIRCUMSTANCES WHERE THERE ARE
24 CERTAIN CONCERNS. AND SO IN THOSE FEW BLOCKS, YOU ARE CORRECT,
25 THEY MIGHT CHANGE THE NUMBER. DIFFERENTIAL PRIVACY HAPPENS IN

2:24PM

1 EVERY BLOCK. IT CHANGES EVERY NUMBER.

2 Q. WE WILL TALK MORE ABOUT DIFFERENTIAL PRIVACY IN A MINUTE.

3 I WANT TO FOCUS ON DATA SWAPPING FIRST. EVEN THOUGH IT DOESN'T
4 HAPPEN IN EVERY BLOCK, YOU WOULD AGREE THAT THE SWAPPING IS
5 RANDOMIZED, RIGHT?

6 A. NO.

7 Q. ARE YOU ALWAYS ABLE TO DISCERN WHICH BLOCKS HAVE BEEN
8 CHANGED?

9 A. TO A DEGREE. IT'S BEEN A LONG TIME SINCE I'VE TALKED
10 ABOUT DATA SWAPPING, BUT IT WOULD ONLY HAPPEN WHEN THERE WAS
11 LIKE A -- LIKE A SINGLE PERSON KIND OF FACTOR. THAT IS
12 PROBABLY TOO SPECIFIC. IT WOULD PROBABLY ONLY HAPPEN WHEN
13 THERE WERE SO FEW PEOPLE IN A GIVEN GROUP THAT THEY COULD BE
14 EXPOSED -- THAT THEIR DATA COULD BE EXPOSED, ESSENTIALLY WHEN
15 THERE'S ONLY ONE NATIVE AMERICAN IN A BLOCK. THEY ARE NOT
16 GOING TO GIVE THE DATA FOR THE NATIVE AMERICAN IN THAT BLOCK.
17 SO IT WAS PRETTY RARE. SO IT WOULD TEND TO HAPPEN IN THOSE FEW
18 SITUATIONS.

19 Q. BUT YOU WOULD AGREE THAT IN BLOCKS WHERE THE DATA HAD BEEN
20 SWAPPED, YOU WOULDN'T KNOW THE EXACT RACIAL COMPOSITION OF EACH
21 BLOCK AS IT WAS SHOWN IN THE CENSUS DATA, RIGHT?

22 A. IN THOSE FEW BLOCKS, IT WOULD BE OFF BY ONE PERSON.

23 Q. SO EVEN BEFORE THIS CYCLE, YOU WOULD AGREE THAT THERE WERE
24 SOME INACCURACIES IN THE CENSUS BUREAU DATA ABOUT THE EXACT
25 RACIAL COMPOSITION OF CERTAIN DISTRICTS?

2:26PM

1 A. IN DATA SWAPPING YOU ARE TALKING ABOUT THOUSANDS OF A
2 PERCENT OF A DISTRICT. I MEAN, THE NUMBERS ARE TINY. I DON'T
3 KNOW -- I CAN'T TELL YOU THE EXACT PERCENTAGE IT WOULD SHIFT,
4 BUT I WOULD BE STUNNED IF IT WOULD CHANGE A .01 PERCENTAGE OF A
5 DISTRICT'S DEMOGRAPHICS. I MEAN, THE CENSUS ISN'T ACCURATE.
6 THAT'S A MUCH BIGGER FACTOR THAN DATA SWAPPING WAS.

7 Q. I WANT TO GET TO THAT IN JUST A MINUTE. FIRST I WANT TO
8 TALK ABOUT THE DIFFERENTIAL PRIVACY AS YOU ARE DESCRIBING IT.
9 THIS IS WHAT YOU ARE CALLING THE NEW PROCEDURE THAT THE CENSUS
10 BUREAU HAS PUT INTO PLACE THAT INVOLVES BLURRING OR ADDING
11 NOISE TO THE DISTRICTS, RIGHT, JUST SO WE AGREE ON TERMS?

12 A. YES.

13 Q. YOU REFERENCED A BALLPARK OF A ONE-PERCENT MARGIN OF ERROR
14 IN CONGRESSIONAL PLANS AS THE CENSUS BUREAU HAS DISCUSSED?

15 A. YES.

16 Q. YOU WOULD AGREE THEY HAVEN'T GIVEN ANY PRECISE FIGURE
17 ABOUT THE MARGIN OF ERROR THAT THIS DIFFERENTIAL PRIVACY
18 PROCESS INTRODUCES?

19 A. CORRECT.

20 Q. AND THEY HAVE NOT EXPLAINED THE MARGIN OF ERROR IN STATE
21 LEGISLATIVE REDISTRICTING PLANS AT ALL, RIGHT?

22 A. WELL, THEY HAVE SAID THAT IT'S BIGGER -- AS THE GEOGRAPHY
23 GETS SMALLER, THE ERROR GETS BIGGER. SO WE KNOW WHATEVER IT
24 WAS AT THE CONGRESSIONAL LEVEL, THE LEGISLATIVE LEVEL IS GOING
25 TO BE BIGGER, THE PARISH LEVEL IS GOING TO BE BIGGER, THE CITY

2:27PM

1 AND TRACT LEVELS ARE GOING TO BE EVEN BIGGER.

2 Q. BUT AGAIN, NO PRECISE FIGURE, RIGHT?

3 A. CORRECT.

4 Q. AND YOU ARE NOT TESTIFYING THAT YOU KNOW THE MARGIN OF
5 ERROR THAT WOULD BE INTRODUCED HERE BY THIS DIFFERENTIAL
6 PRIVACY PROCESS?

7 A. I WISH I COULD, BUT NOBODY OUTSIDE OF THE CENSUS BUREAU
8 CAN. AND THEY GO TO JAIL IF THEY SAY.

9 Q. AND FOR THAT REASON, YOU DIDN'T CONDUCT ANY ANALYSIS TO
10 PROVIDE AN ACTUAL RATHER THAN A HYPOTHETICAL MARGIN OF ERROR IN
11 THE STATE LEGISLATIVE REDISTRICTING PLANS, RIGHT?

12 A. THAT WOULD BE IMPOSSIBLE.

13 Q. LIKE YOU JUST TOLD US, CENSUS DATA IS ALWAYS IMPERFECT,
14 EVEN PRIOR TO THE INTRODUCTION OF THE DIFFERENTIAL PRIVACY
15 PROCESS, RIGHT?

16 A. YES.

17 Q. SOME OF THE OTHER MARGINS OF ERROR IN CENSUS DATA INCLUDE
18 PROBLEMS THAT RESULT FROM UNDERCOUNTING. ARE YOU FAMILIAR WITH
19 THAT PROCESS?

20 A. AND OVERCOUNTING, CERTAINLY.

21 Q. YOU WOULD AGREE THAT THE MARGIN OF ERROR CREATED BY
22 UNDERCOUNTING CAN BE FOR LARGER THAN ONE PERCENT, RIGHT?

23 A. YES.

24 Q. ARE YOU AWARE THAT PAST CENSUS RESULTS HAVE BEEN ESTIMATED
25 TO UNDERSTATE THE ACTUAL BLACK POPULATION, FOR EXAMPLE, BY MORE

2:28PM

1 THAN 7 PERCENT?

2 A. I DON'T RECALL SEEING A SPECIFIC STUDY SAYING THAT.

3 Q. YOU WOULDN'T DISPUTE THAT, THOUGH, RIGHT?

4 A. OFF THE TOP OF MY HEAD, I DON'T KNOW.

5 Q. DESPITE THESE MARGINS OF ERROR AND THE CENSUS DATA IN
6 GENERAL, YOU RELY ON CENSUS DATA IN DRAWING YOUR MAPS, RIGHT?

7 A. BY LAW WE DO.

8 Q. RIGHT. YOU ARE NOT AWARE OF ANY COURT THAT HAS REJECTED A
9 *GINGLES* I EXPERT'S RELIANCE UPON CENSUS DATA IN A SECTION 2
10 CASE, ARE YOU?

11 A. YOU MEAN THEY REJECTED THE USE OF CENSUS DATA?

12 Q. I'M SAYING THAT'S NEVER HAPPENED, RIGHT? THE USE OF
13 CENSUS DATA IS COMMON IN REDISTRICTING, ESPECIALLY IN SECTION 2
14 CASES?

15 A. OH, OF COURSE. IT'S THE BEST AVAILABLE DATA.

16 Q. RIGHT. I NOW WANT TO TALK ABOUT SENSITIVITY OR
17 EFFECTIVENESS. DO YOU REMEMBER DISCUSSING THAT ON YOUR DIRECT?

18 A. THE SENSITIVITY ANALYSIS? YES.

19 Q. OKAY. WHEN YOU ARE DRAWING MAJORITY-MINORITY DISTRICTS IN
20 YOUR OWN WORK, YOU AGREE IT IS IMPORTANT TO CONSIDER WHETHER
21 THAT DISTRICT IS AFFECTED, RIGHT?

22 A. IN MY OWN WORK, YES.

23 Q. THAT'S BECAUSE WHEN YOU ARE TRYING TO EMPOWER A REGION
24 THAT'S HISTORICALLY BEEN UNDERREPRESENTED, YOU WANT TO BE SURE
25 THE DISTRICT YOU'VE DRAWN IS ACTUALLY CAPABLE OF EMPOWERING

2:29PM

1 THEM, RIGHT?

2 A. THAT'S PROBABLY A FAIR DESCRIPTION OF IT. IT CERTAINLY
3 CAPTURES THE IDEA.

4 Q. OKAY. JUST TO MAKE SURE THE RECORD IS CLEAR, I'M GOING TO
5 SHOW THE WITNESS PAGE 259 OF HIS DEPOSITION. THIS IS JUST
6 REFRESHING HIS RECOLLECTION, NOT AN ATTEMPT AT IMPEACHMENT.

7 A. I JUST PHRASED MY OWN QUOTE.

8 Q. WOULD YOU MIND READING LINES 4 TO 7 HERE?

9 A. IF WE'RE TRYING TO --

10 Q. I'M SORRY. JUST TO YOURSELF.

11 A. I'M SORRY.

12 Q. HAVE YOU READ IT?

13 A. YES.

14 Q. OKAY. I WILL TAKE IT DOWN. I JUST WANT TO REASK THE
15 QUESTION AGAIN TO MAKE SURE WE ARE ON THE SAME PAGE. "THE
16 REASON EFFECTIVENESS IS IMPORTANT TO YOU IS BECAUSE WHEN YOU
17 ARE TRYING TO EMPOWER A REGION THAT HAS HISTORICALLY BEEN
18 UNDERREPRESENTED, YOU WANT TO BE SURE THAT THE DISTRICT YOU
19 HAVE DRAWN IS ACTUALLY CAPABLE OF EMPOWERING THEM," RIGHT?

20 A. YES.

21 Q. NOW, YOUR REPORT STATES -- CAN WE PULL UP LDTX51 AT PAGE
22 41. I'M LOOKING AT PAGE -- PARAGRAPH 93. YOUR REPORT STATES,
23 "THE ENACTED MAP PERFORMS MUCH BETTER IN A
24 SENSITIVITY/ROBUSTNESS TEST." DID I READ THAT CORRECTLY?

25 A. YES.

2:31PM

1 Q. I WANT TO TALK ABOUT WHAT YOU MEAN WHEN YOU SAY YOU
2 CONDUCTED A SENSITIVITY OR EFFECTIVENESS TEST. YOU DID NOT
3 ATTEMPT TO CALCULATE THE EFFECTIVENESS LEVEL OF ANY DISTRICT,
4 CORRECT?

5 **MR. LEWIS:** OBJECTION. IT MISCHARACTERIZES THE
6 WITNESS'S REPORT. HE DIDN'T SAY HE CONDUCTED AN EFFECTIVENESS
7 TEST.

8 **MS. KEENAN:** MAY I RESPOND, YOUR HONOR?

9 **THE COURT:** YOU MAY.

10 **MS. KEENAN:** HE SPECIFICALLY SAID THAT IN HIS DIRECT
11 TESTIMONY. I OBJECTED AND I WAS TOLD THAT I COULD EXPLORE IT
12 ON CROSS-EXAMINATION.

13 **THE COURT:** OVERRULED.

14 **BY MS. KEENAN:**

15 Q. YOU DID NOT ATTEMPT TO CALCULATE THE EFFECTIVENESS LEVEL
16 OF ANY DISTRICT?

17 A. CORRECT. I DID A, AS I WROTE HERE, SENSITIVITY/ROBUSTNESS
18 TEST, NOT AN EFFECTIVENESS TEST.

19 Q. RIGHT. SO IN CONDUCTING WHAT YOU ARE CALLING A
20 SENSITIVITY OR ROBUSTNESS TEST, YOU DISCUSS A HYPOTHETICAL CASE
21 WHERE THE EFFECTIVENESS LEVEL OF EVERY DISTRICT MIGHT BE
22 53 PERCENT AP BLACK VAP, RIGHT?

23 A. YES, I'M SHIFTING FROM -- WELL, I'M SAYING A SENSITIVITY
24 RANGE AROUND MR. COOPER'S DISTRICTS THAT HE PROVIDED AS
25 EFFECTIVE. SO I'M ACCEPTING HIS EFFECTIVENESS TESTING AND THEN

2:32PM

1 DOING A SENSITIVITY/ROBUSTNESS TESTING AROUND THAT.

2 Q. I WANT TO BREAK THAT DOWN. MR. COOPER'S REPORT TALKS
3 ABOUT THE BVAP OF EACH OF HIS DISTRICTS, RIGHT?

4 A. YES.

5 Q. SO THAT'S WHAT YOU ARE DRAWING FROM MR. COOPER'S REPORT IS
6 THE BLACK VOTING AGE POPULATION PERCENTAGE OF EACH DISTRICT?

7 A. AND HIS STATEMENT THAT THEY ARE EFFECTIVE.

8 Q. RIGHT. HE HAS STATED THAT THEY ARE EFFECTIVE. HE DID NOT
9 PROVIDE THE 53 PERCENT NUMBER THAT YOU SUPPLY IN YOUR REPORT,
10 RIGHT?

11 A. CORRECT. THAT'S THE SENSITIVITY/ROBUSTNESS TEST.

12 Q. THAT NUMBER IS A HYPOTHETICAL THAT YOU CAME UP WITH AND
13 INCLUDED IN YOUR REPORT, RIGHT?

14 A. CORRECT.

15 Q. SAME WITH THE 45 PERCENT NUMBER. THAT NUMBER DID NOT COME
16 FROM MR. COOPER, RIGHT?

17 A. WHICH 45 PERCENT NUMBER?

18 Q. THAT'S IN PARAGRAPH 89 OF YOUR REPORT, FIRST SENTENCE
19 THERE IN PARAGRAPH 89.

20 A. OH, CORRECT. THAT'S ALSO A HYPOTHETICAL.

21 Q. RIGHT. SO AGAIN, THIS IS A HYPOTHETICAL NUMBER THAT YOU
22 INSERTED IN THE REPORT, NOT ANYTHING THAT MR. COOPER SAID HIS
23 DISTRICTS COMPLIED OR DIDN'T COMPLY WITH?

24 A. CORRECT. I'M JUST USING WORDS TO ILLUSTRATE WHAT CAN BE
25 DONE VISUALLY ON THOSE CHARTS. YOU CAN USE WHATEVER

2:33PM

1 HYPOTHETICAL NUMBER YOU WISH AND JUST LOOK AT THE CHART TO SEE
2 HOW MANY DISTRICTS WOULD FALL ABOVE OR BELOW THOSE HYPOTHETICAL
3 LINES.

4 Q. AND THAT SORT OF HYPOTHETICAL LINE DRAWING, THAT'S THE
5 EXTENT OF THE EFFECTIVENESS OR SENSITIVITY ANALYSIS THAT YOU
6 PURPORT TO CONDUCT IN YOUR REPORT, RIGHT?

7 A. YES, THAT'S ALL THAT IT INVOLVES.

8 Q. YOU HAVEN'T TRIED TO REACH ANY CONCLUSION ABOUT THE ACTUAL
9 EFFECTIVENESS LEVEL REQUIRED TO ELECT A BLACK CANDIDATE OF
10 CHOICE IN ANY ILLUSTRATIVE DISTRICT IN MR. COOPER'S MAP, RIGHT?

11 A. CORRECT. I AM ACCEPTING HIS ASSERTION THAT THEY MEET THE
12 EFFECTIVE NUMBERS.

13 Q. WHEN YOU SAY YOU ARE ACCEPTING HIS ASSERTION, DO YOU
14 RECALL REVIEWING MR. COOPER'S TESTIMONY ABOUT THE EFFECTIVENESS
15 OF HIS DISTRICTS, HIS TRIAL TESTIMONY, TO BE CLEAR?

16 A. YES.

17 Q. DO YOU RECALL THAT HE TALKED ABOUT RECEIVING INPUT FROM
18 COUNSEL ABOUT THE REPORT OF DR. LISA HANDLEY?

19 A. YES.

20 Q. YOU HAVE NOT REVIEWED THE REPORT OF DR. LISA HANDLEY?

21 A. CORRECT.

22 Q. YOU HAVE NOT REVIEWED HER TRIAL TESTIMONY?

23 A. CORRECT.

24 Q. YOU DON'T KNOW WHETHER DIFFERENTIAL PRIVACY OR ANY OF THE
25 OTHER SENSITIVITY ISSUES YOU HAVE DISCUSSED IN THIS REPORT

2:34PM 1 WOULD HAVE ANY EFFECT ON DR. HANDLEY'S OPINIONS, DO YOU?

2 **MR. LEWIS:** OBJECTION, YOUR HONOR, THIS IS PART OF
3 THE CHANGES BETWEEN THE 2022 AND 2023 ILLUSTRATIVE PLANS.
4 THAT'S WHERE DR. HANDLEY'S INPUT CAME UP. THAT WAS STRICKEN
5 FROM HIS REPORT, AND THEREFORE IT IS BEYOND THE SCOPE OF
6 DIRECT. AGAIN, WE'VE BEEN --

7 **THE COURT:** RESPOND TO THAT.

8 **MS. KEENAN:** MR. COOPER TALKED ABOUT HOW HE DREW HIS
9 ILLUSTRATIVE PLANS IN PART TO ACCOUNT FOR THE EFFECTIVENESS OF
10 DISTRICTS AS PROVIDED BY INPUT FROM COUNSEL ABOUT DR. LISA
11 HANDLEY. THIS IS THE SAME THING THAT DR. JOHNSON JUST
12 TESTIFIED HE DOES WHEN HE DRAWS ILLUSTRATIVE DISTRICTS, THAT HE
13 TRIES TO ACCOUNT FOR EFFECTIVENESS THAT IS IMPORTANT TO MAKE
14 SURE YOU ARE ACTUALLY EMPOWERING THE COMMUNITY --

15 **THE COURT:** BUT YOU MOVED TO EXCLUDE THE COMPARISON
16 BETWEEN '22 AND '23.

17 **MS. KEENAN:** I AM NOT TRYING TO COMPARE BETWEEN '22
18 AND '23, JUST TO TALK ABOUT THAT MR. COOPER ACCOUNTED FOR THE
19 EFFECTIVENESS OF THE DISTRICTS WHEN HE DREW THE ILLUSTRATIVE
20 PLANS AT ISSUE, THE 2023 PLANS, NOT THE 2022 PLANS WHICH WERE
21 STRICKEN.

22 **THE COURT:** RIGHT, BUT HE ACCOUNTED FOR EFFECTIVENESS
23 AFTER CONSULTING WITH YOU, WHO CONSULTED WITH DR. HANDLEY. AM
24 I NOT REMEMBERING THAT RIGHT? I DON'T SAY YOU, BUT YOUR TRIAL
25 TEAM OR YOUR REPRESENTATION TEAM CONSULTED WITH DR. HANDLEY,

2:36PM 1 GAVE MR. COOPER SOME ADDITIONAL INFORMATION, AND THEN HE TESTED
2 -- OR THEN HE MADE SOME, HIS WORDS, MINOR ALTERATIONS TO BE
3 MORE EFFECTIVE.

4 **MS. KEENAN:** YES, I THINK THAT IS ALL RIGHT.

5 **THE COURT:** WELL, THAT'S A COMPARISON BETWEEN 2022
6 AND 2023.

7 **MS. KEENAN:** CAN I TRY TO CLARIFY ONE MORE THING AND
8 SEE IF I CAN REPHRASE -- CAN I ASK YOUR HONOR ONE MORE THING
9 BEFORE I TRY TO REPHRASE THE QUESTION TO MAKE SURE I'M
10 COMPLYING WITH YOUR --

11 **THE COURT:** WELL, YOU CAN ASK ME SOMETHING. I'M
12 GOING TO SUSTAIN THE OBJECTION. WHAT IS YOUR QUESTION?

13 **MS. KEENAN:** SURE. SO OUR UNDERSTANDING IS THAT THE
14 2023 ILLUSTRATIVE MAP IS THE ONE THAT IS RELEVANT, THE ONE THAT
15 WE HAVE ALL BEEN DISCUSSING THROUGHOUT THE TRIAL AT THIS POINT.
16 THAT'S THE ONE WE ARE FOCUSING ON. AND THE EFFECTIVENESS
17 SCORES ARE ONE OF THE THINGS HE CONSIDERED WHEN DRAWING THOSE
18 DISTRICTS. SO I'M NOT ASKING ABOUT THE 2022 MAPS AT ALL, JUST
19 ABOUT THE EFFECTIVENESS SCORE AND HOW IT IMPACTED THE DISTRICTS
20 THAT WE ARE ALL CONSIDERING HERE TODAY.

21 **THE COURT:** OKAY. MR. LEWIS?

22 **MR. LEWIS:** YOUR HONOR, I THINK OUR RESPONSE TO THAT
23 IS THAT THERE IS NOTHING IN MR. COOPER'S -- MR. COOPER'S REPORT
24 DOES NOT REPORT ANALYSIS FROM HANDLEY OR ANY OTHER SOURCE ABOUT
25 EFFECTIVENESS. THAT COMES FROM HANDLEY, WHO DR. JOHNSON DIDN'T

2:37PM

1 RESPOND TO. AND TO THE EXTENT THAT THERE IS ANYTHING IN MR.
2 COOPER'S REPORT OR TESTIMONY THAT TALKS ABOUT DISTRICT
3 EFFECTIVENESS, IT COMES FROM THE CHANGES BETWEEN 2022 AND 2023,
4 WHICH AGAIN IS OUTSIDE THE SCOPE BECAUSE THAT PORTION OF DR.
5 JOHNSON'S REPORT WAS STRICKEN.

6 **MS. KEENAN:** MAY I RESPOND TO THAT BRIEFLY?

7 **THE COURT:** YES.

8 **MS. KEENAN:** DR. JOHNSON IS PROVIDING A SENSITIVITY
9 ANALYSIS THAT TALKS ABOUT THE EFFECTIVENESS OF VARIOUS
10 DISTRICTS. THAT'S A WHOLE SECTION IN HIS REPORT THAT HE
11 TESTIFIED ABOUT HERE TODAY. THERE IS A COMPETING EXPERT IN
12 THIS CASE WHO HAS TALKED ABOUT THE EFFECTIVENESS OF DISTRICTS
13 IN SOME DETAIL, AND I'M JUST TRYING TO EXPLORE THE INTERACTION
14 BETWEEN HIS CONCLUSIONS AND HER CONCLUSIONS. I CAN MOVE ON
15 FROM WHETHER HE CONSIDERED DR. HANDLEY'S TESTIMONY HIMSELF AND
16 JUST ASK THE QUESTION ABOUT HOW HIS CONCLUSIONS RELATE TO HERS.

17 **THE COURT:** OKAY. WELL, I'VE SUSTAINED THE
18 OBJECTION. WE ARE GOING TO GO QUESTION BY QUESTION. ASK YOUR
19 NEXT QUESTION AND WE WILL SEE WHAT MR. LEWIS DOES.

20 **BY MS. KEENAN:**

21 Q. YOU WOULD AGREE THAT THE DIFFERENTIAL PRIVACY CONCEPT THAT
22 YOU HAVE DISCUSSED DOESN'T HAVE ANY EFFECT ON ELECTION RETURNS
23 DATA, DOES IT?

24 A. CORRECT.

25 Q. THAT'S BECAUSE IT IS LIMITED TO THE CENSUS BUREAU'S DATA,

2:38PM

1 AND THAT'S THE SET OF DATA THAT IT AFFECTS?

2 A. YES.

3 Q. AND SO IF YOU WERE TO CONDUCT AN ANALYSIS THAT INSTEAD
4 FOCUSED ON ELECTION RETURNS, THE DIFFERENTIAL PRIVACY
5 DISCUSSION IN YOUR REPORT WOULD HAVE NO BEARING ON THAT
6 ANALYSIS, RIGHT?

7 A. IF I HAD DATA ON THE ETHNICITY OF THE VOTERS AND WASN'T
8 USING CENSUS DATA AS MY DENOMINATOR.

9 **MS. KEENAN:** CAN I HAVE A BRIEF MOMENT TO CONFER WITH
10 COUNSEL? I THINK I MAY BE FINISHED.

11 **THE COURT:** YES.

12 **MS. KEENAN:** THAT'S ALL FOR PLAINTIFFS. I PASS THE
13 WITNESS.

14 **THE COURT:** REDIRECT, SIR?

15 **REDIRECT EXAMINATION**

16 **BY MR. LEWIS:**

17 Q. DR. JOHNSON, GOOD AFTERNOON. ARE VOTER TABULATION
18 DISTRICTS JUST A LARGER BUILDING BLOCK IN A CENSUS BLOCK?

19 A. CORRECT. THEY ARE NOT A TRADITIONAL REDISTRICTING
20 PRINCIPLE. THEY ARE A TECHNICAL TOOL USED TO BUILD THE MAPS
21 INTO DISTRICTS THAT COMPLY WITH TRADITIONAL REDISTRICTING
22 PRINCIPLES. THEY ARE A BUILDING BLOCK USED TO BUILD DISTRICTS
23 INTO TRADITIONAL REDISTRICTING -- I'M SORRY -- USED TO BUILD
24 DISTRICTS THAT COMPLY WITH TRADITIONAL REDISTRICTING
25 PRINCIPLES. DID I MANGLE THAT ENOUGH? SORRY.

2:41PM

1 Q. DR. JOHNSON, WOULD IT HAVE BEEN POSSIBLE TO FOLLOW VTD
2 BOUNDARIES WITHOUT ALL THE ZIGS AND THE ZAGS THAT WE SAW IN ALL
3 OF THE ILLUSTRATIVE PLAN BOUNDARIES WE LOOKED AT?

4 A. YES. I MEAN, THE ENACTED MAP FOLLOWS VTDS AS WELL, THAT
5 MR. COOPER'S POSITION IS THAT THAT DOESN'T COMPLY WITH
6 TRADITIONAL REDISTRICTING PRINCIPLES.

7 **MS. KEENAN:** OBJECTION TO WHAT HE JUST CHARACTERIZED
8 AS MR. COOPER'S TESTIMONY ABOUT WHETHER THE ENACTED MAPS COMPLY
9 WITH TRADITIONAL REDISTRICTING PRINCIPLES. THAT
10 MISCHARACTERIZES MR. COOPER'S TESTIMONY.

11 **THE COURT:** THE RECORD WILL SPEAK FOR ITSELF. GO
12 AHEAD. HE HAS ALREADY ANSWERED IT. NEXT QUESTION.

13 **BY MR. LEWIS:**

14 Q. DR. JOHNSON, ARE ANY OF THE ITEMS DISCUSSED DURING YOUR
15 CROSS-EXAMINATION ABOUT BOUNDARY LINES GIVEN AS REASONS FOR THE
16 DISTRICT BOUNDARIES IN MR. COOPER'S REPORT?

17 A. SORRY. COULD YOU REPEAT THAT?

18 Q. SURE. SURE. SO WE TALKED ABOUT -- I WILL WITHDRAW THAT
19 QUESTION AND I WILL ASK A DIFFERENT ONE. FOR EXAMPLE, MS.
20 KEENAN ASKED YOU ON CROSS-EXAMINATION ABOUT A TRADE-OFF BETWEEN
21 SPLITTING CENTRAL TO KEEP MERRYDALE AND BAKER WHOLE. DO YOU
22 RECALL THAT?

23 A. YES.

24 Q. DOES MR. COOPER REFERENCE THAT TRADE-OFF AS A REASON FOR
25 HIS DISTRICT CONFIGURATION IN HIS REPORT?

2:43PM

1 A. NO.

2 Q. DOES HE REFERENCE IT IN THE BACK-UP TO HIS REPORT?

3 A. NO.

4 Q. OKAY. DOES MR. COOPER DISCUSS THE DECISION TO KEEP -- TO
5 DRAW A BORDER BETWEEN ILLUSTRATIVE HOUSE DISTRICT 68 AND 69 TO
6 FOLLOW THE AIRLINE ROAD?

7 A. NO.

8 **MR. LEWIS:** YOUR HONOR, WE HAVE NO FURTHER QUESTIONS.

9 **THE COURT:** OKAY. YOU MAY STEP DOWN, SIR. THANK
10 YOU. SO WHERE ARE WE IN TERMS OF THESE PROCEEDINGS? HOW MANY
11 WITNESSES ARE LEFT?

12 **MR. TUCKER:** YOUR HONOR, WE HAVE THREE ADDITIONAL
13 EXPERT WITNESSES STILL TO CALL AND ONE ADDITIONAL FACT WITNESS
14 TO CALL.

15 **THE COURT:** IS THERE ANYTHING THAT WE CAN ACCOMPLISH
16 BETWEEN NOW AND 4:00?

17 **MR. TUCKER:** YOUR HONOR, I'M GOING TO DEFER TO MY
18 CO-COUNSEL WHO ARE HANDLING THOSE OTHER EXPERTS ON HOW THEY
19 PLAN ON PROCEEDING FOR THE REST OF THE DAY. WE HAVE WITNESSES
20 HERE. I JUST WANT TO TURN IT OVER TO THEM TO FIGURE OUT WHAT
21 WE ARE DOING.

22 **MR. LEWIS:** YOUR HONOR, I KNOW THE NEXT WITNESS UP --

23 **MR. FARR:** YOUR HONOR, I HAVE THE NEXT WITNESS. MAY
24 I CONSULT WITH HIM FIRST?

25 **THE COURT:** YES, TAKE A MINUTE. SO ARE YOU GOING TO

2:45PM

1 CALL YOUR NEXT WITNESS, MR. FARR?

2 MR. FARR: I WAS GOING TO ASK YOU, YOUR HONOR, ARE
3 YOU GOING TO HAVE A HARD STOP AT 4:00?

4 THE COURT: YES.

5 MR. FARR: WE CAN'T GET DONE BY 4:00.

6 THE COURT: WELL, GET WHAT YOU CAN DONE.

7 MR. FARR: WE ARE WILLING TO START IF THAT'S WHAT YOU
8 PREFER.

9 THE COURT: YEAH, I WANT YOU TO GET SOMETHING DONE.

10 MR. FARR: WE NOW CALL MICHAEL BARBER.

11 THE COURT: JUST A MINUTE, SIR, HE IS GOING TO SWEAR
12 YOU IN.

13 (OATH ADMINISTERED.)

14 THE CLERK: STATE YOUR NAME FOR THE RECORD.

15 MR. FARR: CAN YOU HEAR ME, DR. BARBER?

16 THE COURT: HE'S GOING TO STATE HIS NAME AND SPELL IT
17 FOR THE RECORD, AND THEN YOU CAN DO YOUR DIRECT.

18 THE WITNESS: MICHAEL BARBER. M-I-C-H-A-E-L,
19 B-A-R-B-E-R.

20 THE COURT: ALL RIGHT, MR. FARR.

21 DR. MICHAEL BARBER,

22 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. FARR:

25 Q. MAY I CALL YOU DR. BARBER?

2:47PM

1 A. YOU MAY.

2 Q. DR. BARBER, HAVE YOU PREPARED TWO EXPERT REPORTS IN THIS
3 CASE?

4 A. YES, I HAVE.

5 **MR. FARR:** YOUR HONOR, MAY I APPROACH THE BENCH AND
6 GIVE DR. BARBER HIS EXPERT REPORTS?

7 **THE COURT:** THE WITNESS STAND? YES, YOU MAY.

8 **BY MR. FARR:**

9 Q. OKAY, DR. BARBER. DO YOU HAVE A NOTEBOOK WITH YOUR TWO
10 EXPERT REPORTS IN THIS CASE?

11 A. YES, I DO.

12 Q. IS YOUR FIRST OPENING EXPERT REPORT MARKED SECRETARY OF
13 STATE EXHIBIT 1?

14 A. YES.

15 Q. IS YOUR REBUTTAL REPORT MARKED SECRETARY OF STATE EXHIBIT
16 4?

17 A. YES.

18 **MR. FARR:** YOUR HONOR, WE MOVE FOR THE INTRODUCTION
19 INTO EVIDENCE OF SECRETARY OF STATE EXHIBITS 1 AND 4.

20 **MR. NAIFEH:** YOUR HONOR, WE WOULD REQUEST THAT THE
21 DECISION ON ADMITTING THE EXPERT REPORTS BE DEFERRED UNTIL THE
22 TENDER. WE WILL HAVE SOME CROSS ON THE TENDER, AND WE THINK IT
23 MAY CHANGE EXACTLY WHICH PORTIONS OF THE REPORT COME IN.

24 **MR. FARR:** EXCUSE ME, SIR. COULD YOU REPEAT THAT?

25 **MR. NAIFEH:** WE WILL HAVE SOME CROSS ON THE TENDER,

2:48PM

1 AND WE WOULD LIKE TO RESERVE ADMISSION OF THE REPORT UNTIL WE
2 CAN ESTABLISH EXACTLY WHAT HE IS QUALIFIED TO TESTIFY ABOUT,
3 AND THAT MAY IMPACT WHAT WE WOULD THINK SHOULD COME IN FROM THE
4 REPORT.

5 **MR. FARR:** I THOUGHT YOU STIPULATED THAT THE REPORT
6 WOULD COME INTO EVIDENCE IF HE APPEARED TO TESTIFY. ISN'T
7 THERE A STIPULATION ON THAT?

8 **MR. NAIFEH:** THERE IS A STIPULATION THAT IF HE
9 APPEARS TO TESTIFY AS AN EXPERT, THE REPORT WILL COME IN. WE
10 HAVE QUESTIONS ABOUT WHAT EXACTLY HE IS QUALIFIED TO TESTIFY
11 ABOUT, AND WE WOULD LIKE TO ESTABLISH WHAT THAT IS.

12 **THE COURT:** IN OTHER WORDS, MOVE THE REPORT IN AFTER
13 YOU HAVE QUALIFIED HIM. SO I'M GOING TO SUSTAIN THE OBJECTION
14 AT THIS POINT. YOU CAN RE-MOVE THE REPORT -- YOU CAN ASK FOR
15 THE REPORTS TO BE ADMITTED AFTER YOU HAVE EXAMINED HIM ON HIS
16 QUALIFICATIONS AND THEY HAVE CROSSED ON HIS QUALIFICATIONS.

17 **MR. FARR:** ALL RIGHT. THANK YOU, YOUR HONOR.

18 **BY MR. FARR:**

19 Q. DR. BARBER, WHO RETAINED YOU TO BE AN EXPERT IN THIS CASE?

20 A. THE SECRETARY OF STATE.

21 Q. WERE YOU ASKED TO RENDER ANY LEGAL OPINIONS?

22 A. NO.

23 Q. I'M GOING TO ASK YOU TO EXPLAIN YOUR EXPERTISE THAT
24 QUALIFIES YOU TO OFFER THE OPINIONS THAT YOU HAVE IN YOUR
25 EXPERT REPORTS. TURNING TO SECRETARY OF STATE EXHIBIT 1, IS

2:49PM 1 YOUR CURRICULUM VITAE ATTACHED TO THE END OF YOUR ORIGINAL
2 REPORT?

3 A. YES, IT IS.

4 Q. COULD YOU TELL US ABOUT YOUR EDUCATIONAL BACKGROUND.

5 A. I HAVE A BACHELOR'S DEGREE FROM BRIGHAM YOUNG UNIVERSITY
6 AND A MASTER'S AND PH.D. IN POLITICAL SCIENCE FROM PRINCETON
7 UNIVERSITY.

8 Q. AND WHAT WERE YOUR AREAS OF CONCENTRATION FOR YOUR POST
9 GRADUATE DEGREES?

10 A. MY AREAS OF CONCENTRATION WERE BROADLY IN AMERICAN
11 POLITICS AND THE USE OF QUANTITATIVE METHODS.

12 Q. CAN YOU TELL US ABOUT YOUR PROFESSIONAL EXPERIENCE?

13 A. YES. I'M AN ASSOCIATE PROFESSOR WITH TENURE AT BRIGHAM
14 YOUNG UNIVERSITY IN THE POLITICAL SCIENCE DEPARTMENT. I'M ALSO
15 THE DIRECTOR OF THE CENTER FOR THE STUDY OF ELECTIONS AND
16 DEMOCRACY, WHICH IS ALSO LOCATED AT BYU.

17 Q. WHAT CLASSES DO YOU TEACH AT BYU?

18 A. I TEACH A CLASS ON THE LEGISLATIVE PROCESS, AND I ALSO
19 TEACH A CLASS ON THE USE OF QUANTITATIVE METHODS FOR THE STUDY
20 OF SOCIAL SCIENCE. AND THEN I ALSO TEACH A SEMINAR FOR THE
21 STUDY OF -- THE TOPIC OF THE CLASS IS THE STUDY OF
22 REPRESENTATION IN AMERICA.

23 Q. ARE YOU A TENURED PROFESSOR?

24 A. YES.

25 Q. HAVE YOU WRITTEN ANY PEER-REVIEWED ARTICLES?

2:51PM

1 A. YES, I HAVE.

2 Q. HOW MANY?

3 A. I BELIEVE AT THE MOMENT 25 TO 26 HAVE BEEN PUBLISHED IN
4 PEER-REVIEWED JOURNALS.

5 Q. ARE THOSE LISTED IN YOUR CV?

6 A. YES, THEY ARE.

7 Q. WHAT ARE SOME OF THE SUBJECTS ON WHICH YOU HAVE WRITTEN
8 THAT RELATE TO THE MATTERS THAT YOU ARE TESTIFYING ABOUT IN
9 THIS CASE?

10 A. SO I PUBLISHED BROADLY ON THE CONCEPT OF REPRESENTATION
11 AND ACCOUNTABILITY IN AMERICAN POLITICS. I HAVE PUBLISHED AND
12 STUDIED THE QUESTION OF VOTER BEHAVIOR AND VOTER PREFERENCES,
13 HOW THAT RELATES TO QUESTIONS OF PARTISANSHIP AND RACE, SO
14 THOSE ARE ALL TOPICS THAT I'VE PUBLISHED ON THAT ARE RELEVANT
15 TO THE DISCUSSION TODAY.

16 Q. OKAY. HAVE YOU EVER TESTIFIED AS AN EXPERT WITNESS?

17 A. YES, I HAVE.

18 Q. ARE THOSE CASES LISTED IN YOUR CV?

19 A. YES, THEY ARE.

20 Q. AND HOW MANY OF THOSE CASES INVOLVE CHALLENGES TO
21 REDISTRICTING PLANS?

22 A. I BELIEVE SOMEWHERE BETWEEN 6 AND 8 OF THOSE.

23 Q. HOW MANY OF THOSE CASES INVOLVED CLAIMS INVOLVING SECTION
24 2 OF THE VOTING RIGHTS ACT?

25 A. TWO. I'VE BEEN AN EXPERT WITNESS IN THE CASE IN GEORGIA

2:52PM 1 REGARDING THE PUBLIC SERVICE COMMISSION, AND I'M INVOLVED
2 CURRENTLY IN AN ONGOING LAWSUIT IN THE CITY OF COLORADO
3 SPRINGS.

4 Q. ALL RIGHT. DR. BARBER, WHEN I TALK ABOUT SIMULATED MAPS,
5 DO YOU KNOW WHAT I'M REFERRING TO?

6 A. YES.

7 Q. WHAT ARE SIMULATED MAPS?

8 A. SO THAT'S A TERM THAT REFERS BROADLY TO A PROCESS OR
9 CONCEPT OF USING A COMPUTER TO DRAW A LARGE SET OF MAPS IN A
10 PARTICULAR JURISDICTION. SO IT COULD BE DONE AT A STATE LEVEL,
11 COUNTY LEVEL, COULD BE DONE FOR A CITY COUNCIL.

12 THERE ARE DIFFERENT WAYS OR DIFFERENT PROCESSES THAT HAVE
13 BEEN USED, BUT GENERALLY IT'S THE USE OF SOME SORT OF COMPUTER
14 ALGORITHM, THE USE OF DATA ABOUT THE POPULATION AND THE
15 DISTRIBUTION OF THE POPULATION WITHIN THAT JURISDICTION, AND
16 THAT INFORMATION IS THEN USED BY THE COMPUTER TO DRAW A VERY
17 LARGE SET OF MAPS USING THAT PARTICULAR ALGORITHM.

18 Q. HAVE YOU PREPARED OR ANALYZED SIMULATED MAPS IN ANY OF THE
19 CASES IN WHICH YOU HAVE BEEN INVOLVED?

20 A. YES, I HAVE.

21 Q. CAN YOU TELL THE COURT WHAT CASES THOSE ARE?

22 A. SURE. SO I HAVE USED SIMULATED MAPS FOR A REDISTRICTING
23 CASE IN THE STATE OF NEW YORK, IN THE CITY OF BUFFALO, NEW
24 YORK, ALSO IN THE STATE OF PENNSYLVANIA, AND AS WELL IN THE
25 STATE OF NORTH CAROLINA.

2:54PM 1 Q. AND HAVE YOU PREPARED SIMULATED REPORTS IN THIS CASE?

2 A. SIMULATED MAPS?

3 Q. SIMULATED MAPS, YES.

4 A. YES, I HAVE.

5 **MR. FARR:** YOUR HONOR, WE WOULD LIKE TO TENDER DR.
6 BARBER AS AN EXPERT IN POLITICAL SCIENCE, AMERICAN POLITICS,
7 VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS.

8 **THE COURT:** YOU WILL HAVE TO GIVE THAT TO ME AGAIN.
9 POLITICAL SCIENCE --

10 **MR. FARR:** I'M SORRY, YOUR HONOR.

11 **THE COURT:** GO AHEAD. TELL ME THE FOUR AREAS AGAIN,
12 PLEASE.

13 **MR. FARR:** YES, MA'AM. POLITICAL SCIENCE, AMERICAN
14 POLITICS, VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS.

15 **THE COURT:** CROSS ON THE TENDER?

16 **CROSS-EXAMINATION ON TENDER**

17 **BY MR. NAIFEH:**

18 Q. GOOD AFTERNOON, DR. BARBER.

19 **MR. NAIFEH:** STEPHEN, COULD WE PULL UP SOS101.

20 **BY MR. NAIFEH:**

21 Q. DR. BARBER, THIS IS YOUR REPORT IN FRONT OF YOU ON THE
22 SCREEN. AND I DON'T HAVE A SCREEN, BUT I'M GUESSING IT'S UP.

23 A. YES, I SEE IT.

24 Q. IN TURNING TO PAGE 5 OF YOUR REPORT, THIS IS THE SUMMARY
25 OF YOUR CONCLUSIONS, CORRECT?

2:55PM

1 A. IT IS, YES.

2 Q. AND THEN ON PAGE 6, LOOKING AT THE LAST BULLET IN THE
3 SUMMARY OF CONCLUSIONS, CAN YOU READ THAT?

4 A. DO YOU WANT ME TO READ IT OUT LOUD?

5 Q. YES, PLEASE.

6 A. "TO CREATE THESE ADDITIONAL MAJORITY BVAP DISTRICTS, IT IS
7 CLEAR THAT IN THE ILLUSTRATIVE MAPS VARIOUS DECISIONS ABOUT
8 WHERE TO PLACE THE DISTRICT BOUNDARIES WERE MADE WITH RACE AS
9 THE PREDOMINANT FACTOR. THIS IS THE CASE BECAUSE THESE
10 DECISIONS ARE NOT WELL EXPLAINED BY ADHERENCE TO OTHER
11 TRADITIONAL REDISTRICTING CRITERIA."

12 Q. I KNOW WE WILL GET THERE, BUT IN THIS BULLET ARE YOU
13 DESCRIBING THE OPINIONS YOU OFFER IN THE SECTIONS OF YOUR
14 REPORT THAT YOU CALL REGIONAL ANALYSIS?

15 A. ARE YOU ASKING IF THIS BULLET POINT REFERS --

16 Q. TO THE REGIONAL ANALYSIS OR TO THE CONCLUSIONS DRAWN IN
17 THE REGIONAL ANALYSIS?

18 A. I BELIEVE THIS BULLET POINT REFERS MORE BROADLY TO THE
19 ENTIRETY OF THE REPORT COLLECTIVELY.

20 Q. OKAY. AND I WOULD LIKE TO ASK JUST ABOUT THE REGIONAL
21 ANALYSIS. YOU HAVE A SECTION IN YOUR REPORT, TWO SECTIONS, I
22 BELIEVE, CALLED REGIONAL ANALYSIS IN YOUR REPORT, CORRECT?

23 A. YES.

24 Q. AND NOTHING IN YOUR REGIONAL ANALYSIS IS DERIVED FROM THE
25 SIMULATIONS, CORRECT?

2:56PM

1 A. IN THIS FIRST REPORT, I BELIEVE IT IS THE CASE THAT THE
2 REGIONAL ANALYSES ARE SEPARATE FROM THE SIMULATION ANALYSIS.

3 Q. AND THE CONCLUSIONS DO NOT DERIVE FROM THE SIMULATIONS?

4 A. I THINK THE REPORT STATES THAT THE CONCLUSIONS ARE DRAWN
5 BY CONNECTING THE RESULTS OF THE SIMULATIONS TO THE ANALYSIS IN
6 THE REGIONAL -- THE SECTION OF THE REPORT THAT TALKS ABOUT
7 REGIONAL ANALYSES. I THINK THAT THE TWO PORTIONS SPEAK TO ONE
8 ANOTHER.

9 Q. OKAY.

10 **MR. NAIFEH:** STEPHEN, CAN WE PULL UP DR. BARBER'S
11 DEPOSITION AT PAGE 159, AND LOOKING AT LINES 5 TO 12.

12 **BY MR. NAIFEH:**

13 Q. CAN YOU READ THAT, THOSE LINES?

14 A. THE ANSWER, THE QUESTION, OR BOTH?

15 Q. THE QUESTION IS, "DOES ANYTHING IN THE SECTION ON REGIONAL
16 ANALYSIS, THESE TWO SECTIONS, DERIVE FROM THE SIMULATIONS YOU
17 RAN?"

18 THE ANSWER IS, "NOTHING IN THESE SECTIONS IS DERIVED FROM
19 THE SIMULATIONS. THERE ARE NO MAPS IN THIS SECTION FROM THE
20 SIMULATIONS OR REFERENCE TO THE METRICS THAT WERE DISCUSSED
21 EARLIER FROM THE SIMULATIONS." DID I READ THAT CORRECTLY?

22 A. YES, YOU DID.

23 Q. OKAY. AND THIS SECTION ON THE REGIONAL ANALYSIS IS NOT
24 BASED ON ANY OTHER STATISTICAL ANALYSIS APART FROM THE
25 SIMULATIONS THAT YOU PERFORMED, CORRECT?

2:58PM 1 A. ARE YOU ASKING IF THERE ARE NO STATISTICAL ANALYSES IN THE
2 REGIONAL SECTION OF THE REPORT?

3 Q. I'M ASKING IF YOU DID ANY STATISTICAL ANALYSIS TO SUPPORT
4 THE CONCLUSIONS YOU DRAW IN THE REGIONAL ANALYSIS SECTIONS OF
5 YOUR REPORT.

6 A. I DO THINK THAT THERE ARE -- I DON'T KNOW IF YOU WOULD
7 CALL THEM STATISTICAL ANALYSES. THERE IS QUANTITATIVE
8 ANALYSES --

9 Q. YOU ARE REFERRING TO THINGS LIKE THE COMPACTNESS SCORES
10 AND THINGS LIKE THAT?

11 A. THAT, IN ADDITION TO COMPUTATION OF THE BVAP SCORES, CORE
12 RETENTION SCORES, THOSE TYPES OF COMPUTATIONS.

13 **MR. NAIFEH:** YOUR HONOR, WE WOULD MOVE TO EXCLUDE ANY
14 OPINION TESTIMONY FROM DR. BARBER CONCERNING WHETHER PARTICULAR
15 LINE DRAWING DECISIONS IN MR. COOPER'S MAPS ARE WELL EXPLAINED
16 BY ADHERENCE TO TRADITIONAL REDISTRICTING PRINCIPLES. FOR THE
17 RECORD, THOSE ARE SECTION 8, STARTING AT PAGE 30, AND SECTION
18 12 STARTING AT PAGE 68 ARE THE TWO SECTIONS THAT HE CALLS
19 REGIONAL ANALYSIS.

20 AND THE REGIONAL ANALYSIS IS NOT BASED ON THE SIMULATIONS,
21 WHICH HE HAS ESTABLISHED HIS EXPERTISE IN. IT'S BASED ON HIS
22 REVIEW OF MAPS AND DATA FROM MR. COOPER'S REPORT AND WHETHER HE
23 BELIEVES MR. COOPER DREW LINES BASED ON RACE OR BASED ON OTHER
24 TRADITIONAL REDISTRICTING PRINCIPLES.

25 AND AS YOUR HONOR SAID WITH RESPECT TO DR. JOHNSON IN THE

3:00PM 1 RULING ON THE MOTION IN LIMINE, THE DEFENDANTS HAVEN'T TENDERED
2 DR. BARBER AS -- THAT HE HAS A SPECIALTY DISCIPLINE OR
3 EXPERTISE IN DISCERNING A PERSON'S SUBJECTIVE INTENT AND
4 DECISION-MAKING, SO WE ARE ASKING THAT HE NOT BE PERMITTED TO
5 TESTIFY REGARDING MR. COOPER'S SUBJECTIVE INTENT IN DRAWING ANY
6 LINES IN THE ILLUSTRATIVE PLANS.

7 **THE COURT:** I WOULD SUSTAIN ANY OBJECTIONS THAT YOU
8 MAKE TO SUBJECTIVE INTENT THAT DR. BARBER ATTEMPTS TO TESTIFY
9 TO, BUT HOW DOES THAT -- HOW DOES THAT DISQUALIFY HIM FROM THE
10 ENTIRE SECTION ON HIS REGIONAL ANALYSIS?

11 **MR. NAIFEH:** IT'S NOT THE ENTIRE SECTION THAT WE
12 WOULD SEEK TO EXCLUDE, JUST THE PORTIONS OF IT THAT CONCERN MR.
13 COOPER'S SUBJECTIVE INTENT.

14 **THE COURT:** MR. FARR, DO YOU WANT TO ADDRESS THAT?

15 **MR. FARR:** YOUR HONOR, IT'S NOT OUR INTENTION TO HAVE
16 DR. BARBER TESTIFY TO MR. COOPER'S SUBJECTIVE INTENT, BUT WE DO
17 INTEND TO ASK HIM TO EVALUATE AS A POLITICAL SCIENTIST WHETHER
18 OR NOT BASED UPON HIS UNDERSTANDING OF THE TERM "PREDOMINANT
19 FACTOR," WHETHER RACE IS THE PREDOMINANT FACTOR AS A POLITICAL
20 SCIENTIST IN DRAWING SOME OF THESE DISTRICTS.

21 HE IS NOT TALKING ABOUT MR. COOPER'S SUBJECTIVE INTENT.
22 HE IS LOOKING AT THE MAPS, HE IS LOOKING AT THE SIMULATIONS,
23 AND HE IS DRAWING CONCLUSIONS AS A POLITICAL SCIENTIST AS TO
24 WHAT BEST EXPLAINS THE MAPS. IT HAS NOTHING TO DO WITH MR.
25 COOPER'S SUBJECTIVE INTENT.

3:01PM

1 **THE COURT:** THEN YOU NEED TO LAY A -- YOU NEED TO
2 QUALIFY HIM OR GIVE ME SOME REASON TO UNDERSTAND THAT
3 PREDOMINANCE IN MAP-DRAWING IS SOME PARTICULAR FIELD OR SUBJECT
4 MATTER THAT'S A DISCERNIBLE SUBJECT MATTER WITHIN POLITICAL
5 SCIENCE. MAYBE IT'S JUST THE COURT'S LACK OF UNDERSTANDING OF
6 THE SCOPE OF THE FIELD OF POLITICAL SCIENCE, BUT I DON'T KNOW.
7 IS THERE A CLASS ON PREDOMINANCE IN MAP DRAWING?

8 **MR. FARR:** YOUR HONOR, THE REPORTS LIKE THE ONE MR.
9 COOPER IS SUBMITTING ARE REGULARLY SUBMITTED IN CASES INVOLVING
10 RACIAL GERRYMANDERS, THE *BETHUNE-HILL* CASE BEING AN EXAMPLE,
11 THE CASE IN SOUTH CAROLINA BEING AN EXAMPLE THAT WE'LL TALK
12 ABOUT LATER WHERE SIMULATED MAPS WERE USED TO ATTEMPT TO
13 ESTABLISH THAT RACE WAS THE PREDOMINANT EXPLANATION.

14 AGAIN, WE ARE NOT QUESTIONING MR. COOPER'S SUBJECTIVE
15 INTENT. WE ARE NOT QUESTIONING HIS GOOD FAITH. WE ARE TRYING
16 TO SAY THAT WHEN YOU DO A FORENSIC EXAMINATION OF THESE MAPS,
17 THAT THEY CANNOT BE EXPLAINED FOR ANY OTHER REASON OTHER THAN
18 RACE. AND YES, I THINK THAT IS PART OF THE REALM OF
19 DR. COOPER'S EXPERTISE.

20 **THE COURT:** DR. BARBER.

21 **MR. FARR:** EXCUSE ME, DR. BARBER'S EXPERTISE. AND I
22 THINK, AGAIN, IT IS THE TYPE OF EVIDENCE THAT'S BEEN RECOGNIZED
23 AND SUBMITTED BY OTHER COURTS IN OTHER SIMILAR CASES.

24 **THE COURT:** DO YOU WANT TO RESPOND?

25 **MR. NAIFEH:** YOUR HONOR, WHETHER RACE PREDOMINATES IN

3:03PM

1 AN ENACTED MAP OR IN AN ILLUSTRATIVE MAP, IF IT'S EVEN A
2 RELEVANT CONCEPT, THERE IS A LEGAL CONCLUSION THAT HE IS NOT
3 QUALIFIED TO RENDER. AND AS YOUR HONOR HAS ALREADY EXPLAINED
4 IN THE RULING ON THE MOTION IN LIMINE, THAT IS A QUESTION FOR
5 YOU AS THE FACT-FINDER AND NOT FOR -- AND YOU HAVE ALREADY
6 EXCLUDED OTHER EXPERTS FROM TESTIFYING ABOUT RACIAL
7 PREDOMINANCE, AT LEAST AS FAR AS A LEGAL CONCLUSION. HE CAN
8 TESTIFY ABOUT WHAT TRADITIONAL REDISTRICTING PRINCIPLES THE MAP
9 DOES OR DOES NOT COMPLY WITH, BUT GOING THE NEXT STEP AND
10 RENDERING AN OPINION ABOUT WHETHER THAT MEANS RACE PREDOMINATES
11 IS NOT SOMETHING I BELIEVE HE HAS BEEN QUALIFIED TO TESTIFY
12 ABOUT.

13 **MR. FARR:** MAY I RESPOND, YOUR HONOR?

14 **THE COURT:** YES.

15 **MR. FARR:** YOUR HONOR, WE HAD A SCHEDULING ORDER IN
16 THIS CASE, AND THERE WERE DEADLINES FOR *DAUBERT* MOTIONS. THERE
17 WAS NO *DAUBERT* MOTION FILED ON DR. BARBER. THERE WAS ONE FILED
18 ON DR. JOHNSON. THE ISSUES WERE BRIEFED, AND THE DEFENSE HAD
19 NOTICE OF THE ARGUMENTS THE PLAINTIFFS WERE GOING TO MAKE.

20 THIS IS THE FIRST WE'VE HEARD ABOUT PLAINTIFFS' CONTENTION
21 THAT DR. BARBER IS NOT QUALIFIED TO GIVE THE OPINIONS THAT ARE
22 STATED IN THIS REPORT, WHICH THEY HAVE STIPULATED COULD COME
23 INTO EVIDENCE.

24 SO I WOULD JUST SAY, YOUR HONOR, THAT THIS IS CAUSING
25 SUBSTANTIAL PREJUDICE TO US TO ALLOW THEM TO GET AROUND THE

3:04PM 1 DEADLINE YOU SET FOR THE FILING OF *DAUBERT* MOTIONS, SO WE WOULD
2 HAVE HAD AMPLE TIME TO BE ABLE TO BRIEF THIS ISSUE.

3 **THE COURT:** A *DAUBERT* MOTION IS NOT THE ONLY METHOD
4 BY WHICH YOU CAN CHALLENGE AN EXPERT'S -- THE SCOPE OF THEIR
5 EXPERTISE. I MEAN, THERE'S NO LAW THAT THE COURT KNOWS OF THAT
6 SAYS THAT FAILURE TO FILE A *DAUBERT* SOMEHOW WAIVES YOUR ABILITY
7 TO CROSS AN EXPERT, A PROPOSED EXPERT ON THE NATURE AND EXTENT
8 OF THE FIELD OF TENDER, AND THAT'S WHAT'S BEING DONE HERE. THE
9 FIELD OF TENDER HAS BEEN CROSS-EXAMINED, AND THEY ARE SEEKING
10 TO EXCLUDE EXPERT TESTIMONY, OPINION TESTIMONY, IN THAT
11 PARTICULAR FIELD, NAMELY THE SUBJECT OF RACE PREDOMINANCE.

12 YOUR *DAUBERT* ARGUMENT MISSES THE MARK, AND THE STIPULATION
13 WAS THAT OF THOSE EXPERTS THAT TESTIFY, THEIR REPORTS WOULD
14 COME IN. SO IF HE DOESN'T TESTIFY, HIS REPORT DOESN'T COME IN,
15 OR AT LEAST THOSE AREAS OF HIS REPORT DOESN'T COME IN.

16 NOW, THE BEST I CAN DO FOR YOU IS WE CAN RECESS UNTIL
17 MONDAY MORNING, BUT I THINK THERE'S A STRONG ARGUMENT HERE THAT
18 WHILE HE CAN CERTAINLY TESTIFY TO WHAT ARE THE TRADITIONAL
19 REDISTRICTING FACTORS, A LOT LIKE DR. JOHNSON DID, TO DRAW THE
20 ULTIMATE CONCLUSION, WHICH IS DID RACE PREDOMINATE, THAT'S A
21 QUESTION OF FACT FOR ME.

22 **MR. FARR:** YOUR HONOR, I THINK IT IS A QUESTION OF
23 LAW FOR YOU.

24 **THE COURT:** WELL --

25 **MR. FARR:** IT'S NOT A QUESTION --

3:06PM

1 **THE COURT:** -- IT'S NOT A QUESTION FOR HIM.

2 **MR. FARR:** POLITICAL SCIENTISTS REGULARLY LOOK AT
3 MAPS LIKE THIS AND DRAW CONCLUSIONS ABOUT WHETHER POLITICS WAS
4 THE PREDOMINANT MOTIVE. WE HAVE HAD YEARS OF LITIGATION OVER
5 EXPERT REPORTS AND SIMULATED MAPS WITH EXPERTS TESTIFYING THAT
6 A MAP WAS AN ILLEGAL POLITICAL GERRYMANDER. THIS SAME
7 PRINCIPLE APPLIES TO CASES WHERE THERE'S A RACIAL GERRYMANDER.

8 NOW, THE POINT OF THIS CASE, YOUR HONOR, IS THAT FOR THE
9 PLAINTIFFS TO PREVAIL, THEY HAVE TO PROVE THAT THEY ARE
10 OFFERING A LEGAL REMEDY. THAT IS PART OF THE BURDEN OF PROOF
11 FOR A SECTION 2 LAWSUIT. MR. COOPER'S MAPS, WE BELIEVE, ARE
12 RACIAL GERRYMANDERS IN THE WAY THEY WERE DRAWN, AND ALSO
13 BECAUSE THEY ILLEGALLY MAXIMIZED THE NUMBER OF MAJORITY BLACK
14 DISTRICTS ABOVE PROPORTIONALITY. SO WE BELIEVE THAT THIS COURT
15 COULD NOT ORDER THE STATE TO ADOPT THIS MAP AND THAT THIS MAP
16 DOES NOT REPRESENT AN EXAMPLE OF A LEGAL REMEDY THAT THE
17 PLAINTIFFS HAVE TO OFFER TO PROVE THEIR CASE.

18 THIS IS WELL WITHIN DR. BARBER'S EXPERTISE. HE HAS HAD
19 GREAT EXPERIENCE INVOLVING SIMULATED MAPS WHERE QUESTIONS OF
20 INTENT WERE INVOLVED IN THE CASES IN WHICH HE HAS TESTIFIED.
21 AND THE EXPERT WITNESSES WERE NOT ALLOWED TO GIVE LEGAL
22 CONCLUSIONS. THAT IS STRICTLY UP TO YOU.

23 HE'S NOT QUALIFIED TO SAY WHAT MR. COOPER WAS THINKING.
24 WE ARE NOT CHALLENGING WHAT MR. COOPER WAS THINKING. WHAT WE
25 ARE SAYING IS, HE IS A POLITICAL SCIENTIST. HE CAN DO A

3:07PM

1 FORENSIC EXAMINATION ON THESE MAPS, WHICH HE HAS DONE IN HIS
2 REPORT, AND THEN HE CAN DRAW A CONCLUSION BASED ON HIS
3 UNDERSTANDING OF WHAT THE WORD "PREDOMINANT" MEANS, WHICH WE
4 WILL GO INTO. HE WILL EXPLAIN WHAT HE MEANS BY PREDOMINANT,
5 AND THAT THIS IS SOMETHING REGULARLY DONE BY POLITICAL
6 SCIENTISTS IN CASES LIKE THIS. IT'S BEEN DONE OVER AND OVER
7 AND OVER AGAIN, YOUR HONOR. AND DR. BARBER IS WELL QUALIFIED TO
8 DO THAT BECAUSE HE HAS BEEN INVOLVED IN CASES WHERE THIS VERY
9 ISSUE HAS BEEN LITIGATED.

10 **THE COURT:** OKAY. THE TENDER IS IN POLITICAL
11 SCIENCE, AMERICAN POLITICS, VOTING BEHAVIOR AND PATTERNS AND
12 SIMULATED MAPS. WHAT OF THOSE AREAS OF TENDER ARE YOU
13 OBJECTING TO?

14 **MR. NAIFEH:** WE ARE OBJECTING TO ANYTHING THAT GOES
15 BEYOND THOSE AREAS OF TENDER, AND WE THINK THAT SOME PORTIONS
16 OF THE REPORT GO BEYOND THOSE AREAS OF TENDER.

17 **THE COURT:** OKAY. WELL, THEN, ARE YOU AGREEING, OR
18 ARE YOU WILLING TO STIPULATE THAT HE MAY GIVE OPINION TESTIMONY
19 IN THE FIELDS OF POLITICAL SCIENCE, AMERICAN POLITICS, VOTING
20 BEHAVIOR AND PATTERNS, AND SIMULATED MAPS?

21 **MR. NAIFEH:** YES, YOUR HONOR.

22 **THE COURT:** THEN HE WILL BE ACCEPTED TO GIVE OPINION
23 TESTIMONY IN THAT FIELD, AND YOU MAY MAKE OBJECTIONS TO
24 ANYTHING THAT YOU THINK IS OBJECTIONABLE. WE WILL DEAL WITH IT
25 ON A QUESTION-BY-QUESTION BASIS. THE EXHIBIT -- OFFER YOUR

3:09PM 1 EXHIBITS AGAIN, MR. FARR, PLEASE.

2 **MR. FARR:** THANK YOU VERY MUCH, YOUR HONOR. IT WOULD
3 BE SECRETARY OF STATE EXHIBIT 1 AND SECRETARY OF STATE EXHIBIT
4 4 WE MOVE TO BE INTRODUCED INTO EVIDENCE.

5 **THE COURT:** ADMITTED.

6 **MR. FARR:** MAY I CONTINUE, YOUR HONOR?

7 **THE COURT:** YES.

8 **DIRECT EXAMINATION** (CONTINUING)

9 **BY MR. FARR:**

10 Q. ALL RIGHT. DR. BARBER, I JUST WANT TO REPEAT A FEW
11 THINGS. YOU ARE NOT INTENDING TO GIVE A LEGAL OPINION IN THIS
12 CASE; IS THAT CORRECT?

13 A. THAT IS CORRECT.

14 Q. AND ARE YOU INTENDING TO TESTIFY ABOUT WHAT MR. COOPER WAS
15 THINKING WHEN HE DREW HIS MAPS?

16 A. NO, I AM NOT.

17 Q. ALL RIGHT. YOU'VE HEARD THIS WORD "PREDOMINANT" THROWN
18 AROUND. I RECALL THAT MR. COOPER USED THE WORD "PREDOMINANT,"
19 BUT I DON'T RECALL ANYONE EVER DEFINING WHAT THAT MEANT. SO I
20 WANT YOU, AS A POLITICAL SCIENTIST, TO DEFINE TO THE COURT WHAT
21 YOU MEAN AS A POLITICAL SCIENTIST, WHAT DOES PREDOMINANT MEAN?

22 A. SO IN MY VIEW, WHEN SOME FACTOR IN A HOST OF FACTORS
23 PREDOMINATES, WHAT WE ARE LOOKING AT IS THAT IN ORDER TO
24 ACHIEVE A PARTICULAR OBJECTIVE OR TO ACCOMPLISH SOME OBJECTIVE
25 WITH REGARDS TO THAT FACTOR, THAT IF IT IS THE CASE THAT THAT

3:10PM 1 FACTOR CAME IN CONFLICT WITH OTHER FACTORS, THAT THOSE OTHER
2 FACTORS WOULD GIVE WAY OR TO SOME DEGREE BE SUBORDINATED IN
3 ORDER TO ACCOMPLISH THE PREDOMINANT FACTOR IN QUESTION.

4 **MR. NAIFEH:** YOUR HONOR, I WANT TO OBJECT NOT TO THE
5 ANSWER BUT TO ANY FURTHER TESTIMONY ABOUT -- IN THAT AREA OF
6 THE ANSWER BECAUSE THAT DEFINITION OF PREDOMINANCE IS ABOUT THE
7 SUBJECTIVE INTENT OF THE MAP-DRAWER.

8 **MR. FARR:** YOUR HONOR, I COMPLETELY DISAGREE WITH IT.
9 WE ARE NOT TALKING ABOUT THE INTENT. YOU KNOW, MR. COOPER MAY
10 BE ABSOLUTELY GENUINE, AND I DON'T HAVE ANY DOUBT THAT HE IS
11 GENUINE IN HIS BELIEF THAT HE DID NOT USE RACE AS A PREDOMINANT
12 FACTOR, BUT THAT DOESN'T MEAN HE IS RIGHT. THAT IS UP TO YOU
13 TO DECIDE.

14 IN MAKING THAT DECISION, YOU ARE ENTITLED TO HEAR OTHER
15 EVIDENCE NOT ABOUT MR. COOPER'S SUBJECTIVE INTENT BUT A
16 FORENSIC EXAMINATION OF A MAP BY A PERSON WHO IS HIGHLY
17 QUALIFIED TO LOOK AT A MAP AND TO GIVE YOU HIS OPINION AS A
18 POLITICAL SCIENTIST AS TO WHAT FACTOR WAS THE DRIVING FORCE
19 BEHIND THE MAP.

20 **THE COURT:** IT'S A PRETTY THIN LINE, WHAT FACTOR WAS
21 THE DRIVING FORCE BEHIND THE MAP. I'M GOING TO GIVE YOU SOME
22 LATITUDE, BUT IT REALLY DOES -- IT'S A HORSE BY A DIFFERENT
23 COLOR OR A HORSE BY A DIFFERENT NAME, BUT IT DOESN'T MAKE IT A
24 ZEBRA. I MEAN, IT IS STILL A HORSE, AND YOU ARE STILL
25 ASKING -- AT ITS BASE, IT IS A QUESTION OF WHAT WAS THE

3:12PM 1 SUBJECTIVE INTENT, WHICH MEANS THAT -- WELL, I'M GOING TO
2 OVERRULE THE OBJECTION, BUT I THINK THAT IT'S REALLY ON A LINE.

3 **MR. FARR:** THANK YOU, YOUR HONOR. MAY I CONTINUE?

4 **THE COURT:** YOU MAY.

5 **BY MR. FARR:**

6 Q. SO BASED UPON YOUR DEFINITION OF PREDOMINANT, DID YOU
7 REACH ANY CONCLUSIONS ABOUT MR. COOPER'S MAPS?

8 A. YES.

9 Q. WHAT WERE THEY?

10 **MR. NAIFEH:** OBJECTION, YOUR HONOR. HE IS ASKING
11 HIM, BASED ON HIS DEFINITION OF PREDOMINANCE, TO OFFER A
12 CONCLUSION, AND HIS DEFINITION OF PREDOMINANCE WAS SPECIFICALLY
13 ABOUT WHAT FACTORS WERE PUT INTO PLAY IN -- THE LANGUAGE HE
14 JUST STATED IN HIS PRIOR ANSWER WAS IN ORDER TO ACHIEVE A
15 PARTICULAR OBJECTIVE. THAT IS -- THAT'S THE SUBJECTIVE INTENT
16 OF THE MAP-DRAWER ABOUT WHAT THEY DID IN ORDER TO ACHIEVE AN
17 OBJECTIVE, AND THAT'S WHAT HE IS ABOUT TO ELICIT AN ANSWER --

18 **THE COURT:** OBJECTION IS SUSTAINED. YOU ARE ASKING
19 HIM FOR THE ULTIMATE CONCLUSION OF WHAT WAS THE PREDOMINANT
20 FACTOR IN MR. COOPER'S MIND. OBJECTION IS SUSTAINED.

21 **MR. FARR:** JUST TO ESTABLISH THE RECORD, YOUR HONOR,
22 MAY I BE HEARD AGAIN?

23 **THE COURT:** NO. YOU MAY ASK ANOTHER QUESTION.

24 **MR. FARR:** MAY I ASK DR. COOPER TO ANSWER THE
25 QUESTION TO MAKE A PROFFER OF PROOF FOR THE RECORD?

3:13PM

1 **THE COURT:** WHEN THE COURT IS OFF THE BENCH, YOU CAN
2 MAKE A PROFFER. AND HIS NAME IS DR. BARBER.

3 **MR. FARR:** I'M SORRY, MA'AM. IT IS 3:15, AND I'M A
4 LITTLE WORN OUT. SO I APOLOGIZE.

5 **THE COURT:** YOU CAN MAKE A PROFFER AT THE APPROPRIATE
6 TIME, BUT NOT WHILE WE ARE ON THE RECORD IN THIS PROCEEDING
7 WHILE I'M SITTING HERE, BECAUSE I DON'T NEED TO BE HERE FOR
8 YOUR PROFFER.

9 **MR. FARR:** WILL I BE ABLE TO MAKE THAT PROFFER WITH
10 THE COURT REPORTER?

11 **THE COURT:** YES. YES, YOU WILL.

12 **MR. FARR:** THANK YOU.

13 **BY MR. FARR:**

14 Q. NOW, DR. BARBER, YOU STATED THAT YOU HAVE MADE SIMULATED
15 MAPS IN OTHER CASES. CAN YOU TELL US THE SPECIFICS OF HOW A
16 SIMULATED MAP COMES ABOUT AND WHAT IS AN ALGORITHM?

17 A. SURE. SO THE BASIC IDEA OF HOW SIMULATED MAPS WORK IS YOU
18 HAVE AN ALGORITHM THAT IS DESIGNED TO DRAW A LARGE NUMBER OF
19 MAPS IN A PARTICULAR JURISDICTION, AND IN THIS CASE WE ARE
20 TALKING ABOUT THE STATE OF LOUISIANA.

21 THE ALGORITHM IS PROVIDED WITH A NUMBER OF PIECES OF DATA
22 THAT ALLOW IT TO DRAW THE MAPS. INITIALLY, THAT BEGINS BY
23 GIVING THE COMPUTER A PIECE OF -- A LARGE DATASET THAT CONTAINS
24 THE INFORMATION ABOUT THE NUMBER OF VOTERS THAT LIVE IN THE
25 STATE AND THE GEOGRAPHIC LOCATION OF THOSE VOTERS, SO HOW THEY

3:14PM

1 ARE DISTRIBUTED ACROSS THE STATE.

2 BEYOND THAT, YOU THEN WOULD INSTRUCT THE ALGORITHM TO TAKE
3 THAT INFORMATION AND DRAW A PARTICULAR NUMBER OF DISTRICTS.
4 AND SO IN THIS CASE WE ARE DEALING WITH 39 DISTRICTS IN THE
5 SENATE AND 105 DISTRICTS IN THE HOUSE. IN ORDER TO DRAW THOSE
6 DISTRICTS, YOU THEN INSTRUCT THE ALGORITHM TO TAKE INTO ACCOUNT
7 VARIOUS FACTORS OR COMPONENTS, AND SO THOSE ARE WHAT ARE OFTEN
8 REFERRED TO AS THE TRADITIONAL REDISTRICTING CRITERIA, THINGS
9 LIKE EQUAL POPULATION, GEOGRAPHIC CONTIGUITY, FACTORS LIKE
10 THAT.

11 Q. WHAT IS MEANT BY THE TERM "CONSTRAINT"?

12 A. SO CONSTRAINT IS ANOTHER WORD FOR THESE FACTORS THAT YOU
13 PROVIDE TO THE ALGORITHM. SO BY CONSTRAINT, I MEAN WE FORCE
14 THE ALGORITHM TO DRAW 39 DISTRICTS OR WE FORCE THE DISTRICTS TO
15 HAVE ROUGHLY EQUAL POPULATION. SO WE CONSTRAIN THE ALGORITHM
16 TO MEET THESE CRITERIA THAT WE ARE PROVIDED WITH.

17 Q. HOW DID YOU DECIDE WHICH CONSTRAINTS TO IMPLEMENT IN THE
18 ALGORITHM THAT YOU USED IN THIS CASE?

19 A. SO THE GUIDING DOCUMENT FOR THE PARTICULAR CONSTRAINTS
20 THAT I PROVIDED THE ALGORITHM ARE THE JOINT -- THE CONSTRAINTS
21 OUTLINED IN THE JOINT RULE 21.

22 **MR. FARR:** YOUR HONOR, I THINK FOR THE RECORD, THAT
23 IS EXHIBIT JX53.

24 **THE COURT:** HE IS ASKING YOU TO CLARIFY YOUR
25 QUESTION. I DON'T THINK HE UNDERSTOOD YOUR QUESTION. CLARIFY

3:16PM 1 YOUR QUESTION. HE SAID -- IS THAT WHAT YOU WERE DOING?

2 **THE WITNESS:** I'M SORRY. THAT WAS MY ANSWER.

3 **THE COURT:** OH, I'M SORRY. I MISUNDERSTOOD YOU.

4 **THE WITNESS:** MY APOLOGIES.

5 **THE COURT:** JOINT RULE 21.

6 **BY MR. FARR:**

7 Q. SIR, JUST TO MAKE SURE WE HAVE A COMPLETE ANSWER, COULD
8 YOU AGAIN STATE ALL THE CONSTRAINTS THAT YOU USED IN FORMING
9 THE ALGORITHM THAT YOU USED IN THIS CASE?

10 A. SURE. SO THE ALGORITHM IS PROGRAMMED TO CONSTRUCT THE
11 APPROPRIATE NUMBER OF DISTRICTS FOR THE SENATE AND HOUSE. IT'S
12 INSTRUCTED TO, FOR EACH OF THOSE DISTRICTS, TO HAVE ROUGHLY
13 EQUAL POPULATION, TO BE GEOGRAPHICALLY CONTIGUOUS. I FURTHER
14 INSTRUCT THE ALGORITHM TO PRIORITIZE DISTRICTS, DRAWING
15 DISTRICTS THAT HAVE MINIMAL OR MINIMIZE THE NUMBER OF PARISH
16 AND MUNICIPAL DIVISIONS. AND THEN BEYOND THAT, I INSTRUCT THE
17 ALGORITHM TO MAKE THE DISTRICTS ROUGHLY GEOGRAPHICALLY COMPACT
18 AND TO THEN ALSO TRY TO MINIMIZE DEVIATIONS FROM THE PREVIOUS
19 DECADE'S PLAN.

20 Q. WAS PARTISANSHIP ONE OF THE CONSTRAINTS THAT YOU USED?

21 A. NO, THE COMPUTER HAS NO INFORMATION ABOUT THE PARTISANSHIP
22 OF VOTERS IN THE STATE.

23 Q. WHAT ABOUT RACE? WAS THAT A CONSTRAINT THAT YOU USED?

24 A. NO. SO THE COMPUTER DOES NOT HAVE ANY INFORMATION ABOUT
25 THE RACIAL COMPOSITION OF THE VOTERS IN THE STATE.

3:18PM

1 Q. WHY WAS THAT IMPORTANT?

2 A. SO THAT'S KIND OF THE KEY TO WHAT THESE ALGORITHMS ARE
3 DESIGNED TO DO IS YOU INSTRUCT THE ALGORITHM TO DRAW A LARGE
4 SET OF MAPS USING THE CRITERIA THAT WE HAVE JUST DISCUSSED.
5 BUT IN SHIELDING THE ALGORITHM FROM INFORMATION ABOUT RACE, WE
6 THEN KNOW THAT AT THE END OF THE PROCESS, WE HAVE A LARGE SET
7 OF MAPS THAT ARE DRAWN WITHOUT ANY REGARD TO RACE. WE KNOW
8 THAT THE ALGORITHM HAS NOT CONSIDERED RACE IN THE DRAWING OF
9 THE DISTRICTS.

10 AT THAT POINT, WE ARE THEN ABLE TO COMPARE THAT LARGE SET
11 OF SIMULATED MAPS TO A MAP IN QUESTION WHERE THERE IS A
12 QUESTION AS TO WHETHER RACE OR THE DEGREE TO WHICH RACE WAS
13 USED IN DRAWING THAT MAP.

14 Q. OKAY. AND HOW WOULD THAT WORK IN THIS CASE?

15 A. SO IN THIS CASE, WE DRAW A LARGE SET OF MAPS USING THE
16 ALGORITHM, AT WHICH POINT WE CAN THEN COMPARE THAT SET OF MAPS
17 TO, IN THIS CASE, THE ILLUSTRATIVE MAPS THAT WERE DRAWN. WE
18 CAN THEN COMPARE THEM ON A NUMBER OF METRICS, ONE OF THOSE
19 METRICS BEING THE RACIAL COMPOSITION OF THE ILLUSTRATIVE MAPS
20 COMPARED TO THE RACIAL COMPOSITION OF THE MAPS DRAWN BY THE
21 COMPUTER ALGORITHM.

22 Q. NOW, DR. BARBER, ARE YOU FAMILIAR WITH THE ALABAMA CASE,
23 *MERRILL V. MILLIGAN*?

24 A. YES.

25 Q. AND ARE YOU AWARE THAT SIMULATED MAPS WERE USED IN THAT

3:19PM

1 CASE?

2 A. YES.

3 Q. IS YOUR USE OF SIMULATED MAPS IN THIS CASE THE SAME AS
4 WHAT -- AS HOW THE STATE USED SIMULATED MAPS IN THE ALABAMA
5 CASE?

6 A. NO, IT'S A DIFFERENT UNDERTAKING HERE. MY UNDERSTANDING
7 IN THE *MILLIGAN* CASE IS THAT THE MAPS WERE USED TO ARGUE THAT
8 THE STATE'S MAP DID NOT HAVE A DISCRIMINATORY EFFECT, AND
9 THAT'S NOT WHAT WE ARE DOING HERE. HERE WE ARE DRAWING THE
10 MAPS TO USE AS A COMPARISON SET AGAINST THE ILLUSTRATIVE MAP
11 AND IDENTIFY DIFFERENCES THAT EXIST BETWEEN A MAP THAT WAS
12 POTENTIALLY DRAWN WITH RACE AS A CONSIDERATION AND A LARGE SET
13 OF MAPS WHERE WE KNOW WITH CERTAINTY THAT RACE WAS NOT A
14 CONSIDERATION.

15 **MR. NAIFEH:** OBJECT, YOUR HONOR, TO ANY FURTHER
16 QUESTIONS ABOUT LEGAL -- ASKING FOR LEGAL CONCLUSIONS. HE JUST
17 TESTIFIED TO HIS UNDERSTANDING OF WHAT MAPS WERE USED FOR IN
18 THE *MILLIGAN* CASE AND HOW THE COURT TREATED THEM.

19 **THE COURT:** THAT WILL BE SUSTAINED. YOU CAN ARGUE,
20 MR. FARR, AND I'M SURE YOU WILL AND I'M SURE YOU ARE ABLE TO,
21 THAT THERE'S SOME DISTINCTION HERE, BUT TO ASK HIM TO DRAW A
22 DISTINCTION BETWEEN WHAT YOU HAVE ASKED HIM TO DO AND WHAT AN
23 EXPERT IN ANOTHER CASE DID, I MEAN --

24 **MR. FARR:** I'M SORRY, YOUR HONOR. I WON'T ASK THAT
25 QUESTION AGAIN.

3:21PM 1

THE COURT: ALL RIGHT. MOVE ON.

2

MR. FARR: THANK YOU.

3

BY MR. FARR:

4

Q. NOW, LET'S TURN TO THE RESULTS OF YOUR SIMULATION,

5

DR. BARBER. HOW MANY SIMULATED MAPS DID YOU PRODUCE?

6

A. I PRODUCED 100,000 SIMULATED MAPS IN THE HOUSE AND 100,000

7

SIMULATED MAPS IN THE SENATE.

8

Q. WHY DID YOU PRODUCE SO MANY MAPS?

9

A. SO THE PARTICULAR NUMBER IS NOT AS CRITICAL AS THE FACT

10

THAT IT'S A LARGE SET OF MAPS THAT ARE REPRESENTATIVE OF THE

11

UNIVERSE OF POTENTIAL MAPS THAT COULD BE DRAWN. GIVEN THE SIZE

12

OF THE STATE, THE NUMBER OF DISTRICTS THAT WE ARE TALKING ABOUT

13

AND THE NUMBER OF PRECINCTS THAT COMPOSE THOSE DISTRICTS, THERE

14

ARE LITERALLY BILLIONS OF POTENTIAL MAPS THAT COULD BE DRAWN.

15

SO WHAT IS GOOD ABOUT THESE ALGORITHMS IS THAT THEY ARE

16

CAPABLE OF DRAWING A LARGE SAMPLE OF MAPS THAT ARE THEN

17

REPRESENTATIVE OF THAT UNIVERSE OF POTENTIAL MAPS, IN MUCH THE

18

SAME WAY THAT WHEN WE DO SURVEY RESEARCH, WE DON'T TALK TO

19

EVERY PERSON IN THE COUNTRY. WE TAKE A SAMPLE OF THE

20

POPULATION TO TALK ABOUT BROADER TRENDS ACROSS THE COUNTRY.

21

Q. SO AFTER YOU DREW THE HUNDRED THOUSAND MAPS -- YOU DID A

22

HUNDRED THOUSAND MAPS FOR BOTH THE SENATE AND THE HOUSE; IS

23

THAT CORRECT?

24

A. YES, THAT IS CORRECT.

25

Q. OKAY. WHAT DID YOU DO WITH THOSE MAPS AFTER YOU HAD

3:22PM 1 GENERATED A HUNDRED THOUSAND MAPS? HOW DID YOU ANALYZE THEM?

2 A. ONCE WE HAVE THE SET OF MAPS, THEN WE CAN COMPUTE VARIOUS
3 STATISTICS ABOUT THOSE MAPS AND COMPARE THOSE STATISTICS TO
4 EITHER THE ENACTED MAP OR THE ILLUSTRATIVE MAP.

5 SO IN THIS CASE, I COMPUTED THE BLACK VOTING AGE
6 POPULATION IN EACH OF THE DISTRICTS IN EACH OF THE SIMULATED
7 MAPS AND THEN CAN COMPARE THAT TO THE BVAP IN THE ENACTED MAP
8 OR THE ILLUSTRATIVE MAP.

9 Q. WHAT WAS THE MAIN TAKEAWAY THAT YOU HAD, DR. BARBER, AFTER
10 YOU DID THAT COMPARISON?

11 A. THE MAIN TAKEAWAY IS THAT IN USING THE REDISTRICTING
12 CRITERIA THAT WE JUST DISCUSSED FROM JOINT RULE 21, THE
13 SIMULATED MAPS PRODUCED FAR FEWER MAJORITY BVAP DISTRICTS THAN
14 THE ILLUSTRATIVE MAP.

15 **MR. NAIFEH:** YOUR HONOR, I'M GOING TO OBJECT HERE ON
16 RELEVANCE GROUNDS. HE IS ATTEMPTING TO ESTABLISH THAT HIS
17 SIMULATIONS CREATED SOME KIND OF REPRESENTATIVE SAMPLE OF
18 DISTRICTS THAT DID NOT CONSIDER RACE. THE SUPREME COURT
19 RECENTLY REJECTED DEFENDANT'S ARGUMENTS THAT AN ILLUSTRATIVE
20 PLAN MUST BE ASSESSED AGAINST A RACE-NEUTRAL BENCHMARK, AND
21 THAT WAS RECENTLY REINFORCED BY THE FIFTH CIRCUIT IN THE
22 *ROBINSON* CASE, AND SO THIS WHOLE TOPIC OF SIMULATIONS PRODUCING
23 A RACIAL NEUTRAL BENCHMARK PROVIDES NO RELEVANT INFORMATION TO
24 THE RESOLUTION OF THIS CASE.

25 **MR. FARR:** YOUR HONOR, I THINK IT IS VERY RELEVANT TO

3:24PM

1 COMPARE -- YOU SAID WE CAN PUT ON EVIDENCE RELATED TO THE FACTS
2 OF THE MAPS, AND IT'S RELEVANT IN YOU MAKING YOUR DECISION
3 ABOUT WHETHER RACE WAS THE PREDOMINANT FACTOR.

4 **THE COURT:** BUT NOW WE COME RIGHT BACK TO SUBJECTIVE
5 INTENT, AND HE IS CORRECT, THE U.S. SUPREME COURT IN *MILLIGAN*
6 SAID THAT A BENCHMARK OF RACE-NEUTRAL MAPS WAS NOT SUITABLE FOR
7 A SECTION 2 INQUIRY.

8 **MR. FARR:** THAT WAS NOT THE PURPOSE OF THE MAPS IN
9 *MILLIGAN*, YOUR HONOR. THAT'S WHY I ASKED THAT QUESTION. THE
10 SIMULATED MAPS IN *MILLIGAN* WERE OFFERED TO PROVE THAT IF THE
11 PLAINTIFFS DID NOT PROPOSE A REMEDIAL MAP THAT WAS ONE OF THE
12 SIMULATIONS, THAT MEANT THAT THEIR MAP WAS ILLEGAL. WE ARE NOT
13 OFFERING IT FOR THAT REASON. WE ARE OFFERING THE SIMULATED
14 MAPS SO YOU CAN MAKE A COMPARISON AND EVALUATE THE EVIDENCE TO
15 DECIDE WHETHER OR NOT RACE WAS THE PREDOMINANT MOTIVE, WHICH IS
16 WITHIN THE PROVINCE OF THE COURT.

17 THAT'S EXACTLY WHY I WANTED TO MAKE THE POINT THAT THESE
18 SIMULATED MAPS ARE NOT BEING OFFERED FOR THE SAME REASON AS
19 THEY WERE IN THE ALABAMA CASE. I ALSO THINK THAT A LOT OF WHAT
20 PLAINTIFFS' COUNSEL IS DOING HE CAN BRING UP ON
21 CROSS-EXAMINATION.

22 **MR. NAIFEH:** YOUR HONOR, MAY I RESPOND?

23 **THE COURT:** YOU MAY.

24 **MR. NAIFEH:** IN *MILLIGAN*, THE ARGUMENT THAT
25 DEFENDANTS PRESENTED WAS THAT BECAUSE THE ILLUSTRATIVE MAPS DID

3:25PM 1 NOT COME OUT OF A SIMULATION, THAT WAS AN INDICATION THAT RACE
2 WAS THE PREDOMINANT FACTOR IN THE CREATION OF THOSE MAPS, AND
3 THE STATE ARGUED THAT THAT MEANT THE PLAINTIFFS HAD NOT
4 SATISFIED *GINGLES* I. THAT'S THE SAME ARGUMENT THEY ARE
5 PRESENTING HERE. I MEAN, THAT'S ESSENTIALLY THE SAME REASON
6 THEY ARE OFFERING THIS EVIDENCE IS TO PROVE THAT RACE
7 PREDOMINATED IN THE ILLUSTRATIVE MAPS, WHICH SOMEHOW RENDERS
8 THEM IMPROPER AS EVIDENCE OF, YOU KNOW, UNDER *GINGLES* I IN THIS
9 CASE.

10 **THE COURT:** WELL, I DON'T KNOW THAT *GINGLES* I IS HIS
11 ANGLE.

12 **MR. FARR:** EXCUSE ME?

13 **THE COURT:** I SAID I'M NOT CERTAIN THAT *GINGLES* I IS
14 YOUR ANGLE.

15 **MR. FARR:** IT'S NOT, YOUR HONOR. IT'S NOT OUR ANGLE.

16 **THE COURT:** IT'S THE 14TH AMENDMENT.

17 **MR. FARR:** WHAT'S THAT?

18 **THE COURT:** IT'S THE 14TH AMENDMENT.

19 **MR. NAIFEH:** I THINK, AS I UNDERSTAND -- WHETHER IT'S
20 *GINGLES* I OR IT'S THE 14TH AMENDMENT, THE ARGUMENT IS THAT
21 BECAUSE THE MAP PURPORTEDLY VIOLATES THE 14TH AMENDMENT, IT
22 CANNOT BE OFFERED TO PROVE A SECTION 2 VIOLATION. THAT WAS THE
23 SAME ARGUMENT THE STATE MADE IN THE ALABAMA CASE THAT THE
24 SUPREME COURT REJECTED.

25 **THE COURT:** OKAY. THE COURT IS GOING -- WE ARE GOING

3:26PM

1 TO BREAK FOR THE WEEKEND AND COME BACK AT 9:00 ON MONDAY
2 MORNING SO THAT THE COURT CAN LOOK AT THE ISSUE. IT WOULD HAVE
3 BEEN MOST HELPFUL HAD YOU TEED THIS UP IN A MOTION IN LIMINE.
4 WE ARE GOING TO BE AT RECESS UNTIL 9 A.M. MONDAY MORNING.

5 (TRIAL RECESSED UNTIL 9:00 A.M., MONDAY, DECEMBER 3, 2023)

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CERTIFICATE OF COURT REPORTER

I, TERI B. NORTON, RMR, FCRR, RDR, OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, APPOINTED PURSUANT TO THE PROVISIONS OF TITLE 28, UNITED STATES CODE, SECTION 753, DO HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT OF THE PROCEEDINGS REPORTED BY ME USING THE STENOTYPE REPORTING METHOD IN CONJUNCTION WITH COMPUTER-AIDED TRANSCRIPTION, AND THAT SAME IS A TRUE AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND UNDERSTANDING.

I FURTHER CERTIFY THAT THE TRANSCRIPT FEES AND FORMAT COMPLY WITH THOSE PRESCRIBED BY THE COURT AND THE JUDICIAL CONFERENCE OF THE UNITED STATES.

S/ TERI B. NORTON
TERI B. NORTON, RMR, FCRR, RDR
OFFICIAL COURT REPORTER

Attachment 6

1 *****

2 Rough Draft Only

3 DAY 6 OF TRIAL

4 *****

5 THE JUDGE:

6 Does counsel need to be heard before we
7 put Dr. Barber back on the stand?

8 PLAINTIFF COUNSEL:

9 Your Honor, understanding at the end of
10 Friday that Your Honor was going to consider
11 the relevance objection to Dr. Barber's
12 testimony.

13 THE CLERK:

14 Come to podium or speak up.

15 PLAINTIFF COUNSEL:

16 Your Honor, we understood that Your
17 Honor would be ruling on our relevance
18 objection to Dr. Barber's simulations report.

19 THE JUDGE:

20 I'm prepared to do that. The testimony
21 as thus far and as indicated in Dr. Barber's
22 report, which the Court reviewed again over
23 the weekend is of marginal relevance;

24 however, the predominance question is a
25 defense, and the Defendants are entitled to

2

1 put on a defense, and the court will weigh
2 that evidence and make a determination at the
3 close of the evidence. You may certainly
4 object to individual questions that you
5 believe go beyond either to scope of his
6 expertise or the scope of his report, but
7 otherwise, your general relevance objection
8 that would go as Court kind of understanding
9 it, to exclusion of Dr. Barber is overruled.
10 Put Dr. Barber back on the stand, please.

11 DEFENSE COUNSEL:

12 Your Honor, thank the Court for allowing
13 me for questioning from the table. Had some
14 issues over the weekend, and this is most
15 helpful to me. Thanks again.

16 THE JUDGE:

17 Yes, you may stay seated in your
18 examination of Dr. Barber.

19 Dr. Barber you're still under oath from
20 Friday. Mr. Farr, you may carry on.

21 DEFENSE COUNSEL:

22 Thank you, Your Honor.

23 EXAMINATION BY DEFENSE COUNSEL:

24 Q. Dr. Barber, do you have your two reports
25 up there with you in a notebook?

3

1 A. Yes, I do.

2 Q. What I'm asking you questions, you're
3 free to use the notebook, and also will be calling
4 up sections of your report on the screen in front
5 of you. So you can use either one of those
6 things.

7 A. Okay.

8 Q. So where we stopped on Friday was you
9 talked about how you done 100,000 simulations for
10 the Senate and the house, and I wanted to ask you,
11 what was your main take away from doing those
12 simulations?

13 PLAINTIFF COUNSEL:

14 Your Honor, I just want to put the
15 relevance objection on the record, I don't
16 intend to continue objecting throughout the
17 testimony.

18 THE JUDGE:

19 Your relevance objection is deemed

20 continuing. You may continue.

21 EXAMINATION BY DEFENSE COUNSEL:

22 Q. The main takeaway or --

23 A. The main takeaway or the main conclusion

24 I take way from simulations is that when we run

25 the algorithm using the criteria outlined in the

4

1 joint rule that the simulations produce a set of

2 maps that look very different from the

3 illustrative map, notably on the number of

4 majority black districts that are created.

5 Q. Can we turn to Secretary of State

6 Exhibit 1, page 15. And on that page, there's a

7 figure 1, could you explain to the Court the

8 significance of figure 1?

9 A. Certainly. This figure shows the

10 distribution of majority BVAP Senate districts

11 that are created in the hundred thousand

12 simulations. Those gray bars represent the number

13 of districts created and the frequency with which

14 that occurs. On the right side of the figure, we

15 see the number of majority BVAP districts in both

16 the enacted map and the illustrative map.

17 Q. Do you know how many districts there are

18 in the Louisiana Senate?

19 A. 39.

20 Q. What is the ever over all black voting
21 age population for Louisiana under the 20 census?

22 A. It's approximately 31 percent.

23 Q. Based upon the state's black voting age
24 population, how many majority black districts
25 would be exactly proportional?

5

1 A. It would be approximately 12.

2 Q. How would you calculate that?

3 A. By simply multiplying 31 percent times
4 39.

5 Q. How many majority black Senate districts
6 did the 100,000 race neutral simulations draw on
7 average?

8 A. On average, between 3 and 4.

9 Q. How many majority black Senate districts
10 are in 2022 enacted plan?

11 A. There are 11.

12 Q. How many majority black districts are in
13 Mr. Cooper's illustrative Senate plan?

14 A. There are 14.

15 Q. How did the number of majority black

16 senate districts in the enacted plan and Mr.
17 Cooper's plan compare to proportionality?

18 A. The enacted plan is one fewer than
19 proportionality. The illustrative map is two
20 greater than proportionality.

21 Q. On Exhibit Secretary of State 1 page 17,
22 could have turn to table 2 and explain to the
23 Court the significance of this table?

24 A. So this table is also showing the
25 results of the simulations but rather than showing

6

1 the number of majority BVAP districts that are
2 generated it breaks down the districts down by the
3 percent BVAP in the districts and so you can see
4 down the roads, rows those different categories or
5 brackets for the various BVAP percentages. The
6 table shows the outcome for the simulations in
7 that second column, and then the distribution of
8 districts for the 2011 map, the enacted map and
9 the illustrative map.

10 Q. Is there anything that you find
11 particularly significant about this analysis?

12 A. I think the most significant thing that
13 we see in this table is in the row labeled 50 to

14 52.99 percent. So this row is showing the number
15 and frequency of districts that fall in that
16 narrow band just above 50 percent. And when we
17 look across the row, with e can see that on
18 average or typically the simulations generated
19 about 1 of those districts. The 2011 map
20 contained one such district, the enacted map also
21 contained or contains one such district, and the
22 illustrative the map on the other hand, contains 1
23 nine districts that fall within that narrow range.

24 Q. In your opinion, would we see that
25 pattern, if adherence to nonracial criteria had

7

1 been the primary criteria used to Dr. Mr. Cooper's
2 maps?

3 PLAINTIFF COUNSEL: Objection, this is asking
4 for Mr. Cooper's intent. The effect of the
5 question was, what was Mr. Cooper ignoring
6 tray additional create to get to this number.

7 THE JUDGE: Mr. Far, you want to respond.

8 DEFENSE COUNSEL: There was nothing in that
9 question about Mr. Cooper's interpret. It
10 was based upon Dr. Barber's forensic
11 examination of the map and his analysis of

12 whether or not you'd have nine carefully
13 drawn majority black districts between 50 and
14 53 percent if Mr. Cooper had prioritized
15 practice additional redistricting principles.

16 THE JUDGE: I think the objection is the
17 reference to what Mr. Cooper's intent is.
18 I'll sustain the objection. Rephrase your
19 question.

20 EXAMINATION BY DEFENSE COUNSEL:

21 Q. Automatic sorry, Your Honor, did you say
22 I could repeat the question?

23 THE JUDGE: You can rephrase your question.

24 EXAMINATION BY DEFENSE COUNSEL:

25 Q. Dr. Barber, in your opinion, would we

8

1 see the pattern you have explained in Mr. Cooper's
2 illustrative maps if he had prioritized
3 traditional redistricting principles?

4 PLAINTIFF COUNSEL: Your Honor T same
5 objection. If he had prioritized.

6 THE JUDGE: Sustained.

7 PLAINTIFF COUNSEL: Mr. Cooper.

8 DEFENSE COUNSEL: Let me rephrase, Your
9 Honor.

10 THE JUDGE: Rephrase.

11 EXAMINATION BY DEFENSE COUNSEL:

12 Q. Dr. Cooper, would you see the pattern
13 in Mr. Cooper's maps if any maps or any other map
14 drawer had maximized or prioritized traditional
15 redistricting principles?

16 PLAINTIFF COUNSEL: Objection.

17 THE JUDGE: Sustained.

18 DEFENSE COUNSEL: I'm sorry, what did you say
19 Your Honor.

20 THE JUDGE: Sustained. There's not a pattern
21 in Mr. Cooper's maps. There's a pattern that
22 he shows on his whatever this is, table 2,
23 but where's the pattern in Mr. Cooper's --
24 you're calling for this witness to give
25 testimony about Mr. Cooper's intentions.

9

1 DEFENSE COUNSEL: Your Honor, we gratefully
2 accept your ruling, but I respectfully
3 disagree that we're asking about Mr. Cooper's
4 intent. We're asking whether or not any map
5 drawer who prioritized adherens to
6 traditional redistricting principles
7 principals would end up with nine districts

8 in the State of Louisiana that had a Blake
9 voting age population between 50 and
10 52.99 percent.

11 THE JUDGE: Any map drawer.

12 DEFENSE COUNSEL: Mr. Cooper's intent, but we
13 accept.

14 THE JUDGE: Any map drawer or any computer.
15 There is a difference map drawer and a
16 computer.

17 DEFENSE COUNSEL: Okay. I'll try again.

18 THE JUDGE: Well, you can try.

19 DEFENSE COUNSEL: Your Honor, I'll just on
20 the question. I'll move on.

21 THE JUDGE: All right.

22 DEFENSE COUNSEL: Thank you very much.

23 EXAMINATION BY DEFENSE COUNSEL:

24 Q. All right. Dr. Barber, could you pull
25 up page 17 of Exhibit of Secretary of State

10

1 Exhibit 1.

2 A. Yes, I'm there.

3 Q. Could you tell the Court the
4 significance of that table?

5 A. So this figure shows the same

6 distribution of majority BVAP districts that are
7 produced by the 100 simulations in the house.
8 Those gray bars again show the number of majority
9 black districts and the frequency with which they
10 occur. And then again the dashed lines show the
11 number of majority BVAP districts in the enacted
12 map as well as the illustrative map.

13 Q. How many house districts are there in
14 Louisiana?

15 A. 105.

16 Q. How many majority black house districts
17 would be exactly proportional?

18 A. Would be about 33.

19 Q. How did you calculate that?

20 A. By taking 31 percent times the number of
21 districts.

22 Q. How many majority black house districts
23 did the 100,000 race neutral simulations draw on
24 average?

25 A. On average, between 13 and 14.

11

1 Q. How many majority black house districts
2 are in the 2022 enacted plan?

3 A. There are 29.

4 Q. How about Mr. Cooper's illustrative
5 house plan?

6 A. There are 35.

7 Q. How do those two plans compare to the
8 proportion number of house districts?

9 A. The enacted map is approximately four
10 below. And the illustrative map is approximately
11 two above.

12 Q. Okay. Can we now turn to table 9,
13 Secretary of State 1 page 58. Are you there?

14 A. Yes, I am.

15 Q. Could you tell the Court what that table
16 represents?

17 A. So this table shows that same
18 information that we were looking at in the Senate,
19 rather than the number of majority BVAP districts
20 we're looking at the distribution according to
21 particular percentages. Again we have those
22 different ranges to split on the rows and the
23 typical outcome in the simulations, the 2011 plan
24 the enacting and the illustrative map.

25 Q. Could you again go into a little more

1 detail about the range of black voting ankle

2 population in Mr. Cooper's illustrative map?

3 A. So again I think the most important row
4 there is the one displaying the 50 to 53 percent
5 range, where we see that the simulations, the 2011
6 map, the enacted map all produce relatively few
7 districts in that range. And we see a very
8 different distribution when we look at the
9 illustrative map.

10 Q. With minute my August of parish and
11 municipal boundaries reduce this pattern?

12 A. No.

13 Q. Stepping back Dr. Coop, the results of
14 these subcontract simulations and form your
15 conclusions about the illustrative map?

16 A. So looking at the distribution here, we
17 can see that something very different in the
18 illustrative map compared to either the enacted
19 map, the 2011 plan or the simulations, and so what
20 we can infer from that is some other criteria were
21 used in producing the illustrative map that
22 generated a very different distribution compared
23 to these other maps we've been discussing.

24 Q. Okay. Now let's turn to the concept of
25 the core retention. What is core retention?

1 A. Core retention is a term that's used to
2 describe the degree to which voters are retained.
3 Held in the same district from the previous plan
4 into whatever new plan is drawn going forward
5 whether that's a result of the decennial
6 redistricting or some other reason why districts
7 are redrawn.

8 Q. Could a lay person calculate core
9 retention?

10 A. No.

11 Q. What expertise and skills are need to
12 analyze core retention?

13 A. Well, first you have to understand the
14 concept and how to measure it. And beyond that,
15 then you have to be able to acquire the data at
16 your merging data sets together that link the old
17 map and the new map, you have to then connect
18 those to population data from the census. And
19 then be able to appropriately aggregate all of
20 that data together.

21 Q. How did you calculate core retention in
22 this case?

23 A. So I calculate core retention as the
24 proportion of voters who are held in the same

25 district from the previous map to the new map,

14

1 district by district.

2 Q. Did Mr. Cooper do a core retention
3 analysis for his illustrative maps?

4 A. He has a reference to core retention,
5 but it's in reference to the degree to which the
6 illustrative map retains the enacted map, the 2022
7 map. I calculate core retention to the degree to
8 which the enacted map and the illustrative map
9 retain the 2011 map, which I think is the more apt
10 comparison since that's the district that is the
11 voters are coming from in the previous decade. So
12 we want to know whether the enacted map is the one
13 that goes forward or the illustrative map is
14 implemented. We would want to know the degree to
15 which the voters from the previous decade is
16 retained into the districts that are going to be
17 used going forward.

18 Q. Okay. And could core retention be an
19 explanation for why Mr. Cooper's illustrative maps
20 contain more majority black voting age population
21 districts than the simulations Orion maps?

22 PLAINTIFF COUNSEL: Objection, it's asking

23 for Mr. Cooper's intent again.

24 DEFENSE COUNSEL: Your Honor on that.

25 THE JUDGE: Yes, you may.

15

1 DEFENSE COUNSEL: I should have said this
2 earlier, Your Honor, but I want to make the
3 point that Plaintiffs in this case filed a
4 day Bert motion on Dr. Johnson's testifying
5 about the subjective intent of Mr. Cooper.
6 They didn't file a day Bert motion on Dr.
7 Barber. I would suggest to you Your Honor
8 the reason why they didn't do that is we
9 cited to a brief in our findings of fact,
10 which document 177 page 34 note 5, that was
11 filed by Ms. Thomas' organization, the
12 Harvard election law clinic with unit supreme
13 Court in the South Carolina case. I went
14 quote it, but we cite it to. There's a
15 lengthy in this case, about why simulations
16 are relevant evidence of the intent of the
17 map drawer in a racially case where there's a
18 claim of injury. They were aware of this
19 brief at the time that the day Bert motion
20 was filed. Afterwards, Your Honor, there was

21 a stipulation entered in this case, and I'll
22 try to quote it the best I can. I think it's
23 document 182. The stipulation says that the
24 expert reports of all the experts would come
25 into evidence without any objection as to the

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1 authenticity or the admissibility if the
2 expert appeared to testify. That stipulation
3 did not say if the expert appears to testify
4 and he's qualified as an expert. It did not
5 say that the report comes into evidence
6 subject to subsequent motions to strike
7 testimony in the report. It says the report
8 is in evidence. So the Plaintiffs have in
9 our view waived any right to object to this
10 testimony by Dr. Barber. In any case again
11 this is not a testimony about Mr. Cooper's
12 subjective intent. He's never mentioned Mr.
13 Cooper. He's never -- unlike.

14 THE JUDGE: Your question mentions Mr.
15 Cooper.

16 DEFENSE COUNSEL: What's that.

17 THE JUDGE: Your question mentions Mr.
18 Cooper. And so you're one step removed

19 perhaps from calling for intent. Your
20 question doesn't call for intent, but your
21 question calls for what is the conclusion
22 that you draw about Mr. Cooper's maps.

23 DEFENSE COUNSEL: Your Honor.

24 THE JUDGE: That question.

25 DEFENSE COUNSEL: I'm going have to read the

17

1 report or the brief that was submitted by.

2 THE JUDGE: You don't need to do that.

3 DEFENSE COUNSEL: Well, I need to make a
4 record, Your Honor. It's important for you
5 to understand this. If I may have your
6 permission, because it explains better --
7 they've explained better than I have been
8 able to do why this is relevant testimony.

9 THE JUDGE: It's in the record. There is a
10 record. I'm overruling the objection. Ask
11 your question again.

12 EXAMINATION BY DEFENSE COUNSEL:

13 Q. All right Dr. Barber, did you compare
14 the core retention figures for Mr. Cooper's map
15 and for the enacted plan?

16 A. Yes.

17 Q. Which one of those plans performed
18 better?

19 A. The enacted map.

20 Q. Can you turn to page 1 of secretary
21 exhibit -- excuse me, page 26 of secretary Exhibit
22 1, table 5. Can you tell the Court what that
23 table is please?

24 A. This table shows the results of the core
25 retention analysis. You can see the rows show the

18

1 various ranges of core retention, the enacted map
2 and the number of districts that fall in those
3 ranges for the Senate and the illustrative maps,
4 the number of districts that fall within those
5 ranges, and then at the bottom the average core
6 retention in each of the maps.

7 Q. Let's turn to Secretary of State Exhibit
8 1, page 65, table 12. Can you tell the Court what
9 that table is?

10 A. This table shows the same analysis for
11 the house. So we have again core retention and
12 the various ranges for the enacted map and the
13 illustrative house map. At the bottom we have the
14 average core retention in each of those maps.

15 Q. What were the average for enacted map
16 and Mr. Cooper's?

17 A. Retained about 83 percent of people in
18 the compared to the 2011 map. And the
19 illustrative map retained approximately
20 72 percent.

21 Q. In your opinion, as a political
22 scientist, is core retention a valid redistricting
23 criteria for the state to consider?

24 A. It is. There's been a variety of
25 academic research on the concept. Voters tend to

19

1 prefer or to the end to do better with stability.
2 They tend to know their representatives better.
3 They tend to be more likely to participate in the
4 political process when there's less variation and
5 change things related to voting, including whether
6 they moved in and out of districts, that sort of
7 thing.

8 Q. Let's turn back to your report. Did you
9 perform any analysis of subsections or region of
10 the state?

11 A. Yes.

12 Q. What do you mean by regional analysis

13 and why is that significant?

14 A. So we're looking at rather than the
15 results of a statewide analysis, we're looking at
16 particular portions of the state. That's
17 important because the voters in the state aren't
18 evenly distributed across the state. So in this
19 case where we're talking about drawing majority
20 black districts, there are only certain parts of
21 the state where that's even possible. There are
22 other places where despite having substantial
23 number of black resident, it's just simply not
24 possible to draw majority black districts. The
25 regional analysis, I look at places in which it

20

1 actually occurs, that majority black districts are
2 drawn.

3 Q. Could you now please turn to page 23 of
4 secretary Exhibit 1. There's a map on that page
5 title parish map and black voting age population.
6 Could you tell the Court what this map represents?

7 A. Sure. This map is parish map of the
8 state. The parishes are colored by their BVAP
9 percentages. And so you can see on the right, the
10 key there shows that the colors that are more

11 yellow beige and then into red and dark red are
12 the areas or the parishes in the state where
13 there's higher BVAP percentages.

14 Q. Does the pattern of residential pattern
15 of afternoon can Americans in Louisiana have any
16 implications as far as drawing districts?

17 A. Absolutely. As I said, because in some
18 of these places while you might have say
19 20 percent of the population that are of black
20 voting age population, it's just not possible to
21 draw any majority black districts in those areas.
22 So if you're going to create a map that has
23 proportionality or even exceeds proportionality
24 statewide, given the areas where you can't draw
25 majority black districts, you have to overdraw or

21

1 overrepresent the BVAP population in the remaining
2 parts of the state where it is possible.

3 Q. Could a lay person perform a regional
4 analysis similar to what you've done in your
5 report?

6 A. No.

7 Q. What type of expertise or software is
8 required to perform the regional analysis that

9 you've performed in this report?

10 A. So familiarity with geographic
11 information systems, ability to work with shape
12 files, merging data into those shape files, and
13 analysis that would come from that. Those would
14 all be things that would require a great deal of
15 expertise.

16 Q. Let's pull up table 3 on Secretary of
17 State Exhibit 1, page 19. Can you tell the Court
18 what this table represents?

19 A. So this table shows regions in the state
20 where there are majority BVAP districts.

21 Q. This is for the Senate plan, correct?

22 A. Yes. This is in the Senate. The
23 regions that are highlighted in yellow are the
24 regions where the illustrative map contains an
25 additional majority BVAP district compared to the

22

1 enacted map.

2 Q. How did you identify the regions that
3 you used in this table?

4 A. So the regions are the parishes in which
5 we see majority BVAP districts. In addition,
6 there are various regional definitions that have

7 been used by the Plaintiff's experts, so my intent
8 was to find the greater of greatest commonalities
9 across the regions, in addition to the majority
10 BVAP.

11 Q. To the regions you identified were in
12 part based upon testimony by Plaintiff's experts
13 on their opinions on regions?

14 A. That's correct.

15 Q. All right. To help the Court understand
16 table 3, we don't need to go through the whole
17 table. Could you please explain the first row
18 that deals -- it says Caddo, does that mean Caddo
19 Bossier?

20 A. Correct. So that would be the regions
21 in the northwest of the state in and around
22 Shreveport area.

23 Q. So just walk across that row and tell
24 the Court, so the Court will understand the other
25 regional evidence, how the top row works?

23

1 A. So in that region, we see that the
2 enacted map contains one majority BVAP district.
3 The next column shows the proportion of the
4 simulations that produce the same number of

5 majority BVAP districts as the enacted map. So we
6 can see that when we set the simulations, and then
7 look at the results afterwards, it's quite common
8 for the simulations to produce an outcome similar
9 to the enacted map in this region. About
10 88 percent of the time. In the next column, we
11 see the illustrative map contains two majority
12 BVAP districts in that region. And then the final
13 column shows the outcome never occurred in the
14 simulations.

15 Q. Now let's turn to page 34 officious
16 Exhibit 1. There's a table 6 Senate district core
17 retention in Shreveport regions. Could you tell
18 the Court what this table shows?

19 A. So this table goes into more detail in
20 that particular region. We see that there are
21 three districts contained in the region. The
22 table shows the district numbers, the BVAP in each
23 of those districts and the core retention scores
24 for each of those districts. The top half of the
25 table shows this information for the enacted map,

24

1 and the bottom half of the table shows this
2 information for the illustrative map. And again,

3 the rows highlighted in yellow indicate districts
4 that are majority BVAP.

5 Q. What is the collective black voting age
6 population in these two parishes?

7 A. So in this region, the BVAP is
8 approximately 39 percent.

9 Q. What share of the districts in the
10 enacted map is majority black voting age
11 population in this region?

12 A. In the enacted map, one of the three
13 districts in this region are majority black.

14 Q. And that's what percent?

15 A. About 33 percent.

16 Q. What about Mr. Cooper's illustrative
17 maps, what share of the districts in this region
18 are majority black voting age population?

19 A. Approximately 2 of the three -- I'm
20 sorry, two of the three districts are majority
21 BVAP approximately 67 percent.

22 Q. Okay. Is the illustrative map in this
23 region extra proportional?

24 A. It goes beyond proportionality by a
25 little more than 20 percentage points.

1 Q. Does the enacted map reach
2 proportionality?

3 A. It's under proportionality about six
4 percentage points.

5 Q. Is it possible to achieve exact
6 proportionality in this region?

7 A. It's not possible to get exactly there
8 simply because we're only dealing with three
9 districts. So you really only have options of
10 units of, you know, units of three effectively.

11 Q. Okay. Can we turn to Secretary of State
12 Exhibit 1 page 28, figure 7. That's titled
13 Shreveport region Cooper illustrative Senate
14 district boundaries. Do you see that?

15 A. Yes.

16 Q. Could you tell the Court what this
17 figure shows?

18 A. So this figure shows a map of the three
19 districts in the illustrative map in this
20 particular region. So we the two districts that
21 are majority, majority BVAP, highlighted in
22 yellow, and the third district in gray. The red
23 dotted lines show the parish boundaries.

24 Q. Does this orientation of -- does the
25 orientation of Mr. Cooper's 38 suggest it adheres

1 to race neutral redistricting criteria?

2 A. It does not. The district spans both
3 counties, it spans the two largest cities in the
4 area, it has an unusual shape. Kind of has a C
5 shape. And so in that way, it's not adhering to
6 any of the criteria in particular.

7 Q. Let's turn to figure 8. On Secretary of
8 State Exhibit 1 on page 39. Can you tell the
9 Court what this figure shows?

10 A. This figure shows it's schooled on
11 district Zoomed in district 38, illustrative
12 district 38. It colors the precincts by their
13 BVAP percentages, and so the darker more purple
14 colors are precincts with higher BVAP. The
15 lighter more yellow colors are precincts with
16 lower BVAP. The numbers of the precinct labels,
17 the district itself is out lined with the dark
18 gray, the dark gray line.

19 Q. Is there anything significant in your
20 opinion about the shape of Mr. Cooper's Senate
21 district 38?

22 A. Yes. In having that, as I mentioned,
23 that C shape of the district, you can see that the

24 district avoids grouping of precincts in the
25 center there near where the figure says SD36. And

27

1 those precincts have very few black residents and
2 are heavily white. So you can see the district
3 very carefully walks around that group of
4 precincts.

5 Q. What does this suggest to you?

6 A. It suggests to me that the district's
7 shape is because it has that C shape, it's missing
8 those precincts in the middle that are majority
9 white, and that to me suggests that that shape is
10 kind of carefully winding around those majority
11 white precincts in the center there.

12 Q. Do you do similar analysis for other
13 regions in the state where Mr. Cooper created
14 additional majority black Senate districts?

15 A. Yes.

16 Q. Did you come to similar conclusions in
17 regards --

18 PLAINTIFF COUNSEL: I'm going to object, Your
19 Honor. That question calls for Mr. Cooper's
20 objective intent and how he drew this
21 district. The answer included testimony

22 about this objective intent. I did not get
23 an objection on the record in time for that
24 answer, but I'm going to object to further
25 questions that ask for that same kind of

28

1 testimony.

2 DEFENSE COUNSEL: May I be heard, Your Honor?

3 THE JUDGE: The objection is overruled.

4 DEFENSE COUNSEL: Thank you, Your Honor.

5 EXAMINATION BY DEFENSE COUNSEL:

6 Q. Did you do similar analysis for the
7 other regions in the state where Mr. Cooper
8 created additional majority black Senate
9 districts?

10 A. Yes.

11 Q. Did you come to similar conclusions?

12 A. Yes.

13 Q. We won't have to go through those other
14 regions, because that testimony, Dr. Barber.

15 Thank you. Let's move to the house. Can you turn
16 to Secretary of State 1, page 59. Can you tell
17 the Court this table is marked Louisiana and
18 number of majority black Senate -- majority black
19 voting age house districts table 10. Could you

20 explain that table to the Court, please?

21 A. So this is the same table we were
22 looking at but for the house instead of the
23 Senate. So here we have regions of the state in
24 which there are majority BVAP districts. The rows
25 highlighted in yellow illustrate the regions where

29

1 the illustrative map contains additional majority
2 BVAP districts when compared to the enacted map.

3 Q. Was there anything particularly
4 significant in your view about the range of black
5 voting age population?

6 A. So again, as we saw on the previous
7 table, the number of majority BVAP districts in
8 the enacted map, as then we can compare that to
9 the proportion of time the simulations generate
10 the same number of majority BVAP districts
11 compared to the enacted map. And then in the last
12 column, the proportion of times that the
13 simulations generate the same number of majority
14 BVAP districts as in the illustrative map.

15 Q. Let's look at one of these regions with
16 more specificity. Can we pull up table 16 on
17 Secretary of State Exhibit 1 page 95.

18 A. I'm there.

19 Q. Is that in front of you?

20 A. Yes, it is.

21 Q. Okay. Could you explain that table to
22 the Court, please?

23 A. So this table focuses in on the regions
24 in and around Baton Rouge. And again, it shows
25 the particular districts in that region. The BVAP

30

1 in each of those districts on the retention scores
2 for each of those districts, again the top half is
3 for the enacted map. The bottom half is for the
4 illustrative map. And the rows highlighted in
5 yellow are again those districted where that
6 contain majority BVAP population.

7 Q. And is this the table explain how many
8 house districts are in this region?

9 A. It does, yes. There are eleven.

10 Q. What's the racial composition of these
11 two parishes?

12 A. Collectively, it's approximately
13 44 percent.

14 Q. How many of the districts in this area
15 are majority black voting age population in the

16 enacted plan?

17 A. Six of the eleven, or about 54 and a
18 half percent.

19 Q. So the enacted house plan already
20 exceeds proportionality in this region?

21 A. Yes, it does.

22 Q. All right. How many districts in this
23 region are majority black in Mr. Cooper's
24 illustrative map?

25 A. Eight of the 11 are, or about

31

1 73 percent.

2 Q. Does this percent exceed proportionality
3 for Mr. Cooper's plan?

4 A. Yes, it does.

5 Q. Let's now look at figure 37, Secretary
6 of State Exhibit 1 page 99. Can you tell us what
7 this figure represents?

8 A. This figure is showing the orientation
9 of these districts in this region for the
10 illustrative map. And again the districts that
11 are contained majority population are highlighted
12 in yellow.

13 Q. What do you find noteworthy about these

14 districts?

15 A. I think the most noteworthy is you can
16 see some of the districts contain some unusual
17 shapes, particularly district 70, I think district
18 71 are two that I highlighted in my report.

19 Q. Let's look at figure 38 on page 100.
20 Can you explain what this represents to the Court?

21 A. So this figure looks specifically at
22 illustrative district 68 and 70. And again, as in
23 the example we looked at earlier in the Senate, it
24 shows the precincts contained in each of those
25 districts colored by the black voting age

32

1 population in each precinct. The boundary of the
2 precincts are shown using the dark gray lines.

3 Q. What's significant about these
4 districts?

5 A. I think what we see is district 70 has
6 this unusual U shape that's kind of horseshoe
7 shaped, in which it kind of winds around the
8 bottom of house district 68, which house district
9 68 is majority BVAP district, and house district
10 70 is not.

11 Q. Why was -- in looking at the map, was

12 there anything that you can deduce from the
13 demographics of the precincts based upon the U
14 shape?

15 A. Well, one thing that occurs in having
16 that shape is that HD70 kind of goes very -- it
17 kind of digs south to avoid that precinct at the
18 bottom that's majority BVAP. And then comes back
19 around on the other side and scoops up some
20 precincts that are heavily white. And in order
21 to -- for district 68 to remain majority BVAP, it
22 needs those very heavy BVAP precincts at the
23 bottom of the map there.

24 Q. This is suggesting to -- does this
25 suggest anything to you in particular?

33

1 PLAINTIFF COUNSEL: Objection to the extent
2 it calls for Mr. Cooper's.

3 THE JUDGE: It's just a question too far. I
4 mean, I'm following you. It's a question too
5 far. Sustained.

6 DEFENSE COUNSEL: Your Honor, could you hear
7 the answer before you sustain the objection.

8 THE JUDGE: Yes, give me a response.

9 DEFENSE COUNSEL: He's just going to say that

10 the districts don't comply with traditional
11 redistricting.

12 THE JUDGE: That's what he's going to say.
13 You know what he's going to say.

14 DEFENSE COUNSEL: Yes.

15 THE JUDGE: I'm going to let him answer the
16 question.

17 THE WITNESS: The shape of the HD70 is not --
18 doesn't comport with other traditional
19 redistricting principles.

20 EXAMINATION BY DEFENSE COUNSEL:

21 Q. Did you do similar analysis for other
22 house regions in the state where Mr. Cooper
23 created additional majority black house districts?

24 A. I did, yes.

25 Q. Now I'm going to turn to your rebuttal

34

1 report. Could you call up and turn to Secretary
2 of State Exhibit 4. This is the rebuttal report
3 you prepared for this case?

4 A. Yes, it is.

5 Q. Why did you prepare this?

6 A. I prepared this in response to a report
7 filed by Dr. McCartin.

8 Q. Who's Dr. McCartin?

9 A. Yes.

10 Q. That's M-C-C-A-R-T-I-N, for the court
11 reporter?

12 A. That's correct.

13 Q. Who's Dr. McCartin?

14 A. He's one of the co-authors of the
15 algorithm that I used in this case in addition to
16 other professors, Dr. Emy and others who wrote the
17 algorithm.

18 Q. Did Dr. McCartin offer any objections to
19 your original report?

20 A. Yes, he did.

21 Q. What were they?

22 A. He offered a number of critiques,
23 particularly to the way in which the simulations
24 were structured, the particular parameter values
25 that were chosen, the number of simulations that

35

1 were conducted, the particular way in which the
2 state I partitioned the state in order to conduct
3 the simulations, and I believe that the end there
4 some of the what are called convergence
5 diagnostics.

6 Q. What are convergence diagnostics?

7 A. More or less they are statistics that
8 you would look at to be assured that the algorithm
9 ran correctly, that it kind of ran to completion
10 appropriately, that sort of thing.

11 Q. How did you respond to Dr. McCartin's
12 criticisms?

13 A. So I incorporated each of those
14 criticisms and conducted a second set of
15 simulations and then compared the results of that
16 second set of simulations to the initial set that
17 I had run in my original report.

18 Q. What if any changes resulted from the
19 conclusions you reached in your original
20 simulations?

21 A. The second set of simulations doesn't
22 change my opinions in any meaningful way.

23 Q. Let's walk through a few specifics in
24 your rebuttal report. Secretary of State Exhibit
25 4, section 3 on page 8, can we turn to that. At

36

1 the top of the page, you state something to the
2 effect that Dr. McCartin did not run any
3 simulations. Why is that significant?

4 A. I think that's significant because he
5 certainly could have. And is certainly capable of
6 that. And in doing so, he certainly could have
7 provided a set of simulations using the criteria
8 out lined by the state and shown that when
9 introducing these criteria in the way he felt was
10 most appropriate, that of the simulations, closely
11 resemble the illustrative map.

12 Q. Let's clarify that a little bit. What
13 information did he need to do to run simulations
14 to test your report?

15 A. So we provided with my report data back
16 up code, that sort of information to replicate the
17 original set of simulations.

18 Q. The fact that he did not do any
19 simulations, does that suggest anything to you?

20 A. So as I was saying, he certainly could
21 have done that. And produced a new set of
22 simulations that he felt were better or more
23 appropriately reflected the countries criteria of
24 the statement had those simulations reflected the
25 illustrative map, that I think would have been

1 very strong suggestive evidence, and we don't see

2 that here.

3 Q. How long would it have taken
4 Dr. McCartin to run simulations to test your
5 conclusions?

6 A. Given the information that we provided.

7 PLAINTIFF COUNSEL: Objection. This is
8 beyond the scope of the report. There's
9 nothing in the report about what Dr. McCartin
10 could have done beyond what's in this
11 paragraph. There's nothing about how long it
12 would take, there's nothing about what it
13 would have shown.

14 DEFENSE COUNSEL: Your Honor, this is
15 interesting. I'm not allowed to ask him
16 questions about things that are in the report
17 that they admitted into evidence and thereby
18 waived any objections. And now I'm not
19 allowed to ask him questions to clarify his
20 testimony that's in the report.

21 THE JUDGE: Overruled.

22 EXAMINATION BY DEFENSE COUNSEL:

23 Q. How long would it have taken
24 Dr. McCartin to run simulations to test the
25 criticisms that he made of your report?

1 A. In my estimate, it would not have taken
2 particularly long, given the information that we
3 provided and his expertise in this area. The
4 better part of perhaps a day's work.

5 Q. Let's turn to page 6 of Secretary of
6 State -- let's turn to page 6 of Secretary of
7 State Exhibit 4, section 3.1 titled partitioning
8 the state. Could you explain that section?

9 A. Yes. This section is addressing a
10 criticism offered by Dr. McCartin regarding the
11 way in which I close to partition the state prior
12 to running the simulations. In a state like
13 Louisiana, where you have a large number of
14 districts and even a larger number of precincts
15 that are being grouped together to compose those
16 districts, it's not uncommon to first divide the
17 state into a number of sub regions, and conduct
18 the simulations within those regions, and then
19 stitch them back together into a statewide
20 analysis. This has been done in the number of
21 cases in Louisiana is similar to those. So.

22 Q. Could I ask you a question. How many
23 other examples can you recall of people who --
24 expert, simulation experts who have done

25 simulations by dividing a state into regions?

39

1 A. So I know that this has been done in a
2 case in Pennsylvania in which the expert divided
3 the state into various regions. It's been done in
4 other published work including in some of
5 Dr. McCartin's own published work. It's a widely
6 used and commonly used and widely accepted
7 practice.

8 Q. So despite the fact that it's a commonly
9 accepted practice, what was your response to the
10 criticism from Dr. McCartin?

11 A. So my response was to take into account
12 his criticism and alter the way in which the state
13 was divided prior to running simulations. In the
14 first set of simulations, the state is partitioned
15 according to parish boundaries. And the second
16 set of simulations, the state has partitioned
17 according to the boundaries of the illustrative
18 map and the impact that that has is that it in
19 some ways makes it more likely for the simulations
20 to produce something that resembles the
21 illustrative map. And so it in some ways, you can
22 say almost like a leg up to the simulations in

23 producing something that resembles the
24 illustrative map.

25 Q. Could I stop you there and make sure the

40

1 Court understand it. We're talking about the
2 house map?

3 A. That's correct. The first set of
4 simulations, I partitioned the state into the
5 regions in the house. I do not partition the
6 state in the Senate. In the second set of
7 simulations, I partitioned both the Senate and the
8 house according to groupings of the illustrative
9 districts.

10 Q. Explain why your regions and your second
11 set of simulations were based upon Mr. Cooper's
12 illustrative districts?

13 A. So one of the criticisms was that in
14 partitioning the state by parish boundaries, it
15 would make it difficult or perhaps impossible to
16 recreate, to perfect replication, for the
17 simulations to perfectly replicate say the enacted
18 map, given the way in which the enacted map
19 crosses certain parish boundaries. Given that you
20 could think of this the hard case against the

21 simulations would be do they resemble the
22 illustrative map. So to give the best scenario or
23 the best case scenario toward allowing the
24 simulations to produce something resembling the
25 illustrative map, I partitioned the state

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1 according to boundaries of the illustrative map.

2 Q. And in doing that, did it make any
3 difference in your results?

4 A. The results were not substantively
5 different after making that adjustment.

6 Q. Let's turn to Secretary of State 4 page
7 8, there's a section titled 3.2 core retention.
8 Could you explain that section to the Court?

9 A. So this section addresses the critique
10 of the way in which the core retention constraint
11 is implemented in the simulations. And in the
12 second set of simulations, I implement a much
13 stronger core retention constraint. So the
14 algorithm is instructed to give much greater
15 weight or priority to this criteria of core
16 retention.

17 Q. Where did you get that criteria for core
18 retention?

19 A. So the country criteria, the particular,
20 is implemented in this set of simulations is drawn
21 from instructions or recommendations contained
22 within the algorithm itself, from Dr. McCartin and
23 his co authors.

24 Q. How would you respond in a criticism
25 that you should have run simulations using a low

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1 range for core retention versus a high range for
2 core retention?

3 A. So my response would be that that's
4 exactly what we have here, the first set of
5 simulations have a very low range of core
6 retention or no core retention constraint. The
7 second set of simulations have a very high core
8 retention constraint. And so we can see the
9 outcome of bearing the strength of that constraint
10 in comparing the two. The two set to one another.

11 Q. All right. So let's turn to Secretary
12 of State Exhibit 4, page 9, Section 3.3 titled
13 number of unique maps. Could you please explain
14 that section to the Court?

15 A. Sure. One of the additional critiques
16 was that the simulations had not perhaps generated

17 a sufficient number of maps or unique maps to
18 represent the possible -- to be a representative
19 sample of maps and so in addressing that critique,
20 increased the number of maps that were drawn by 5
21 times from 100,000 to 500,000 maps.

22 Q. In your opinion, was Dr. McCartin
23 criticism that you had not constructed a
24 sufficient number of simulations in your first
25 set. Was that a valid criticism in your view?

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1 A. No, I don't think so. 100,000 maps is
2 substantial. It exceeds the number of maps in
3 many other redistricting cases in which this
4 algorithm has been used. And perhaps -- or in
5 those cases, you've seen 10,000, 5,000 maps being
6 used. And so I don't think it was necessarily a
7 valid criticism to begin with. But nevertheless,
8 just to be sure, I increased the number of maps
9 drawn by five times.

10 Q. Am I understanding you correctly, you
11 did 500,000 Senate maps and 500,000 house maps?

12 A. That's correct.

13 Q. In doing that, did it make any
14 difference in your conclusions?

15 A. Again, the substantive conclusions
16 didn't change dramatically, or didn't change at
17 all really.

18 Q. So, Dr. Barber, just to be clear, did
19 you implement these changes one at a time or all
20 at once?

21 A. Collectively. So I took all of these
22 critiques together and implemented them in a
23 second set of simulations that addressed all of
24 them simultaneously.

25 Q. Now let's turn to Secretary of State

44

1 Exhibit 4 page 11. There's a section titled
2 conversion diagnostics. Could you explain that
3 section to the Court?

4 A. Sure. One of the criticisms offered was
5 that I failed to check or provide diagnostic
6 convergence diagnostics regarding the first set of
7 simulations. And to address that, I include those
8 again a second time in addition to other measures
9 that were recommended again none of the -- those
10 results indicated there were problems with the
11 simulations.

12 Q. Just to be clear could you explain to

13 the Court the type of problems that converge and
14 statistics might reveal?

15 A. Probably they would indicate that the
16 model or the algorithm hadn't run appropriately or
17 it hadn't correctly -- the term we would use is
18 converged. That simply means that the algorithm
19 basically did what we want it to do. It ran
20 appropriately and collected a representative
21 sample of maps.

22 Q. Again, what did the converge statistics
23 show for your second set of simulations?

24 A. They indicated that the model had run
25 appropriately.

45

1 Q. Now, the criticism Dr. McCartin made
2 about converge and statewide order particulars on
3 your first set of simulations, do you think that
4 was a fair criticism?

5 A. No. Those diagnostics were include with
6 the materials we provided. Dr. McCartin saw those
7 and made reference to them. He indicated
8 additional convergence diagnostics that he thought
9 would be appropriate. Those are include in the
10 second set of simulations.

11 Q. Okay. Let's now move on to page 12 of
12 so the Exhibit 4, section 4. Titled regional
13 analysis. And on that page, Dr. Barber, there's a
14 color-coded maps. Could you explain to the Court
15 what's reflected by that color-coded map of
16 Louisiana?

17 A. So this map indicates the way in which
18 the simulations are partitioned for the Senate.
19 So I partitioned the state into four regions. You
20 can see those regions are groupings of
21 illustrative Senate districts.

22 Q. Just to be clear, how did you identify
23 the regions that you used?

24 A. So as I said, there are groupings of
25 illustrative Senate districts that they're

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1 geographically connected to one another.

2 Q. Let's turn to page 14 of Secretary of
3 State Exhibit 4. There's a chart at the bottom of
4 the page titled minority majority black voting age
5 population districts in simulation Senate region
6 1. Could you explain to the Court what that chart
7 reflects?

8 A. So this chart is showing the results of

9 the second set of simulations for the Senate
10 region 1, if you look back at the map, the area in
11 and around New Orleans. And the results here show
12 the proportion of simulations that generate a
13 particular number of majority BVAP districts on
14 the far left we can see that in that set of
15 simulations, 100 percent of the maps generate at
16 least one majority BVAP district. We can see then
17 on the next bar that approximately 70 percent of
18 the simulations generate at least two majority
19 BVAP districts. Then finally we can see that in
20 that set of simulations, approximately ten percent
21 of the simulations generate three majority BVAP
22 districts on the far right of the figure, we see
23 where the illustrative map is at 6.

24 Q. How many simulations map generated six
25 majority black districts in region 1?

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1 A. There were none.

2 Q. What conclusions did you reach from this
3 analysis?

4 A. The conclusions that I reach is that
5 even after we respecify the -- if I the
6 simulations to incorporate all of these changes

7 and we rerun the algorithm, the set of simulations
8 nevertheless produce largely the same results that
9 they failed to produce the number of majority BVAP
10 districts as in the illustrative map.

11 Q. I apologize, Your Honor, I may have
12 asked this, but just to be clear: Did you do
13 similar analysis for Senate regions 2, 3 and 4, on
14 pages 15 through 18 of Secretary of State Exhibit
15 4?

16 A. Yes, I did.

17 Q. All right. Now let's turn to Secretary
18 of State Exhibit 4 page 19 secretary labeled 4.2
19 house. Could you tell the Court what is reflected
20 by the color-coded map Louisiana that appears on
21 page 19?

22 A. So this is showing the choice of regions
23 for the simulations in the house. So again, you
24 can see these are groupings of illustrative house
25 districts. There are seven in the -- you can see

48

1 that are color-coded on the map there.

2 Q. Okay. Again, how did you identify these
3 house regions?

4 A. So as I said, they're groupings of

5 illustrative house districts that are
6 geographically close or connected to one another.

7 Q. Like the Senate chart we looked at, did
8 you do a similar chart for all the house regions
9 to compare the number of majority black simulated
10 districts to the number found in enacted and
11 illustrative plan?

12 A. Yes.

13 Q. What did you find?

14 A. So again, the results are similar to the
15 results of the Senate for the second set of
16 simulations. And for the results of the first set
17 of simulations, the illustrative maps stands as an
18 outlier, significant outlier, when compared to the
19 results of the simulations with regards to the
20 number of majority BVAP districts that are
21 generated.

22 Q. Did you reach any conclusions from that?

23 A. The conclusions are that again even
24 after respecifying the algorithm, taking into
25 account all of these changes that we just -- we

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1 simply don't see a similar number of majority BVAP
2 districts in the simulations when compared to the

3 illustrative map.

4 Q. Let's turn now to Secretary of State
5 Exhibit 4 page 9, figure 1. On that page, there's
6 two charts there. Mr. Barber, one says number of
7 majority black VAP Senate districts, 500,000 maps.
8 The other chart says number of majority black VAP
9 500 thousands house districts. Could you explain
10 to the Court what's reflected by these two
11 figures?

12 A. So these two figures take all of those
13 regional simulations and piece them back together
14 to look at this at a statewide level. Similar to
15 the figures we looked at, at the very beginning of
16 my testimony. Again we're seeing the distribution
17 of majority BVAP districts produced by the
18 simulations in the Senate on the left and the
19 house on the right, again, in comparison to the
20 dashed lines in each figure, which show the
21 enacted map and the illustrative map.

22 Q. All right. So let's start with the
23 house. What was the average number of majority
24 black house -- Senate -- I'm going to go with the
25 Senate first, because it's on the left. What was

1 the average number of majority black Senate
2 districts generated by your second set of
3 simulations?

4 A. In the Senate, the average was a little
5 more than five.

6 Q. How many again majority black house
7 districts are in the enacted plan?

8 A. In the enacted plan, in the Senate,
9 there are 11.

10 Q. How about in Mr. Cooper's illustrative
11 plan?

12 A. 14.

13 Q. Let's move slightly to the right, which
14 is your chart for the second set of house
15 simulations. What's the average number of
16 majority black house districts created by your
17 second set of simulations?

18 A. So in the second set of simulations in
19 the house, the average number produced by the
20 simulations is between 17 and 18.

21 Q. And how many majority black house
22 districts are in the enacted 2022 house plan?

23 A. 29.

24 Q. How many majority black districts are in
25 Mr. Cooper's illustrative house plan?

1 A. 35.

2 Q. Can you conclude, Dr. Barber, by briefly
3 summarizing what you relied upon to form your
4 opinions in this case?

5 A. So in kind of holistically, we have at
6 this point a first set of simulations, a second
7 set of simulations that are specified very
8 differently than the first set of simulations.
9 Nevertheless both of them produce come to a
10 similar conclusion, which is that we just don't
11 see something resembling the illustrative map,
12 given the criteria that are outlined in the joint
13 rule combine and the simulations from that. More
14 over, when we look at the particular distribution
15 of the districts, just whether they're majority or
16 not, we see something very different as well. And
17 then finally just a visual inspection of the
18 district boundaries. We see in some cases some
19 unusual shaped districts and odd appendages and
20 things like that, that are not well explained by
21 the traditional redistricting criteria.

22 Q. All right.

23 DEFENSE COUNSEL:

24 Your Honor, subject to redirect, no
25 further questions, but I also want to make a

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1 proffer of proof at the time the Court tells
2 me it's proper for me to do that.

3 THE JUDGE:

4 Permitted. All right. Cross.

5 EXAMINATION BY PLAINTIFF COUNSEL:

6 Q. Good morning, Dr. Barber.

7 A. Good morning.

8 THE JUDGE:

9 Make an appearance, we have a new court
10 reporter.

11 PLAINTIFF COUNSEL:

12 Stewart Naifeh from legal defense fund
13 for the Plaintiffs.

14 EXAMINATION BY PLAINTIFF COUNSEL:

15 Q. So, Dr. Barber, you testified in a case
16 in the Northern District of Florida called
17 Jacobson versus Lee; is that correct?

18 A. Yes, I did.

19 Q. Did you recall what weight Chief Judge
20 Walker afforded your opinions?

21 A. I do not recall.

22 Q. Stephen, can we pull up Jacobson versus
23 Lee, and turn to page 18 of this PDF. For the
24 record, this is 411 F sub third at 1239 is the
25 citation for the case. And pen cite for this page

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1 is 1274.

2 Dr. Barber, do you read -- can you see the
3 highlighted text there?

4 A. Yes.

5 Q. Can you read that?

6 A. "This Court further finds Dr. Barber's
7 testimony emphatically not credible and his
8 opinions offered in this case to be unreliable."

9 Q. Does that refresh your recollection of
10 that weight Chief Judge Walker afforded your
11 opinions?

12 A. Yes.

13 Q. Okay. Did you also testify in a
14 Northern district of Florida case called Jones
15 versus Desantis?

16 A. Yes.

17 Q. And do you recall if Judge Hainkel
18 accredited your testimony in this case?

19 A. I do not recall.

20 Q. Stephen, can we pull up Jones V
21 Desantis. I see it's on the screen. Turn to page
22 37 of this PDF. This is 462 F, the third, 1196.
23 The pen cite is page 1246 of the reporter.
24 Do you see the highlighted text there?
25 A. Yes.

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1 Q. Can you read that text?
2 A. "The state says the focus groups and
3 pooling show that payment of LFOs, including by
4 those unable to pay, was critical to passage of
5 the amendment. They even presented expert
6 testimony to support the assertion. I do not
7 credit testimony."
8 Q. The expert testimony there, that was
9 your testimony that the Court is referring?
10 A. I believe so.
11 Q. Okay. Does that refresh your
12 recollection about the weight that Judge Hainkel
13 gave your testimony?
14 A. Yes.
15 Q. All right. And, Dr. Barber, you have
16 never drawn districting plans outside of
17 litigation, correct?

18 A. That's correct.

19 Q. And you don't have experience drawing
20 districting plans without the use of simulations,
21 correct?

22 A. I'm not sure what you mean.

23 Q. So you haven't used Maptitude to
24 assemble census blocks and precincts by hand into
25 districts?

55

1 A. I have not used Maptitude to create a
2 districting plan.

3 Q. Okay. And have you used any other
4 software other than simulation software to create
5 districting plan?

6 A. I have used the program called Dave's
7 redistricting. I'm familiar with that
8 redistricting program.

9 Q. You have used that software to create an
10 entire redistricting plans?

11 A. I use it in my course work. I teach
12 students about redistricting in my legislative
13 politics class. And I have an assignment that
14 asks them to create redistricting plans using
15 criteria. So I've used it in the academic and

16 pathological setting.

17 Q. Dr. Barber, a few general questions
18 about simulations analysis. When you perform a
19 simulation analysis, you use a computer to create
20 a large number of maps, correct?

21 A. Yes.

22 Q. And you impose a set of constraints on
23 how the computer uses those maps?

24 A. Yes.

25 Q. Okay. And those constraints are

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1 intended to approximate various redistricting
2 principles that a human map drawer might consider,
3 correct?

4 A. They are intended to approximate the
5 criteria that whichever jurisdiction you're
6 working with, they have out lined as the criteria
7 that should guide redistricting.

8 Q. And they could also include criteria
9 that a map drawer considered whether or not
10 whether some injury discovery have out lined those
11 criteria, correct?

12 A. I'm sorry, I'm not sure I understand.

13 Q. So a human map drawer might consider

14 criteria that are not those out lined by a
15 jurisdiction, correct?

16 A. Yes, that's correct.

17 Q. And those could also be programmed into
18 a simulation?

19 A. Yes, they could.

20 Q. Okay. To do that, you have to reduce
21 the redistricting considerations as a human map
22 drawer might apply them to a formula that could be
23 captured in computer code, correct?

24 A. I'm sorry, I'm not sure I understand.

25 Q. In order to implement redistricting

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1 criteria, whether specified by a jurisdiction or
2 use bid a human map drawer, you need to convert
3 those into something a computer could actually
4 calculate, correct?

5 A. Yes, that's correct.

6 Q. Okay. One use of simulations is to
7 isolate the effect of a particular redistricting
8 consideration on a configuration of districts in a
9 particular map you're interested in analyzing?

10 A. That's one of many uses.

11 Q. Okay. To do that, you produce simulated

12 maps that do not include the redistricting
13 consideration whose impact you're trying to study;
14 is that right?

15 A. I'm sorry, can you --

16 Q. So in order to isolate the effect of
17 redistricting consideration, you exclude that
18 consideration from the simulation; is that
19 correct?

20 A. That would be one approach, that's part
21 of the process. So I wouldn't say that that's the
22 only -- like, that's the final thing, but this
23 is -- like, that's one step in the process.

24 Q. Is that what you did in this case?

25 A. It's -- I think it's a description of

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1 part of what I did. I wouldn't say it's
2 everything.

3 Q. And then once you produce that set of
4 simulations that exclude that criteria, you
5 compare them to the map you're studying?

6 A. Yes, that's correct.

7 Q. Okay. And for this simulations to be
8 useful in testing the impact of the excluded
9 consideration on the map you're studying, a

10 simulation has to include all the other
11 redistricting criteria that went into the map
12 you're studying, correct?

13 A. I don't think that that is the case. I
14 don't think that anyone could do that. I think
15 that's an impossible task.

16 Q. So you're saying it's impossible to I
17 conclude all the criteria that the map drawer who
18 drew the map you're studying used?

19 A. I'm sorry, to include all of the
20 criteria?

21 Q. Yes.

22 A. You can do -- you can obviously do your
23 best at trying to do as much as possible, but I
24 think that we could sit here and articulate and
25 possibly a number of criteria. That's not

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1 something that could be done.

2 Q. Turning to the simulations you created
3 in this case. The excluding redistricting in your
4 consideration was race, correct?

5 A. Race is not included in the simulations.

6 Q. Right. And that's because you want to
7 assess the impact on race on the illustrative maps

8 created by Mr. Cooper?

9 A. That's correct.

10 Q. Okay. You specifically want to study
11 the number of majority black districts in Mr.
12 Cooper's illustrative plans as compared to the
13 simulations, correct?

14 A. That's one of the comparisons, among
15 others.

16 Q. Your opinion in this case is that the
17 simulations you ran show that racial
18 considerations did have an effect on Mr. Cooper's
19 maps, correct?

20 A. Yes. That's correct.

21 Q. And Mr. Cooper has candidly acknowledged
22 he considered race in his map drawing process,
23 correct?

24 A. Yes, I believe he has.

25 Q. He also has acknowledged that

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1 consideration of race was factor in his conclusion
2 that he could create additional majority black
3 districts over what are in the enacted plan,
4 correct?

5 A. Yes, I believe he has said that.

6 Q. Okay. One of the constraints that you
7 included in your simulations that is the
8 district's must have equal populations, correct?

9 A. They have to fall within a range of
10 population. So roughly equal within, I think, the
11 state set a five percent boundary or threshold.

12 Q. Okay. That's plus or minus five percent
13 over the target district population?

14 A. Yes. That's correct.

15 Q. Okay. That's a hard constraint,
16 correct?

17 A. Yes.

18 Q. A hard constraint is a constraint that
19 the simulation will not produce any map that
20 violates a hard constraint; is that right?

21 A. That's one way of putting it, yes.

22 Q. Okay. When you instruct the simulation
23 to create districts of equal population, you're
24 measuring that using total population, correct?

25 A. That's correct.

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1 Q. It's not calculated using voting age
2 population, correct?

3 A. That's correct.

4 Q. And you also considered contiguity,
5 correct?

6 A. Yes.

7 Q. Is that also a hard constraint, right?

8 A. Yes, that's correct.

9 Q. Okay. You considered parish splits?

10 A. Yes.

11 Q. And municipal splits?

12 A. Yes.

13 Q. And core preservation?

14 A. Yes.

15 Q. And geographic or mathematical
16 compactness?

17 A. Correct.

18 Q. Those are all soft constraints; is that
19 right?

20 A. That's correct.

21 Q. A soft constraint means that the
22 simulation will prefer maps that perform better on
23 those constraints, but it won't require any
24 particular threshold; is that right?

25 A. Yes.

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1 Q. Okay. And it's possible using the Redus

2 software that you used here to assign a weight to
3 each of the soft constraints, correct?

4 A. Yes.

5 Q. Okay. So you can give more weight to
6 some constraints and less weight to others?

7 A. Yes.

8 Q. Okay. And you used the default
9 weighting of those -- all of those constraints
10 provided by the Redus software, correct?

11 A. No, I don't believe that's correct.

12 Q. Okay. In your opinion, none of the
13 constraints you considered predominated in the
14 maps produced by the simulations, correct?

15 A. That's correct.

16 Q. Okay. You did no simulations that
17 removed any of those other constraints to study
18 what impact they are having on the simulations?

19 A. I'm sorry, I don't --

20 Q. You didn't run a simulation that
21 excluded for example, compactness as a criteria?

22 A. No. That was not the purpose of my
23 inquiry.

24 Q. So you don't have any simulations that
25 would tell you how much impact the compactness

1 constraint was having on for example, the
2 distribution of majority black districts?

3 A. No. That was not my intent.

4 Q. Okay. Your simulations did not include
5 protecting communities of interest as a
6 constraint, correct?

7 A. So I think we talked about how in order
8 to know what communities of interest would be
9 included, you would have to first articulate what
10 communities of interest you would want to be
11 protected to begin with.

12 Q. So you excluded them because you were
13 not aware of any -- of what communities of
14 interest should be considered; is that right?

15 A. I think we, in my deposition, talked
16 about how insofar as communities of interest are
17 co term news with municipalities or with parishes,
18 that the simulations would take into account those
19 communities of interest.

20 Q. Okay. But you didn't include
21 communities of interest separate from preserving
22 from parish and municipal boundaries?

23 A. I did not include an additional set of
24 communities of interest, because I couldn't

25 identify a list of community of interest either in

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1 the joint rule or in Mr. Cooper's report that
2 would have guided that decision.

3 Q. Okay. Mr. Cooper did seek to protect
4 communities of interest in his maps?

5 A. I think he says that he tries to do
6 that. I don't know that he further articulates
7 particular communities of interest that he uses to
8 guide the particular districts that he's drawing.

9 Q. So you don't know if Mr. Cooper had a
10 definition of the communities of interest he was
11 considering?

12 A. I'm not aware of a particular list of
13 communities of interest that he provides.

14 Q. Okay. Are you aware of any other
15 experts in that that's that offered communities of
16 interest in different parts of Louisiana?

17 A. I am aware of experts who have offered
18 opinions about I would say larger communities of
19 interest that are kind of regional, you might say.
20 But those would be, you know, much larger than a
21 particular district that we're talking about. So
22 those would fall under what I was describing

23 earlier in terms of parishes and preservation of
24 parishes.

25 Q. And you didn't consider those larger

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1 regions?

2 A. Insofar as the districts are assembled
3 by parishes, and the parishes make up those
4 regions, and then the particular in the second set
5 of simulations, the grouping of the states
6 according to the illustrative district would in
7 some way address that as well.

8 Q. But you didn't include as a separate
9 constraint in your simulations the regional
10 communities of interest that you're describing?

11 A. Those larger regions are not included as
12 their own independent parameter in the algorithm.

13 Q. You're not aware of expert testimony
14 concerning more local communities of interest in
15 this case?

16 A. I'm not.

17 Q. Your simulations also did not include
18 avoiding incumbent appearances, correct?

19 A. That was not included in the
20 simulations. It wasn't something that I saw in

21 the joint rule as a factor to be considered.
22 Beyond the preservation of existing district
23 boundaries, which again would also serve to
24 preserve incumbents within their districts.

25 Q. So reserving existing district

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1 boundaries, could preserve incumbents in their
2 districts if the incumbent was included in the
3 part of the district that was preserved, correct?

4 A. Yes, that's correct.

5 Q. But not in the incumbent was in a part
6 of the district that was not preserved, correct?

7 A. That's correct.

8 Q. You're aware that Mr. Cooper did seek to
9 avoid inherent encumbrances in his maps?

10 A. I'm aware he sought to do that in the
11 drawing of his map. I don't think that it is
12 suggestive of why the simulations deviate from or
13 looked different from the outcome of his M. I
14 don't see that connection.

15 Q. You don't see that connection, because
16 you didn't study it?

17 A. No, because I don't think it's
18 substantively contributes to the explanation.

19 Q. Okay. And you didn't include a
20 principle or a constraint concerning the number of
21 parishes spanned by a district?

22 A. The districts have to contain equal
23 population. So it's not as though districts can
24 run across a lot of parishes. I guess I'm not
25 exactly sure what you mean by that constraint.

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1 It's unclear to me how that.

2 Q. So it's true that in your regional
3 analysis, in some instances, you describe the
4 number of parishes spanned by a district and how
5 that differs from the enacted plan to Mr. Cooper's
6 plan, correct?

7 A. The number of parishes that are -- that
8 a district crosses?

9 Q. Yes.

10 A. Yes.

11 Q. You didn't include that as a separate
12 constraint from just keeping parishes whole,
13 correct?

14 A. Well, in keeping parishes whole, that's
15 going to have the markets that's going to have the
16 effect of reducing the number of parishes the

17 districts span. Because if a district is trying
18 to keep a parish -- or if the algorithm is trying
19 to keep parishes whole, then it's going to, by
20 definition, minimize the number of districts
21 present in a parish.

22 Q. But you didn't report any numbers in
23 your report anywhere about average number of
24 parishes spanned by a district?

25 A. I report just the parish splits, the

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1 number of times a parish is split.

2 Q. Okay. I'd like to discuss your regional
3 analysis a little bit. For the record, Dr.
4 Barber, you reviewed Mr. Cooper's report in this
5 case from June 2023, correct?

6 A. Yes.

7 Q. And did you review some of the exhibits
8 to Mr. Cooper's report?

9 A. There are a lot of them. I did review
10 many of them.

11 Q. Okay. You reviewed the exhibits
12 containing compactness scores?

13 A. Yes.

14 Q. You reviewed the exhibits concerning

15 parish splits?

16 A. Yes.

17 Q. You would agree that on average Mr.

18 Cooper's plan splits fewer parishes over all than
19 the enacted plan?

20 A. I don't recall the particular numbers
21 off the top of my head. I believe that it is
22 fewer. I couldn't articulate to you the exact
23 number.

24 Q. Okay. Mr. Cooper's plans ever overall
25 are more compact than the own plan?

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1 A. Again, off the top of my head, don't
2 have those numbers. I don't have reason to doubt
3 your representation, but I couldn't tell you off
4 the top of my head.

5 Q. Okay. Mr. Far earlier asked you about
6 proportional misty some of the tables you include
7 in your report, reporting on proportional number
8 of districts, correct?

9 A. Yes, that's correct.

10 Q. You calculated proportionality based
11 upon voting age population, correct?

12 A. Yes, that's correct.

13 Q. Your report doesn't anywhere report on
14 proportionality based on total population?

15 A. No. I used the voting age population.

16 Q. So in your regional analysis, you
17 analyze the illustrative map on the one hand to
18 the 2011 map or the 2022 enacted map on the other,
19 correct?

20 A. Yes.

21 Q. All right. And you're not making a
22 comparison to the samples produced by your
23 simulations, correct?

24 A. So there are tables where we, just in
25 the questions that Mr. Farr asked me, talked about

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1 particular regions and the number of majority BVAP
2 districts produced by the simulations in those
3 regions. So I don't want to say that the
4 simulations never touch on a discussion of
5 reachings.

6 Q. Okay. But with respect to the specific
7 redistricting principles and whether or not the
8 illustrative plan complies with or doesn't comply
9 with them, that's focused on the comparison to the
10 enacted plan or to the 2011 plan?

11 A. The core retention scores in those
12 sections are a comparison to the 2011 plan.
13 They're not a comparison to the simulations.

14 Q. Okay. You find generally that the new
15 majority black districts have lower core retention
16 scores than the districts they replace, correct?

17 A. Yes. That's correct.

18 Q. You discuss other metrics with respect
19 to specific districts, as well, correct?

20 A. Yes.

21 Q. Okay. I'd like to turn to your
22 discussion of the new majority black district in
23 the Caddo Bossier region. That's at Secretary of
24 State Exhibit 1 at page 33. You discuss here that
25 compactness scores of SD38 in Mr. Cooper's

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1 illustrative plan as compared to the 2022 enacted
2 plan, correct?

3 A. Yes that's correct.

4 Q. All right. You don't include the
5 compactness scores of neighboring SD39, which is
6 also majority black?

7 A. SD39, I do not report the compactness
8 scores for SD39 in this case. I was focused on

9 the new illustrative districts. I believe SD39 is
10 majority black in both of the maps.

11 Q. Okay. You don't discuss parish splits
12 in your discussion of the Caddo Bossier region in
13 the Senate map, correct?

14 A. I would have to go back through to be
15 absolutely sure. But I take your representation
16 as being accurate.

17 Q. Okay. Let's move to the Jefferson and
18 St. Charles Parish area. That's in SOS Exhibit 1
19 at page 41. Let's back up a little bit so just so
20 we can see, 40 and 41.

21 In this region, you don't report any
22 compactness scores, correct?

23 A. That's correct.

24 Q. And instead, you're comparing the
25 enacted and illustrative plans on parish splits?

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1 A. I believe the section has a discussion
2 of how the districts and the enacted plan and the
3 illustrative plan treat the parishes in this area.

4 Q. Okay. And you agree that the new
5 majority black district 19 spans only two parishes
6 in Mr. Cooper's illustrative map, correct?

7 A. Yes, that's correct.

8 Q. Those are St. Charles and Jefferson?

9 A. Correct.

10 Q. In the enacted plan, it spans four
11 district -- four parishes?

12 A. Correct.

13 Q. I just want to get something on the
14 record here for the benefit of the Court and the
15 report. And that is, I think in this last
16 paragraph on page 41 we discussed at your
17 deposition where it says SD9, it should say SD19?

18 A. That's correct. It should say SD19.

19 Q. Okay. So the four parishes that SD19
20 spans in the enacted plan are St. Charles,
21 Lafourche, St. John the Baptist, and Jefferson?

22 A. Yes.

23 Q. You say here that keeping entire
24 parishes whole within districts is a traditional
25 redistricting criteria, correct?

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1 A. Correct.

2 Q. You say that in the enacted plan St.
3 Charles parish is kept whole, correct?

4 A. Yes.

5 Q. And the illustrative plan, it's split?

6 A. Yes.

7 Q. And St. John the baptist parish is made
8 whole in the illustrative plan, correct?

9 A. Correct.

10 Q. And it's split in the enacted plan,
11 correct?

12 A. Correct.

13 Q. Okay. But you don't mention that it's
14 made whole in your report anywhere, correct?

15 A. I don't think it's mentioned here.

16 Q. Okay. Is it mentioned anywhere in your
17 report that St. John the baptist parish is made
18 whole in the illustrative plan?

19 A. I don't know that I specifically
20 highlight that particular parish. It would
21 obviously be included in the maps that cover the
22 whole plan and the plan wide statistics and that
23 sort of thing.

24 Q. But that's something you considered when
25 highlighting the ways in which Mr. Cooper's plan

74

1 does or does not comport with traditional

2 redistricting principles?

3 A. I think in this section, I was focused
4 particularly on these two parishes. So that's why
5 the focus is on those two parishes.

6 Q. Okay. You also explained that
7 neighboring District 8 spans more parishes than
8 the illustrative plan than the enacted plan,
9 correct?

10 A. Correct.

11 Q. And that's four instead of two, so sort
12 of the reverse of what we see with district 19?

13 A. Correct.

14 Q. Okay. And that's because you considered
15 a number of parishes span by a district to be a
16 traditional redistricting principles or keeping
17 that number low?

18 A. I'm sorry, can you say that again?

19 Q. So you're talking about the number of
20 parishes spanned by a district. And that's
21 because that is a consideration that you consider
22 important in assessing adherens to traditional
23 redistricting principles?

24 A. I think I was referring to that in
25 combination with the splitting of the particular

1 parishes.

2 Q. Okay. Let's move to the Baton Rouge
3 region and the new Senate district 17 in the
4 illustrative plan. That's on Secretary of State
5 Exhibit 1 at page 48. Let's go back pains to see
6 where we are. So this is Baton Rouge. So you
7 mention here, and this is on page 48, that the new
8 district 17 you say it connects parts of east
9 Baton Rouge to Pointe Coupee, Iberville and west
10 Baton Rouge, correct?

11 A. Correct.

12 Q. And that's four parishes, right?

13 A. Yes.

14 Q. So illustrative district 17 spans four
15 parishes?

16 A. I believe so. I'm not certain if I'm
17 reporting on the entirety of the district here. I
18 can't recall off the top of my head what the
19 particular district's orientation is.

20 Q. I think it's page 54, where you have
21 your map. Can you turn to that? Can you see this
22 map?

23 A. Yes.

24 Q. You see SD17, illustrative SD17 on this
25 map?

1 A. Yes, I do.

2 Q. Does it look like it spans four
3 parishes?

4 A. Yes, it does.

5 Q. Okay. Let's go back to page 48. So
6 illustrative -- so enacted district 17, Senate
7 district 17 spans ten parishes; is that right?

8 A. Again, I don't know off the top of my
9 head. I don't have reason to doubt your
10 representation.

11 Q. But you didn't mention the number of
12 parishes spanned by enacted district 17?

13 A. I think I discuss more the general shape
14 or the kind of area that the district is spanning,
15 but I don't think I call out the particular
16 parishes, included in the district.

17 Q. So when a district in Mr. Cooper's map
18 spans more parishes than the enacted map, that was
19 worth calling out in the New Orleans area and
20 district 19, but it's not when it's the enacted
21 plan that spans more parishes, you don't describe
22 that; is that right?

23 A. No. I think that in this case, we're --

24 it's -- the comparison is very different. We're
25 in a different region. I think I made reference

77

1 to the fact that district -- the enacted district
2 17 is a more rural district, which by definition
3 would mean it's taking in fewer per square mile.
4 So it's going to span a larger area.

5 Q. Okay.

6 A. The narrative here is not intended to be
7 an encyclopedic listing of every parish. There's
8 plenty of evidence in the record which districts
9 take in which parishes and that sort of thing.

10 Q. But in this section of your report,
11 you're evaluating whether Mr. Cooper's plan does
12 or does not comply, in your view, with traditional
13 redistricting principles?

14 A. That's correct.

15 Q. You look at those where -- never mind.
16 Strike that.

17 And then on page 49, you state here that the
18 illustrative plan adds an additional split to east
19 Baton Rouge parish, correct, 6 instead of 5, I
20 believe?

21 A. I believe that I note that it extends

22 into East Baton Rouge Parish, yes.

23 Q. Well, so this illustrative Senate
24 district or Senate district 17 extends into east
25 Baton Rouge and both plans -- in both plans; isn't

78

1 that true?

2 A. I believe so, yes.

3 Q. Okay. And you don't -- here you don't
4 note that illustrative district 17 makes west
5 Baton Rouge parish whole, correct?

6 A. This particular paragraph does not make
7 reference to that.

8 Q. Do you make reference to that anywhere
9 in your report?

10 A. Well, I think the maps we just looked at
11 make that clear.

12 Q. But that's not a consideration when
13 you're here describing how Mr. Cooper's plan
14 departs from traditional redistricting principles,
15 you didn't think it was important that west Baton
16 Rouge parish was made whole in his plan?

17 A. Again, I'm not trying to provide an
18 encyclopedic explanation for every district and
19 every particular boundary choice.

20 Q. You also don't make any mention of any
21 compactness scores in the East Baton Rouge area,
22 correct?

23 A. Not in this particular section, no.

24 Q. Okay. Let's move to the house plan.
25 And let's start with the Lake Charles area.

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1 That's Secretary of State Exhibit 1 of page 90 to
2 91. Let's start with 91. So in this Lake Charles
3 area, Mr. Cooper splits Calcasieu into five house
4 districts, correct?

5 A. Yes.

6 Q. Those are 33, 34, 35, 36 and 38; is that
7 right?

8 A. Yes.

9 Q. Okay. In the enacted plan splits
10 Calcasieu into seven districts, correct?

11 A. Yes.

12 Q. Okay. And four out of seven of those
13 districts span multiple parishes, correct?

14 A. I believe so, yes.

15 Q. Okay. And Mr. Cooper puts all five
16 districts wholly within Calcasieu parish, correct?

17 A. He does, yes.

18 Q. And other than your map, you don't
19 mention that anywhere in your report?

20 A. I mean, it's here on the map. You can
21 see it.

22 Q. But you don't cite that as one of the
23 traditional redistricting principles you
24 considered when you considered whether Mr. Cooper
25 complied with traditional redistricting

80

1 principles?

2 A. I did not discuss the particular choice
3 in the county as a whole. That was not the
4 intention of this section of the report.

5 Q. Okay. I think if we go back to page 88,
6 maybe one more. So this is your description -- I
7 think we can go back actually one more page, of
8 the Lake Charles region and what we've been
9 discussing the districts in that region. Here you
10 talk about compactness scores again, correct?

11 A. Yes.

12 Q. All right. Here you're talking about
13 the compactness scores for districts 34 and 36?

14 A. Yes.

15 Q. All right. 34 is a majority black

16 district in the enacted plan, correct?

17 A. Yes, that's correct.

18 Q. And when we were discussing the Senate
19 map and the Caddo Bossier region, you said you
20 didn't look at compactness scores for the
21 districts that were already majority black in the
22 enacted plan, correct?

23 A. I believe so, yes.

24 Q. And here you do?

25 A. I believe that is the case, yes.

81

1 Q. And you don't mention the compactness
2 score for HD38, which is the new majority black
3 district?

4 A. In this particular region, I think the
5 numbering can be a little confusing, because it
6 might be difficult to identify which is in fact
7 the new district.

8 Q. But you don't explain that anywhere in
9 this section?

10 A. Well, I note the numbering of the
11 districts in the map.

12 Q. Yes. You don't explain that it's
13 confusing or suggests that you think HD34 is

14 really a new district anywhere in this section?

15 A. It's -- I'm sorry, I don't know that I
16 followed the question you're asking.

17 Q. Strike that. Let's go back to Secretary
18 of State Exhibit 1 of page 70 to 71. This is
19 discussing the Shreveport region and the house
20 map, correct?

21 A. Yes.

22 Q. All right. And in the enacted plan, the
23 city of Shreveport is split among four districts;
24 is that right?

25 A. I believe that is the case.

82

1 Q. The illustrative map, the city of
2 Shreveport the split among four districts; is that
3 correct?

4 A. I think so. I would need to again look
5 to be completely certain.

6 Q. Okay. In the illustrative plan, you say
7 that city of Shreveport is divided more equally
8 among the four districts that it's split among?

9 A. Yes.

10 Q. Okay. You say that this more equal
11 split in Shreveport violates the traditional

12 redistricting principles of avoiding municipal
13 splits?

14 A. I'm referring the way in which the city
15 is divided can sometimes help us understand what
16 was going on, what was the objective of the map
17 maker, yes.

18 Q. Let's turn to secretary of state 1 at
19 page 78. This is about the Natchitoches area; is
20 that right?

21 A. Yes.

22 Q. In the Natchitoches area, the 2011 plan
23 included the majority black district, correct?

24 A. Yes. In the --

25 Q. In the 2011 plan, so the plan was being

83

1 replaced?

2 A. In the house.

3 Q. In the house?

4 A. That's correct.

5 Q. That was house district 23?

6 A. Yes.

7 Q. The illustrative plan also includes
8 house district 23 as a majority black district in
9 the Natchitoches area, correct?

10 A. Yes.

11 Q. And the enacted plan relocates house
12 district 23 to the New Orleans area, correct?

13 A. Numerically, that's where the number
14 ended up. I don't know that beyond the number
15 it's effectively you could say the district was
16 dissolved and absorbed into the remaining kind of
17 shifted south ward. The number itself is not, I
18 don't think, especially, informative in some ways,
19 somewhat arbitrary.

20 Q. Okay. And in the enacted plan, unlike
21 the 2011 plan and the illustrative plan, there is
22 no majority black district in the Natchitoches
23 area, correct?

24 A. That's correct.

25 Q. When you describe that the district

84

1 prior HD23, was dissolved, that was because of
2 population loss in the northern part of the state?

3 A. Yes.

4 Q. You say it's significant I think you
5 used word noteworthy that incumbent in HD23 was no
6 longer eligible to run because of term limits?

7 A. Yes, I believe so.

8 Q. Okay. The illustrative map similar to
9 enacted plan moving to HD23, the illustrative map
10 moved HD5 to the New Orleans area, correct?

11 A. Again, the number moves down there.
12 It's not as simple as saying like it just
13 transports the district. It's completely
14 different population. I would say it again
15 dissolves district 5 and generally shifts the
16 districts in a Southeastern direction.

17 Q. Okay. HD5 was a majority white district
18 in the 2011 plan, correct?

19 A. Yes.

20 Q. Okay. It remains a majority white
21 district in the enacted plan?

22 A. I believe so, yes.

23 Q. You identify it here as one of the
24 districts that's kind of moved into the area where
25 the HD23 formerly existed?

85

1 A. Yes.

2 Q. Okay. And the incumbent in HD5 was also
3 term limited, correct?

4 A. I believe that is the case.

5 Q. Okay. You don't mention that anywhere

6 in your report?

7 A. No.

8 Q. Wasn't noteworthy that the incumbent in
9 HD5 was term limited?

10 A. It didn't make it into my report.

11 Q. Okay. Can we turn to Secretary of State
12 Exhibit 1 page 94. This is discussing the Baton
13 Rouge region and the house plan; is that right?

14 A. Yes.

15 Q. Okay.

16 DEFENSE COUNSEL: Your Honor, not to
17 interrupt counsel, but Mr. Bash has been
18 going for two hours. Do you think we could
19 take a 15 minute break. He's testified
20 longer than any other witness.

21 THE JUDGE: How much time you got.

22 PLAINTIFF COUNSEL: Five minutes.

23 THE JUDGE: Let's finish up.

24 EXAMINATION BY PLAINTIFF COUNSEL:

25 Q. So looking at the Baton Rouge region in

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1 the house plan, you describe here that to shapes
2 of some of these districts, correct?

3 A. Yes.

4 Q. But you don't include any numeric
5 compactness scores; is that right?

6 A. Those again, there's plenty of places
7 where those are reported. I don't think that it's
8 necessarily the case that we needed to repeat
9 that.

10 Q. Okay. In your report here at the second
11 paragraph, on page 94, can you read that first
12 sentence?

13 A. First the map packs white voters in HD70
14 giving a white voting age population of
15 69 percent; however, to accomplish this --

16 Q. I didn't need the second sentence.

17 A. Oh.

18 Q. Sorry.

19 DEFENSE COUNSEL:

20 Your Honor, can he complete his answer?

21 THE JUDGE:

22 The rule of completeness, I mean, it's
23 in the record. You can certainly read the
24 second sentence if you'd like to.

25 PLAINTIFF COUNSEL:

1 I certainly have no objection to reading

2 the second sentence. I have no questions
3 about it.

4 THE JUDGE:

5 If you want to read the second sentence,
6 go ahead.

7 THE WITNESS:

8 However, to accomplish this, the Cooper
9 illustrative HD70 takes on a U shape to avoid
10 a concentration of heavily black precincts to
11 have a substantially higher black population.

12 EXAMINATION BY PLAINTIFF COUNSEL:

13 Q. All right. So focusing on that first
14 sentence, is avoiding packing voters based on race
15 a traditional redistricting principle?

16 A. That is a lengthy conversation that you
17 could ask five people and get six different
18 answers.

19 Q. Okay. None of your other regional
20 discussions do you discuss the packing of white
21 voters, correct?

22 A. I think I discuss the particular racial
23 composition of the districts. I don't use perhaps
24 the word "pack."

25 Q. Okay.

1 A. But I think there are many places in
2 which I refer to the racial composition of the
3 districts as being noteworthy.

4 Q. You don't discuss anywhere whether the
5 illustrative map unpacks any districts based on
6 race as compared to the enacted plan?

7 A. Well, I think I discuss how the
8 illustrative map very carefully creates districts
9 that are about 50 to 53 percent, which I think is
10 kind of exactly what you're asking about.

11 Q. Okay.

12 PLAINTIFF COUNSEL:

13 No further questions.

14 DEFENSE COUNSEL:

15 I have a couple. We can take a break if
16 you want.

17 THE JUDGE:

18 Go ahead. I'll ask for redirect.

19 EXAMINATION BY DEFENSE COUNSEL:

20 Q. Dr. Barber, the counsel talked to you
21 about two cases in which you were discredited.
22 Did either of those cases involve testimony on
23 simulated maps?

24 A. No, they did not.

25 Q. He didn't cite any cases where you were

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1 discredited where you were giving testimony about
2 on simulations maps, correct?

3 A. That's correct.

4 DEFENSE COUNSEL:

5 I didn't write down the caption of the
6 first case, was it Walker, Counsel?

7 PLAINTIFF COUNSEL:

8 That case was Jacobson v Lee.

9 DEFENSE COUNSEL:

10 What was it?

11 THE JUDGE:

12 Jacobson v Lee.

13 DEFENSE COUNSEL:

14 I'm sorry, Your Honor. Appreciate it.

15 EXAMINATION BY DEFENSE COUNSEL:

16 Q. So the Jacobson case, he talked about
17 the district Court Judge discredited you. Do you
18 know the case history of that case, Dr. Barber?

19 A. Yes.

20 Q. Do you know what happened to that case?

21 A. It went to the 11th circuit and was
22 overturned.

23 Q. Okay.

24 DEFENSE COUNSEL:

25 Your Honor, that's all I have, except

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1 for my proffer of proof.

2 THE JUDGE:

3 We'll take a 15-minute recess.

4 (RECESS 11:00-11:15 A.M.)

5 THE JUDGE:

6 We're going to have a little change of

7 order this morning necessitated by two

8 things:

9 We're having some IT problems. It
10 doesn't involve the auditory equipment or the
11 audio equipment, but it involves the
12 communication among chambers. We got some
13 problems. So IT is going to come up.

14 Also, I need to make a change of
15 personnel. I have, to be quite frank, the
16 court reporter's sick. So we're going to
17 bring in a new court reporter at 1 o'clock.
18 So in that regard, put your proffer on, and
19 then we'll see --

20 DEFENSE COUNSEL:

21 Do it now, Your Honor?

22 THE JUDGE:

23 That's what I'm saying, put your proffer
24 on, and then we'll be in recess until 1 p.m.
25 There is obviously permitted cross on the

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1 proffer. Mr. Thomas is going to get
2 Mr. Chaffee now. Wait just a second until
3 he's in position, and then you can do your
4 proffer.

5 DEFENSE COUNSEL:

6 Thank you very much, Your Honor.

7 THE JUDGE:

8 Well, the Court doesn't need to be on
9 the bench for this. The Court will be back
10 at 1 p.m., but the proffer will be on the
11 record. Any questions about the process?
12 Okay.

13 THE CLERK:

14 All rise.

15 DEFENSE COUNSEL:

16 Proof of truth of Dr. Barber's
17 testimony.

18 Q. Dr. Barber, you testified about your

19 understanding of the term "predominate" as a
20 political scientist. Do you remember that?

21 A. Yes, I do.

22 Q. Do you have an opinion whether race was
23 the predominant factor for Mr. Cooper's
24 illustrative plans and the majority black
25 districts that are included in those plans?

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1 A. Yes.

2 PLAINTIFF COUNSEL:

3 Objection.

4 EXAMINATION BY DEFENSE COUNSEL:

5 Q. Can you tell us what that is?

6 PLAINTIFF COUNSEL:

7 The objection is that it calls for legal
8 conclusion. It's the same record I had made
9 on the record earlier. I just want to
10 preserve it for the proffer.

11 A. Say the question again.

12 Q. I'm asking you to testify as your
13 understanding of a political scientist and not to
14 make any legal conclusions.

15 My question is: Do you have an opinion on
16 whether race was predominant factor in the

17 construction of Mr. Cooper's illustrative maps, in
18 particular majority black districts?

19 A. Yes. I think it's clear from looking at
20 the simulations and the results of both sets of
21 simulations, that race was the predominant factor
22 in the drawing of the illustrative map, in
23 particular the boundaries of those additional
24 majority BVAP districts. I don't think that
25 there's really any possible way that those

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1 districts could arise using the other nonracial
2 redistricting criteria. The simulations that
3 incorporate those criteria produced maps are so
4 far distant and different from the illustrative
5 map that it is simply statistical impossibility
6 that those criteria could give rise to the
7 illustrative map without race being the
8 predominant factor.

9 DEFENSE COUNSEL:

10 No further questions. Thank you, Dr.
11 Barber.

12 PLAINTIFF COUNSEL:

13 Just want to renote the objection for
14 the record. Objection that the question

15 about predominance calls for legal
16 conclusion. Also have an objection that the
17 answer went well beyond the scope of the
18 report.

19 DEFENSE COUNSEL:

20 Thank you, Dr. Barber.

21 THE CLERK:

22 We're in recess until 1 o'clock.

23 (RECESS 11:00-1:00 P.M.)

24 THE JUDGE:

25 Call your next witness and if counsel

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1 please make appearances, we do have a new
2 court reporter.

3 DEFENSE COUNSEL:

4 John Walsh. The defense will call
5 Sherri Hadskey.

6 (WITNESS SWORN).

7 THE CLERK:

8 Please state your name and spell it.

9 THE WITNESS: Sherri Whartton Hadskey

10 S-H-E-R-R-I, W-H-A-R-T-O-N, H-A-D-S-K-E-Y.

11 THE JUDGE: Go ahead, Mr. Walsh.

12 EXAMINATION BY DEFENSE COUNSEL:

13 Q. Good afternoon, Mrs. Hadskey. Where are
14 you currently employed?

15 A. For the Louisiana Secretary of State.

16 Q. And in what position do you held with
17 Secretary of State's office?

18 A. I'm the Commissioner of Elections.

19 Q. How long have you held this position?

20 A. I was appointed in 2017.

21 Q. And would you mind walking through the
22 Court through your history working with the
23 Secretary of State's office in the various
24 positions you held?

25 A. Sure. I started in 1986, and I was an

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1 elections program specialist, and I moved to the
2 elections operations director. Then from the
3 director, I moved into the commissioner of
4 elections position.

5 Q. In the position of commissioner of
6 elections, what are your duties and
7 responsibilities?

8 A. As commissioner of elections, I oversee
9 the elections process, the dredge of machines, the
10 storage of the machines, the qualifying of

11 candidates, the process of building the ballots
12 and programming the ballots, the election night
13 tabulation and results and the audit process, just
14 oversight of elections.

15 Q. Commissioner Hadskey, are you registered
16 to vote?

17 A. I am.

18 Q. And when did you register?

19 A. In 1983.

20 Q. When you registered to vote, what were
21 the mechanics of registration at that time?

22 PLAINTIFF COUNSEL:

23 Objection, Your Honor; relevance.

24 THE JUDGE:

25 What is the relevance, Mr. Walsh?

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1 DEFENSE COUNSEL:

2 Your Honor, I'm just trying to lay the
3 foundation talk about voting in Louisiana and
4 where voting has come since 1983 quite
5 frankly.

6 PLAINTIFF COUNSEL:

7 Excuse me Your Honor, my name is Amanda
8 Giglio, G-I-G-L-I-O, for the Plaintiffs, My

9 apologies.

10 THE JUDGE:

11 Overruled. I'll allow it.

12 A. At that time, I had to go into the
13 registrar of voters office and fill out an
14 application in person.

15 Q. Is that still how you register to vote
16 today?

17 A. It's one way, but that's not the only
18 way.

19 Q. What other ways can you register to vote
20 in Louisiana today?

21 A. Currently in Louisiana, of course you
22 can register online. You can go to OMV or DMV and
23 register. We have many private elections around
24 the state. We do school elections. We bring
25 registration cards to seniors to introduce them to

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1 the elections process. It's an instructional
2 mechanism. Social service offices have voter
3 registration available. Of course, online, you
4 can register online. And yes, there's many ways,
5 various ways.

6 Q. You mentioned two acronyms, I just want

7 to be clear for the record, you said OMV?

8 A. Office of Motor Vehicles and Department
9 of Motor Vehicles.

10 Q. That was DMV?

11 A. Yes.

12 Q. Do you have to be a certain age to
13 register to vote in Louisiana?

14 A. Yes, you do.

15 Q. What age is statewide order?

16 A. 16.

17 Q. What age can you start voting?

18 A. 18.

19 Q. So you're saying you can preregister at
20 16?

21 A. That's correct.

22 Q. And then let's just say if your birthday
23 is July 1st, there's an election on July 1st,
24 you've preregistered, can you vote that day?

25 A. Yes. The day you turn 18, you're

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1 eligible to vote.

2 Q. If you preregister?

3 A. If you preregister.

4 Q. Whose role is it in Louisiana -- strike

5 that. Whose primarily responsible for voter
6 registration in Louisiana?

7 A. That's the registrar of voters.

8 Q. Does the Secretary of State do anything
9 to support the registrar of voters?

10 A. The Secretary of State's office
11 currently has a system, the errand system,
12 elections registration, information network. And
13 it houses the informations that input by the
14 registrar of voters. It's ministerial in aspect
15 of the voter registration process.

16 Q. Are there any reasons for which a voters
17 registration could be canceled in Louisiana?

18 A. There's a few reasons that it could be
19 canceled.

20 Q. What are those?

21 A. Of course if you pass away, if you die,
22 then your voter registration is canceled. If you
23 are inactive and you miss two federal elections,
24 your name is published in the newspaper, and the
25 attempt to reach you is there, but you are

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1 canceled after missing the two federal, and you're
2 inactive. If you move out of state, you can

3 contact the State of Louisiana and notify them
4 that you are no longer wishing to be registered in
5 our state, that you've moved, and you're in
6 another state. And then if you're convicted of an
7 elections crime, they can cancel your
8 registration.

9 Q. Is an elections crime the only crime for
10 which you can have your registration canceled?

11 A. To my knowledge, yes.

12 Q. If a voter is convicted of a felony that
13 is not an elections crime, what happens to their
14 registration?

15 A. They're suspended.

16 Q. Is there a mechanism for the suspension
17 to be lifted?

18 A. Yes. By law, there's a mechanism after
19 five years of being incarcerated to reregistering,
20 have your registration off the suspended list and
21 on to the active list.

22 Q. Let's switch gears. Do you remember the
23 first time you voted?

24 A. Yes.

25 Q. When was that?

1 A. In 1983.

2 Q. How did you vote in 1983; what was the
3 process?

4 A. I went to the precinct and voted at the
5 precincts.

6 Q. At that time in 1983, was that the only
7 way to vote in Louisiana?

8 A. To my knowledge.

9 Q. And since you cashed your first vote in
10 Louisiana, in 1983, have the ways or -- expand the
11 ways you can cast the vote?

12 A. Yes.

13 Q. Tell the Court the ways you can cast the
14 vote?

15 PLAINTIFF COUNSEL:

16 Your Honor, I'm really struggling to see
17 the relevance of this testimony to issues
18 related to redistricting.

19 DEFENSE COUNSEL:

20 Your Honor, we had testimony earlier
21 this week that talked about the difficulties
22 that they had in voting. I think this is
23 important for the Court to know the way we
24 have expanded greatly voting in Louisiana
25 over the years.

1 THE JUDGE:

2 The historical perspective is part of
3 the Senate factors in totality of
4 circumstances, so I'm going to allow the
5 question. Overruled.

6 EXAMINATION BY DEFENSE COUNSEL:

7 Q. Can you explain to the Court the ways we
8 now have to vote in Louisiana today?

9 A. Sure. In Louisiana, currently, of
10 course, you can apply for an absentee by mail
11 ballot. If you meet the application requirements,
12 you can receive a mail ballot. You also have
13 nursing home voting, where the nursing home can
14 enroll in a program, and they're allowed to vote
15 at the nursing homes. We also have early voting
16 in person. And you can go for -- there's no
17 excuse necessary, and it's seven days, Saturday to
18 Saturday. Sunday is not a voting day in person
19 early voting. And then military and overseas,
20 they have the right to request an e-mail ballot.
21 If you are wanting to vote by fax, you can vote by
22 fax. There's a fax process. If you're
23 hospitalized, the registrar of voters works with

24 the hospital facilities to allow you to vote and
25 then also if you are incarcerated but you're not

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1 convicted of a felony, you can also request a
2 ballot, and the registrar works with the
3 facilities, the correctional facilities for that
4 process.

5 Q. Do we have any programs that senior
6 citizens can participate in?

7 A. If you're over 65, you can enroll in the
8 mail ballot absentee by mail ballot program.
9 You're automatically mailed a ballot to your house
10 for every election. You don't have to vote that
11 ballot. You could go in person, but you're
12 automatically enrolled in that program to receive
13 a ballot. If you're disabled, you can also
14 receive a ballot in the disability program.

15 Q. Let me ask a little bit more about early
16 voting in person. And you mentioned that early
17 voting runs from Saturday to Saturday. Is that
18 the same for federal elections?

19 A. No. For federal election, it's Tuesday
20 to Tuesday; however in Louisiana, the law changed
21 not long ago for press determine elections, it's

22 ten days of early voting.

23 Q. Prior to election day, where can a
24 citizen find their ballot?

25 A. Currently, in the state, if you're

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1 looking for a sample ballot, you can go to the go

2 vote app., and look at your sample ballot.

3 There's a voter portal that has the sample ballots

4 available. And then in the precincts or during

5 early voting, there are sample ballots required by

6 law to be available to all voters.

7 Q. You mentioned the go vote app. Whose

8 app is that?

9 A. It's the Secretary of State's app. It's

10 a free app. You download it, and you can review

11 everything. You can review your pooling location.

12 You can look at your sample ballot, your party,

13 all of your information, your registrar of voters

14 addresses, things like that.

15 Q. Commissioner, let me ask you another

16 question around polling locations. You previously

17 said you worked in elections operations earlier in

18 your career; is that correct?

19 A. That's correct.

20 Q. Who's responsible for selecting pooling
21 locations in Louisiana?

22 A. Pooling locations are selected by the
23 parish governing authority. Each parish governing
24 authority selects the pooling location, and then
25 they have to make sure that it meets the

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1 disability requirements. Once it's selected, they
2 are required to send an ordinance or a resolution
3 to the Secretary of State's office. And when
4 that's received, it's entered into the errand
5 system. And it populates the go vote app, and it
6 also populates the voter cards that are sent to
7 the voters saying that their polling location
8 has changed.

9 Q. Commissioner, voting machines in
10 Louisiana, do we have new ones, do we have old
11 ones, what's the status of?

12 A. Election day voting machines currently
13 are legacy machines. They were purchased in 1991.
14 They are old. We are in the process of trying to
15 obtain new machines.

16 Q. Are these machines web based?

17 A. No.

18 Q. So there's no internet capable machines with
19 these machines?

20 A. No.

21 Q. Once a voter casts their vote, is there
22 a way to change that vote with these machines?

23 A. No.

24 Q. In your experience as commissioner, have
25 you ever seen a vote be changed with these

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1 machines?

2 A. No, I have not.

3 Q. You mentioned that they're old machines?

4 A. Yes.

5 Q. Do you ever have problems with them?

6 A. Yes, we do.

7 Q. Tell me what kind of problems do we
8 have?

9 A. On election day, we have problems with
10 the mechanics of the machines. We have certified
11 technicians that have procedures to repair any
12 voting machine that has a problem, any voter that
13 is in a voting machine that has a problem, exits
14 that machine and is put on to another machine
15 until the technician can repair that machine.

16 Q. Has it ever prevented an election from
17 occurring any problems with these machines, have
18 elections been held up because of them?

19 A. No.

20 DEFENSE COUNSEL:

21 Can I have one moment, Your Honor?

22 THE JUDGE:

23 Yes.

24 DEFENSE COUNSEL:

25 Commissioner Hadskey, that's all the

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1 questions I have for you.

2 THE JUDGE:

3 Counsel, I'm going to give you fair
4 notice. You're probably going to object that
5 it's outside the scope of cross. I want to
6 know what the timeline is. If you don't want
7 to ask it, I'll ask it.

8 DEFENSE COUNSEL:

9 That's fine, Judge.

10 PLAINTIFF COUNSEL:

11 Excuse me, Your Honor, we would maintain
12 that Ms. Hadskey doesn't have the sufficient
13 personal knowledge to testify as to the

14 timing of redistricting. I can explain if
15 Your Honor would like.

16 At her deposition Mrs. Hadskey indicated
17 she had to speak with her administrative
18 managers and what she supervisors of business
19 and services division, to specifically the
20 timing relating to redistricting matters.
21 She has no personal knowledge of that, and
22 any testimony she gives will be hearsay.

23 THE JUDGE:

24 Mrs. Hadskey, are you able to give this
25 Court firsthand knowledge about the deadlines

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1 and dates or things -- for things like
2 publishing the ballots, the last possible,
3 day you can publish a ballot; can you give
4 firsthand knowledge on that?

5 THE WITNESS:

6 My business and service division does
7 develop the timeline with that. I have
8 checked with them. I know what their
9 thoughts are, but I don't do it myself, but
10 I'm happy to provide whatever the Court needs
11 to my knowledge.

12 PLAINTIFF COUNSEL:

13 I would also offer Your Honor if I may,
14 that Mrs. Hadskey herself has never worked in
15 the business and services business division.
16 She worked in elections operations which
17 deals with ballot building.

18 THE JUDGE:

19 Y'all don't really know want to know
20 what the timeline is? Why wouldn't y'all
21 want to know?

22 PLAINTIFF COUNSEL:

23 We would maintain that Mrs. Hadskey
24 can't tell us. She's not the proper witness
25 to tell us that information.

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1 THE JUDGE:

2 Can you tell us the timeline.

3 THE WITNESS: I can tell you what's in the.

4 Ballot box, the dates that are in the
5 ballot box.

6 THE JUDGE:

7 What is that?

8 THE WITNESS:

9 The ballot box is what business and

10 service puts together. It has every date in
11 there for the upcoming elections.

12 THE JUDGE:

13 Give me an example.

14 THE WITNESS:

15 For an example, upcoming is the
16 presidential preference primary, what are the
17 qualifying dates. what the last date to call
18 a special, when is early voting, that type of
19 thing.

20 THE JUDGE:

21 You don't want to know those dates?

22 PLAINTIFF COUNSEL:

23 Your Honor, we would be -- if
24 Mrs. Hadskey could to testify to that in her
25 personal knowledge, that is perfectly

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1 sufficient for Plaintiffs. We would maintain
2 that if Defendants seek to lodge any praccella
3 objections. It's their responsibility to
4 proffer evidence on those objections, and
5 they haven't done that with Ms. Hadskey.

6 THE JUDGE:

7 Oh, so you think they're not laying a

8 foundation for a subsequent precella?

9 PLAINTIFF COUNSEL:

10 That's precisely our position, yes.

11 THE JUDGE:

12 Does anybody care they might need to
13 know so that I can do what the Court of
14 appeal has told me to do in the Robinson case
15 and what the U.S. Supreme Court said to do in
16 the Milligan case.

17 PLAINTIFF COUNSEL:

18 Your Honor, we would maintain that the
19 secretary's office has already made
20 representations to the fifth circuit --

21 THE JUDGE:

22 In the congressional case.

23 PLAINTIFF COUNSEL:

24 Yes, Your Honor.

25 THE JUDGE:

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1 Is this timeline the same as the
2 congressional case? I hate to sound
3 ignorant, but is it?

4 PLAINTIFF COUNSEL:

5 We don't know. Mrs. Hadskey hasn't put

6 on any affirmative testimony on that issue.

7 THE JUDGE:

8 Well, do your cross-examination, I'll

9 think about it. But go ahead.

10 EXAMINATION BY PLAINTIFF COUNSEL:

11 Q. Good afternoon, Mrs. Hadskey.

12 A. Hello.

13 Q. My name is Amanda Gilio. I'm here

14 representing the Plaintiffs. I just -- you

15 started working in the Secretary of State's office

16 in 1986, correct?

17 A. That's correct.

18 Q. That was -- it was called a different

19 thing at that time, though, it was the department

20 of elections; isn't that right?

21 A. Department of elections and

22 registration, yes, under Jerry Faller.

23 Q. And the department of elections was

24 responsible for machines and tabulation; is that

25 right?

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1 A. They were responsible for the voting

2 machines, and tabulation back then was lever

3 machines, so there was no transmission, there was

4 no audits, it was done on the parish level more so
5 than the state.

6 Q. When the department of elections and the
7 Secretary of State, they merged; isn't that right?

8 A. That's correct.

9 Q. When they merged, you started working as
10 an elections director over balloting?

11 A. The balloting department is now the
12 business and service division. The machine
13 programming department was operations.

14 Q. And you worked in operations, correct?

15 A. And I worked in operations, that's
16 correct.

17 Q. In around 2008, you became the director
18 of operations?

19 A. That's correct.

20 Q. While you were the director of
21 operations, you didn't have anything at all to do
22 with redistricting, right?

23 A. No. Well, take that back. Whenever you
24 redistrict, and you change districts in the state,
25 it changes the data basis for the programming

1 portion of it, the ballot building portion. So

2 simply data entry to change that is what was done
3 in operations.

4 Q. Understood. So now is the commissioner
5 of elections, you supervise operations?

6 A. I do.

7 Q. You service the business and services
8 division?

9 A. I do.

10 Q. The business and services business is
11 what handled things like redistricting?

12 A. That's correct.

13 Q. But you never worked in the business and
14 services group yourself?

15 A. No.

16 Q. And in preparing, do you recall giving a
17 deposition in this case?

18 A. I do.

19 Q. And you served as the 30(b)(6) witness
20 for the Secretary of State's office; isn't that
21 right?

22 A. I don't know what 30(b)(6) means, I'm
23 sorry.

24 Q. , that's fine so. When you salt for
25 your deposition, you were representing both

1 yourself and the office of the Secretary of State;
2 isn't that right?

3 A. Yes.

4 Q. And to prepare for your deposition, you
5 spoke to administrative managers in the businesses
6 and services group, correct?

7 A. I did.

8 Q. Without talking to them, you wouldn't
9 know the timeframes involved in administering an
10 election, correct?

11 A. That is correct.

12 Q. One of those tasks involved in
13 redistricting is updating voter districts isn't
14 that right?

15 A. Updating voter districts on a
16 legislative level. On a local level, it's done by
17 the locals.

18 Q. Understood. And at your deposition, you
19 said that you had no way to estimate how much work
20 your office would need to do to reconcile new maps
21 with work you did on old instance that right?

22 A. Right, not without asking the business
23 and service director.

24 Q. And someone in business and services is

25 also responsible for up loading the new maps into

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1 errand; isn't that right?

2 A. Yes, they are.

3 Q. That's a system you mentioned earlier?

4 A. Correct.

5 Q. The secretary uses? And you don't have
6 any direct knowledge of what that process is isn't
7 that right?

8 A. I've never done it myself.

9 Q. And another step involved in
10 redistricting is to provide voters notice of their
11 district change, correct?

12 A. Correct.

13 Q. And that's communicated by voter cards?

14 A. That's correct.

15 Q. Your office prepares voter cards by up
16 loading in errand to state prints?

17 A. That's right.

18 Q. USPS delivers those voter cards to the
19 voters?

20 A. That's correct.

21 Q. But you don't know how long it takes
22 between inputting changes into errand and getting

23 voter cards right?

24 A. That's correct. The only information
25 that I have about that is when a registrar has

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1 problems with USPS and a delay, they notify us,
2 because we have a regional USPS director that we
3 have to turn problems in to where people are
4 receiving cards late or not receiving ballots,
5 things like that. That's my limited knowledge of
6 that.

7 Q. Understood Commissioner Hadskey you
8 haven't worked in the operations group six years?

9 A. It's been a while.

10 Q. Because you've been the commissioner?

11 A. That's correct.

12 Q. It's been a while since you've had your
13 hands in the weeds of ballot building?

14 A. Correct. Although.

15 Q. Sorry. Go ahead.

16 A. I'm very sorry. Although, we were so
17 hope full to get new equipment and that means new
18 programming, so my knowledge would not be as vast.
19 But because we still have the legacy equipment, I
20 do have certain knowledge of the way that it's

21 programmed. They've advanced somewhat on the
22 import system. So I wouldn't have as much, but I
23 do have somewhat of knowledge of it, because it's
24 so old.

25 Q. Right. And because it's so old, you

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1 spoke to the groups that are currently in your
2 operations or the administrative managers that are
3 currently in your operations do you to prepare for
4 your deposition; assistant?

5 A. I did.

6 Q. To make sure the process they use now
7 are the same or that you understood the
8 differences between the processes now and the
9 processes that were in play when you were actually
10 working in operations; isn't that right?

11 A. Correct.

12 Q. So Mrs. Hadskey, I'd just like to take a
13 minute to discuss a couple of the steps that the
14 secretary has indicated that they used to
15 implement redistricting?

16 A. Okay.

17 Q. Now, my understanding is that the first
18 step is proof reading the map; isn't that right?

19 A. That's correct.

20 Q. And that involves lining out the
21 precincts to confirm that the right voters are in
22 the right areas; is that right?

23 A. To my knowledge, that is correct. And
24 it's a three step process. It's not just proofing
25 by one individual or two individuals. They take

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1 it and proof it according to my elects business
2 and service director. They proof it, and then
3 they have a different set of ice, proof it again
4 and a different set of eyes proof it again,
5 because the concern is wanting to be absolutely
6 certain that everything is accurate.

7 Q. Sure. You don't want to give a voter
8 incorrect information?

9 A. That's correct.

10 Q. But sitting here today, you don't know
11 how long it would take to proof read new maps for
12 the state house and the state Senate given that a
13 proof reading process has already been done with
14 the past maps; isn't that right?

15 A. What I do know is from my questions, is
16 that the more districts that are changed, the

17 longer it takes. So in other words, if you only
18 changed three districts or four districts, the
19 time would not be as long as if you changed 64
20 districts.

21 Q. Well, let me ask you a couple of
22 questions about that then. You mentioned that
23 it's an issue of a number of districts changed.

24 A. To my knowledge.

25 Q. Okay. But the number of districts --

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1 but the proof reading process occurs voter by
2 voter isn't that right?

3 A. The proof reading process for
4 legislative, yes, voter by voter. The parish
5 level races, it's also done voter by voter, but
6 it's a combination of the local registrar of
7 voters and then also our department will assist
8 them when they can.

9 Q. And so in this instance, given that
10 we're dealing with the state house and the state
11 Senate maps, that would be a potentially voter by
12 voter question; isn't that right?

13 A. Yes, parish by parish, and then voter by
14 voter, except when you move an entire parish into

15 a new district and the lines are drawn and it is
16 the entire parish, no matter what, then it's
17 proofed not only to make sure the voters are in
18 the right districts, because redistricting in
19 other areas, you want to make sure everything is
20 correct. And also, I think you may know, or maybe
21 you don't know, recently, part of Vermillion
22 parish became part of Iberia Parish, so making
23 sure when things like that don't happen, making
24 sure it's accurate.

25 Q. Are you aware whether the legislative

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1 proofing process for the state house and state
2 Senate is similar the same to the legislative
3 proofing process for the congressional maps, both
4 deal with legislative issues?

5 A. Yes. To my knowledge it is.

6 Q. So the proof reading process is the same
7 for both the state and the congressional maps?

8 A. It should be.

9 Q. And commissioner Hadskey, are you aware
10 that the Secretary of State is being sued in a
11 separate litigation dealing with the congressional
12 map?

13 A. Yes, am I.

14 Q. Are you aware that the legislature could
15 potentially cast new maps governing Louisiana's
16 congressional districts no later than
17 January 30th, 2024 as a result of that litigation?

18 A. Yes.

19 Q. Are you aware that your counsel in that
20 litigation represented that in the event that the
21 Louisiana legislature does not pass a map that is
22 compliant with the voters rights act by then, that
23 the secretary would ideally have a map in place
24 and know what map is going to be used in 2024 by
25 late May?

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1 A. Yes.

2 Q. You just said the proof reading process
3 for that map and this map would be the same,
4 correct?

5 A. Yes, it should be.

6 Q. Just to be clear, certain things also in
7 this -- in the congressional litigation, every
8 voter could be impacted by the scope of the change
9 to the map isn't that right?

10 A. Yes.

11 Q. And in this litigation, that's not the
12 case; isn't that right?

13 A. I haven't been in here, but I believe
14 the discussion has been not a statewide, but only
15 certain districts. And if that's the case, then
16 it wouldn't be all voters in the state.

17 Q. Exactly. So the proof reading process
18 wouldn't necessarily have to include all voters in
19 dealing with the new maps in this case?

20 A. That would be correct. I'd also like to
21 talk to.

22 Q. I'd also like to you a little bit about
23 special elections.

24 A. Okay.

25 Q. So special elections generally involve

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1 the same basic procedural deadlines as any
2 election in Louisiana right?

3 A. Yes.

4 Q. Generally?

5 A. Generally.

6 Q. So if they have a qualifying deadline?

7 A. Yes.

8 Q. And then a primary?

9 A. Yes.

10 Q. And then a general?

11 A. Depending on if three candidates
12 qualify, you have a general two candidates
13 qualify, you don't have a general.

14 Q. Got it. That's very helpful. Special
15 elections are called by the governor; isn't that
16 right special elections can be called by the
17 legislature. And the governor?

18 A. The speaker of the house, yes.

19 Q. Got it.

20 A. And the governor assigns it. But they
21 call about the dates and require that. I'm not a
22 lawyer. So forgive me if I miss something on that
23 process.

24 Q. Well, forgive me if I miss something on
25 that process. So the Secretary of State doesn't

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1 set the timing for special elections; isn't that
2 right?

3 A. No, they do not.

4 Q. The legislature, this is my
5 understanding and I'd like for you to see if
6 that's right. The legislature sets the qualifying

7 deadline for a special election right?

8 A. That is correct.

9 Q. And then the date for the primary
10 election is set relative to the qualifying
11 deadline right?

12 A. That is correct.

13 Q. The date for a general election if one
14 is required is set based on the primary date, the
15 date of the primary election?

16 A. Correct.

17 Q. And your office sometimes tries to make
18 recommendations to the legislature about what the
19 qualifying date for these elections should be;
20 isn't that right?

21 A. Based on trying to save the state money,
22 if there's an election coming up, and there's a
23 general date that could be used for both, then
24 trying to call a primary where the general would
25 fall into place, so you're saving the state

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1 instead of having two separate elections and then
2 another election.

3 Q. Sure. So in the event that a special
4 election is necessary, it makes sense to schedule

5 them as the same time as exists elections on the
6 calendar?

7 A. If you can.

8 Q. So you can save money?

9 A. Correct.

10 Q. Because the same administrative needs
11 are required as are needs for any election?

12 A. Correct. But the legislature, they may
13 have their own reasons for looking for the dates,
14 such as wanting to have a seat filled so that that
15 district is represented, which doesn't fall into
16 our other dates. So the cost of it may not be the
17 number one priority.

18 Q. Sure.

19 A. It just depends on what they're looking
20 for.

21 Q. Got it.

22 A. In other words, there's been times that
23 I was told I know you set these dates, but these
24 are the dates we're using.

25 Q. Sure.

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1 A. It's not up to me to question their
2 reason for the dates.

3 Q. Yes, ma'am you guys make it work, right?

4 A. That's correct.

5 Q. In the amount of staff that you need to
6 administer elections depends on a lot of things,
7 right, like the number of candidates?

8 A. Not as much as the number of candidates.
9 The number of races, how big the parish is, if
10 it's a partial parish OR a full parish. If it's a
11 statewide, et cetera. But the procedures to set
12 up an election and to all the preliminary work and
13 the testing, and et cetera is no different. We
14 have to make sure that every single motion is
15 completed to ensure the security and the accuracy
16 of the election. In other words, we can't skip
17 something, you know, to try and save time.
18 There's no way. We would want it to be accurate.

19 Q. Got it. But there are some
20 administrative things that might make the process
21 for building a ballot say a little bit easier;
22 isn't that right. If the election is uncontested,
23 for example?

24 A. If the election is uncontested, then
25 there's not a general election, if it was only two

1 candidates. You wouldn't have that.

2 Q. Commissioner had, in recent years,
3 Louisiana has had at least four elections every
4 year isn't that right?

5 A. Yes.

6 Q. So in 2019, there were six elections
7 isn't that right?

8 A. Correct.

9 Q. In 2020, there were four elections.

10 A. Yes. The max I ever remember conducting
11 in a single year was 12, 12 elections in a single
12 year. It just depends on -- and several of those
13 elections dates have been done away with. We used
14 to have a proper election date in July. It was
15 legally mandatory in in July. They've done away
16 with that one.

17 Q. Understood. In the 2023 cycle, there
18 were six elections, isn't that right, this year?

19 A. Six dates original? Well, not
20 scheduled. We had an exact tie, I believe it was,
21 that caused a January election, similar to what's
22 going on right now. We have two exact ties from
23 this past general. So now we have a December
24 election. In those two parishes. The law
25 requires that if an exact tie occurs you have to

1 conduct another election. So it might not have
2 been a scheduled. It was the repercussions of
3 having the fact tie.

4 Q. So ultimately there's seven elections
5 this year; isn't that right?

6 A. Yes.

7 Q. And those elections include special
8 elections?

9 A. Yes.

10 Q. And let me show you what's been
11 preadmitted as Plaintiff's Exhibit 169. That's
12 the 2023 election calendar.

13 A. Okay.

14 Q. So in 2023, if you look at the second
15 column under February 18, you can see that there
16 is an election for state house district; isn't
17 that right?

18 A. That is correct.

19 Q. That's the 93rd district?

20 A. That is.

21 Q. And if you look at those dates for that
22 election, you can see that the qualifying dates
23 were January 11th, 2023, to January 13th 2023;

24 isn't that right?

25 A. That's correct.

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1 Q. The primary date for that election is
2 right at the top, isn't that right, the
3 February 18th date?

4 A. That is correct.

5 Q. If you look to the column directly to
6 the right of Plaintiff's Exhibit 169, you'll see
7 that there is a special general election for
8 Orleans state representative, and then house
9 district 93. So the general election occurred
10 about a month later; isn't that right?

11 A. The general election that was one of the
12 circumstances where -- what I was talking about
13 earlier, the primary came so that the general
14 would fall on an already scheduled municipal
15 primary date.

16 Q. Makes sense. You also -- we can take
17 this exhibit down. Things. In 2022, there was
18 another special election for state Senate
19 district; isn't that right?

20 A. In 2022, in January, I believe.

21 Q. I think it was later in the year. So it

22 was for district 5. Do you recall that?

23 A. No, but if you show it to e many, it
24 will jar my memory.

25 Q. Sure. I don't have that calendar right

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1 here for you, but I can tell you that it was after
2 senator Peterson resigned from office in April of
3 2022. Does that ring any bells?

4 A. It does.

5 Q. And senator cortices set a special
6 election for that or set the deadlines for that
7 special election isn't that right?

8 A. Yes.

9 Q. And that special election took place on
10 the same dates as the federal elections that took
11 place in 2022; isn't that right?

12 A. Yes.

13 Q. And commissioner Hadskey, get that right
14 at some point?

15 A. That's okay.

16 Q. You could not think at your deposition,
17 you couldn't think of any reason why a special
18 state election couldn't happen at the same time as
19 a federal e extremity; is that right?

20 A. That's correct. My only concerns I
21 mentioned it before, is with the legacy machines,
22 the real estate on the ballot. So in June, we
23 have the deadline to call a prop. And in July, we
24 have the legislature providing us with
25 constitutional amendments. The most I've ever

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1 seen, I think, was about 17. So with the
2 presidential taking up two columns and it keeps
3 growing every year, and our state is one of the
4 only states that requires the elects token to be
5 listed on the ballot, which takes up a lot of
6 room. And then you fall in the with the local
7 races, and then you fall in with the props and the
8 C As. So my concern would be, I can't buy any
9 more of these machines to have more machines to
10 run the ballot over to. So that would be my
11 concern. That would be one of my biggest
12 concerns.

13 Q. Understood but if the circumstances
14 called for it, if it would say, save
15 administrative time, save administrative money,
16 you could try to make it work?

17 A. We would try. If it ever flowed, I

18 would throw the problem back to somebody else
19 legislatively or legally to say, I can't --
20 there's not enough buttons on here. The other
21 concern is, we have a Senate race where 22 people
22 qualified. The more candidates that qualify, and
23 the more that everybody put on there, unlike most
24 of the rest of the nation where they have page
25 ballots where you can keep paging over to go to

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1 the next ones, so yes, it would end up being
2 somebody's legal problem that -- I mean, because
3 the bottom line is, I can only do what I can do on
4 that machines. There's only so many buttons.

5 Q. Understood Commissioner Hadskey, this
6 goes without saying, I think, but given your
7 testimony today, but you would seek to fill full
8 your responsibility to ensure that all elections
9 run on schedule, that's required; isn't that
10 right?

11 A. Absolutely.

12 Q. And that includes special elections that
13 are called?

14 A. Yes, it does, absolutely.

15 Q. And other entities have imposed

16 requirements on elections before, right, outside
17 of the secretary's office?

18 A. Meaning the legislature.

19 Q. The legislature?

20 A. Yes.

21 Q. And Courts?

22 A. Yes.

23 Q. And the governor?

24 A. Yes.

25 Q. And you've complied with all of those

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1 requirements; isn't that right?

2 A. We have.

3 Q. Related to election administrative?

4 A. Related to elections administration.

5 However, it is my job as commissioner to bring up
6 to the Courts or to the legislature or to the
7 secretary himself when something is not being met
8 because of a requirement that has been put on us,
9 and I make sure that that is documented and noted.
10 So if by chance somebody files something after the
11 election date, based on that, then there's
12 evidence of what occurred.

13 Q. Sure.

14 A. And that happens with emergency
15 elections also, when you have emergencies that
16 fall into place and some deadline is having to be
17 overlooked, it's none in case somebody were to
18 file some contest suit or say there was a problem
19 with it.

20 Q. Understood. Be even if under those
21 circumstances, you would make every effort to
22 comply with what was required?

23 A. I will always what's required with me.

24 PLAINTIFF COUNSEL:

25 Let me confer with my counsel briefly,

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1 Your Honor.

2 No further questions, Your Honor, I
3 tender the witness.

4 THE JUDGE:

5 Redistrict.

6 DEFENSE COUNSEL:

7 No, Your Honor.

8 THE JUDGE:

9 Next witness.

10 DEFENSE COUNSEL:

11 This is Patrick Lewis for the

12 legislative Defendants, and we call Dr. Alan
13 Murray.

14 (WITNESS SWORN).

15 THE CLERK:

16 Would you please state your name and
17 spell it.

18 THE WITNESS: Alan Murray,

19 A-L-A-N-M-U-R-R-A-Y.

20 DEFENSE COUNSEL:

21 Your Honor, may I approach the witness
22 to provide him with a binder containing his
23 reports and report exhibits.

24 THE JUDGE:

25 You may.

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1 EXAMINATION BY DEFENSE COUNSEL:

2 Q. Good afternoon, Dr. Murray. I'd like to
3 turn now to Exhibit LDTX42, which is in the
4 binder, I just handed you. Do you recognize this
5 document, Dr. Murray?

6 A. Yes, I do.

7 Q. Okay. Is this your report?

8 A. Yes, it is.

9 Q. Okay. I'd like the turn -- to turn to

10 the appendix beginning on page 35, which I believe
11 is your CV. It's up on the screen. Do you
12 recognize this, Dr. Murray reference yes, I do.

13 Q. Is this your current CV?

14 A. Yes, it is.

15 Q. Can you explain to the Court your
16 educational background?

17 A. I have bachelor's in mathematics, a
18 master's in probability and statistics, and a
19 Ph.D. in geography all California, santa Barbara.

20 Q. What are your areas of focus in your
21 studies.

22 A. Spacial analysis, spacial analytics and
23 GIS.

24 Q. Okay. What is the study of spacial
25 analytics?

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1 A. Basically, the evaluation of
2 distributions, spacial distributions of
3 population, race, service, potential, things along
4 those lines.

5 Q. Okay. And GIS, what is that study?

6 A. GIS is acronym for geographic
7 information systems. They are database management

8 systems to work primarily with spacial
9 information, specializing in data collection, data
10 management, manipulation, analysis, and mapping.

11 THE CLERK: What I'm sorry.

12 THE WITNESS: Mapping.

13 EXAMINATION BY DEFENSE COUNSEL:

14 Q. What kind of problems or projects have
15 you studies using spacial analytics?

16 A. A whole host of things, but early on, a
17 lot of work in the area of school districting,
18 work looking at transportation, access and
19 accessibility, transportation service areas,
20 emergency service, service areas, forest
21 management areas, planning units, and things along
22 those lines.

23 Q. Is the study of districting part of your
24 work in spacial analytics?

25 A. Absolutely.

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1 Q. Okay. And is statistics part of your
2 academic work?

3 A. Yes, it is.

4 Q. Can you explain to the Court what kind
5 of statistics you study as part of your academic

6 work?

7 A. My area is primarily in the associated
8 with spacial statistic, geo-statistics, having to
9 do with looking at spacial ought item correlation,
10 clustering and things like that.

11 Q. On these doings including spacial
12 analytics, GIS statistics, do you teach courses on
13 these topics?

14 A. Yes, I did.

15 Q. Do you teach them at the graduate level?

16 A. I teach them at undergraduate and
17 graduate levels, yes.

18 Q. Dr. Murray, do you publish peer reviewed
19 academic literature on these topics?

20 A. Yes, I do.

21 Q. Approximately how many publications and
22 peer reviewed publications do you have?

23 A. Over 305.

24 Q. Okay. And do you know approximately how
25 many times your work has been cited?

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1 A. I think near 19,000 to date.

2 Q. All right. Where are you currently
3 employed?

4 A. I'm currently employed at the university
5 of California Santa Barbara in the department of
6 geography.

7 Q. Your title there?

8 A. I'm a professor of geography. I'm also
9 an affiliate in the group center for demography as
10 well as the associate director for the center of
11 spacial studies and data science,.

12 Q. Okay. I guess this goes without saying,
13 do you have tenure at UCSB?

14 A. Yes, I do.

15 Q. Can you explain what the broom center
16 for demography is?

17 A. The broom center for demography at USCB
18 is basically like a population center. So it's
19 affiliate faculty across campus including people
20 in economics, people in socially, people in
21 geography. And outside in other disciplines of it
22 due do work and research associated with
23 population issues.

24 Q. Okay. Spacial analytics department you
25 mentioned, what's that?

1 A. The center for spacial studies, and data

2 science is a center, it's focused on basically GIS
3 and GI science application and issues. And it's
4 sort of second generation from the national center
5 for geographic information and analysis that was a
6 center funded at USCB by the national science
7 foundation in the early 1990s.

8 Q. Does USCB have a prominent program in
9 GIS?

10 A. Yes, it does. It's recognized as one of
11 the top GIS, GIS science programs in the world.

12 Q. Do you use GIS software in your
13 professional work?

14 A. Yes, I do.

15 Q. What is that software called?

16 A. I predominantly use arch GIS.

17 Q. Is Maptitude, are you familiar with
18 Maptitude for redistricting?

19 A. Yes, I am.

20 Q. What is that?

21 A. It's also a geographic information
22 system that suggests it is tailored to help
23 address political redistricting problems and
24 issues.

25 Q. Okay. And I believe you may have

1 mentioned this already, but just for the clarity
2 of the record, does your professional work involve
3 the studying of demographics by race?

4 A. Yes, it does.

5 Q. Okay. Have you served as an expert in
6 redistricting litigation in the past?

7 A. Yes, I have.

8 Q. And that was the Robinson case before
9 this Court; is that right?

10 A. Yes, it was.

11 Q. Okay. Who retained you to serve as an
12 expert in this case?

13 A. The leaders of the Louisiana
14 legislature.

15 Q. You provided one report in this case; is
16 that right?

17 A. Yes, I did.

18 Q. Okay.

19 DEFENSE COUNSEL: Your Honor, we move for the
20 admission of Dr. Murray as an expert in the
21 fields of geography, demographic analysis,
22 spacial analytics, as it relates to race, and
23 statistic.

24 PLAINTIFF COUNSEL: No objection Your Honor.

25 THE JUDGE: Admitted in the fields as

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1 tendered.

2 DEFENSE COUNSEL: At this time, we would also
3 pursuant the party's stipulation, we would
4 move the admission of LDTX42, which is
5 Dr. Murray's report, and LDTX43 through 50,
6 inclusive, which comprised the exhibits to
7 the expert report.

8 PLAINTIFF COUNSEL: No objection.

9 THE JUDGE: Admitted.

10 A. So that means I'm done?

11 THE JUDGE: Don't we wish.

12 EXAMINATION BY DEFENSE COUNSEL:

13 Q. Let's return to your report, Dr. Murray,
14 and specifically I'd like to turn to page 2.

15 A. Okay.

16 Q. And I believe in the -- I'd like for you
17 to just summarize for the Court what you were
18 asked to do in this case?

19 A. In terms of this analysis, I was asked
20 to evaluate the illustrative districts generated
21 by Mr. Cooper, along with the enrolled 2022 and
22 Senate and house districts.

23 Q. Were there specific aspects of those
24 plans that you looked at in your analysis in this
25 case?

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1 A. I was focused on looking at various
2 sorts of things, looking at the data, veracity,
3 and then the I suppose completeness of the
4 analysis and correctness of the analysis, and to
5 that end, I undertook data management manipulation
6 sorts of tasks, I evaluated compactness. I looked
7 at core, I look at aspects of spacial correlation,
8 and finally looked specifically at communities of
9 interest.

10 Q. Okay. And what sources did you analyze
11 in formulating the opinions in your report?

12 A. I looked at the illustrative districts
13 provided by Mr. Cooper. I also looked at the
14 enrolled Senate and house districts provided by
15 the legislature, as well as associated census
16 block data, and then from the census to block
17 boundaries. As well as I guess I should add the
18 census block groups.

19 Q. Did you also look at any socioeconomic
20 data?

21 A. Yes. That provided in the blocks as
22 well as in the block groups, associated with ACS
23 data, yes.

24 Q. Okay. So I think my first question is:
25 Did you evaluate, did you review, I should say,

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1 the counts of split parishes and split voter
2 tabulation districts in the districts created in
3 Mr. Cooper's illustrative plans?

4 A. Yes, I do.

5 Q. Did you review the account counts of
6 split parishes in the DDTs in enrolled plans?

7 A. Yes, I did.

8 Q. Just to make sure we have a clean
9 record, when we're referring illustrative plans,
10 we're referring the ones in 2023; is that right?

11 A. That's correct.

12 Q. For the enrolled plans, those were in
13 2022?

14 A. 2022, yes.

15 Q. Okay. And is that analysis recorded in
16 your expert report in this case?

17 A. Yes, it is.

18 Q. So I'd like to focus today on your

19 analysis of the number of divided voter tabulation
20 district boundaries. So if we could start in the
21 Senate, I believe that's on paragraph 17 between
22 pages 11 and 12. Let me know when you get there.

23 A. Okay.

24 Q. Can you tell the Court how many voter
25 tabulation district splits that you found in the

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1 enrolled 2022 Senate plan?

2 A. Splits for the voting districts in the
3 enrolled plan were six. And 18 illustrative
4 house.

5 Q. Did you mean illustrative Senate, I'm
6 sorry?

7 A. Excuse me, Senate. There's a typo.
8 You're correct.

9 Q. So just to make sure, it's six in the
10 enrolled and 18 in the illustrative; is that
11 correct?

12 A. That's correct.

13 Q. Okay. If we could then move to the
14 house, I believe that's paragraph 23, appearing at
15 the bottom of 15 and top of 16. And Dr. Murray,
16 can you tell us how many voter tabulation district

17 splits you found in the enrolled 2022 house plan?

18 A. Sorry, I'm just trying to refresh my
19 memory. ZERO for the house and eight for the
20 illustrative house, I believe, unless, yes.

21 Q. No VDT splits in the enrolled plan?

22 A. That's correct.

23 Q. There were eight, I believe you said in
24 the illustrative 2022 house plan?

25 A. That's correct.

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1 Q. Okay. I'd like to turn to compactness.
2 Dr. Murray, did you review the compactness of the
3 district's created in Mr. Cooper's illustrative
4 plan?

5 A. Yes, I did. He reported three different
6 measures of compactness, Reock, Polsby Popper, and
7 he said in the report compact hole, but he didn't
8 report any empirical measures for those.

9 Q. Okay. Did you also review the
10 compactness of the districts in the enrolled
11 plans?

12 A. Yes, I did.

13 Q. Okay. So can you explain the Polsby
14 Popper compactness metric?

15 A. So I provided all three measures in my
16 report on page 2; although, it was stipulated in
17 the deposition that the Polsby Popper is missing
18 the two Exponent on the perimeter. In the
19 denominator perimeter -- which one did you want me
20 to explain.

21 Q. Just a brief overview of Polsby Popper?

22 A. Polsby Popper is looking at the
23 perimeter of a circle of the area of the district,
24 divided by -- well, the perimeter -- well, the
25 circumference of the circle of the same area, size

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1 as the district squared over the perimeter squared
2 of the district being evaluated.

3 Q. When was that technique developed?

4 A. The technique is attributed to Polsby
5 Popper in 1991, but in fact it's a measure that
6 has existed since the 1800s at least.

7 Q. Okay. How about the Reock metric, what
8 does that measure?

9 A. The Reock is the area squared or area
10 over the smallest enclosing circle of that area.
11 So it's a measure that ranges between 0 and 1.

12 Q. Okay. And when was Reock developed?

13 A. It's attributed to Reock in 1961, but it
14 too was discussed as a metric for looking at shape
15 or compactness in the 1800s as well.

16 Q. Okay. Are there any differences between
17 Polsby Popper and Reock in terms of how they -- in
18 terms of what they're measuring and practice?

19 A. Yes. As I described, one focuses on
20 area relating the area to the area of the smallest
21 enclosing circle. And the other Polsby Popper,
22 looks at the perimeter of a circle over the
23 perimeter of the actual area.

24 Q. Are there particular shapes that might
25 perform poorly on one measure and per for well on

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1 other?

2 A. Positive.

3 Both are attempts to characterize a
4 shape or a district as a single number.

5 In fact, they're two dimensional objects

6 Q. Condition vex mall, what is that
7 measuring?

8 A. Convex haul looks at the area over
9 the -- the area of the convex hole of the area and
10 the convex hole is a particular kind of shape that

11 has a proper convexity, so as defined to be the
12 smallest polygon, essentially, that encloses --
13 completely encloses the district. Again what you
14 have as a measure between 0 and 1, because the
15 area enumerators always going to be the same size
16 or smaller than the convex of that whole area did
17 you can compute the measure of compactness that
18 you report itself.

19 A. Yes, I did.

20 Q. Okay. So I'd like to now turn to figure
21 7 on page 9 of your report. Does this figure
22 report your computations of the different
23 compactness measures in the illustrative and
24 enrolled 2023 -- illustrative and enrolled Senate
25 plan?

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1 A. Yes, they do. Yes, it does.

2 Q. Okay. And what is your -- using these
3 three measures, what is your ever all conclusion
4 over all conclusion about the compactness of the
5 districts in the enacted Senate plan?

6 A. So they each have a value. Reock is
7 .35. Polsby Popper is .18. And the convex hole
8 is .66. And across all districts these measures

9 convexity -- or compactness measures are a little
10 bit higher than what they are for the majority
11 black districts in the plan.

12 Q. Okay. And then for the illustrative
13 plan, what are the numbers that you calculate for
14 that?

15 A. The numbers are in a relative sense,
16 pretty similar to those observed in the Senate
17 plan for each particular metric, and there's the
18 same relationship that among the 14 majority black
19 districts, that the associated compactness
20 measures are lower than they are across the whole
21 region.

22 Q. And if you were comparing, we'll just
23 focus on all districts in the plan, but if you
24 were comparing the compactness of the illustrative
25 plan versus the compactness of the plan, what

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1 conclusions can you draw?

2 A. That the illustrative plan has slightly
3 higher compactness to the hundreds decimal place.

4 Q. Is that have substantive significance to
5 you as a social scientist?

6 A. It's different, the measure is

7 different. I'm not sure within the context of the
8 measures that there's a lot of meaning that can be
9 put into the hundreds place difference, but
10 there's a little bit.

11 Q. Okay. And I'd like to now turn to
12 figure 9, page 11 of your report. And this is up
13 on the screen. Dr. Murray, can there be -- we
14 talked earlier about some differences between
15 Polsby Popper and Reock. Do the measures always
16 correspond for districts?

17 A. No, they don't. So the same or
18 different metrics may give a different evaluation
19 of different district in a comparative sense. So
20 what you see in this figure is a plot for each
21 district, its measure by Reock against the measure
22 by Polsby Popper, and if the measures agreed, what
23 you'd see is a straight line of agreement or some
24 other trend.

25 Q. So just to orient us to this figure, can

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1 you just describe what's on the X axis and Y?

2 A. The X is PP, Polsby Popper. Then on the
3 Y axis is Reock. What you see is if you picked
4 any particular point, so I'll look at this one

5 that has a value of .2. For Polsby Popper, it's
6 .2. If we look at Reock, it's a little bit more
7 than .4. With the 1 in the middle. This is done
8 for each of the 39 districts.

9 Q. Okay. So each dot on here refers to a
10 specific district?

11 A. Yes.

12 Q. And then it's plotted based on its Reock
13 and Polsby Popper; is that right?

14 A. Yes, it is.

15 Q. Did you calculate a correlation between
16 a district's Reock and Polsby Popper score?

17 A. Yes, I did. That's reported somewhere.
18 In 15, I guess.

19 Q. You're referring --

20 A. In this particular case.

21 Q. You're referring to paragraph 15; is
22 that right?

23 A. That's right.

24 Q. What is that correlation?

25 A. That correlation is 0.6449.

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1 Q. Okay. What does that number tell us
2 about the linear relationship of those two

3 measures of compactness?

4 A. Well, it says that there's some
5 correlation here, but you have to be careful in
6 terms of it in terms of linear implication, a more
7 standardized way to look at it, strictly from a
8 linear perspective would be in a regression
9 framework, which would effectively be this
10 official squared.

11 Q. So if you squared that number, what
12 would that tell you?

13 A. Roughly 0.37. What that would say from
14 a linear perspective is that the relationship
15 between the two variables are explained, are
16 37 percent of the variability with respect to
17 linear is explained by these two variables, which
18 means in terms of linear relationship, what's not
19 explained is 60.3 percent.

20 Q. Okay. So is that why the dots are
21 scattered widely on this chart?

22 A. That is exactly why, yes.

23 Q. Okay. Now, did you use another measure
24 of compactness to evaluate the districts beyond
25 the three that you reported than Mr. Obligation

1 Mr. Cooper?

2 A. Yes, I did. I moved moi.

3 Q. Why did you select the my?

4 A. The moment of inertia, more becoming
5 more widely used now, though it has existed for
6 many years.

7 Q. When was the moi developed?

8 A. The my, if you go back into the
9 literature, it's something like 1963, Weaver and
10 he is, they talk about it, although they do refer
11 to a linear -- Leonard oiler developing it in the
12 1700s.

13 Q. This is not exactly brand new to the
14 field?

15 A. No.

16 Q. Okay. Just very briefly, how does the
17 moment of inertia differ from, say, Polsby Popper?

18 A. So the moment of inertia, one of the
19 reasons why I included it, is that it's a measure
20 that looks at the whole area and if I took a given
21 district, I would be looking at all the locate
22 locations, infinite number of low cakes within
23 that district and looking at some sort of spacial
24 variability with respect to a central location.

25 So in terms of the measure itself, it does take a

1 given central location, often the centroid. Then
2 it looks at this squared distance from that
3 location to every point, infinite number of points
4 within the district. It takes this measure, this
5 so called moment of inertia, and it put it in a
6 measure. The measure is basically the moment of
7 inertia for circle of the same size, divided by
8 the moment of inertia for the actual district. So
9 it's a comparison sort of the most compact shape
10 believed to be a circle, and then comparing the
11 behavior that district with respect to that. So
12 it's a measure that also varies between 0 and 1.

13 Q. Okay. Is the moment of inertia method
14 peer reviewed?

15 A. Yes, it is. So like in geography,
16 that's one of the reasons that I used it, it
17 appeared in the 70s, as noted in my report. It
18 probably should qualify that the literature that I
19 noted note in the report is really the geographic
20 literature, as opposed to what I just mentioned
21 previously, there's obviously other literature
22 that this comes from. Two of the things involved
23 actually are prominent GIS faculty member that was

24 at USCB, Michael good child was involved in both
25 of the references that I mention dollars, talking

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1 mostly about the integration of this measure
2 within the GIS -- within a GIS context.

3 Q. I see. And is the moment of inertia
4 commonly used in your field?

5 A. Yes, it is.

6 Q. How would you qualify that it's commonly
7 used?

8 A. The -- if you look at it in terms of
9 reference to the term, in that academic literature
10 and Google Scholar suggests something like 19,000
11 references to that as a term. If you looked in a
12 number of the publication, there's hundreds of
13 citations for example, to the root child or other
14 work that I mentioned so far.

15 Q. Dr. Murray, did you calculate
16 compactness using the moment of inertia approach?

17 A. Yes, I did.

18 Q. Okay. So if we could turn now to figure
19 10 on page 11 of your report. Does this figure on
20 the screen here, Dr. Murray, does this tell us
21 your calculations at the moment of inertia for the

22 Senate?

23 A. Yes, it does.

24 Q. Okay. Over all, what do these -- can
25 you explain what the moment of inertia is, what

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1 this value is?

2 A. So, yes. As I said before T value of
3 this particular measure, like the Reock, like
4 Polsby Popper ranges between 0 and 1. What you
5 see here for the enrolled Senate district is that
6 it's .59, which suggests towards 1, but not 1.
7 And then further, providing this table as the
8 minimum and the maximum value, and that's compared
9 to the 11 majority black districts. What we see
10 is along the lines that the previous summary
11 measures have shown, that the measure of
12 compactness decreases.

13 Q. Overall, just looking at all districts
14 in the illustrative Senate and all districts in
15 the 2022 Senate, I mean, what do these values tell
16 you?

17 A. So that tells me that in terms of
18 comparison to the illustrative plan, that the
19 compactness increases overall. And in particular,

20 when we look at the black majority black
21 districts, that in the illustrative case, it's
22 increasing, that they're more compact.

23 Q. We can take that down. Like with the
24 Senate, did you also -- sorry. Ahead here. I'd
25 like to flip over to the house. We've been

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1 talking about the Senate. And if we could then
2 turn to page 13 and figure 15. And what is this
3 table showing, figure showing us?

4 A. So this shows the compactness measures
5 for the Reock Polsby Popper and compact sole for
6 the house, senate house districts and the
7 illustrative house districts.

8 Q. Just comparing the especially acted and
9 house plan, along, can you draw any conclusions?

10 A. Very similar in terms of the compactness
11 for every measure pretty much.

12 Q. Okay. And like with the Senate, did you
13 look at the correlation between Reock and the
14 Polsby Popper and the house?

15 A. Yes, I did.

16 Q. Okay. You report the results of that
17 analysis in your report?

18 A. Yes, I do.

19 Q. Okay. And I believe that's on paragraph

20 21 on page 14. Do you report the correlation

21 between the Reock and Polsby Popper in the

22 illustrative house?

23 A. Yes, I do.

24 Q. What is that?

25 A. It's 07.5847.

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1 Q. That number is less than it is in the

2 Senate; is that right?

3 A. That's correct.

4 Q. What does that mean practically?

5 A. That there's some degree of positive
6 correlation here. And then if we looked at this
7 from a linear perspective, that we would square
8 that term and see that it's less than .36, I
9 guess, in terms of the explanatory, linear
10 relationship.

11 Q. Okay. Did you also use moment of
12 inertia to calculate compactness in the enroll
13 versus else house plans?

14 A. Yes, I did.

15 Q. I'd like to turn to figure 18 on page

16 15. Dr. Murray, does this figure report the rules
17 of your moment of inertia compactness analysis in
18 the house?

19 A. Yes, it does.

20 Q. Okay. Can you just briefly summarize
21 for the Court the compactness numbers and the --
22 just the compactness common numbers for the two?

23 A. Comparing the enacted house and
24 illustrative house, they're almost exactly the
25 same, in terms of this measure of compactness.

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1 Q. Okay. So I'd like to now move on. You
2 also performed an analysis of the percentage black
3 voting age population in the black majority
4 districts in Mr. Cooper's plan; is that right?

5 A. Yes, that's true.

6 Q. And in particular, did you look at an
7 analysis Mr. Cooper provided in his report that
8 compared the percentage BVAP black majority
9 districts to the percentage white VA P in white
10 majority districts?

11 A. Yes.

12 Q. So what I'd like to do now is, I'd like
13 to do a side by side or top or bottom or whichever

14 we did here, comparing figure 11 on page 12 of
15 your report, tell LDTX42, and side by side with
16 figure 16 on page 35 of Mr. Cooper's report which
17 is marked PL20. Dr. Murray, you'll probably have
18 to use your screen for this one.

19 A. Got it.

20 Q. Just to orient, I'll just represent that
21 the top figure comes from Dr. Murray's report, and
22 the bottom figure comes from Mr. Cooper's. So
23 Dr. Murray, is figure 11 the result of your
24 response to Mr. Cooper's figure 16?

25 A. Yes, it is.

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1 Q. Okay. Can you explain what analysis you
2 performed in figure 11 of your report?

3 A. So in figure 11, this was based upon his
4 original figure 16. And looking at what was being
5 reported and based upon this, what you see in the
6 table, is my interpretation of what that should
7 look like. So in particular, looking at the black
8 voting age population in the majority districts,
9 what you see is 58.98 percent in the Senate,
10 enacted plan. That's based upon looking at the
11 total population BVAP over the total BVAP in those

12 majority districts.

13 Q. Okay. So when we look at the change in
14 the majority BVAP in the Senate, you go from the
15 enacted to the illustrative, how does that number
16 change?

17 A. So in the illustrative Senate, it's a
18 similar thing. The total BVAP in those majority
19 districts divided by the total BVAP in those
20 majority districts.

21 Q. Okay. So how does that percentage
22 change from the enacted to the illustrative
23 Senate?

24 A. I'm sorry. So in the illustrative plan,
25 what you see in percentage terms is that there's

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1 larger population across those majority black
2 districts. So as a result, that percentage of the
3 BVAP in those districts is less. So it decreases.

4 Q. Okay.

5 A. From the enacted to the illustrative.

6 Q. Okay. So when we look and we see -- we
7 look over at the next column is 2020NH white VA P
8 majority districts. What is that column
9 reporting?

10 A. Sorry, can you say again.

11 Q. Sure. So for the second column, it says
12 white majority VAP districts, what's that looking
13 at?

14 A. So in those districts, it's looking at
15 the white VAP, across the white VAP majority
16 districts. It's looking at the percentage of the
17 total population in those districts.

18 Q. Okay. So between the enacted and the
19 illustrative, how does that value change?

20 A. So in the enacted it's 68.74 percent.
21 And then in the illustrative, this increases to
22 70.15 percent.

23 Q. Okay. And then on that right hand
24 column with the word difference, what do you
25 understand -- I understand you're working off Mr.

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1 Cooper's, but that difference number, what do you
2 understand that to be?

3 A. So I understand this to be the
4 difference between 578.98 percent minus
5 68.74 percent. That gives you a minus
6 9.76 percent.

7 Q. Okay. The same calculation for the

8 illustrative?

9 A. Yes.

10 (INTERRUPTION).

11 Q. Can you explain the difference between
12 your numbers and his?

13 A. I believe I can. From my understanding
14 of his rebuttal is that for the Senate, it's that
15 BVAP total in those districts divided by BVAP
16 across the whole state so not just the population
17 in those majority districts.

18 Q. Just to make sure I understand. So in
19 your figure 11, you're taking the percentage, the
20 average percentage BVAP in the black majority
21 districts; is that right?

22 A. That's right.

23 Q. So Mr. Cooper is taking the percentage
24 BVAP and majority districts, compared with the
25 state as a whole; is that right?

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1 A. That's right.

2 Q. Okay. Is that the same analysis
3 undertaken with the white majority districts?

4 A. That's.

5 Q. Is it problematic to compare or to draw

6 the comparison against statewide numbers instead
7 of district numbers?

8 A. I believe that it is, yes.

9 Q. Why is that?

10 A. I'm not sure that it makes sense,
11 because in the discussion both in the tables and
12 the discussion in the report, it was trying to
13 characterize that percentage of the BVAP or the
14 white VAP in those districts and have a compared.
15 So by dividing it by the state totals, renders it
16 in a way an incomparable kind of comparison in my
17 opinion.

18 Q. Is the idea that if you're looking at
19 characteristics am I hearing you right that you
20 should be looking at the districts and not pulling
21 in numbers outside of the districts?

22 A. That's correct.

23 Q. Okay. Then if we see under your
24 analysis, rather than the difference number,
25 getting closer to 0 as you move from the enacted

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1 to the illustrative Senate, as it does in Mr.
2 Cooper's analysis, in your analysis, the
3 difference gets larger; is that right?

4 A. That's right.

5 Q. Okay. And what is your interpretation
6 of the difference number under your figure 11?

7 A. So in my figure 11, what you see is that
8 BVAP in those black majority districts goes down a
9 smaller percentage to 53 percent, and then as a
10 result of that, you see a greater percentage of
11 nonhispanic white BVAP in the other directions,
12 that's why it goes up to 70 percent. So
13 intuitively, this makes sense and allows for
14 comparison. What happens is exactly what you
15 would expect.

16 Q. So is this figure showing us how the
17 changes between the enacted and illustrative are
18 sorting the population by race?

19 A. It appears to, yes.

20 Q. How does it appear to do so?

21 A. In that by creating more majority black
22 districts, you have -- you're isolating more of
23 the BVAP in the state and then similarly, in the
24 white nonhispanic white BVAP, districts, you're
25 obviously creating a greater concentration of that

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1 white VA P majority.

2 Q. Okay. Did you perform a similar
3 analysis, Dr. Murray, of the house?

4 A. Yes, I did.

5 Q. Okay. I'd like you to turn quickly to
6 we'll do one more side by side comparison figure
7 19 on page 16 of your report, LDTX42, junction
8 task posed with figure 27, appearing on page 48 on
9 PL20, which is Mr. Cooper's. Can you briefly
10 summarize for the Court Dr. Murray, your analysis
11 in figure 19?

12 A. Similar to what I just talked about for
13 the Senate, what we see is 63 percent of BVAP in
14 the black majority districts. And then for the
15 white voting age population districts, we see both
16 white VA P, BVAP at 69.3 percent, for the enacted
17 house plan. This goes down to 57.24 percent in
18 the illustrative house for the BVAP for the black
19 majority districts and then 70.25 in the
20 nonhispanic white VA P majority districts.

21 Q. So as you move from the enacted to the
22 illustrative, is the difference between those
23 percentages in the black majority districts tanned
24 white majority districts grown?

25 A. It goes down.

1 Q. But it's getting farther from 0?

2 A. That's right.

3 Q. They're getting more different?

4 A. Exactly.

5 Q. Okay. Again, that's a different
6 direction than Mr. Cooper's calculation of the
7 difference using his Methodology in his figure 27,
8 right?

9 A. Yes, that's right.

10 Q. Are your conclusions with regard to the
11 house similar as they are with respect to the
12 Senate?

13 A. Yes, they are.

14 Q. Okay. I'd like to now move on to you
15 performed an analysis on, I believe you performed
16 an analysis comparing the BVAP of the enrolled and
17 the illustrative districts that border the
18 location of Mr. Cooper's new illustrative majority
19 black districts; is that right?

20 A. That's right.

21 Q. Okay. Why did you perform that
22 analysis?

23 A. To look at the impacts of the creation
24 of this new black majority district on the local,

25 on the surrounding districts.

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1 Q. Okay. And so I think we can go pretty
2 quickly through this, but I'd like to pull up
3 figures 12 to 14 from pages 12 to 13 of your
4 report. So can you orient the Court to the
5 figures, maybe with figure 12 at the bottom of
6 page 12?

7 A. Yes. This looks like else Senate
8 district 17. And those neighboring districts and
9 the neighbors districts, and then looking at
10 what's happening to the BVAP percent in the
11 illustrative compared to the enrolled. What you
12 see is that in terms of the changing neighboring
13 districts to 17, you have 15, 2 and 14. And then
14 in the enrolled, it was respectively 73.9 percent
15 BVAP, 57.7 percent, and then 58 percent. And then
16 when we look at the illustrative plan, 15, 2 and
17 14, again respectively, it goes down pretty much,
18 but does stay the same for 14, but for 15 and 2,
19 it goes down to 54.4 percent, and 51.73 percent.

20 Q. And then I believe figure 13 covers the
21 Senate. Do you see a similar pattern in figure
22 13?

23 A. Yes.

24 Q. Okay. And then if we look at figure 14,
25 which covers illustrative Senate district 38, do

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1 you see the same pattern?

2 A. Same pattern, yes.

3 Q. Okay. I notice you only have one
4 district listed for 38. Is there a reason why?

5 A. I think that's the only neighboring
6 district that changed. I'm not sure if it's the
7 only neighboring district, but it's the only one
8 that changed.

9 Q. That's one of the Shreveport districts
10 right?

11 A. I believe so.

12 Q. Okay. You performed the same
13 analysis -- oh, sorry. What did the
14 differences -- what is this difference between the
15 enacted and illustrative BVAPs of these
16 neighboring districts tell us?

17 A. In my opinion, it suggests that to
18 create these new majority black districts, that
19 BVAP from neighboring districts needed to be
20 allocated or borrowed, if you will, in order to

21 create the black majority district.

22 Q. Okay. And Dr. Murray, do you perform
23 this same analysis for the new illustrative house
24 districts?

25 A. Yes.

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1 Q. Okay. And do you report that analysis
2 in figures 20 to 25 of your report, beginning at
3 the bottom of page 16?

4 A. Apparently, I do, yes.

5 Q. All right. And so Dr. Murray, the E6
6 figures perform a similar calculation for each of
7 the six new illustrative house districts in Mr.
8 Cooper's plan; is that right?

9 A. That's correct.

10 Q. Okay. So I'd like to just use one as an
11 example. Let's go with maybe figure 24 for
12 illustrative house district 65.

13 A. Okay.

14 Q. And so what is this particular figure
15 showing us?

16 A. Well, one it's showing an error.
17 Because I don't know about 69 and 77,000 percent.
18 So there's clearly a typo here. 69.77 percent.

19 But have to verify that. But what we see is a
20 similar sort of relationship in the neighboring
21 districts that have changed have consistently a
22 higher enrolled house percentage BVAP. Than when
23 you compare them to the illustrative house case.

24 Q. Okay. And I'd like to look at maybe one
25 more of these. If we could look at figure 25,

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1 which is for illustrative house district 68. And
2 what do you see -- what does this figure tell us
3 Dr. Murray?

4 A. A similar. So the districts that
5 neighbor district 68 are (296)162-0167, 63, and
6 then you see this relationship of a decrease in
7 the BVAP in this associated districts in order to
8 create the new black majority district 68.

9 Q. Okay. And taking a look at these new
10 illustrative districts as a whole, do you see --
11 does a pattern emerge for you from this analysis?

12 A. In terms of creating this new black
13 majority district required a sort of borrowing
14 from neighboring districts in order to achieve the
15 majority district status, yes.

16 Q. Okay. So, Dr. Murray, did you also look

17 at core retention?

18 A. Yes, I did.

19 Q. What is core retention to you?

20 A. Core retention is the idea of how much
21 did a new districting plan maintain sort of the
22 original representation or boundaries from the
23 original. So in this particular case, I compared
24 the 2022 enrolled to the 2011 enrolled districts.
25 And then looked at, for example, what that

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1 percentage was being maintained in the same or
2 equivalent district.

3 Q. Okay.

4 A. I did this through an analytical
5 approach that's described in the report.

6 Q. Okay. So I'd like to put up now figures
7 26 and 27 appearing on page 18 of your report,
8 LDTX122. Dr. Murray, do these two figures report
9 your core refinings, the results of your core
10 retention analysis in this case?

11 A. Yes, they do.

12 Q. So if we could start with figure 26,
13 what do you conclude?

14 A. So what ICON conclude is that looking at

15 the 2022 enrolled Senate plan, that it maintains
16 as a strict percentage, looking at the district
17 boundaries and how much they agree, 83.3 percent
18 retention from the 2011 Senate districts.

19 Q. How does that compare to the
20 illustrative Senate?

21 A. It's considerably higher when you look
22 at the 67.17 percent of the illustrative Senate.

23 Q. Okay. And so moving to the house, what
24 do you conclude about core retention in the house
25 in the 2022 enrolled plan?

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1 A. Similar to what we saw for the Senate.
2 In this case, the enrolled, or enrolled house
3 plan maintains or retains 75.43 percent from the
4 2011 house districts, differing from the
5 illustrative house districts having 63.06 percent
6 retention.

7 Q. Okay. Generally, what do you find about
8 the degree to which the illustrative plans in this
9 case are retains in the cores of prior districts?

10 A. That the enrolled plans retain more from
11 the 2011 districts than the illustrative.

12 Q. Okay. Finally, Dr. Murray, I believe

13 you described a community of interest analysis
14 that you undertook in this case; is that right?

15 A. Yes, I did.

16 Q. Okay. I'd like to now turn to that. So
17 I believe you begin your discussion of this
18 analysis on paragraph 27, page 18; is that right?

19 A. Yes.

20 Q. Okay. And can you tell the Court what
21 you studied in this analysis?

22 A. So the intent here was to try and get at
23 whether the degree to which communities of
24 interest were being preserved in the Cooper
25 report. It was something that was discussed. I

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1 think there was a mention of municipalities in
2 Cooper, as potentially communities of interest.
3 That certainly is a well accepted -- it may be one
4 type. But it's certainly not more of a
5 neighborhood oriented definition of a community of
6 interest. So the interpret was to -- intent was
7 to look at whether or not communities of interest
8 at a more local level were being retained or split
9 in any way. So in particular, in my analysis, I
10 looked at block groups as one form of a potential

11 neighborhood, and whether block groups that form
12 either a neighborhood in and of themselves or a
13 collection of localized block groups, that is a
14 block group and its neighbors, that any of those
15 that may form a cluster of similar socioeconomic
16 characteristics were being split in the
17 illustrative district plans.

18 Q. Just to make sure we have a clean
19 record, can you explain the difference between a
20 block and a block group?

21 A. So a block group, the definition is
22 given in the report, but a block group is a larger
23 geographic area that consists of many block groups
24 within it.

25 Q. Block groups or blocks?

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1 A. Blocks, excuse me. Block group consists
2 of many blocks within it, yes.

3 Q. I see. Okay. What made you select
4 block groups for your study here?

5 A. One geography that potentially reflects
6 characteristics of a neighborhood. So that --
7 some people have in sociology and other areas,
8 certainly in the criminal control injure area,

9 relied upon tracks, but I believe that they're too
10 broad to represent some of the localized
11 characteristics. So I felt that block groups were
12 reasonable proxy for neighborhoods or communities
13 of interest to reveal value in the study.

14 Q. Okay. So how did you go about carrying
15 out this analysis?

16 A. So the analysis relied upon block group
17 data, as it says, obtained from the ACS census.
18 And in doing this, one of the characteristics I
19 looked at was the difference in percent white
20 voting age population minus the percent of black
21 BVAP, black voting age population, in addition to
22 characteristic of income as well as education
23 obtainment.

24 Q. Where did you get the data on income and
25 education?

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1 A. This is from the ACS census information.

2 Q. Okay. So I'd like to now look at figure
3 28 on page 19 of your report. I know it comes
4 with some accompanying texts on the page, but can
5 you explain to us kind of what --

6 A. So method one of the techniques is

7 method of spacial auto correlation, which looks at
8 the block groups and associated block attributes
9 of interest, BVAP minus V BVAP percent. I looked
10 at this attribute and basically the measure of
11 spacial correlation, was looking for clusters,
12 local clusters, defined at the block group level,
13 and the degree to which a demonstration block
14 group is similar or different to it's neighboring
15 units. So this overall value, the particular
16 measure I used in this case was local my ran task.
17 So what you see on the top of this figure is this
18 measure of ran tie, which this particular measure
19 is for the whole region, and a value of 0-point --
20 in this measure, ranges between minus 1. In this
21 case, this is suggestive of a high degree and
22 significant degree of positive auto spacial
23 correlation. Through this, what we would expect
24 there are many pockets of high BVAP block groups
25 surrounded by other high BVAP block groups, and as

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1 well as high W VA P block groups by percentage
2 closer to 1 surrounded by high W VA P block
3 groups. One way to look at this, so the Global
4 measure of spacial auto correlation just gives you

5 one number. It just says we think there is
6 clustering in the region, doesn't say where this
7 is. Breaking this down, the reason I used the
8 local Miranda approach, this does tell us
9 spacially which block groups is this occurring and
10 to what degree is it significant. What you see
11 here is a plot of this attribute value, the
12 percent W VAP minus percent BVAP, that's YI, so
13 looking at this axis, it's a standardized value.
14 It's plotted against the neighbor values of this
15 particular measure. So that's why you get this
16 scatter plot. That's why you see on the Y axis
17 that mathematical mess if you will, is actually
18 the average of the neighbors in terms of this
19 particular measure. So what you have is a block
20 group measure, plotted against the neighbor
21 values. And then you get this so called my Rand
22 scatter plot. And the significance of this plot
23 is that if you look at the dotted lines, it breaks
24 these plotted points into quadrants. So the top
25 most quadrantes considered a high value surrounded

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1 by a high value. The other one of interest here
2 is the lower left quadrant, which suggests low

3 values of this particular attribute surrounded by
4 low values.

5 Q. Okay. And so just to be very clear, so
6 each blue dot is a block group; is that right?

7 A. That's correct.

8 Q. So if I'm -- if my block group is in the
9 top right hand corner of this figure, what's that
10 telling me about that block group's racial -- or
11 what's that telling us?

12 A. That's telling us that it has a i close
13 to one percent, the highest most upper right part
14 would tell you that it's basically a W VAP percent
15 of one, which means 100 percent white population
16 surrounded by block groups that are also basically
17 100 percent white population. Then in contrast,
18 the lower left, is telling us basically
19 100 percent black BVAP surrounded by areas that
20 are basically 100 percent BVAP.

21 Q. Okay. So --

22 A. But in terms of the measure, just to
23 clarify, it comes up as a negative value, because
24 it's W VA P percent minus BVAP percent. So it's a
25 number, the value of WI ranges from minus 1 to 1.

1 Q. All right. So do you plot the results
2 of this analysis on a map of the state?

3 A. Yes, I do.

4 Q. Okay. So if we could turn to figure 29
5 on page 20. Can you explain briefly what this
6 figure showing us?

7 A. So basically this takes the block groups
8 that were shown in the scatter plot, identifies
9 the ones that were found to be significant, and
10 then it plots them in terms of their quadrant
11 locations, so the ones that were in that upper
12 right, high surrounded by high are shown in red.
13 The lower left quadrant were the high BVAP
14 surrounded by high BVAP are shown in blue.
15 They're just characterized as a low value surround
16 bid low, because it's plotting W VAP percent minus
17 BVAP percent. So the ones of particular interest
18 in terms of clustering of like values are blue and
19 the black here. High surrounded by high. Low
20 surrounded by low.

21 Q. I see. Just to make sure we get one
22 concept out, you reported a bunch of these as
23 being not significant. What does that mean?

24 A. Statistically significant. It's a
25 measure, but it's also a statistical measure. One

1 can do a test for the significance level.

2 Q. I see. Okay. So if the red census
3 blocks are high white population surrounded by
4 high white population; is that right?

5 A. That's correct.

6 Q. The dark blue, is that high black
7 population surrounded by high black population?

8 A. Yes, correct.

9 Q. Got it. Okay. How does this -- well,
10 does this figure allow the -- allow you to draw
11 any conclusions about the racial distribution
12 across the State of Louisiana?

13 A. I believe it does.

14 Q. Okay. What conclusion is that?

15 A. Is that there's considerable segregation
16 or difference in the spacial distribution of the
17 black population and white population in the
18 state.

19 Q. Okay.

20 A. Wherein in the rural areas, it's more
21 heavily a white population, and in the
22 concentration of the black population is more in
23 the urban areas, which are admittedly a little

24 difficult to see in this figure.

25 Q. All right. How does this analysis

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1 inform your work in looking at communities of
2 interest?

3 A. Because it suggests that there is
4 spacial clustering. So to that end, the idea
5 would be whether some of these spacial clusters
6 are being split by the associated illustrative
7 boundaries.

8 Q. Okay. If we look at paragraph 28 on
9 page 20 of your report, how then did you go about
10 conducting this analysis then in the Senate?

11 A. So I looked at all the block groups in
12 the state, 4,291 of them as a potential community
13 of interest. And looked to see whether any of
14 them were being split by the associated
15 illustrative boundaries. So in this particular
16 case, for the Senate districts, illustrative
17 Senate districts, I found 375 blocks that were
18 being split by the district boundaries.

19 Q. Did you examine any of those 375?

20 A. I did examine a couple or more than a
21 handful of 27 total.

22 Q. Okay. Why only 27?

23 A. Because limited time to do this.

24 Q. Okay. What is the significance of
25 finding a potential neighborhood split in your

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1 analysis?

2 A. So depending upon the characteristic of
3 block, if it was being split, and that block was
4 homogeneous in some way and it was relatively
5 homogeneous to its neighboring area, then that
6 would suggest that this community of interest or
7 a neighborhood was being split by the block
8 boundaries.

9 Q. Okay. So if --

10 A. Split by the district boundaries, excuse
11 me.

12 Q. District boundaries, all right. If we
13 could turn to figure 30 on page 21. Is this your
14 list of 27 examples?

15 A. Yes, it is.

16 Q. Okay. Can you very briefly just walk us
17 through what is being shown in this?

18 A. So the table indicates the individual
19 block that was identified as being split, that

20 subsequently triggered a further evaluation of the
21 local area. It gives a name of the area
22 approximately, and then it indicates which else
23 districts created the split, and then it gives a
24 characterization of median income, total
25 population, and then educational attainment. And

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1 then the last two control sums are associated with
2 this measure of being used in the evaluation, this
3 W VAP percent minus BVAP percent. So that value
4 ranges between minus 1 and 1. And then it gives
5 the local my Rand assessment of it, indicating
6 what kind of relationship, like is it a high
7 surround bid high, or low surround bid allow and
8 level after significance in parenthesis.

9 Q. Before I move on, Dr. Murray, I notice
10 some significant variability in income and
11 educational attainment across the block groups
12 that you report here; is that right?

13 A. That's true, yes.

14 Q. Okay. And is that surprising to you
15 that there would be significant variability
16 between parts, for example, the income and
17 educational attainment in different parts of New

18 Orleans?

19 A. Not at all. There's a lot of spacial
20 variability across the state.

21 Q. So I just want to very, very briefly go
22 through first of all, do you provide an analysis
23 of each one of the 27 potential splits in Exhibit
24 C to your report?

25 A. Yes, I do.

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1 Q. Okay. That's LDTX47; is that right?

2 A. Yes.

3 Q. If we stay in your report, those are the
4 ones I want to go through, well the first one. Go
5 to page 25 and put up figures 33A and 33B. I'd
6 like for you to orient the Court to this figure.
7 We should probably start with the one on the top,
8 which is 33A. Can you --

9 A. Highlighted here in the yellow would be
10 the blocks that were identified in this case
11 there's multiple blocks that were identified as
12 being split. So it identifies which of those
13 blocks was triggering further analysis, based upon
14 a splitting by direction boundaries. It provides
15 some orientation of where that is.

16 Q. Okay. Where specifically are we looking
17 at here?

18 A. It's an area referred to as musicians
19 valley, I believe.

20 Q. Is that in New Orleans?

21 A. Yes.

22 Q. We're looking at the Senate; is that
23 right?

24 A. Yes.

25 Q. All right. So I'd like now to turn to

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1 the lower figure 33B. Maybe we can Zoom in on
2 that so it's easier to see. There we go. All
3 right. So can you orient the Court to what --
4 some shading here.

5 A. Yes.

6 Q. Can you explain what's going on here?

7 A. The shading levels are indicated in this
8 legend. What it shows is the W VAP percent minus
9 BVAP percent. So the lighter colored would be the
10 negative, more negative values or higher BVAP
11 percent. So that's what you'd see in the lightest
12 colors, closer towards the hundred percent BVAP in
13 those particular blocks. So what's being shown

14 here are the blocks.

15 Q. Okay. So again those little yellow
16 libraries, those are the census block groups; is
17 that right?

18 A. Though those are the census block groups
19 that are split, yes.

20 Q. So what does your analysis in this
21 figure show you about this particular split?

22 A. So about this particular split, we see a
23 lot of homogeneity in each of those individual
24 blocks that are identified as being split, but
25 also that they are part of a bigger localized area

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1 that's very homogeneous in terms of its racial
2 composition but also other characteristics like
3 income and education attainment.

4 Q. What does the district boundary do to
5 this area?

6 A. So the district boundary carves it up.

7 Q. Okay. Does preserving those groups as a
8 potential community of interest, is this line
9 consistent with such an objective?

10 A. It does not seem consistent with
11 preserving a community of interest in this

12 particular case, no.

13 Q. Okay. Let's just do one more in the
14 Senate. I'd like to go into that exhibit C. So
15 if we could go into LDTX47 at pages 26 and 27.
16 Exhibit C14. This appears -- is this Warner park
17 in Shreveport?

18 A. I believe it is, yes.

19 Q. Okay. And then again if you can
20 starting with the box on the left, Exhibit C14A,
21 can you explain what this is?

22 A. So again, the highlighted in yellow
23 represent block groups that have been split by
24 district boundaries, and so there's a number of
25 them in this area.

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1 Q. Okay. And then if we go to C14B. This
2 is again that chart you have with some color
3 shading. Can you explain your?

4 A. Yes.

5 Q. Your analysis of this?

6 A. So again shown here are the blocks, and
7 in particular, the racial percentage, the lighter
8 color indicates higher percentage black voting age
9 population. And there's in general this whole

10 area, it's very homogeneous with respect to racial
11 composition, and a lot of similarity in terms of
12 median income and education Callais containment.

13 Q. How does the district boundary interact
14 with this potential community of interest?

15 A. And it looks like in this case that the
16 district boundary does not preserve this as a
17 community of interest, potential community of
18 interest. It carves it up.

19 Q. Okay. Is there a racial effect to
20 dividing this area?

21 A. I mean, it appears to be in that if one
22 looks at the districts, that these are apparently
23 trying to help achieve majority black districts,
24 so getting that percentage of BVAP where it needs
25 to be where it needs to be a majority district.

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1 Q. If we go -- I think you've already
2 mentioned this, but do you show similar figures
3 for each of the 27 potential splits that you
4 identify?

5 A. Yes, I do.

6 Q. Okay. You say beyond the 27, that the
7 other roughly 350 potential splits that you

8 identify total are not relevant?

9 A. Not at all. I only had time to examine
10 the ones that I reported here.

11 Q. Okay. So I'd like to turn now to
12 your -- to wrap this up. If we could turn to your
13 analysis of the house, which I believe is page 26,
14 paragraph 29. And the -- well, okay. What can
15 you tell us about your analysis in the house?

16 A. So similar sort of analysis was
17 undertaken, looking at illustrative house
18 districts, looking at the 4,291 block groups in
19 the state, and in terms of block groups splits or
20 potential neighborhood communities of interest
21 splits, 565 were identified.

22 Q. And how many of the 565 did you
23 evaluate?

24 A. I looked at 29.

25 Q. Okay. And why only 29?

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1 A. Time limits.

2 Q. Okay. Are all 29 examples reproduced in
3 Exhibit D to your report, which is LDTX48?

4 A. Yes.

5 Q. Now I'd like to turn on to the figure,

6 figure 34, if we could look at that. Is this
7 figure reporting statistics for all 29?

8 A. Yes, it is.

9 Q. Look at these, you have a lot of them
10 listed in Shreveport. How many potential
11 neighborhood splits do you report here for
12 Shreveport?

13 A. Eleven.

14 Q. Of those, how many involve illustrative
15 house district 1?

16 A. Looks like seven, maybe eight -- b
17 seven.

18 Q. Seven, all right. I'd like to just go
19 through, I think in the interest of time, let's
20 just go through one. So if we could look at page
21 29. Okay. This has figures 36A and 36B. And is
22 this in the Shreveport area?

23 A. Yes. Allendale lake side area.

24 Q. Okay. What do you see in your figure
25 36B, what does it show in this?

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1 A. So again, it's identifying these block
2 groups that are split by district boundary. When
3 we look in particular at 36B, what we see is this

4 racial composition that's mostly or very high in
5 BVAP percentage for all of these blocks, and that
6 they're split going through what appears to be a
7 community of interest that's very homogeneous in a
8 number of ways.

9 Q. Is there a racial effect in the
10 composition of these districts by dividing this
11 area of high BVAP?

12 PLAINTIFF COUNSEL:

13 Objection to the extent this calls for
14 testimony, seeks to find Mr. Cooper's intent.

15 THE JUDGE:

16 Respond?

17 DEFENSE COUNSEL:

18 Yes, Your Honor. I specifically asked
19 for the effect of the line on a particular.
20 I did not ask the witness to opine as to --

21 THE CLERK:

22 State your name.

23 PLAINTIFF COUNSEL:

24 Josephine Vahn, V-A-H-N. If I can
25 respond.

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1 THE JUDGE:

2 You can go.

3 PLAINTIFF COUNSEL:

4 Mr. Lewis did ask this question
5 similarly a few moments ago. Dr. Murray did
6 provide Mr. Cooper's intent.

7 THE JUDGE:

8 Overrule the objection.

9 A. It appears to be done in order to
10 achieve a black majority status for the associated
11 district or districts.

12 EXAMINATION BY DEFENSE COUNSEL:

13 Q. And in Exhibit D to your report,
14 Dr. Murray, do you show similar figures for each
15 of the 29 splits you identify?

16 A. Yes, I do.

17 Q. Okay. So finally, I know you looked at
18 29, does that mean that the other roughly 535
19 potential splits are not relevant?

20 A. No. I only had time to look at a finite
21 number.

22 Q. So taking a step back from this,
23 Dr. Murray, what do the volume of these potential
24 neighborhoods splits tell us about whether Mr.
25 Cooper's district kept together communities

1 comprised of areas with similar socioeconomic
2 status?

3 A. Doesn't appear to be that it was done
4 with respect to localized communities of interest
5 in this case.

6 Q. Okay. And in the roughly 60 potential
7 neighbor splits that you examined, I only went
8 through a few, but in those roughly 60, did you
9 consistently observe any particular attribute
10 around the lines and analysis?

11 A. Yes.

12 Q. What was that attribute?

13 A. Race.

14 Q. Okay. And so is it fair to say of those
15 06 splits those were all of communities that were
16 homogeneous both with respect to race and the
17 socioeconomic attributes that you examined?

18 A. Yes.

19 Q. And yet they were all being divided; is
20 that right?

21 A. That's right.

22 Q. I believe you mentioned this, but what
23 attribute did you consistently observe in the 60
24 potential neighborhood splits?

25 A. Race.

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1 Q. Can you elaborate on that?

2 A. That in many of the instances that it
3 appears that the boundaries were seeking to
4 achieve some particular racial representation or
5 inclusion.

6 Q. Okay. Was there any other apparent
7 explanation for the boundaries that you were able
8 to observe?

9 A. Not that I could observe.

10 Q. Okay.

11 DEFENSE COUNSEL:

12 I have no further questions.

13 THE JUDGE:

14 Let's take a break.

15 DEFENSE COUNSEL:

16 This witness does have a 5 p.m. flight.

17 I know that the Court is -- I know we've had

18 a number of -- this witness also is a -- I

19 don't know how long cross-examination is.

20 PLAINTIFF COUNSEL:

21 I can respond Your Honor.

22 DEFENSE COUNSEL:

23 Please.

24 PLAINTIFF COUNSEL:

25 I don't think it's realistic that the

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1 witness is going to make a 5 p.m. flight if

2 it's 10 after 3, and I haven't gone back.

3 DEFENSE COUNSEL:

4 Sounds like we're going to be taking a

5 break.

6 THE JUDGE:

7 Taking a 15-minute break.

8 (RECESS 3:09-3:25 P.M.)

9 PLAINTIFF COUNSEL:

10 I'm Josephine Vahn, I'm a lawyer on

11 behalf for the Plaintiffs in this case. May

12 I proceed with my examination?

13 THE JUDGE:

14 Yes.

15 EXAMINATION BY PLAINTIFF COUNSEL:

16 Q. Dr. Murray, good afternoon.

17 A. Hello.

18 Q. I'm going to ask you a couple of

19 questions. Dr. Murray, have you been retained by

20 Defendants as an expert witness in this case?

21 A. Yes.

22 Q. Has the Court ever disregarded your
23 testimony as it applies to the determination of
24 compactness?

25 A. No.

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1 Q. Dr. Murray, were you retained as an
2 expert witness in the Robinson V Ardoin case?

3 A. Yes.

4 Q. Stephen, if you could pull up and turn
5 to I think it's PDF page 41.

6 Dr. Murray, if you could start reading at the
7 last sentence of the full paragraph beginning with
8 accordingly the Court. The last sentence, read
9 that, please.

10 A. "Accordingly, the Court disregards his
11 testimony as it applies to the determination of
12 compactness."

13 Q. And this is describing your expert
14 testimony in the Robinson case, correct?

15 A. Yes.

16 Q. So has a Court ever disregard your
17 testimony as it applies to the determination of
18 compactness?

19 A. Well, I guess, yes. It wasn't based
20 upon the same analysis, but yes, I guess so.

21 Q. So your answer so the record is clear,
22 is a Court has disregarded your testimony as it
23 applies to compactness?

24 A. Yes. This Judge did.

25 Q. And you submitted an expert report dated

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1 July 28th, 2023, in this case, correct?

2 A. What was the date again.

3 Q. July actual 2023?

4 A. Yes.

5 Q. And that's what's been previously marked
6 and admitted as LX42, correct?

7 A. Yes.

8 Q. You have a copy of that in front of you,
9 correct?

10 A. Yes.

11 Q. Do you see on page 2 of your report the
12 section titled spacial analysis undertaken?

13 A. Yes.

14 Q. Just so the record is clear, has spacial
15 analysis -- strike that.

16 Just so the record is clear, spacial analysis

17 has never been accepted by a Court and number a
18 political redistricting case, correct?

19 A. Spacial analysis? I find that untrue.
20 Looking at a map is spacial analysis. What's
21 spacial analysis are you referring to;
22 compactness?

23 Q. Dr. Murray, did you give testimony in
24 the Robinson case as part of your expert
25 designation?

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1 A. Yes.

2 Q. Stephen, can we have the Robinson
3 opinion back up.

4 And Dr. Murray, I'd like to direct your
5 attention, there's going back to page 41, I think
6 it is, of the PDF. Directing your attention to
7 the highlighted paragraphs, starting with the
8 sentence that's highlighted in fact, Dr. Murray --
9 sorry. Strike that. Hang on one second. Sorry.

10 Beginning with lastly Dr. Murray testified.
11 Can you read that into the record lastly
12 Dr. Murray?

13 A. "Dr. Murray testified that he is not
14 aware of any Court considering the type of spacial

15 analysis that he performed in the context of the
16 section 2 case."

17 Q. So are you aware of any Court that has
18 accepted spacial analysis?

19 A. Spacial analysis is a broad term that
20 applies to thousands of different methods. The
21 method applied in that case was spacial auto
22 correlation, not spacial analysis. Spacial
23 analysis is anything and everything.

24 Q. Dr. Murray my question is: Do you know
25 any Court that has accepted spacial analysis in

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1 consideration of an opinion in a section 2 case of
2 the type that you employed in this case?

3 A. In which case?

4 Q. The current case, Dr. Murray?

5 A. The current case.

6 Q. That you're testifying right now?

7 A. Spacial analysis is compactness
8 measures, it's any mapping. Of course the Court
9 has accepted and used these.

10 Q. Dr. Murray, are you aware of any Court
11 that has accepted the type that you employed
12 moment of inertias you used in this case, in any

13 other redistricting case?

14 A. Moment of inertia was not applied in
15 Robinson. I don't know how you're making the
16 connection.

17 Q. I apologize for confusing you. In this
18 current case, the Naime versus Ardoin case, on the
19 sixth day of trial, are you aware of any Court
20 that has applied the spacial analysis you
21 undertook and employed in this case in a political
22 redistricting case?

23 A. Which one? I already said I applied
24 many different methods.

25 Q. The moment of inertia test.

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1 A. The moment of inertia, am I aware of it
2 being used in any particular case to date?

3 Q. In political redistricting case?

4 A. I know that others testified about using
5 it, so I guess that's a yes.

6 Q. But you're unaware of any Court that's
7 accepted it, correct?

8 A. I guess. I'm not aware, no.

9 Q. Moving back to your report on page 2, it
10 says that you were retained to evaluate -- and I'm

11 now quoting from your report, aspects of the
12 Cooper report that summarizes the derived
13 illustrative districts as well as the enrolled
14 2022 districts, end quote.

15 Did I read that correctly?

16 A. That's what I wrote yes.

17 Q. Did you not perform any RPV analysis in
18 this case, correct?

19 A. Any what.

20 Q. RPV analysis?

21 A. No.

22 Q. I'd like to talk a little bit about some
23 of the qualification you list in your CV. Your CV
24 is attached to your expert report at LX42,
25 correct?

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1 A. Yes.

2 Q. CV attached to your report is the most
3 current and accurate representation of your
4 academic work and your expert work, correct?

5 A. Correct.

6 Q. You have not published any academic
7 articles on election law, correct?

8 A. No.

9 Q. You have not published any academic
10 articles on electoral redistricting, correct?

11 A. Correct.

12 Q. You have not written or published any
13 academic articles on the history of race in
14 southern American states, correct?

15 A. Correct.

16 Q. Or politics in southern states; is that
17 correct?

18 A. Correct.

19 Q. You have not written or published
20 anything about section 2 of the voting rights act
21 in an academic publication, correct?

22 A. Correct.

23 Q. You have also not published any papers
24 on racially polarized voting, correct?

25 A. Correct.

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1 Q. You've never drawn a political or
2 electoral redistricting plans for electoral
3 districts, correct?

4 A. Correct.

5 Q. Has any court ever found that you have
6 no background or experience in redistricting?

7 A. I don't know. I only served as an
8 expert witness in one case. I guess you're going
9 to show me something.

10 Q. Stephen if you can pull up the Robinson
11 opinion 41.

12 If you can begin with, "Dr. Murray has no
13 background," read that into the record?

14 A. "Dr. Murray has no background or
15 experience in redistricting. He did not review
16 any of the Plaintiff's illustrative plans, and
17 most notably he testified that he has no basis to
18 disagree with any of the opinions offered by
19 Plaintiffs, plaintiff's experts in this case."

20 Q. So, Dr. Murray, just to confirm Court
21 has found you have no background or experience in
22 redistricting, correct?

23 A. Correct.

24 Q. Dr. Murray, you didn't do your
25 neighborhood split analysis for the enacted plan,

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1 correct?

2 A. No, I did not.

3 Q. You don't how the enacted and
4 illustrative differ with respect to neighborhood

5 splits as you've defined them, correct?

6 A. Correct.

7 Q. I'd like move on to discussing your
8 analysis related to this case. You applied four
9 spacial analysis tests for compactness in this
10 case, correct?

11 A. Correct.

12 Q. They were Reock, Polsby Popper, area
13 pooling location, and moment of inertia or MI
14 test; do I have that right?

15 A. Correct.

16 Q. Are you aware of any Court that has
17 accepted the moment of inertia measure of
18 compactness in a case involving section 2 of the
19 voting rights act?

20 A. No.

21 Q. Are you aware of any strike that. So
22 Dr. Murray, the moment of inertia test has been
23 around since just after Reock based on your
24 testimony on direct. But it's never been air
25 condition accepted by a Court, correct?

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1 A. Did you say -- could you repeat the
2 question?

3 Q. Yes. So you just testified that you're
4 not aware of any Court that has accepted the
5 moment of inertia as a measure of compactness,
6 correct?

7 A. Correct.

8 Q. So even though the moment of inertia as
9 a measure of compactness has been around since
10 just after Reock, it's never been accepted by a
11 Court, correct?

12 A. But that's not true. It's been around
13 since potentially the 1700s, so.

14 Q. Fair enough. I'll rephrase my question.
15 You testified earlier that the -- that Reock --
16 I'm sorry. You testified earlier that Polsby
17 Popper was a technique first developed in the
18 1800s, and credited to Reock in 1961, correct?

19 A. I believe that's correct.

20 Q. And you then testified that moment of
21 inertia is becoming more widely used but has been
22 around Weaver and behest, in 1963 correct?

23 A. Correct.

24 Q. So moment of inertia has been around
25 since just after Reock, or credited just after

1 Reock, but it's never been accepted by a Court; is
2 that correct?

3 A. Well, Weaver and Hess was 1963. Oh, I
4 see what you mean. I guess. I'm not sure.

5 Q. I'd like to spend some time discussing
6 your expert report from July 2023. In your
7 report, you say that, I'm going to quote, measures
8 of compactness are rather simple proxy for the
9 shape of a political district. You go on to say a
10 little bit later, there is weak agreement between
11 the often used Reock and Polsby Popper metrics, do
12 I have that correct?

13 A. Correct.

14 Q. Reock and Polsby Popper --

15 THE CLERK:

16 Can you slow down a little bit.

17 PLAINTIFF COUNSEL:

18 Sorry. So eager to get through this.

19 EXAMINATION BY PLAINTIFF COUNSEL:

20 Q. Reock and Polsby Popper are two ways to
21 test area -- to test compactness of an area,
22 right?

23 A. Yes.

24 Q. There's no one standard test to assess
25 the compactness of an area, correct?

1 A. Correct.

2 Q. The Court has heard testimony that Reock
3 and Polsby Popper are two most commonly referenced
4 scores by experts and state legislatures. Would
5 you agree with me with that statement?

6 A. I would not disagree.

7 Q. In your report, you state that, quote,
8 the utility of spacial auto correlation is that it
9 enables detection of areas that are similar in
10 terms of one or more characteristics, such as
11 race, socioeconomic characteristics, educational
12 statement, et set A. do I have that correct?

13 A. Educational attainment, yes, et cetera.

14 Q. Things. Looking at pages 4 to 9 of your
15 report, am I correct that your significant
16 findings Numbers 1 through 12 all relate to Mr.
17 Cooper's use of the incorrect boundaries for the
18 enacted house and Senate plans?

19 A. 1 through which one?

20 Q. 12.

21 A. I would say that's probably correct.

22 Q. Are you aware that Mr. Cooper filed a
23 corrective report in which he analyzed the correct

24 enacted house and Senate plans?

25 A. Yes, I am.

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1 Q. Did you review that report?

2 A. Yes, I did.

3 Q. You provided no reporting offered no
4 opinions concerning Mr. Cooper's corrected report,
5 correct?

6 A. Correct.

7 Q. I'd like to turn now to discussing some
8 Louisiana legislature requirements. Are you aware
9 that Louisiana strike that. Are you aware that
10 the Louisiana legislature periodically issues new
11 boundary files from voter tabulation districts?

12 A. Now I am.

13 Q. Are you aware that those are different
14 than the VDT boundaries issued by the census?

15 A. If what you're saying is true, I guess
16 now I am.

17 Q. Do you use the use updated VDT boundary
18 in your analysis of VDT splits, correct?

19 A. Correct.

20 Q. And Mr. Cooper reported splits based on
21 census VDT boundaries, correct?

22 A. I'm not sure about that.

23 Q. Direct your attention to figure 7 and
24 figure 15 of your report and if you could get
25 those on the screen. Figure 7 is on page 9. And

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1 figure 15 is on page 13. Dr. Murray, these
2 figures concern Mr. Cooper's compactness scores
3 for respectively the Senate and house plans,
4 correct?

5 A. Correct.

6 Q. You analyze these figures in your 13th
7 and 20th significant point of your report; is that
8 a correct statement?

9 A. Correct.

10 Q. And in your report, you criticize Mr.
11 Cooper's report and state that there were quote
12 observed errors, end quote, that were quote,
13 somewhat significant as the Cooper report attempts
14 to make a detention of the differences at the
15 hundreds level comparing in role versus
16 illustrative districts. Is that a correct
17 restatement of your work?

18 A. Yes.

19 Q. Is it your opinion that differences in

20 Reock and Polsby Popper scores at the hundredth
21 level are not significant?

22 A. I would say that's true.

23 Q. I next want to walk through your
24 significant findings 14 and 15 with respect to the
25 Senate, and the second part of finding 20 and 21.

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1 Here you state that Reock and Polsby Popper
2 measures of compactness don't necessarily agree,
3 correct?

4 A. Correct.

5 Q. By that you mean that some districts may
6 be more compact under one measure and less compact
7 under another, correct?

8 A. Correct.

9 Q. You would agree that Reock and Polsby
10 Popper measure different things, correct?

11 A. The way they measure compactness is
12 different, yes.

13 Q. Because one is based on area, and one is
14 based on perimeter, right?

15 A. Correct.

16 Q. For that reason, you would agree it
17 would be useful to look at both of them, correct?

18 A. Sure.

19 Q. Earlier in agreement with Mr. Trende
20 Reock and Polsby Popper are the two common I
21 reference referenced scores by state lugs token,
22 correct?

23 A. Sure. Yes.

24 Q. Turning to significant findings 16 and
25 22. Here you report the moment of inertia scores

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1 for the enacted and illustrative Senate and house
2 plans, correct?

3 A. Yes.

4 Q. Like Polsby Popper and Reock's moment of
5 inertia score ranges, from 0 to 1, correct?

6 A. Correct.

7 Q. And 1 is the most compact shape,
8 correct?

9 A. Correct.

10 Q. And you report the MI scores to the
11 hundredths place; is that right?

12 A. I believe that's correct, yes, that's
13 true.

14 Q. And using the moment of inertia measure,
15 you opugned Mr. Cooper's illustrative plan is

16 lightly more compact than the enacted plan,
17 correct?

18 A. Correct.

19 Q. You opine that Mr. Cooper had made a
20 similarly compact to the plan using the moment of
21 inertia measure, correct?

22 A. The illustrative plan?

23 Q. Yes.

24 A. The house plan?

25 Q. Yes.

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1 A. Is that you mean?

2 Q. Yes.

3 A. Yes.

4 Q. You would agree wouldn't you that
5 regardless of whether you are looking at Polsby
6 Popper Reock or moment of inertia, Mr. Cooper's
7 illustrative plans are an average as compact as or
8 more compact than the corresponding enrolled
9 plans, right?

10 A. I would agree.

11 Q. I next like to discuss figures 30 and
12 34. In figures 30 and 34, you split what you
13 describe as quote potential neighborhood splits,

14 unquote. Do I have that right?

15 A. Yes.

16 Q. These are based on splits of census
17 block groups, correct?

18 A. Yes.

19 Q. And these are based on selected sample,
20 correct?

21 A. Correct.

22 Q. These you did not run all 500
23 iterations?

24 A. I did not have time to do digital
25 analysis of all.

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1 Q. So yes, you did not run all 500
2 iterations, correct?

3 A. Correct. They're not iterations, but
4 correct.

5 Q. Are you familiar with Louisiana lug
6 sure's joint rule 21?

7 A. No.

8 Q. Are you aware that the lug sure's
9 redistricting create laid out in rule 21 requires
10 quote, under rule 21G, each district submitted for
11 consideration should contain whole election

12 precincts as those are represented as voting
13 districts or VDTs in the most recent census
14 redistricting. Shape files for the State of
15 Louisiana, which corresponds to the data released.
16 If a VDT must be divide, it shall be divide intoed
17 a few districts as practical, using census
18 tabulation boundary. Are you aware of that?

19 A. Now I am, yes.

20 Q. But you weren't before I asked my
21 question, right, Dr. Murrayay?

22 A. I'm not sure if I read this or not
23 before, to be honest.

24 Q. You're unsure if you've read joint rule
25 21 before?

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1 A. I may have seen this in the past. I'm
2 not sure.

3 Q. We can pull up Dr. Murray's deposition.
4 Dr. Murray, did you provide a deposition as part
5 of this case?

6 A. Yes, I did.

7 Q. If we can turn to page 115, looking at
8 lines 24 and 25. Question: Are you familiar with
9 joint rule 21? Answer: That you provided, no.

10 So Dr. Murray, are you familiar with the
11 criteria as laid out in joint rule 21.

12 A. Well, in terms of the verbiage of joint
13 rule 21, I'm not necessarily sure that I haven't
14 seen that before. That's a fact. Am I familiar
15 with joint rule 21 as an entity, no. But whether
16 I've been shown some of that verbiage, I can't say
17 that I haven't seen that.

18 Q. We'll move on. You acknowledge in your
19 report that quote the illustrative district
20 generally maintain voting district boundaries and
21 recognize places of interest; is that correct?

22 A. I think that's correct.

23 Q. Similarly language appears in
24 significant finding 29 with respect to the house,
25 correct?

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1 A. I believe so, yes.

2 Q. You would agree that in some instances
3 keeping a voting district whole might require
4 splitting a block group?

5 A. It could potentially, yes.

6 Q. Where a block group and a voting
7 precincts intersect, for example, would be one

8 instance where keeping a voting district whole
9 might require splitting a block group; do I have
10 that right?

11 A. Could be, yes.

12 Q. And your report includes no analysis of
13 whether the splits of block groups you identify
14 follows voting district boundaries, correct?

15 A. That's correct.

16 Q. I'd like to now discuss figure 32B. If
17 we can have that on the screen. Thank you,
18 Stephen. Clusters are correlated with the
19 political entities or municipal boundaries,
20 correct?

21 A. Could you repeat?

22 Q. Clusters are correlated with the
23 political entities or municipal boundaries, right?

24 A. In this case, the cluster in terms of a
25 block group that's being looked at is just a block

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1 group.

2 Q. I think we're showing 33B. I mean to
3 talk about 32b. Give us one second. I'll ask my
4 question again, Dr. Murray. So in looking at 32B,
5 clusters are correlated with the political

6 entities or municipal boundaries, right?

7 A. I don't understand what that question
8 means.

9 Q. Let's move on to figure 33B. This
10 figure doesn't show voting district boundaries,
11 correct?

12 A. No, date us not.

13 Q. You don't know where the voting district
14 boundaries are, right?

15 A. In this case, I do not no.

16 Q. You don't know whether the district
17 boundaries follow a voting district boundary,
18 correct?

19 A. In this case, I already said I don't
20 know.

21 Q. And that's true of all the figures
22 showing the 27 block group split; is that correct?

23 A. I did not produce figures showing the
24 voting district boundaries, no.

25 Q. So just so the record is clear, it's

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1 true that you're not aware of whether the district
2 boundary follows the voting district bound roarie
3 across all 27 block group splits, correct?

4 A. Correct.

5 Q. Liked to move now to discuss significant
6 finding 29 in which you state that quote race
7 appears to have predominated over maintaining
8 neighborhoods in many instances. Is that a
9 correct reading of your report?

10 A. Which paragraph?

11 Q. Significant finding 29.

12 A. Yes.

13 Q. Would you agree with me that land values
14 drive who can live where?

15 A. I think that's true.

16 Q. Would you agree with me that income
17 measures reflect land values?

18 A. That's probably true.

19 Q. Is it the same with education?

20 A. To a degree, certainly, higher education
21 for higher income groups is known to be true.

22 Q. Significant finding 29, this simply
23 reflect segregates patterns rather than race
24 predominating over maintained neighborhoods,
25 correct?

1 A. May be one explanatory factor.

2 Q. I'd like to move to the findings you
3 made in your summary. Using block groups rather
4 than municipal boundaries, changes the
5 arrangements and therefore recasts the data,
6 correct?

7 A. Using block groups is different than
8 municipal boundaries, is that your question?

9 Q. Yes.

10 A. Of course.

11 Q. Changing the size shape or orientation
12 of a polygon reassigns individual observes to new
13 groups, correct?

14 A. Not sure what you mean by that.

15 Q. We can come back to that. A change in
16 the size of the units across mapped region changes
17 their numbers, correct?

18 A. Again, I'm not sure what you mean by
19 that.

20 Q. Got a couple more questions for you,
21 Dr. Murray. Are you aware of the of race
22 composition in section 2 cases?

23 A. No.

24 Q. Are you familiar with the case ash croft
25 V Georgia?

1 A. No.

2 Q. Would you agree with the quote that if
3 one is drawing a voting district, that voting
4 district needs to be reasonably compact, a
5 reasonably shaped that must be contiguous, unless
6 water is involved to respect communities of
7 interest to meet one person one vote requirements
8 and be plus or minus 5 percent in the state
9 legislative plans in the State of Louisiana?

10 A. What about it?

11 Q. Would you agree with me with that
12 statement?

13 A. That sounds like a common redistricting
14 type of criteria.

15 Q. Just so the record is clear, you would
16 agree with that statement?

17 A. I don't know that I agree or disagree.
18 It's a statement. What am I supposed to agree to?

19 Q. So you just said --

20 A. I agree that it's a statement. You.

21 Q. You agree it's a common redistricting
22 principle, correct?

23 A. Correct.

24 Q. Focusing on figure 15, which is on page

25 13 of your report. Dr. Murray, did you add the

214

1 percentages in this table and arrive at a mean or
2 average?

3 A. Did I compute the means in this case?

4 EXAMINATION BY PLAINTIFF COUNSEL:

5 Q. No. My question is, did you add the
6 percentages in this table and arrive at a mean or
7 average?

8 A. Not sure what you mean by that question.

9 Q. Dr. Murray, would you agree that
10 measuring compactness inside of illustrative
11 district is not a requirement under the current
12 Gingles one standard?

13 DEFENSE COUNSEL:

14 Objection; calls for legal conclusion.

15 THE JUDGE:

16 You want to respond.

17 PLAINTIFF COUNSEL:

18 He's testified about measuring
19 compactness for the last three hours. I
20 think he's sufficiently able to --

21 THE JUDGE:

22 You're asking him whether or not it's a

23 standard under a United States supreme Court
24 case.

25 PLAINTIFF COUNSEL:

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1 I can rephrase.

2 THE JUDGE:

3 Rephrase.

4 Q. Dr. Murray, would you agree that
5 measuring compactness inside illustrative district
6 is not a requirement under current redistricting
7 requirements?

8 A. I don't know that I agree to that at
9 all. I don't know what that means. I'm not aware
10 of such a standard.

11 Q. Dr. Murray, would you agree that Reock
12 and Polsby Popper are industry de facto?

13 A. That seems like a reasonable statement.

14 Q. In fact, you would agree that they are
15 the most broadly used tests in redistricting
16 cases, correct?

17 A. That I'm aware of, that seems to be
18 true, yes.

19 Q. Did you perform any analysis to consider
20 among other factors the history of voting

21 discrimination in the state's plans and districts
22 you examined?

23 A. No, I did not.

24 Q. With we pull up figure 28 from
25 Dr. Murray's report. There was some back and

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1 forth on direct with you and Mr. Lewis about what
2 figure 28 shows. Just so I understand, figure 28
3 tells us the population of Louisiana is highly
4 segregated?

5 A. In 28?

6 Q. Yes.

7 A. This doesn't show it spacially, but it
8 suggests that there are in fact clusters of high
9 values here in this case it's white percentage
10 surrounded by similarly defined area characterized
11 areas, and then areas where high percentage of
12 black VAP is surrounded by other areas of high
13 black voting age population. This figure does
14 summarize that, yes.

15 Q. Just so the record is clear, this
16 scatter plot in figure 28 shows that the State of
17 Louisiana is highly segregated?

18 A. It shows that there are instances, yes,

19 significant clusters. It doesn't show it
20 spacially, but it suggests because of how they're
21 plotted is that it's a value of one block group in
22 relation to its neighbor.

23 Q. Just one moment, Your Honor.

24 PLAINTIFF COUNSEL: No further questions for
25 this witness.

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1 THE JUDGE: Redistrict.

2 EXAMINATION BY DEFENSE COUNSEL:

3 Q. Your Honor, Patrick Lewis for
4 Defendants, very briefly. Dr. Murray, are you
5 aware of a Court that has rejected the moment of
6 inertia method?

7 A. No, I am not.

8 Q. Okay. And can Polsby Popper and Reock
9 be used to measure the compactness of a population
10 as compared to a district boundary?

11 A. No, they cannot.

12 DEFENSE COUNSEL:

13 I have no further questions, Your Honor.

14 THE JUDGE:

15 You may step down. Thank you.

16 It's 4 o'clock. By our prior schedule

17 that we set at the pretrial conference, we're
18 going to close for the afternoon. We do have
19 an issue for tomorrow. Has anything changed
20 Suzie? We only have a court reporter from 10
21 to 2. We didn't make the arrangements, I
22 mean, I'm not going to explain why. Just
23 know that it was not intentional, and that we
24 did everything we could. So what we'll do is
25 we'll commence at 10 o'clock sharp, and we'll

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1 take two 15 or 20 minutes breaks between 10
2 and 2. So bring a power bar or smoothie or
3 something, we're not taking a lunch break, go
4 straight from 10 to 2. Any chance we're
5 going to finish tomorrow, counsel?

6 DEFENSE COUNSEL:

7 Your Honor, for Defendants, we have one
8 more witness. And I think --

9 THE JUDGE:

10 The last expert?

11 DEFENSE COUNSEL:

12 Yes, Dr. Lewis.

13 THE JUDGE:

14 Yes.

15 DEFENSE COUNSEL:

16 I think we're resting, and I can't speak
17 for the Plaintiffs.

18 THE JUDGE:

19 Any concept on rebuttal?

20 PLAINTIFF COUNSEL:

21 I think we are certainly hopeful that we
22 could wrap up tomorrow. Not sure if Your
23 Honor is open to continuing for a little
24 longer tonight to start into their next
25 witness, but I believe both of the parties

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1 have represented that they're available that
2 would be helpful to the Court in trying to
3 wrap up tomorrow. It will depend on how long
4 Dr. Lewis if we can finish our testimony
5 tomorrow.

6 THE JUDGE:

7 I'm amenable. Let me poll my staff.

8 Okay. We can go until 5.

9 PLAINTIFF COUNSEL:

10 Thank you, Your Honor.

11 THE JUDGE:

12 Call your next witness.

13 DEFENSE COUNSEL:

14 We call Dr. Jeffrey Lewis to the stand.

15 (WITNESS SWORN).

16 THE CLERK:

17 State your name and spell it for the

18 record.

19 THE WITNESS:

20 My name is Jeffrey Lewis J-E-F-F-R-E-Y,

21 L-E-W-I-S.

22 EXAMINATION BY DEFENSE COUNSEL:

23 Q. Thank you. Your Honor, may I approach

24 with water?

25 THE JUDGE: Yes.

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1 DEFENSE COUNSEL: Kate McKnight on behalf of

2 legislative intervenors.

3 EXAMINATION BY DEFENSE COUNSEL:

4 Q. Good afternoon, Dr. Lewis.

5 A. Good afternoon.

6 Q. What is your role in this matter?

7 A. I've been retained by defense counsel to

8 analyze patterns of voting in races, in Louisiana

9 related to this litigation.

10 Q. Let's pull up two exhibits, LDTX52, and

11 LDTX54. Dr. Lewis, what are these?

12 A. These appear to be the two reports that
13 I filed in relation to this proceeding.

14 Q. Okay. Let's focus on LDTX52 and turn to
15 page 8. Let's turn one page to page 9. Is this
16 your CV?

17 A. Yes.

18 Q. Is it up to date?

19 A. I believe so.

20 Q. Okay. Let's keep this up for just a
21 moment. What is your educational background?

22 A. I earned my bachelor of arts in
23 political science and economics from Westlake
24 university, my Ph.D. in political science from
25 MIT.

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1 Q. What is your academic experience?

2 A. I'm currently professor of political
3 science at the university of California Los
4 Angeles, which I joined in 2001. Prior to that I
5 was assistant professor of politics in public
6 policy at Princeton university.

7 Q. Have you served in leadership roles in
8 the fields of political Methodology or political

9 science?

10 A. Yes, I am past president of the society
11 for political method injure, which is the learned
12 society for folks that study the application of
13 quantitative data, it's questions in political
14 science. I've also been an editor of the American
15 political science review, which is the flag ship
16 journal of political science. I'm past chair of
17 my department.

18 Q. And what are your teaching interests
19 relevant to this case?

20 A. My teaching at the moment is focused
21 largely on graduate training in quantitative
22 methods. And some part of that at least is
23 dedicated to studying ways in which administrative
24 records and other data can be used to infer data
25 intention, factors.

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1 Q. Let's turn to pages to the next page,
2 page 2 of your CV through 4. Is this where your
3 publications are listed in your CV?

4 A. Yes.

5 Q. Okay. And are any of these publication
6 peer reviewed?

7 A. I believe them to all be peer reviewed,
8 yes.

9 Q. Let's turn to page 3. Let's turn to
10 page 4. Okay. Have you been retained as an
11 expert in cases about the topics of political
12 science, quantitative methods and racially
13 polarized voting analyses?

14 A. I have.

15 Q. Let's turn back to page 2 of your
16 report, so that the report, and look at paragraph
17 2. Is this where you list past cases?

18 A. Yes.

19 Q. Have you ever been disqualified by a
20 Court from testifying as an expert?

21 A. I have not.

22 DEFENSE COUNSEL: Your Honor, at this time,
23 we'd like to move for the acceptance of
24 Dr. Lewis as an expert in the fields of
25 political science, quantitative methods, and

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1 racially polarized voting analysis.

2 THE JUDGE:

3 Cross on the tender?

4 PLAINTIFF COUNSEL:

5 Good afternoon, Your Honor, Sarah
6 rohaney. No objections.

7 THE JUDGE:

8 Dr. Jeffrey Lewis will be admitted to
9 give opinion testimony in the fields
10 identified.

11 DEFENSE COUNSEL:

12 Your Honor, at this time as well based
13 on stipulations by the parties, we'd like to
14 move for admission of his two expert reports
15 served LDTX52 and LDTX54.

16 PLAINTIFF COUNSEL:

17 No objection Your Honor.

18 THE JUDGE:

19 Admitted.

20 EXAMINATION BY DEFENSE COUNSEL:

21 Q. Dr. Lewis, what kind of analysis did you
22 conduct in your first report in this matter?

23 A. The bulk of the analysis involved the
24 application of so called especially logical
25 inference methods to infer from precinct levels

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1 voting returns and voter registration records, the
2 fraction of voters who are identified on the voter

3 registration roles as black, white and other, who
4 supported candidates for office in the contests
5 analyzed in each of the districts analyzed.

6 Q. Did you apply a particular method of EI
7 to conduct this analysis?

8 A. Yes. I used method of EI that as goes
9 by various different names. But it's the one
10 which allows the estimation of the support for
11 multiple candidates by multiple groups. So I
12 would refer to it by its formal title, which is
13 multi ***nomial dersway** ecological inference.

14 Q. Did you review reports from this
15 Plaintiffs Dr. Lisa Handley?

16 A. I've seen those reports, yes.

17 Q. In your analysis, did you use
18 Dr. Handley's data?

19 A. Yes, I believe I did. The way in which
20 I received the data was via an intermediary, Clark
21 Benson of poll data. It has been represented to
22 me that the data are those data that were
23 originally provided by Dr. Handley.

24 Q. The data that was provided by
25 Dr. Handley, did it include contests other than

1 statewide down ballot elections involving black
2 candidates?

3 A. Yes.

4 Q. I'd like to ask you about the analysis
5 you conducted as compared to the analysis that
6 Dr. Handley conducted in this matter. First, what
7 question are you and Dr. Handley trying to answer
8 for the Court?

9 A. I think the questions that are at issue
10 here, again, are what is the level of support,
11 what's the level of cohesion, I should perhaps say,
12 the degree to which black voters support the same
13 candidate in elect to really contests. Second,
14 the degree to which white voters vote for that
15 preferred candidate of black voters. And that's
16 sort of the I think, you know, referred to in this
17 area often as cross over. So what white voters,
18 under the assumption maybe that we're speaking of
19 a is situation in which the preferred or,
20 different. What fraction of white voters cross
21 over to support the candidate preferred by black
22 voters. So try to estimate those quantities. And
23 then using those quantities and other features of
24 the contest, to make some inference about whether
25 a particular district might elect a black

1 candidate of choice, and what might be required in
2 terms of the composition of that district or area
3 in the state that would be again required to elect
4 a black cabbed at that time -- candidate of
5 choice.

6 Q. Does the issue of turn outcome into play
7 in your analysis?

8 A. Yes.

9 Q. How so?

10 A. Well, you know, in -- all this is of
11 course difficult, because these are -- the facts
12 that we're asked to talk about here can't be
13 directly observed because of the secret ballots.
14 So we can't know the fraction of folks of
15 different races who score different candidates.
16 But we could estimate that. And if we knew the
17 composition of the folks that voted a particular
18 election, it would be relatively straightforward
19 to figure out what fraction you would need of that
20 area to be black or white in order to achieve
21 50 percent say support for the black preferred
22 candidate or something like that. That's a
23 relatively easy calculation. What complicates

24 that a little bit is that what the composition of
25 the folks who vote is on a particular election,

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1 and the composition of the populations that going
2 to provide that mix of black and white voters.
3 Depends on whether voters of each race turn out at
4 different levels or the same level.

5 Q. Is it fair to say that you -- both you
6 and Dr. Handley are trying to estimate future
7 voting behavior based on past election results?

8 A. Yes, that's right. And of course, as
9 they say in all the financial perspective reports,
10 the past may not be indicative of the future. But
11 that's what we have to go on, is trying to
12 extrapolate, basically, from elections, maybe for
13 different offices, held at different times and
14 different context, and used as to make some sort
15 of conclusion about what might occur; although the
16 amount of uncertainty is obviously.

17 Q. I understand you testified in past cases
18 on the issues at play in this case. The types of
19 analyses that you and Dr. Handley did in this
20 case, have you seen those conducted in past cases
21 on voting rights act cases?

22 A. Yes.

23 Q. So we've talked a little bit about the
24 common question you're trying to say. Now liked
25 to better understand where you and Dr. Handley may

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1 differ in what type of an analysis you conducted
2 here. So for your part, what type of analysis did
3 you conduct to answer this question?

4 A. Well, in addition to the ecological and
5 French Quarter analysis in estimation of the
6 support among the different groups for each
7 candidate in identifying the minor any preferred
8 candidate so forth and so on, I also looked at the
9 question of whether there was, I guess what you
10 might call legally you might call the opportunity
11 to elect. I'm not going to speak to what the
12 threshold for that is. That's effectively the
13 question is, you know, what would the -- would
14 this particular district provide opportunity,
15 would the candidate of this preferred by black
16 voters in each district have annuitant elect, and
17 that opportunity, I take to be sort of increasing
18 in the -- indicated by increasing an ounce of
19 success in past elections as we can reconstruct

20 them. So there are sort of two ways to think
21 about that. One way, I think, both Dr. Handley
22 did do, which is kind of sometimes called a
23 reconstructed election analysis, where you think
24 about suppose that various other elections that
25 maybe were statewide elections or elections for

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1 house of representative or whatever they might be,
2 that were held in the same precincts that are
3 employed in a particular election math that might
4 be implemented. You could ask the question, well
5 if this election had only taken place in those
6 precincts, who would have won, how much support
7 would that candidate have won have gotten. The
8 other thing that you could do is you could ask a
9 slightly different question, which is if you said,
10 well, given what we know, what we estimate, so I
11 shouldn't say know, because again we're just
12 estimating. There's a lot of uncertainty. The
13 rate of cohesion to be, what we estimated the
14 cross over voting to be, what we observed the
15 level of turn out to be, we can ask holding all of
16 that constant, what demographic composition of the
17 population would you need in order to create say

18 an equal chance of the black preferred candidate
19 running.

20 Q. This second type of analysis you just
21 described, is that referred to as a percent needed
22 to win analysis?

23 A. You could call it that, yes.

24 Q. Did Dr. Handley conduct a percent needed
25 to win analysis in this case?

230

1 A. I don't believe so.

2 Q. Okay. And do you know if Dr. Handley is
3 familiar with the percent needed to win analysis?

4 A. I don't know if she would use that name
5 or not, but the technique is something that she
6 and some co authors introduced in the literature.

7 Q. Okay. So what kind of analysis did
8 Dr. Handley conduct in this case?

9 A. I believe that what she did was sort of
10 similar with respect to estimating the race and
11 support for different candidates. I don't think
12 she applied that district by district, but in
13 larger aggregates, and then I think the second,
14 which is different from what I did, but again
15 broadly similar, and then the second thing that I

16 think she did is the reconstituted or
17 reconstructed, if you like, election method to
18 calculate the fraction of times in the races
19 considered the minority candidate quote unquote
20 won that election.

21 Q. What did the two types of analysis
22 provide the Court; recompiled election results on
23 the one hand and the percent needed to win on the
24 other BVAP?

25 A. So again, I think both of them speak to

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1 this question of whether the black preferred
2 candidate in a particular district will have a
3 chance of winning election. So the candidates,
4 those voters had a chance to elect the candidate
5 of their choice. One of them, again sort of takes
6 as given, the district that's drainage it just
7 sort of says how this district at this level
8 performed, tries to estimate that quantity. The
9 second, I think, tries to go maybe a little bit
10 beyond that and asks the question, asks the
11 question sort of what would you need to get to get
12 performance; did you need a value that was as high
13 as the one that was built, or do you need one

14 that's higher or lower. But both cases you really
15 asking a related question.

16 Q. Is it your understanding that you as an
17 expert preparing an analysis in a case like this,
18 should not conduct a percent need the to win
19 analysis on districts that are already drawn?

20 A. I think in a certain sense you could
21 only perform such analysis on districts that were
22 already -- drawn, already set forth stipulated.
23 Yes, so I'm not sure how you could perform an
24 analysis on districts that hadn't been drawn.

25 Q. At a high level, what does the percent

232

1 needed to win analysis take into account?

2 A. Again, it takes into account the level
3 of -- in this case, black voter cohesion, cross
4 overby white voters, also, what we might refer to
5 as crossover voters that may live in that
6 district, as well as differences in turnout in the
7 election.

8 Q. Does it also take into account
9 demographic composition?

10 A. Yes. You're manipulating the
11 demographic composition when asking the question,

12 you know, how would this district perform if you
13 like at different levels of black VAP.

14 Q. Did you run the calculations for your
15 percent needed to win analysis by hand?

16 A. No.

17 Q. Is it all automated?

18 A. Yes. It's all scripted. So queries are
19 made of the database, and then the algorithms are
20 plied to the subset for a particular district in
21 combination with district contest, and then the
22 summary statistics are generated.

23 Q. About how many combinations were at
24 issue here?

25 A. There are I think in total, the -- I

233

1 sound say we. There's really just me and my
2 computer. We probably estimated the support for
3 different candidate contest, district combinations
4 in the tens of thousands.

5 Q. Okay. Let's pull up what have been
6 labeled demonstrative Defendants 1 through 4, Your
7 Honor, these were exchanged prior to today with
8 Plaintiff's counsel per our agreement. I have
9 paper copies. Would you like a paper copy, Your

10 Honor?

11 THE JUDGE:

12 Yes. Are these used illustratively, or
13 are you going to introduce them evidence?

14 DEFENSE COUNSEL:

15 We'd like to introduce them into
16 evidence.

17 THE JUDGE:

18 I just wanted to know what we were
19 looking at here, that was Judge.

20 EXAMINATION BY DEFENSE COUNSEL:

21 Q. Dr. Lewis, would it be helpful to have a
22 paper copy on hand?

23 A. I think we can go from the screen. I'll
24 let you know if that changes.

25 Q. Dr. Lewis, briefly, could you tell the

234

1 Court what these tables are and where the
2 information comes from?

3 A. Right. So these are subset of the
4 results that are provided in my original report in
5 tables, corresponding to table Numbers that are
6 the same in that reporter. So table 1 is subset
7 here is subset of the rows of table 1 in that

8 original report, table 2, 3, so forth as we move
9 threw.

10 Q. So if I were to look at your report, all
11 this information is in your report, this is just
12 select pieces of that information; is that fair?

13 A. Yes, I believe so.

14 Q. Let's look at the first column. It says
15 district. There are two categories, state house
16 and state that. Could you just start by
17 explaining the nomenclature here for the Court?

18 A. Yes. I used this shorthand because I
19 looked at directions both at the enacted plan and
20 also illustrative plans that were offered in 2022
21 and in 2022. I used a number of system that helps
22 me keep straight which is which. H is refers to
23 house Senate. S Senate district. 23 refers to
24 the 2023 illustrative districts, and then the
25 numbers are the district numbers the numbers that

235

1 follow the dash.

2 Q. So did you understand that the 2023
3 illustrative districts were illustrative districts
4 for those by -- proposed by Plaintiff's expert Mr.
5 Cooper?

6 A. Yes, that's my understanding.

7 Q. Do you understand that the districts
8 indicated in these tables in the first column are
9 the new majority minority districts pro peed by
10 Plaintiffs in this case?

11 A. That's how they've been represented to
12 me, yes, I believe that's true.

13 Q. These district numbers are for the
14 record, past district 1, 23, 38, 60, 65, 68, and
15 69. And Senate districts 17, 19, and 38; is that
16 right, Dr. Lewis?

17 A. Yes.

18 Q. Okay. And I see we have four tables
19 here. Are those the same districts in every
20 table?

21 A. I believe so, yes.

22 Q. Now, I appreciate this is a Alexandria
23 solve districts. If you wanted to look at the
24 results of your analysis for any district, not
25 listed here, that you were able to an nice, could

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1 you just turn to your expert report in this case?

2 A. I could for those districts that I
3 analyzed.

4 Q. Okay. Can we walk through, I'd like to
5 understand the difference between the tables. So
6 could we start with just the header of table 1,
7 and explain, and then we'll move on to table 2, 3,
8 4. So for table 1, what does this show the Court?

9 A. Here we're focusing on just elections
10 for offices that were in the what you might call
11 the primary election stage, which for these
12 contests which are nonpresidential elections in
13 Louisiana, state level elections in Louisiana,
14 they're using a top two election system. So these
15 are contests in which there are three or more
16 candidates, vying to be one of the top two
17 candidates to make it to run off or to win the
18 primary out right by gaining the majority in that
19 first stage.

20 Q. Does this table reflect the results of
21 your percent needed to win analysis?

22 A. It does.

23 Q. Okay. Let's turn to table 2. What does
24 this show the Court?

25 A. So here we're looking at contests in

1 which there were only two candidates. And so that

2 would be the run off stage elections, and also
3 first stage or primary elections that only
4 involved two candidates. So a winner is going to
5 be determined in that contest.

6 Q. Okay. Does this table show the Court
7 the results of your percent needed to win analysis
8 on these districts?

9 A. Yes.

10 Q. Let's turn to table 3. What does this
11 show the Court?

12 A. Table 3 is analogous to table 1, except
13 here we focused on contest that included a black
14 candidate.

15 Q. Finally, let's turn to table 4. For
16 table 3, pardon me, Dr. Lewis, does that table
17 show the Court the percent needed to win the
18 analysis for those types of contests identified in
19 table 3?

20 A. Yes, it does.

21 Q. Now least move on to table 4. What does
22 this show the Court?

23 A. Table 4 is analogous to table 2. Now
24 we're talking about run off where two primary
25 candidate elections that included a black

1 candidate.

2 Q. Now staying on table 4, I'd like to
3 understand what the different column headings
4 mean. We've already gone through what the column
5 heading district means. So let's start, move on
6 to the next column over, percent black voting age
7 population. What does this mean; what does this
8 show?

9 A. So these are again data that were
10 provided to me, but I believe to be based on 2020
11 census data, that show the fraction of the
12 population of each district that is -- that on the
13 census identified as black only the first number
14 or any part black, the second number. Again, this
15 is because the census allows folks to -- this is a
16 difference between the census and the voter roll.
17 For the purposes of the census, individuals could
18 identify as many, I believe, racial categories as
19 they want. So some folks would identify
20 themselves as both, one race and another. So you
21 could think about people who said, I am only
22 checked that they were black or African-American
23 versus folks that would have also indicated other
24 racial background.

25 Q. Let's move on to the column number of

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1 contests. What does this column show, and why do
2 these numbers vary?

3 A. Sure. So the number of contests is the
4 number of contests that were analyzed in arriving
5 at the numbers that appear to the right of that
6 column. And the reason they vary is because in
7 different districts, I had more or fewer contests
8 to use. Some of the contests that I looked at
9 were statewide races. So they were operative in
10 every effectively in every district. And then
11 there were perhaps -- there were also elections
12 that weren't statewide. So elections for U.S.
13 house or state Senate or state house that could be
14 used for the purposes of answering these questions
15 for, you know, maybe a single house or Senate
16 district, or maybe a couple of house or Senate
17 districts so. Where that was possible, I did
18 that.

19 Q. Let's turn briefly to table 1. I
20 noticed there in table 1 number of contests are
21 higher. Do you see that?

22 A. I do.

23 Q. Could you explain why that is?

24 A. Well, there are two reasons for the
25 difference in number of contests between table 1

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1 and table 4. One difference is the inclusion of
2 contests that did not involve a black candidate.
3 And also, that not every primary election leads to
4 runoff e.

5 Q. Okay. Let's go back to table 4. We're
6 here on table 4. Did you only analyze elections
7 where a black candidate was running?

8 A. No. I also include like -- I also
9 provide the Court with tables that include
10 contests in which there was no black candidate,
11 but also elections in which there was a democrat.

12 Q. Did those elections have a black
13 preferred candidate identified by EI?

14 A. Yes.

15 Q. And what does that mean black preferred
16 candidate identified by EI?

17 A. That's a good question. What it means
18 is that when I applied this algorithm, that makes
19 a guess about what the rate of support was for
20 each candidate among voters of different racial

21 groups. Again, you can't it's all mixed up. But
22 the method making strong assumptions will make a
23 guess, an estimate of what that rate was. And
24 then from that, I will identify as the black
25 preferred candidate, the candidate who received

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1 the majority, or in the case of more than two
2 candidates, the plurality of the black vote and
3 similarly for other ethnic groups.

4 Q. Were there instances where a white
5 candidate would be the candidate of choice for
6 black voters?

7 A. Well, every contest in which there
8 appear a white voter, could have been. But there
9 are instances in which EI estimated there to be a
10 preferred candidate for black voters that was
11 white. Of course in particular a contest that
12 didn't involve a white candidate.

13 Q. Let's move on to the column average
14 number of precincts. What does that column show?

15 A. Well, what we're doing in here is
16 inferring these races support and so forth based
17 on precinct level data. So it's useful to sort of
18 have a sense of how much information there was to

19 do that. And the average number of Precisions
20 tells you the average amount of information that
21 was available to make the inference of Blake co
22 meaning white crossover support that we'll talk
23 about in a minute.

24 Q. Okay. Let's move on to the column
25 percent black preferred candidates democratic.

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1 What does that show the Court?

2 A. That's the fraction of the candidate
3 that EI identifies as the preferred candidate
4 of -- the preferred candidate of black voters for
5 which the -- the -- candidates was democrat. So
6 in some cases, the candidate there you can see,
7 you know, very high percentage, but it looks like
8 perhaps there's one candidate in one contest,
9 there's not democrat who's identified by EI in
10 these districts as black preferred.

11 Q. Let's move on to the column average
12 number of candidates. What does this show?

13 A. That's pretty straightforward. That is
14 the average number of candidates in each contest
15 under analysis. In tables 2 and 4, we're just
16 looking at two candidate runoffs in primaries.

17 The average is two. The minimum is two. The
18 maximum one is two. There's always two.

19 Q. Let's flip to table 1 to illustrate this
20 point. Could you talk about average number of
21 candidates in table 1 and why it's different?

22 A. Sure, because in this case we're looking
23 at elections that have three or more candidates.
24 So in many of these contests, there were
25 substantial number of candidates. You can see the

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1 average exceeds seven in each district.

2 Q. Let's turn to the column black preferred
3 win rate. What does that show the Court?

4 A. So that is effectively the result of the
5 reconstitute or reconstructed election analysis
6 there. So it asks the question, once we've used
7 the EI to identify the black preferred candidate,
8 if you had only held the particular election that
9 we're analyzing in that particular district, would
10 that black preferred candidate have been
11 successful. And then the definition of success
12 here is a little bit different in tables 1 and 2,
13 you know, between tables 1 and 2 and between
14 tables 3 and 4. In the three or more candidate

15 elections, these primary contests, the success
16 measure is just moving on to the next stage or
17 winning out right. So you don't have to win
18 outright -- you don't have to come in first. You
19 just have to sort of live to fight another day.

20 Q. Is the black preferred candidate assumed
21 under this analysis, or is it calculated or
22 estimated in some way?

23 A. Yes. The black preferred candidate is
24 estimated from the EI analysis.

25 Q. On table 4, I see that the win rate is

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1 50 or higher for every district. Does this mean
2 that black preferred candidates are winning these
3 districts at a rate of more than half the time,
4 and sometimes 100 percent of the time?

5 A. Yes, in the contest that we looked at
6 here, they did, you know, turn the vast years that
7 we analyzed -- that I analyzed.

8 Q. I'd like to draw one specific example to
9 ask you a question, Dr. Lewis. On table 4 state
10 house district 38, so this is H2338, I see that
11 the BVAP is just barely 50 percent, the black only
12 is 49 percent, and the any part black is

13 50.8 percent. Do you see that?

14 A. I do.

15 Q. Then coming over to the black preferred
16 win rate, I see 100 percent figure; is that right?

17 A. Yes.

18 Q. Can we conclude anything about whether
19 majority minority districts are required to create
20 an opportunity to elect in this district?

21 PLAINTIFF COUNSEL:

22 Objection on relevance ground. This
23 question calls for testimony about whether an
24 opportunity district could hypothetical be
25 drawn BVAP 50 percent. And the relevant

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1 consideration under Gingles and the reason
2 Fifth Circuit opinion in Robinson. The only
3 relevant opinion is whether the enacted
4 district are opportunity districts as drawn.

5 THE JUDGE:

6 Can you respond.

7 DEFENSE COUNSEL:

8 Your Honor, it sounds like a legal
9 briefs. This has to do with districts,
10 illustrative districts that are drawn. And

11 Dr. Lewis is here to testify about percent
12 BVAP needed to win.

13 THE JUDGE:

14 Okay. Let me ask you this: so if
15 we're -- if the fifth Circuit has told this
16 Court that if the Court find a violation of
17 section 2, that the legislature has to have
18 an opportunity, correct? You would agree
19 with that, the legislature has to opportunity
20 to repair it? The close of this evidence, it
21 is unlikely this Court is going to enact a
22 map. We're talking about illustrative maps,
23 not remediation maps.

24 DEFENSE COUNSEL:

25 Correct. Illustrative maps. There's a

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1 straight remedy phase, let me also say that
2 this information is relevant to what is
3 necessary to be drawn. It is relevant to the
4 Court whether Plaintiffs have put forward a
5 map, that is a viable remedy.

6 THE JUDGE:

7 Why? If we're going to have a remedy
8 phase, why don't you have the cart before the

9 horse here? I'm saying it's never going to
10 be relevant, but why is it relevant now.

11 DEFENSE COUNSEL:

12 There's a number of president behind the
13 fact in order to make aging showing
14 Plaintiffs have to come before the Court and
15 show they have a viable remedy. When I say
16 remedy, I understand that sounds like
17 remediation phase. It has to do with
18 Plaintiff's illustrative plan. They have to
19 come to you and show --

20 THE JUDGE:

21 In a reasonably configured plan is the
22 way I read the law, a reasonably configured
23 illustrative plan.

24 DEFENSE COUNSEL:

25 They also have to show Gingles 3, that

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1 the white block is voting consistently, to
2 outvote black voters. The testimony here is
3 about what's happening in these districts and
4 in these areas.

5 THE JUDGE:

6 I understand -- I actually don't even

7 really dispute the relevance of white
8 crossover voting. I'm questioning, I guess
9 you're saying that white crossover voting
10 creates opportunity districts?

11 DEFENSE COUNSEL:

12 It is correct that white crossover
13 voting is part of the Gingles analysis, and
14 creates -- could create either cross over
15 districts or could contribute to districts
16 being able to perform.

17 THE JUDGE:

18 You want to respond?

19 PLAINTIFF COUNSEL:

20 We're discussing illustrative districts.
21 It is entirely irrelevant to Gingles 1 and 2.
22 Defendants are arguing possibility of
23 crafting these districts with white crossover
24 voting does exempt the State of Louisiana
25 from drawing opportunity district voting.

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1 This is exactly the same argument that was
2 rejected in Robinson.

3 DEFENSE COUNSEL:

4 Your Honor, there are case -- there's

5 case after case after case about Plaintiffs
6 needing to come in and show that they have
7 districts that satisfy Gingles 1. They also
8 need to satisfy Gingles 3. Plaintiffs, it is
9 our position and it's in the briefs, they've
10 presented no evidence that their proposed
11 districts need to be drawn at 50 percent or
12 above due to white block voting. They
13 haven't done that. Dr. Handley came in and
14 gave a general analysis. We have Dr. Lewis
15 here doing a very specific analysis not only
16 to illustrative districts, but to enacted
17 districts. It's all in his report. It's
18 relevant to Plaintiffs showing and Plaintiffs
19 ability to come before the Court and show
20 that Gingles 3.

21 THE JUDGE:

22 Objection overruled.

23 EXAMINATION BY DEFENSE COUNSEL:

24 Q. Would you like me to ask the question
25 again, doctor?

1 A. Yes, please.

2 THE JUDGE:

3 I would like you to.

4 EXAMINATION BY DEFENSE COUNSEL:

5 Q. Dr. Lewis, we were looking at H2338. We
6 were looking at the BVAP level and the black
7 preferred win rate. Do you remember that?

8 A. I do.

9 Q. Okay. So I was asking for your opinion
10 about if you see a win rate of 100 percent in
11 districts drawn barely above 50 percent, is there
12 anything that you can conclude about whether
13 majority minority districts are required in order
14 for black voters to have an opportunity to elect
15 their candidates of choice?

16 PLAINTIFF COUNSEL:

17 Your Honor, just for the record, can we
18 have a continuing objection to any further
19 questions that tend to elicit Dr. Lewis of
20 the BVAP percentage needed to win?

21 THE JUDGE:

22 Yes.

23 PLAINTIFF COUNSEL:

24 Thank you.

25

1 DEFENSE COUNSEL:

2 I'll put a response on the record as
3 well, Your Honor. There was no motion in
4 limine. There was no Daubert motion.

5 THE JUDGE:

6 That's fine. Her objection is
7 relevance. It's continuing objection. You
8 can answer if you remember the question.

9 DEFENSE COUNSEL:

10 Thank you, Your Honor.

11 THE WITNESS:

12 I think I do. So I think it's again to
13 say the conclusion that you would have to
14 draw, you know, it does again border a little
15 bit on a legal conclusion about what it means
16 for something to be an opportunity and so
17 forth. I think the idea is if again from a
18 kind of more of a political science than
19 legal perspective, you know, if you were at
20 50.8, you might think, well, if you just drop
21 that down by a point or two would that
22 100 percent win rate, would that drop below
23 50 percent, if you just moved a few voters
24 out of that district. And that's the sort of
25 thing that this, what you're calling this

1 sort of minimum BVAP needs to win, helps us
2 understand, is given what we've estimated,
3 what we believe to be true about the patterns
4 of voting, we can say something about how you
5 might be able to adjust that black voting age
6 population, and still maintain or create
7 doing it -- depending on which way you want
8 to move it, still create or maintain the
9 opportunity for black candidates of choice to
10 win. And again, that's the -- again, the
11 limit kind -- the win rate in some ways is
12 that it can only tell you in this district as
13 it's drawn, you know, what would it produced
14 historically.

15 EXAMINATION BY DEFENSE COUNSEL:

16 Q. Moving on to the next column, average
17 black preferred candidate vote share. Do you see
18 that?

19 A. I do.

20 Q. Okay. What does that show the Court?

21 A. Again, we're averaging across these six
22 elections here. We're just saying what was the
23 average rate of support among all voters for the

24 candidate that was identified as the black
25 preferred candidate in the district or in that

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1 contest in the district.

2 Q. Let's briefly turn to table 1, where we
3 have more than two candidates. What does this
4 column, the column average preferred candidate
5 vote share, show the Court about contests with
6 more than seven candidates on average?

7 A. Well, as one would expect, as the number
8 of candidates increases, the sort of vote shares
9 received by each of the candidates tends to fall.
10 So two candidate election, you need a majority in
11 order to win the election. If you're trying to
12 get plurality, if they're seven candidates and the
13 votes are distributed, so you do see there that
14 the average number of votes received or shared
15 votes received by the black preferred candidate is
16 a little lower than those two candidate races as
17 you would expect. Of course, it could be due to
18 other things as well, but that's what you
19 anticipate or expect to see.

20 Q. It also seems a little higher
21 considering seven candidates. What does that

22 mean, that it is not one seventh of table 4's vote
23 share?

24 A. Well, I'm not sure. Again, I think
25 we're still seeing again in these districts that

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1 have large populations, and as we'll see in the
2 next column average sum, the black cohesion is
3 pretty high. Of course, that translates into an
4 over all vote share for that black preferred
5 candidate that remains quite high, and see
6 generally high enough to win advancement to the
7 next stage or outright victory nearly 100 percent
8 of the time and nearly all the districts.

9 Q. Staying on table 1, I'm seeing in the
10 column black preferred win rate. Numbers of 100,
11 100 percent win rate in 8 out of 10 districts
12 analyzed. Is that a correct read?

13 A. Yes.

14 Q. Let's move back to table 4, please.
15 Could we move to the column average percent voters
16 black, and could you tell the Court what that
17 shows?

18 A. Well, again, the race of the voters is
19 identified in the voter rolls. And is included in

20 the data that was provided to me. So I can
21 calculate the fraction of voters in these
22 elections identified as black.

23 Q. So do you understand that voters in
24 Louisiana, do they register by race, do they
25 indicate their race when they register?

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1 A. Yes, that's my understanding.

2 Q. So you didn't have to estimate that
3 figure; is that right?

4 A. No. That was a relief in this case
5 versus many of the cases that I work on, in other
6 parts of the country, where that is not done, and
7 then a whole big component of this analysis is to
8 try to estimate which voters are in which
9 category.

10 Q. Let's move on to the column average EI
11 black cohesion. What does this show the Court?

12 A. That is the EI algorithms estimate of
13 the share of the black vote that was received by
14 the candidate who estimates received the highest
15 share of black votes.

16 Q. Let's move on to average EI white
17 crossover support. What does this show the Court?

18 A. Again, that's the fraction of estimated.
19 Always estimates like we should never say, oh, we
20 know that number is 10 or 14. These are estimates
21 that are subject to bias, if their assumptions
22 aren't met, and also uncertainty that arises from
23 the fact that we're not looking at a very large
24 number of contests and don't have an enormous
25 amount of information upon which to base our

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1 estimates. But what it means, is that EI
2 estimated for each contest that was considered the
3 share of the white vote that was cast for the
4 candidate that the model had previously identified
5 as the black preferred candidate, and then average
6 cross those contests to get 10 percent of the 14
7 and so forth that you see in that column that's
8 highlighted.

9 Q. So where you see in this table white
10 cross year voting and sometimes up to 29 percent,
11 what does that tell the Court?

12 A. What you see there in those cases, and I
13 think across all the cases is the estimated rate
14 of white cross over voting exceeds -- there's more
15 white voters are crossing to vote for the black

16 candidate than black candidates are crossing over
17 to vote for the white candidate. That should be
18 the first sort of indication that putting aside
19 differences in turn out that might exist, you can
20 sort of immediately see that you wouldn't
21 necessarily need 50 percent or more in order for
22 the black candidate of choice to prevail, because
23 the black population is estimated to be more
24 cohesive. So if you think that if the -- if black
25 voters sort of did all their voting the first half

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1 of the game and white voters did their voting in
2 the second half, the black voters could run up the
3 score enough to win the game. So you don't
4 actually need the whole half to do that. I don't
5 know. That's maybe not the right analogy, but you
6 get the sense of the logic of it. Crossover.

7 Q. Let's move to the column percent
8 polarized. What does this tell the Court?

9 A. So again, pole risings could have a very
10 specific legal meaning. My understanding in
11 different litigation, that term is defined
12 differently. I'll be very specific about what I
13 was asked to calculate here, under that label.

14 That's just the fraction of instances in which the
15 candidate that EI identifies as the preferred
16 candidate of the black voters is not the same
17 candidate that it identifies as the preferred
18 candidate of the white voters. So it's just a
19 fraction of times in which there is that
20 disagreement between the two racial groups about
21 which candidate should hold office.

22 Q. Can you tell the Court, can voting both
23 be both polarized on the one hand but still have
24 sufficient crossover for a black candidate of
25 choice to be elected in a nonmajority black

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1 district?

2 A. Yes, in exactly the way we just
3 discussed, that if there is more crossover
4 support, not over 50 percent, so you have pole
5 rights act, in these two candidate elections in
6 that sense, but if there's more heterogeny in the
7 voting of white folks than black folks, then you
8 wouldn't need 50 percent of the population to be
9 black in order to elect a black candidate of
10 choice, again, putting aside differences in
11 turnout.

12 Q. Moving to the next column, average
13 percent black VAP to win. Can you tell the Court
14 what this shows?

15 A. Right. So the idea there again is to
16 think about a kind of thought experiment where you
17 could keep other features of the district under
18 analysis fixed and just alter the fraction of
19 black voter population, voting age population.
20 And again, we're going to hold fixed the level of
21 cohesion, we're going to hold fix the level of
22 crossover support. We're going to hold fix the
23 relative size of the white population and the
24 nonwhite or black, sort of other population.
25 We're going to hold those things fixed as we sort

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1 of turn the dial on what the size of the black
2 population is. We're going to tune that dial
3 until given all those numbers, we reach the point
4 where we identify the fraction of the voters that
5 would have to be black in order for the black
6 preferred candidate to just barely certainly win
7 by one vote. Once we get that number, we have to
8 account the differences in number of turnout, hold
9 those fixed in what they were to be in the

10 context. And add just that to get that number you
11 see highlighted in yellow. Again, that's an
12 estimate.

13 Q. Overall, what was your conclusion about
14 what this type of analysis shows the Court about
15 Plaintiff's proposed new districts?

16 PLAINTIFF COUNSEL:

17 Objection. This is beyond the scope of
18 his report. Dr. Lewis did state in his
19 deposition he can point to no conclusions
20 other than the numbers in his report asking
21 him to draw any inferences from those numbers
22 is clearly beyond the scope.

23 DEFENSE COUNSEL:

24 Your Honor, I'm asking him about his
25 numbers that are in his report that are

259

1 copied here. I'm asking him about his -- the
2 numbers that are presented here and what they
3 show about Plaintiff's select new districts.

4 THE JUDGE:

5 Question is did he connect the dots in
6 his report? You're asking him about his
7 conclusions, and Ms. rohoney is saying it's

8 outside the scope of his written report.

9 DEFENSE COUNSEL:

10 A moment, Your Honor, trying to locate
11 it. I beg your pardon, Your Honor. Your
12 Honor, I can come back to this.

13 THE JUDGE:

14 I looked at his conclusion, I actually
15 looked at it before today. I would sustain
16 the objection.

17 DEFENSE COUNSEL:

18 Okay. Your Honor, am I about to move
19 into a new section of questions. And it's
20 almost 5. Is now a good time to stop?

21 THE JUDGE:

22 How long are you going to be, 30 or 40
23 more minutes.

24 DEFENSE COUNSEL:

25 Yes.

260

1 THE JUDGE:

2 Yes. We'll take a break for the day.
3 We'll be in recess. Again the Court
4 apologizes, we'll be in recess until 10 a.m.,
5 we'll go straight through until 2.

6

(COURT RECESS AT 4:56 P.M.)

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Attachment 7

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL : CIVIL ACTION
VERSUS : NO. 3:22-178-SDD
KYLE ARDOIN, ET AL : DECEMBER 5, 2023

=====

DAY 7
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

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A P P E A R A N C E S (CONTINUED)

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**REPORTED BY: NATALIE W. BREAUX, RPR, CRR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
(225) 389-3565**

**PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE**

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I N D E X

DEFENDANTS' WITNESSES:

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10:01a

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(DECEMBER 5, 2023)

PROCEEDINGS

(CALL TO THE ORDER OF COURT.)

THE COURT: GOOD MORNING, EVERYONE. BE SEATED.

MS. MCKNIGHT, I THOUGHT YOU WERE FINISHED. YOU'RE NOT FINISHED?

MS. MCKNIGHT: NO. YESTERDAY WHEN YOU ASKED IF --

THE COURT: OH, THAT'S RIGHT. WE TOOK A BREAK AT -- OKAY. THANK YOU FOR HAVING DR. CLARK BACK ON THE STAND.

MS. MCKNIGHT: MAY I PROCEED, YOUR HONOR?

THE COURT: YOU MAY.

MS. MCKNIGHT: THANK YOU.

DIRECT EXAMINATION (CONTINUED)

BY MS. MCKNIGHT:

Q DR. LEWIS, LET'S START WHERE WE ENDED YESTERDAY --

THE COURT: DR. LEWIS. I'M SORRY.

MS. MCKNIGHT: THAT'S OKAY.

THE COURT: IT'S BEEN A LONG WEEK, DR. LEWIS.

THE WITNESS: I KNOW IT HAS.

BY MS. MCKNIGHT:

10:01a

1 Q LET'S START WHERE WE ENDED YESTERDAY WITH
2 DEMONSTRATIVE LEWIS 4. WE'LL BRING IT UP ON THE
3 SCREEN.

4 DO YOU REMEMBER TESTIFYING ABOUT THIS
5 YESTERDAY, DR. LEWIS?

6 A I DO.

7 Q OKAY. COULD YOU TELL THE COURT: WHAT IS
8 THE AVERAGE PERSON BLACK VAP NEEDED FOR A WIN BY A
9 BLACK-PREFERRED CANDIDATE IN PLAINTIFFS' ILLUSTRATIVE
10 HD 1?

11 A AS, YOU KNOW, ESTIMATED FROM THESE DATAS --
12 APPROXIMATELY FROM THESE DATA -- 49 PERCENT.

13 Q AND WHAT DOES THIS ANALYSIS SHOW ABOUT THAT
14 FIGURE FOR PLAINTIFFS' ILLUSTRATIVE HD 23?

15 A 45 PERCENT.

16 Q AND FOR HD 38?

17 A 35 PERCENT.

18 Q AND FOR HD 60?

19 A 34 PERCENT.

20 Q AND HD 65?

21 A 48 PERCENT.

22 Q HD 68?

23 A 38 PERCENT.

24 Q HD 69?

25 A 42 PERCENT.

10:03a

1 Q SD 17?

2 A 41 PERCENT.

3 Q SD 19?

4 A 13 PERCENT.

5 Q SD 38?

6 A 44 PERCENT.

7 Q HAVE WE COVERED ALL THE FIGURES ON THIS
8 CHART?

9 A IN THAT COLUMN, YES.

10 Q FOR ANY OF THE TEN DISTRICTS WE JUST
11 DISCUSSED, ACCORDING TO THIS ANALYSIS, DID ANY OF
12 THOSE DISTRICTS NEED 50 PERCENT BLACK VAP IN ORDER TO
13 ELECT A BLACK-PREFERRED CANDIDATE?

14 A ON AVERAGE, NO.

15 Q AND I'D LIKE TO MOVE ON TO ASK YOU ABOUT THE
16 DISTRICTS THAT BORDER THESE TEN DISTRICTS.

17 NOW, IN CONDUCTING YOUR ANALYSIS YOU RELIED
18 ON DR. HANDLEY'S DATA. CORRECT?

19 A THAT'S CORRECT.

20 Q WERE YOU ABLE TO CONDUCT YOUR ANALYSIS ON
21 EVERY SINGLE DISTRICT IN THE PLANS?

22 A NO, I DID NOT.

23 Q AND WOULD YOU HAVE BEEN ABLE TO?

24 A I THINK IT WOULD HAVE BEEN -- IT WOULD HAVE
25 BEEN QUITE TIME-CONSUMING, MOSTLY FOR COMPUTER, TO

10:04a

1 HAVE ANALYZED EVERY DISTRICT THAN

2 DISTRICT-BY-DISTRICT THE WAY THAT WE DID.

3 Q SO I'D LIKE TO ASK YOU QUESTIONS ABOUT SOME

4 OF THE DISTRICTS WHERE YOU WERE ABLE TO CONDUCT AN

5 ANALYSIS. WE'RE GOING TO PULL UP TWO DOCUMENTS ON

6 THE SCREEN. ON THE LEFT SIDE LET'S START WITH

7 PLAINTIFFS' EXHIBIT 72. THESE ARE ENLARGED MAPS OF

8 PLAINTIFFS' ILLUSTRATIVE DISTRICTS. WE BELIEVE THIS

9 HAS ALREADY BEEN ADMITTED THROUGH MR. COOPER'S

10 TESTIMONY.

11 NOW, ON THE RIGHT SIDE OF THE SCREEN, LET'S

12 PULL UP YOUR REPORT, DTH 52. SO IN PLAINTIFFS'

13 ILLUSTRATIVE MAPS, LET'S MOVE TO PAGE PL -- PAGE 22

14 TO LOOK AT HD 65. AND THEN ON THE RIGHT-HAND OF THE

15 SCREEN IN YOUR REPORT, LET'S MOVE TO PAGE 38 FOR THE

16 FIGURES ON THE DISTRICTS NEAR THIS DISTRICT.

17 TO START WITH, DID I UNDERSTAND CORRECTLY

18 THAT HD 65 IN PLAINTIFFS' ILLUSTRATIVE PLAN DOES NOT

19 NEED 50 PERCENT BVAP TO WIN, ACCORDING TO YOUR

20 ANALYSIS?

21 A 65 I'M NOT SURE APPEARS ON THIS PAGE, SO WE

22 SHOULD CHECK. IS IT --

23 Q LET'S TURN TO PAGE 39. AND LET'S LOOK AT

24 H23-65 AND THE AVERAGE PERCENT BLACK VAP NEEDED FOR

25 WIN. IS THAT FIGURE ABOVE 50 PERCENT OR AT 50

10:06a

1 PERCENT?

2 A I -- WITHOUT A PIECE OF PAPER, IT'S A LITTLE
3 HARD TO READ ACROSS THE LINE. IS IT CORRECT THAT THE
4 NUMBER THAT'S -- THAT REGISTERS WITH THAT LINE IS 46?

5 Q YES. COULD WE --

6 MS. MCKNIGHT: COULD WE -- MR. WILLIAMSON,
7 COULD WE HIGHLIGHT THE ROW FOR H23-65.

8 BY THE WITNESS:

9 A 48. LESS THAN 50.

10 Q SO I'D LIKE TO ASK THE TRIAL TECH TO PUT A
11 RED CIRCLE AROUND THE NUMBER 65 ON THE LEFT SIDE OF
12 THE SCREEN.

13 OKAY. LET'S -- ON THE RIGHT SIDE OF THE
14 SCREEN, LET'S TURN BACK TO PAGE 38 AND LET'S START
15 WITH THE DISTRICT BORDERING TO THE WEST OF HD 65.
16 THIS IS PLAINTIFFS' ILLUSTRATIVE DISTRICT 29.

17 NOW, ON THE RIGHT SIDE OF THE SCREEN IN YOUR
18 REPORT, WHEN YOU LOOK AT THE ROW TITLED -- AND I'D
19 ASK THIS TO BE HIGHLIGHTED AS WE GO -- THE ROW TITLED
20 "H 2329," WHAT IS THE AVERAGE PERCENT VAP NEEDED FOR
21 A WIN IN THAT DISTRICT?

22 A 42.

23 Q AND IS THAT BELOW 50?

24 A IT IS.

25 Q LET'S PUT A RED CIRCLE AROUND THE NUMBER 29

10:07a

1 ON THE MAP.

2 NOW, LET'S MOVE ON TO THE NEXT DISTRICT. I
3 SEE DISTRICT 62 UP IN THE UPPER RIGHT CORNER. ON THE
4 RIGHT-HAND PAGE, LET'S TURN TO PAGE 39 OF YOUR REPORT
5 AT LDTX 52. AND LET'S HIGHLIGHT THE ROW FOR S23 -- I
6 MEAN H23-62.

7 WHAT IS THE BVAP NEEDED TO WIN FOR H23-62?

8 A THE ESTIMATE THAT APPEARS THERE IS 39
9 PERCENT.

10 Q AND IS THAT BELOW 50?

11 A IT IS BELOW 50.

12 Q LET'S PUT A RED CIRCLE AROUND THE NUMBER 62
13 IN THE MAP ON THE LEFT.

14 NOW LET'S GO BACK TO THE RIGHT SIDE. LET'S
15 LOOK AT HD 63. COULD WE HIGHLIGHT THE ROW FOR HD 63.

16 DR. LEWIS, WHAT IS THE PERCENT BLACK VAP
17 NEEDED FOR A WIN IN HD 63 IN PLAINTIFFS' ILLUSTRATIVE
18 MAP?

19 A THAT ESTIMATE IS 46 PERCENT.

20 Q AND IS THAT AT 50 OR ABOVE?

21 A THAT IS BELOW 50.

22 Q AND THEN IN THE LEFT-HAND SIDE OF THE
23 SCREEN, LET'S PUT A CIRCLE AROUND HD 63, PLEASE.

24 LET'S MOVE ON TO THE NEXT ONE. WE HAVE --
25 ROTATING DOWN TO THE SOUTH THERE IS DISTRICT HD 67.

10:08a

1 DO YOU SEE THAT IN THE MAP, DR. LEWIS?

2 A I DO.

3 Q OKAY. SO ON THE RIGHT SIDE, WHAT IS THE
4 BVAP NEEDED FOR WIN IN HD 67 IN PLAINTIFFS'
5 ILLUSTRATIVE MAP?

6 A THE ESTIMATE IS 26.

7 Q OKAY. IS THAT BELOW 50?

8 A IT IS.

9 Q LET'S PUT A RED CIRCLE AROUND HD 67 IN
10 PLAINTIFFS' ILLUSTRATIVE MAP.

11 MOVING ON AROUND, I SEE HD 61 IN THE AREA.
12 DO YOU SEE THAT DISTRICT?

13 A I DO.

14 Q SO ON THE RIGHT SIDE OF THE SCREEN, LET'S
15 LOOK AT THE BVAP NEEDED FOR WIN IN HD 61 IN
16 PLAINTIFFS' ILLUSTRATIVE 61. WHAT IS THAT FIGURE?

17 A 20.

18 Q AND IS THAT BELOW 50?

19 A IT IS.

20 Q AND IN THE LEFT SCREEN LET'S PUT A RED
21 CIRCLE AROUND 61.

22 NOW, I SEE HD 68 BORDERING HD 65. DO YOU
23 SEE THAT, DR. LEWIS?

24 A I DO.

25 Q AND ON THE RIGHT-HAND SIDE OF YOUR SCREEN,

10:09a

1 WHAT IS THE PERCENT BLACK VAP NEEDED FOR WIN IN HD
2 68?

3 A 38.

4 Q IS THAT BELOW 50?

5 A IT IS.

6 Q LET'S PUT A RED CIRCLE AROUND THE NUMBER 68
7 ON THE LEFT-HAND SIDE OF THE SCREEN.

8 LET'S MOVE ON TO HD 69. IN YOUR REPORT,
9 WHAT WAS THE BVAP NEEDED FOR WIN IN -- IDENTIFIED BY
10 THE ANALYSIS YOU CONDUCTED IN YOUR REPORT?

11 A THE ESTIMATE IS 42.

12 Q AND IS THAT BELOW 50?

13 A IT IS.

14 Q SO LET'S PUT A RED CIRCLE AROUND HD 69 IN
15 PLAINTIFFS' ILLUSTRATIVE MAP.

16 NOW, I SEE A DISTRICT ON THE EASTERN BORDER
17 OF HD 65 AS BEING HD 64. DO YOU SEE THAT, DR. LEWIS?

18 A I DO.

19 Q WERE YOU ABLE TO CONDUCT AN ANALYSIS ON HD
20 64 FOR YOUR REPORT?

21 A I DID NOT.

22 Q AND NOW LET'S TURN THE PAGE TO PAGE 40 OF
23 YOUR REPORT, LDTX 52 AT PAGE 40. AND I SEE A
24 DISTRICT BORDERING THE SOUTH OF HD 65, DISTRICT NO.
25 101 IN PLAINTIFFS' ILLUSTRATIVE PLAN.

10:11a

1 WHAT WAS THE BVAP NEEDED FOR WIN ACCORDING
2 TO YOUR ANALYSIS IN HD 101?

3 A THE ESTIMATE IS 37.

4 Q IS THAT BELOW 50?

5 A IT IS.

6 Q LET'S PUT A RED CIRCLE AROUND 101 IN THE
7 MAP.

8 SO, DR. LEWIS, FOR THE SEVEN RED-CIRCLED
9 DISTRICTS AROUND HD 65 IN PLAINTIFFS' ILLUSTRATIVE
10 PLAN, DID ANY OF THESE NEED 50 PERCENT BVAP IN ORDER
11 FOR A BLACK CANDIDATE TO BE -- TO WIN?

12 A THE ESTIMATED AVERAGE PERCENT NEEDED TO WIN
13 WAS BELOW 50 PERCENT IN EVERY CASE.

14 Q ALL RIGHT. LET'S STAY ON LDTX 52, BUT IN
15 THE MAP ON THE LEFT SIDE LET'S SWITCH FROM PL 72 TO
16 PL 53.

17 NOW, DR. LEWIS, WE WERE JUST DISCUSSING AN
18 EXAMPLE IN PLAINTIFFS' HOUSE ILLUSTRATIVE MAPS. I'D
19 LIKE TO ASK YOU ABOUT AN EXAMPLE FROM PLAINTIFFS'
20 SENATE ILLUSTRATIVE MAPS. SO IN PL 53 LET'S TURN TO
21 PAGE 10 ON THE MAP. IN LDTX 52 COULD WE TURN THE
22 PAGE TO THE NEXT PAGE, PLEASE.

23 **MS. MCKNIGHT:** THANK YOU, MR. WILLIAMSON.

24 **BY MS. MCKNIGHT:**

25 Q SO STARTING WITH THE DISTRICT AT THE HEART

10:13a

1 HERE, SENATE DISTRICT 19 IN PLAINTIFFS' ILLUSTRATIVE
2 PLANS, IN LDTX 52 WHAT DOES YOUR ANALYSIS SHOW IS THE
3 BVAP NEEDED FOR WIN FOR S23-19? AND WE'LL HAVE THAT
4 HIGHLIGHTED FOR YOU.

5 A 30 PERCENT.

6 Q AND IS THAT FIGURE BELOW 50?

7 A IT IS.

8 Q OKAY. SO IN THE MAP LET'S PUT A RED CIRCLE
9 AROUND THE NUMBER 19.

10 NOW, IT'S A LITTLE HARD TO SEE, DR. LEWIS,
11 BUT THERE IS A NUMBER 3 -- THESE ARE PLAINTIFFS'
12 ILLUSTRATIVE MAPS. THERE IS A NUMBER 3 UNDER THE KEY
13 THAT SAYS "ILLUSTRATIVE SENATE." AND UNDER THE
14 WORD -- NEXT TO THE WORD "MILES," YOU CAN BARELY MAKE
15 OUT A NUMBER 3. DO YOU SEE THAT?

16 A I HAVE VERY POOR VISION. I'LL TAKE YOUR
17 WORD THAT IT'S THERE.

18 Q LET'S START THERE, BECAUSE IT'S THE LOWEST
19 NUMBER. WE'LL JUST GO IN NUMERICAL ORDER.

20 COULD YOU LOOK AT YOUR ANALYSIS IN YOUR
21 REPORT FOR S23-3. THIS IS PLAINTIFFS' ILLUSTRATIVE
22 SENATE MAP 3. AND WHAT IS THE PERCENT VAP NEEDED FOR
23 A WIN IN SD 3?

24 A 15.

25 Q IS THAT LOWER THAN 50?

10:15a

1 A IT IS.

2 Q SO LET'S PUT A RED CIRCLE AROUND THAT
3 SLIGHTLY SHADED NO. 3 UP NEXT TO THE WORD "MILES" IN
4 THE MAP. SO IN THE MAP -- THERE WE GO. THANK YOU.

5 SO NOW -- IT'S A LITTLE HARD TO SEE IN THE
6 ILLUSTRATIVE WITH THE KEY OVER IT. BUT LET'S LOOK AT
7 SD 4 AND WHICH -- WHAT THE RESULT IS FOR BLACK VAP
8 NEEDED FOR WIN IN SD 4; S23-4. AND WE'LL HIGHLIGHT
9 THAT FOR YOU.

10 AND WHAT IS THE BLACK VAP NEEDED FOR A WIN
11 IN SD 4?

12 A 16.

13 Q OKAY. AND I'LL REPRESENT TO YOU THAT THE
14 NUMBER 4 IS HIDING JUST BENEATH THE WORD "MSA" IN
15 ILLUSTRATIVE SENATE.

16 MS. MCKNIGHT: SO, MR. WILLIAMSON, COULD WE
17 PUT A CIRCLE AROUND THAT WORD "MSA" SO IT'S CLEAR
18 WHERE SENATE DISTRICT 4 IS IN PLAINTIFFS'
19 ILLUSTRATIVE MAP. THANK YOU.

20 BY MS. MCKNIGHT:

21 Q LET'S MOVE ON TO HD -- TO SD 5. DO YOU SEE
22 SENATE DISTRICT 5 IN THE MAP JUST NORTH OF THE RIVER
23 IN SENATE DISTRICT 7?

24 A YES, I DO.

25 Q SO IN YOUR ANALYSIS FOR SENATE DISTRICT 5,

10:17a

1 WHAT DOES YOUR ANALYSIS SHOW AS THE BLACK VAP NEEDED
2 FOR WIN IN THAT DISTRICT?

3 A ONE PERCENT.

4 Q IS THAT BELOW 50?

5 A IT IS.

6 Q LET'S MOVE ON TO SENATE DISTRICT 8. WHAT
7 DOES YOUR ANALYSIS SHOW ABOUT THE BLACK VAP NEEDED
8 FOR WIN IN SENATE DISTRICT 8?

9 A LOOKS LIKE 41 PERCENT.

10 Q AND IS THAT BELOW 50?

11 A IT IS.

12 Q LET'S PUT A RED CIRCLE AROUND SENATE
13 DISTRICT 8. I'LL NEED TO GO BACK TO PUT A RED CIRCLE
14 AROUND SENATE DISTRICT 7 AND SENATE DISTRICT 5.

15 DR. LEWIS, FOR THE FIVE RED CIRCLES -- FOR
16 THE SIX RED CIRCLES IN THE DISTRICTS IN SENATE
17 DISTRICT 19 AND THE SURROUNDING DISTRICTS, DID ANY OF
18 THESE DISTRICTS NEED 50 PERCENT BVAP IN ORDER FOR A
19 WIN?

20 A AS ESTIMATED ON AVERAGE, NO.

21 Q IS IT FAIR TO SAY THAT THERE IS VARIATION IN
22 RACIALLY POLARIZED VOTING PATTERNS WITHIN THE STATE
23 OF LOUISIANA?

24 A YES.

25 Q LET'S BRING UP YOUR REPORT ON THE RIGHT-HAND

10:18a

1 SIDE. AND WE'LL GO TO PAGES 42 AND 43 OF YOUR
2 REPORT. SO THAT'S LDTX 52 AT 42 AND 43.

3 DO THESE TABLES ADDRESS THIS VARIATION?

4 A ONE ASPECT OF THE VARIATION, YES.

5 Q AND WHAT DO THE NUMBERS SHOW ABOUT WHERE
6 THIS VARIATION OCCURRED?

7 A WE SEE VARIATION IN THE LEFT PAGE IN FIGURE
8 1. WE SEE VARIATION IN THE DEGREE OF WHITE CROSSOVER
9 VOTING, AS THE PERCENT OF THE DISTRICT THAT IS
10 DESIGNATED BY THE CENSUS TO LIE WITHIN AN URBAN AREA,
11 INCREASES.

12 Q AND SO IS IT POSSIBLE -- WE WERE JUST
13 LOOKING AT DISTRICTS NEAR AND BORDERING PLAINTIFFS'
14 ILLUSTRATIVE DISTRICTS. IS IT POSSIBLE THAT THERE
15 ARE OTHER DISTRICTS NEAR THOSE PLAINTIFFS'
16 ILLUSTRATIVE DISTRICTS THAT REQUIRE 50 PERCENT OR
17 MORE BVAP ACCORDING TO THE ANALYSIS?

18 A I'M SORRY. COULD YOU RESTATE THE QUESTION?

19 Q SURE. WE WERE JUST DISCUSSING VARIATION.
20 AND SO THE QUESTION WAS: IS IT POSSIBLE THAT THERE
21 ARE DISTRICTS NEAR OR AROUND PLAINTIFFS' ILLUSTRATIVE
22 DISTRICTS THAT DO NOT NEED -- WHERE THE ILLUSTRATIVE
23 DISTRICTS DO NOT NEED 50 PERCENT BVAP BUT THERE ARE
24 OTHER DISTRICTS NEARBY THAT MIGHT NEED 50 PERCENT OR
25 ABOVE BVAP?

10:20a

1 A THAT'S CORRECT, YES.

2 Q WE CAN TAKE THIS DOWN.

3 DR. LEWIS, DID YOU UNDERSTAND THERE TO BE
4 CRITICISM BY PLAINTIFFS THAT YOUR ANALYSIS ISN'T
5 CHECKED AGAINST REALITY?

6 A YES.

7 Q WHAT IS YOUR UNDERSTANDING OF THAT CRITICISM
8 AND WHAT IS YOUR RESPONSE?

9 A WELL, I GUESS THE FIRST THING IS THAT I
10 WOULD SAY MY ANALYSIS IS BASED ON THE SAME REALITY AS
11 OTHER EXPERTS AND CERTAINLY AS DR. HANDLEY'S HERE
12 BASED ON THE SAME DATA. IT'S -- IT'S DIFFICULT TO DO
13 A REALLY TRUE REALITY CHECK, BECAUSE IN ORDER TO DO A
14 TRUE REALITY CHECK ONE WOULD HAVE TO KNOW EXACTLY THE
15 THINGS THAT WE'RE HERE OR THAT I'M HERE TO -- TO TALK
16 ABOUT, WHICH CAN'T BE KNOWN. AND SO IN A CERTAIN
17 SENSE I DON'T THINK THAT YOU CAN SAY THAT IT'S
18 POSSIBLE TO DO A TRUE REALITY CHECK; IN OTHER WORDS,
19 WE CAN'T -- YOU KNOW, WE'RE HERE, AS WE TALKED ABOUT
20 BEFORE, TO THINK ABOUT HOW THESE DISTRICTS -- HOW
21 PEOPLE WOULD VOTE IN THEM IN THE FUTURE. WE DON'T
22 KNOW THAT.

23 WE CAN DO WHAT YOU MIGHT CALL SORT OF SANITY
24 CHECKS TO MAKE SURE THAT IT DOESN'T SEEM LIKE
25 SOMETHING HAS GONE HORRIBLY AWRY. BUT IT'S VERY

10:21a

1 DIFFICULT TO KNOW BY LOOKING -- YOU KNOW, IN OTHER
2 WORDS, WE APPLY THESE METHODS EXACTLY BECAUSE WE
3 CAN'T KNOW IN SOME OTHER WAY WHICH WE COULD THEN USE
4 AS A BENCHMARK.

5 Q AND DID YOU UNDERSTAND ANY CRITICISM BY
6 PLAINTIFFS ABOUT THE FACT THAT THERE -- WHERE THERE
7 ARE NO DISTRICTS DRAWN BETWEEN 40 AND 50 PERCENT,
8 WHAT THAT MEANS FOR YOUR ANALYSIS?

9 A YEAH. I THINK THE CHALLENGE IS IF YOU WERE
10 TO ASK THE QUESTION COULD WE THINK ABOUT HOW
11 DISTRICTS IN CERTAIN PARTS OR IN ALL OF LOUISIANA
12 WOULD PERFORM AT 40 TO 60 PERCENT AND THEN WE DON'T
13 SEE ANY -- THERE ARE VERY FEW THAT ARE IN THAT
14 INTERVAL -- THEN IT'S VERY HARD TO DRAW A CONCLUSION
15 ABOUT WHETHER THEY WOULD PERFORM OR NOT. SO TO SAY
16 WE DON'T SEE SOMEONE OF -- YOU KNOW, A DEMOCRAT OR A
17 BLACK-PREFERRED CANDIDATE GETTING ELECTED IN
18 DISTRICTS THAT WE DON'T SEE VERY MANY OF, IT'S HARD
19 TO KNOW WHAT THAT MEANS.

20 SO, FOR EXAMPLE, I DON'T THINK IT WOULD BE A
21 VERY COMPELLING ARGUMENT PERHAPS -- AND, YOU KNOW,
22 I'M NOT HERE TO MAKE ARGUMENTS, YOU KNOW. BUT I
23 GUESS IF I WERE TO TRY TO THINK ABOUT JUST ANSWERING
24 THE QUESTION HOW WOULD -- A 40 TO 50 PERCENT
25 DISTRICT, WHAT WOULD BE THE MINIMUM PERCENT NEEDED TO

10:22a

1 WIN, WHAT WOULD THE WIN RATE BE IN A DISTRICT LIKE
2 THAT IF WE HAVEN'T SEEN ONE, I DON'T THINK THAT IT
3 WOULD BE -- THAT IF, FOR EXAMPLE, WE WERE IN A WORLD
4 IN WHICH THE DISTRICTS HAD BEEN DRAWN IN A WAY THAT
5 THERE WERE NO DISTRICTS BELOW 65 PERCENT BLACK BVAP
6 AND THEN DOWN TO, SAY, 25 OR 30, I DON'T THINK WE
7 WOULD REALLY THINK IT WAS A VERY GOOD SORT OF
8 SCIENTIFIC CONCLUSION; THAT BECAUSE WE ONLY SEE
9 DISTRICTS THAT ARE TWO-THIRDS BLACK OR MORE AND THOSE
10 ARE THE ONLY DISTRICTS THAT ARE ELECTING
11 BLACK-PREFERRED CANDIDATES, THAT A DISTRICT BELOW
12 TWO-THIRDS COULDN'T FUNCTION. I THINK THAT WOULD BE
13 A STANDARD THAT -- OF EVIDENCE THAT WOULDN'T BE VERY
14 COMPELLING.

15 Q IN YOUR OPINION, ARE CONTESTS WITH A BLACK
16 CANDIDATE ALWAYS MORE PROBATIVE THAN CONTESTS WITHOUT
17 A BLACK CANDIDATE IN DOING THE TYPE OF ANALYSIS YOU
18 DID IN THIS CASE?

19 A NOT CATEGORICALLY. THAT'S CERTAINLY ONE
20 FACTOR THAT I THINK THE COURTS HAVE THOUGHT ABOUT
21 MAYBE. AND I KNOW THAT IN SOME CASES THAT'S
22 SOMETHING THAT'S FOCUSED ON. SO I PROVIDE THE
23 ANALYSIS THAT'S BROKEN DOWN TO CONTESTS THAT INVOLVE
24 ONLY -- THAT INVOLVE AT LEAST ONE BLACK CANDIDATE
25 SEPARATELY FROM THE LARGER SET.

10:24a

1 BUT THERE ARE OTHER FEATURES THAT MIGHT MAKE
2 A CERTAIN ELECTION MORE ANALOGOUS TO WHAT WE MIGHT
3 EXPECT A FUTURE STATE HOUSE OR STATE SENATE ELECTION
4 TO LOOK LIKE IN A PARTICULAR DISTRICT. AND SO I
5 THOUGHT IT WAS USEFUL TO PROVIDE THE COURT WITH SOME
6 SENSE OF WHAT THE ANSWER MIGHT BE IF WE WENT BEYOND
7 JUST CASES WITHOUT BLACK CANDIDATES.

8 I ALSO WOULD JUST QUICKLY SAY THAT YEAH, I
9 MEAN, THERE COULD BE CASES WHERE PROBABLY YOU
10 COULDN'T FIGURE OUT MUCH ABOUT BLACK-PREFERRED
11 CANDIDATES BY NOTING THE FACT THAT THERE IS A BLACK
12 CANDIDATE IN THE RACE. SO, FOR EXAMPLE, I THINK IF
13 WE WERE IN SOUTH CAROLINA, I'M NOT SURE THAT
14 ELECTIONS INVOLVING TIM SCOTT WOULD BE MORE PROBATIVE
15 WITH RESPECT TO -- FOR SENATE -- A BLACK POLITICIAN
16 WOULD BE MORE PROBATIVE THAN OTHER ELECTIONS. THAT
17 WOULD BE AN EXAMPLE.

18 Q AS A RELATED EXAMPLE, WOULD THE ELECTION OF
19 JOHN BEL EDWARDS HERE IN LOUISIANA BE AN EXAMPLE OF
20 THE COROLLARY POINT TO THAT?

21 A IT COULD BE, YES. I MEAN, I THINK ONE OF
22 THE ISSUES THAT YOU HAVE IS THAT THERE ARE OTHER --
23 THERE ARE OTHER FEATURES OF THESE ELECTIONS WHICH YOU
24 WOULD LIKE TO BE SIMILAR WHEN YOU'RE USING THEM AS
25 ANALOGS FOR WHAT WOULD HAPPEN IN THESE DISTRICTS THAT

10:25a

1 ARE DRAWN IN A WAY THAT'S MEANT TO EITHER BE
2 COMPETITIVE OR -- OR EVEN MORE THAN COMPETITIVE FOR
3 DEMOCRATIC CANDIDATES. AND THE STATEWIDE ENVIRONMENT
4 IN LOUISIANA IS TYPICALLY NOT THAT COMPETITIVE FOR
5 DEMOCRATS STATEWIDE.

6 AND SO YOU END UP IN SITUATIONS SOMETIMES I
7 THINK WHERE YOU'VE GOT CANDIDATES WITH HIGH NAME
8 RECOGNITION THAT ARE WELL-FUNDED ON ONE SIDE RUNNING
9 AGAINST CANDIDATES ON THE OTHER SIDE THAT DON'T HAVE
10 A LOT OF ELECTORAL EXPERIENCE, THAT DON'T HAVE A LOT
11 OF CAMPAIGN FINANCE BACKING, MAYBE DON'T HAVE A LOT
12 OF NAME RECOGNITION. A NUMBER OF THOSE CANDIDATES AT
13 THE STATEWIDE LEVEL ALSO HERE MIGHT BE BLACK, SO YOU
14 MIGHT WANT TO LOOK BEYOND THOSE CONTESTS TO SEE ALSO
15 IF THERE ARE CONDITIONS -- ELECTORAL CONDITIONS WHERE
16 THE CANDIDATES THAT ARE BEING SELECTED AMONG ARE ONES
17 THAT ARE MORE SIMILAR IN THEIR RELATIVE AMOUNT OF --
18 THEIR RELATIVE COMPETITIVENESS THAN YOU WOULD SEE IN
19 AN ELECTION THAT MAYBE DID INVOLVE A BLACK CANDIDATE
20 BUT DIDN'T HAVE THOSE OTHER FEATURES OF BALANCE THAT
21 YOU MIGHT EXPECT TO SEE IN A MORE COMPETITIVE
22 ELECTORAL SETTING.

23 MS. ROHANI: OBJECTION, YOUR HONOR. THERE
24 IS NOTHING IN DR. LEWIS'S REPORT THAT DEALS WITH
25 CANDIDATE FUNDING OR ANYTHING THAT HE RESPONDED IN

10:26a

1 RESPONSE TO MS. MCKNIGHT'S QUESTION.

2 MS. MCKNIGHT: I CAN -- I'M HAPPY TO BRING
3 UP THE PORTION OF HIS REPORT WHERE HE ADDRESSES
4 CANDIDATE FUNDING, IF THAT WOULD BE HELPFUL.

5 THE COURT: WELL, THE QUESTION HAS BEEN
6 ASKED AND ANSWERED, SO I'M GOING TO OVERRULE THE
7 OBJECTION.

8 BUT I WOULD ASK YOU TO CONFINE YOUR
9 QUESTIONS TO THOSE THINGS THAT ARE DISCUSSED IN HIS
10 REPORT.

11 MS. MCKNIGHT: OKAY.

12 BY MS. MCKNIGHT:

13 Q OKAY. DR. LEWIS, IN GENERAL WHEN YOU ARE
14 CONDUCTING A RACIALLY POLARIZED VOTING ANALYSIS AND
15 YOU'RE FACED WITH AN ENVIRONMENT WHERE THERE ARE NOT
16 THAT MANY CONTESTS WITH A BLACK CANDIDATE, HOW DO YOU
17 ADDRESS THIS ISSUE?

18 A WELL, SOMETIMES THAT'S JUST A LIMITATION.
19 BUT AGAIN, I WOULD LOOK BEYOND THE CONTESTS THAT
20 INVOLVE A BLACK CANDIDATE TO TRY TO FIND OTHER
21 CONTESTS THAT MIGHT HAVE VALUE IN ESTABLISHING THE
22 ANSWERS TO THE QUESTIONS THAT WE'RE SEEKING HERE
23 ABOUT WHETHER THERE IS AN OPPORTUNITY TO ELECT.

24 Q DID YOU FIND IN YOUR ANALYSIS THAT SOMETIMES
25 WHITE DEMOCRATS WERE THE CANDIDATE OF CHOICE FOR

10:28a

1 BLACK VOTERS?

2 A YES.

3 Q SO WHAT WILL ANALYZING RACES WITH WHITE
4 DEMOCRATS TELL THE COURT ABOUT WHETHER BLACK VOTERS
5 ARE ABLE TO ELECT THEIR CANDIDATES OF CHOICE?

6 A WELL, A GREAT DEAL OF I THINK WHAT
7 CHARACTERIZES ELECTIONS IN THE UNITED STATES THESE
8 DAYS IS RIGOR ON PARTISAN LINES. SO IF YOU HAVE AN
9 ELECTION THAT INVOLVES A DEMOCRAT AND A REPUBLICAN,
10 IT'S LIKELY THAT THAT ELECTION WILL GIVE SOME INSIGHT
11 INTO THE PREFERENCES OF VOTERS OF DIFFERENT RACIAL
12 GROUPS.

13 Q CAN THE COURT STILL LEARN ABOUT RACIALLY
14 POLARIZED VOTING THROUGH ELECTIONS WHERE A BLACK
15 CANDIDATE IS NOT ON THE BALLOT?

16 A YES.

17 Q LET'S LOOK AT LDTX 54, TABLE 1.

18 DR. LEWIS, DOES THIS TABLE ADDRESS THE ISSUE
19 OF CONTESTS WITH OR WITHOUT BLACK CANDIDATES?

20 A IT DOES.

21 Q AND WHAT DOES IT SHOW THE COURT?

22 A IT SHOWS THAT IN THE CONTESTS THAT I
23 ANALYZED HERE, THE ANSWERS ARE GENERALLY SIMILAR.
24 THE QUANTITIES THAT WE TALKED ABOUT THE OTHER DAY ARE
25 GENERALLY SIMILAR ACROSS THE TWO SETS OF CONTESTS

10:29a

1 THAT I SET FORTH. SO THE SET OF CONTESTS THAT
2 INCLUDES CERTAIN CONTESTS THAT DID NOT HAVE A BLACK
3 CANDIDATE AND THEN, WHEN I DRILL DOWN, TO JUST THOSE
4 THAT DID.

5 Q AND DO YOU RECALL CRITICISM FROM PLAINTIFFS
6 FOR YOU AVERAGING SOME OF YOUR NUMBERS? DO YOU
7 RECALL THAT CRITICISM?

8 A I DO.

9 Q DID YOU RESPOND TO THIS CRITICISM IN YOUR
10 SURREBUTTAL REPORT?

11 A I DID.

12 Q LET'S TURN TO PAGE 7 OF LDTX 54.

13 IS THIS WHERE YOU ADDRESS THE CRITICISM OF
14 AVERAGING?

15 A YES.

16 Q OKAY. AND WHAT DOES THIS SHOW THE COURT?

17 A WELL, YOU KNOW, ONE QUESTION HERE IS, IS THE
18 AVERAGE SORT OF -- YOU KNOW, YOU GET THE SAME AVERAGE
19 IN DIFFERENT WAYS, AND YOU MIGHT BE INTERESTED IN
20 SOMETHING THAT'S MORE ANALOGOUS TO THE WIN RATE THAT
21 WE TALKED BEFORE ABOUT.

22 AND SO RATHER THAN THINKING ABOUT WHAT THE
23 MINIMUM PERCENTAGE IS REQUIRED ON AVERAGE FOR THE
24 BLACK-PREFERRED CANDIDATES AS ESTIMATED TO WIN BY ONE
25 VOTE, AS WE TALKED ABOUT BEFORE, YOU COULD RATHER

10:30a

1 WANT TO THINK ABOUT LIKE, WELL, WHAT -- WHAT
2 PERCENTAGE IS REQUIRED TO ELECT DIFFERENT PERCENT --
3 DIFFERENT FRACTIONS OF THE -- DIFFERENT FRACTIONS
4 OF -- I'M SORRY -- BLACK-PREFERRED CANDIDATES IN
5 DIFFERENT FRACTIONS OF THE CONTEST. SORRY. THERE IS
6 A LOT OF PERCENTAGES GOING BACK AND FORTH HERE. SO
7 THAT'S SOMETHING THAT YOU COULD DO.

8 AND IF WE WANT TO THINK ABOUT 50 PERCENT, SO
9 YOU WOULD EXPECT -- YOU KNOW, HOW MANY BLACK VOTERS
10 WOULD YOU NEED -- HOW MUCH BLACK POPULATION WOULD YOU
11 NEED IN ORDER TO -- FOR THE BLACK-PREFERRED CANDIDATE
12 TO WIN HALF THE TIME. THAT'S WHAT'S SORT OF SHOWN IN
13 THE 50 PERCENT COLUMN THERE. SO YOU CAN ESTIMATE IT
14 THAT WAY. AND THAT'S ACTUALLY THE MEDIAN OF THE
15 RESULTS ACROSS THE ELECTIONS THAT I'M LOOKING AT
16 HERE. SO SIX ELECTIONS IN THE CASE OF H 4 AND H 69
17 AND SO FORTH. AND SO REALLY, YOU KNOW, IT'S JUST A
18 COMPARISON OF THE MEAN AND THE MEDIAN HERE.

19 HERE YOU CAN SEE THAT THE DIFFERENCE BETWEEN
20 THOSE TWO NUMBERS IS GENERALLY SMALL. SO IN THIS
21 CASE, WHETHER YOU'RE LOOKING AT THE AVERAGE OR THE
22 MEDIAN, THE 50 PERCENT NUMBER THERE ON THE NEXT
23 COLUMN YOU GET PRETTY SIMILAR -- YOU GET PRETTY
24 SIMILAR ANSWERS.

25 Q WE CAN TAKE THIS DOWN.

10:32a

1 DR. LEWIS, AT WHAT LEVEL OF GEOGRAPHY DID
2 YOU CONDUCT YOUR EI ANALYSIS?

3 A I FIT THE MODEL THAT -- I CREATED AN
4 ESTIMATE OF BLACK COHESION IN WHITE CROSSOVER VOTING
5 AND ALSO THE SUPPORT FOR THE VARIOUS CANDIDATES AMONG
6 FOLKS THAT DIDN'T IDENTIFY AS BLACK OR WHITE FOR
7 EVERY DISTRICT INDEPENDENTLY.

8 Q AND WHY DID YOU DO THIS?

9 A TO RECOGNIZE THAT THERE COULD BE
10 HETEROGENEITY IN THE DEGREE OF COHESION AND THE
11 DEGREE OF CROSSOVER VOTING ACROSS THE DIFFERENT
12 DISTRICTS.

13 Q DID YOU FIND THAT HETEROGENEITY?

14 A YES. WE'VE SEEN SOME OF THAT HETEROGENEITY
15 IN SOME OF THE PREVIOUS SLIDES THAT YOU'VE PUT UP.

16 Q IF YOU CONDUCTED YOUR EI ANALYSIS AT A
17 STATEWIDE LEVEL OR EVEN AT A REGIONAL LEVEL, WHAT
18 COULD YOU MISS OUT ON THAT YOU DETECTED IN YOUR
19 DISTRICT-SPECIFIC ANALYSIS?

20 A WELL, SOME OF THAT HETEROGENEITY, SO WE
21 WOULD BE AVERAGING EFFECTIVELY ACROSS THAT
22 HETEROGENEITY. AND IT'S ALSO A CHALLENGE IN THESE
23 MODELS -- AS I SAID BEFORE, THEY REST ON THE DATA,
24 BUT THEY ALSO REST HEAVILY ON ASSUMPTION. AND ONE OF
25 THE ASSUMPTIONS IS THAT THE SUPPORT OF WHITE VOTERS

10:33a

1 FOR THE BLACK-PREFERRED CANDIDATE OR ANY OTHER
2 CANDIDATE IS NOT VARYING AS A FUNCTION OF THE
3 DEMOGRAPHIC COMPOSITION OF THE PRECINCT OR THE
4 DISTRICT. SO IT CAN'T BE THE CASE, IF THESE MODELS
5 ARE TO BE EFFECTIVE, THAT THE BLACKER THE PRECINCT
6 IS -- BY WHICH I MEAN THE MORE HIGHER THE BLACK
7 BVAP -- BLACK VOTER POPULATION IS, THE -- IT CAN'T BE
8 THE CASE THAT THE WHITE VOTERS BECOME MORE LIKELY TO
9 SUPPORT THE BLACK-PREFERRED CANDIDATE.

10 AND, OF COURSE, WHAT WE'VE SEEN HERE IS THAT
11 IN -- AT LEAST IN SOME CASES, IT IS TRUE THAT IF YOU
12 DRILL DOWN YOU FIND THAT IN SOME OF THESE DISTRICTS
13 THAT HAVE HIGHER BLACK POPULATION, THE WHITE VOTERS
14 ARE CROSSING OVER MORE. SO IF YOU DON'T TRY TO
15 ISOLATE THOSE REGIONS THAT HAVE HIGHER, LOWER BLACK
16 VOTING AGE POPULATION, WHEN YOU APPLY THE ANALYSIS
17 YOU COULD CREATE WHAT'S CALLED AGGREGATION BIAS,
18 WHICH IS A TENDENCY TO MISATTRIBUTE THE BEHAVIOR OF
19 WHITE VOTERS TO BLACK VOTERS, WHICH LEADS TO AN
20 OVERSTATEMENT OF COHESION AND AN UNDERSTATEMENT OF
21 CROSSOVER VOTING IN SOME CASES.

22 MS. MCKNIGHT: NO FURTHER QUESTIONS, YOUR
23 HONOR.

24 THE COURT: CROSS-EXAMINATION?

25 MS. ROHANI: GOOD MORNING. SARA ROHANI ON

10:34a

1 BEHALF OF THE PLAINTIFFS.

2 **CROSS-EXAMINATION**

3 **BY MS. ROHANI:**

4 Q GOOD MORNING, DR. LEWIS. IT'S GOOD TO SEE
5 YOU AGAIN.

6 A GOOD TO SEE YOU AGAIN. GOOD MORNING.

7 MS. ROHANI: STEPHEN, CAN YOU PLEASE PULL UP
8 LDTX 52, PAGE B-2 OF THE APPENDIX. THANK YOU.

9 **BY MS. ROHANI:**

10 Q SO, DR. LEWIS, THE ELECTIONS THAT YOU
11 INCLUDE IN YOUR WIN RATE CALCULATIONS IN TABLE 1 ARE
12 PRIMARY ELECTIONS WITH THREE OR MORE CANDIDATES.
13 CORRECT?

14 A YES.

15 MS. ROHANI: AND THEN, STEPHEN, CAN YOU
16 PLEASE TURN TO PAGE 6 OF THIS EXHIBIT.

17 **BY MS. ROHANI:**

18 Q AND FOR PURPOSES OF TABLE 1, YOU DEFINE WIN
19 AS A CANDIDATE WHO GAINED OVER 50 PERCENT OF THE VOTE
20 OR WAS AMONG THE TWO CANDIDATES WHO ADVANCED TO THE
21 RUNOFF. IS THAT CORRECT?

22 A YES.

23 Q AND THEN NOW GOING BACK TO B 2, FOR EACH
24 DISTRICT IN THIS TABLE IN TABLE 1 YOU LISTED THE
25 NUMBER OF CONTESTS THAT YOU CONSIDERED. IS THAT

10:35a

1 CORRECT?

2 A YES.

3 Q AND SO NOWHERE IN YOUR REPORT DO YOU STATE
4 HOW MANY OF THOSE ELECTION CONTESTS RESULTED IN AN
5 OUTRIGHT WIN. CORRECT?

6 A I DO NOT.

7 Q AND NOWHERE IN YOUR REPORT DO YOU STATE HOW
8 MANY OF THOSE ELECTION CONTESTS INVOLVED A CANDIDATE
9 ADVANCING TO A RUNOFF. IS THAT CORRECT?

10 A I'M TRYING TO THINK IF THAT'S SOMETHING THAT
11 COULD BE INFERRED FROM THESE NUMBERS OR NOT. I DON'T
12 KNOW. I DON'T BELIEVE I EXPLICITLY DISCUSS HOW MANY
13 END IN RUN-OFFS VERSUS OUTRIGHT WINS, IF THAT'S YOUR
14 QUESTION.

15 Q THANK YOU.

16 AND A CANDIDATE WHO ADVANCES TO A RUNOFF MAY
17 ULTIMATELY GO TO LOSE THAT RUNOFF ELECTION. IS THAT
18 CORRECT?

19 A OF COURSE, YES.

20 Q AND NOWHERE IN YOUR REPORT DO YOU STATE HOW
21 MANY OF THOSE CANDIDATES FROM TABLE 1 WHO ADVANCED TO
22 THE RUNOFF ACTUALLY WON THE RUNOFF. IS THAT CORRECT?

23 A THAT'S -- NOT EXPLICITLY. IN OTHER WORDS,
24 WE DON'T FOLLOW THEM FROM TABLE 1 FORWARD, OTHER THAN
25 THAT IN TABLE 2 WE ANALYZE THE ELECTIONS THAT ARE

10:36a

1 RUNOFFS. AND PRESUMABLY THOSE ALL CAME FROM CASES IN
2 WHICH SOMEBODY GOT THROUGH THE PRIMARY TO GET TO THE
3 RUNOFF.

4 Q BUT JUST TO CONFIRM, THAT THIS TABLE WHICH
5 DOES NOT ADDRESS THAT ISSUE -- NOWHERE IN YOUR REPORT
6 DO YOU STATE THAT IN THIS TABLE HOW MANY OF THE
7 CANDIDATES ADVANCED TO THE RUNOFF AND ACTUALLY WON
8 THE RUNOFF?

9 A NO, THAT'S CORRECT.

10 Q SO NOW TURNING TO TABLE 3 ON PAGE B-14 OF
11 THE APPENDIX. SO TABLE 3 WAS CONSTRUCTED IN THE SAME
12 WAY AS TABLE 1 BUT INCLUDED ONLY ELECTIONS WITH BLACK
13 CANDIDATES. IS THAT CORRECT?

14 A I BELIEVE SO, YES.

15 Q AND SO THE WIN RATES WERE CONSTRUCTED IN THE
16 SAME WAY AS THEY WERE IN TABLE 1. IS THAT CORRECT?

17 A THAT'S CORRECT.

18 Q AND FOR TABLE 3 YOU ALSO DON'T REPORT THE
19 NUMBER OF ELECTIONS THAT RESULTED IN AN OUTRIGHT WIN.
20 IS THAT CORRECT?

21 A NOT IN THE TABLE, NO.

22 THE REPORTER: I'M SORRY. "NOT" --

23 THE WITNESS: NOT IN THE TABLE, NO. I'M
24 SORRY. LET ME MOVE THE MICROPHONE.

25 BY MS. ROHANI:

10:37a

1 Q AND THEN TURNING BACK TO PAGE 6. SO IN
2 TABLE 2 YOU LOOKED AT TWO CANDIDATE CONTESTS. AND
3 THE DEFINITION THAT YOU PRESENT IS: TABLE 2 PRESENTS
4 RESULTS FOR GENERAL ELECTIONS AND TWO-CANDIDATE
5 PRIMARY ELECTIONS THAT INCLUDED A BLACK CANDIDATE.
6 DID I READ THAT CORRECTLY?

7 A I BELIEVE SO.

8 Q AND SO WIN FOR PURPOSES OF TABLE 2 MEANS
9 WHOEVER OF THE TWO CANDIDATES ACTUALLY WON THE SEAT.
10 IS THAT CORRECT?

11 A YES.

12 Q SO NOW TURNING BACK TO PAGE B-20. B-20 OF
13 THE APPENDIX. THANK YOU.

14 SO THIS IS TABLE 4. NOW, TABLE 4 WAS
15 CONSTRUCTED IN THE SAME WAY AS TABLE 2 BUT INCLUDED
16 ONLY ELECTIONS WITH BLACK CANDIDATES. IS THAT
17 CORRECT?

18 A YES.

19 Q AND SO THE WIN RATES IN TABLE 4 WERE
20 CONSTRUCTED IN THE SAME WAY AS THEY WERE FOR TABLE 2.
21 IS THAT CORRECT?

22 A YES.

23 Q NOW, CAN WE PLEASE PULL UP LDTX 54 ON PAGE
24 3.

25 SO DO YOU SEE THE SENTENCE THAT BEGINS WITH

10:38a

1 "THAT IS, TO SUCCEED" --

2 MS. ROHANI: AND IF, STEPHEN COULD HIGHLIGHT
3 THAT. IT'S "THAT IS, TO SUCCEED IN" -- PERFECT.

4 BY MS. ROHANI:

5 Q DR. LEWIS, WOULD YOU MIND READING THE
6 SENTENCE OUT LOUD FOR THE RECORD?

7 A SURE. "THAT IS, TO SUCCEED IN AN ELECTION
8 IN LOUISIANA, A CANDIDATE MUST SURVIVE THE PRIMARY
9 AND (IF NECESSARY) GO ON TO WIN THE RUNOFF. THE
10 QUESTION IN ESTABLISHING WHETHER A DISTRICT HAS
11 SUFFICIENT BVAP FOR BLACK-PREFERRED CANDIDATES TO WIN
12 ELECTION IS EXACTLY WHETHER BVAP IS SUFFICIENT TO
13 SUPPORT SUCCESS AT BOTH STAGES."

14 Q THANK YOU.

15 SO THE BVAP SUFFICIENT -- THE BVAP
16 SUFFICIENT TO SUPPORT SUCCESS AT BOTH STAGES IS THE
17 BVAP THAT WAS PRESENTED IN TABLES 2 AND 4. CORRECT?

18 A THE -- I'M TRYING TO MAKE SURE THAT I
19 UNDERSTAND THE QUESTION. MAYBE IF YOU COULD JUST TRY
20 AND RESTATE IT ONE MORE TIME FOR ME. I DON'T MEAN TO
21 BE DIFFICULT.

22 Q NO PROBLEM. SO THE SENTENCE THAT YOU JUST
23 READ --

24 A YEAH.

25 Q -- STATED THAT THE -- I'M JUST GOING TO

10:39a

1 REPEAT IT. THE QUESTION IN ESTABLISHING WHETHER A
2 DISTRICT HAS SUFFICIENT BVAP FOR BLACK-PREFERRED
3 CANDIDATES TO WIN IS EXACTLY WHETHER THE BVAP IS
4 SUFFICIENT TO SUPPORT SUCCESS AT BOTH STAGES.

5 AND THEN SO MY QUESTION WAS: THAT THE BVAP
6 SUFFICIENT TO SUPPORT SUCCESS OF BOTH STAGES IS ONLY
7 PRESENT IN TABLES 2 AND 4. IS THAT CORRECT?

8 A WELL, IF IT WERE THE CASE THAT IN TABLES 1
9 AND 3 THE BVAP REQUIRED TO ESCAPE THE PRIMARY AND
10 REACH A RUNOFF HAD BEEN -- WERE HIGHER THAN THOSE IN
11 TABLES 2 AND 4, THEN I DON'T THINK THAT WHAT YOU SAID
12 WOULD BE CORRECT. IN OTHER WORDS, THE BINDING
13 CONSTRAINT COULD BE THE PRIMARY STAGE.

14 Q BUT YOU DID JUST STATE THAT -- ARE THERE ANY
15 DISTRICTS LIKE THAT IN YOUR REPORT?

16 A I DON'T -- I DON'T RECALL. I KNOW GENERALLY
17 SPEAKING THE MINIMUM REQUIRED TO SUCCEED IS HIGHER --
18 NECESSARY MINIMUM REQUIRED TO SUCCEED IS HIGHER IN
19 THE RUNOFF FOR TWO-CANDIDATE ELECTIONS THAN IN THE
20 FIRST STAGE OR PRIMARY ELECTIONS.

21 Q SO IS IT FAIR TO SAY THAT THE
22 BLACK-PREFERRED CANDIDATE WOULD WIN IF -- IF WE'RE
23 LOOKING AT WHETHER THE BLACK-PREFERRED CANDIDATE TO
24 WIN IF A RUNOFF IS REQUIRED, YOU WOULD NEED TO LOOK
25 AT THE BVAPs IN TABLES 2 AND 4?

10:41a

1 A YES. YOU WOULD NEED TO -- WELL, I MEAN,
2 YOU -- IN GENERAL YOU WOULD NEED TO LOOK AT BOTH.
3 AND THEN AS IT IS REQUIRED TO WIN BOTH ELECTIONS IN
4 ORDER TO SUCCEED, YOU COULD LOOK AT THE LARGER OF
5 THOSE TWO NUMBERS AS BEING THE MINIMUM REQUIRED.

6 Q AND JUST TO CONFIRM, THESE DEFINITIONS OF
7 WIN THAT WE JUST DISCUSSED, THEY APPLY TO YOUR WIN
8 RATES?

9 A YES.

10 Q AND DO THEY -- THEY APPLY TO YOUR
11 PERCENT-NEEDED-TO-WIN FIGURES AS WELL. IS THAT
12 CORRECT?

13 A YES.

14 Q SO YESTERDAY YOU TESTIFIED ABOUT WHAT YOU
15 CALLED A THOUGHT EXPERIMENT. AND IN THAT THOUGHT
16 EXPERIMENT THAT YOU DISCUSSED YESTERDAY, THE
17 DISTRICTS IN THE ILLUSTRATIVE PLAN THAT ARE OVER 50
18 PERCENT BVAP, THEY COULD PERFORM AT LESS THAN 50
19 PERCENT BVAP AS WELL. CORRECT?

20 A THAT'S WHAT THE ESTIMATES SUGGEST IN I THINK
21 MOST ALL CASES, YES.

22 Q AND MEANING THAT YOUR PERCENT NEEDED TO WIN
23 IN THOSE DISTRICTS IS LESS THAN 50 PERCENT?

24 A YES.

25 Q SO YOU WOULD AGREE THAT IF YOU CHANGED THE

10:42a

1 BOUNDARIES OF A DISTRICT IN A WAY THAT REDUCED THE
2 BVAP OF THE DISTRICT, THAT WOULD CHANGE WHICH VOTERS
3 ARE IN THE DISTRICT?

4 A CERTAINLY.

5 Q AND THEN YOU'D HAVE TO RUN A NEW EI ANALYSIS
6 TO UNDERSTAND THE VOTING PATTERNS IN THAT NEW
7 DISTRICT?

8 A ONCE YOU DRAW IT, THEN YOU COULD DO THAT,
9 YES.

10 Q YOU COULD DO THAT OR YOU WOULD NEED TO RUN A
11 NEW EI ANALYSIS?

12 A WELL, FOR WHAT PURPOSE?

13 Q IN ORDER TO UNDERSTAND THE VOTING PATTERNS
14 IN THE NEW DISTRICT. BECAUSE YOU JUST AGREED THAT IF
15 YOU CHANGE THOSE BOUNDARIES IN THE DISTRICT WHICH
16 CHANGES THE BVAP, IN ORDER TO UNDERSTAND THE VOTING
17 PATTERNS YOU WOULD HAVE TO RUN A NEW EI ANALYSIS FOR
18 THAT DISTRICT. IS THAT CORRECT?

19 A YEAH. YOU COULD DO THAT, YES.

20 Q YOU COULD OR YOU HAVE TO? AGAIN, IN ORDER
21 TO UNDERSTAND THE VOTING PATTERNS IN THAT NEW
22 DISTRICT, WHICH IS DIFFERENT THAN THE PREVIOUS ONE,
23 DO YOU HAVE TO OR COULD YOU?

24 A IT DEPENDS ON HOW MUCH OF A CHANGE YOU MADE
25 AND WOULD YOU NEED TO ANALYZE IT AGAIN TO MAKE A GOOD

10:43a

1 INFERENCE ABOUT WHAT THE LIKELY EFFECT WOULD BE. BUT
2 YEAH, I MEAN, ULTIMATELY ONCE YOU'VE DRAWN YOUR
3 DISTRICTS, I THINK I WOULD WANT TO DO THE ANALYSIS ON
4 THOSE DISTRICTS HAVING THEM HAD BEEN DRAWN.

5 Q TO UNDERSTAND A GOOD INFERENCE, YOU WOULD
6 PERSONALLY DO THAT; RUN A NEW EI ANALYSIS?

7 A AGAIN, I -- I THINK THAT THE ANSWER TO THAT
8 IS YES. BUT I'M NOT SURE THAT THAT -- YOU KNOW,
9 I'M -- AGAIN, THE THOUGHT EXPERIMENT WOULD DEVIATE
10 VERY MUCH FROM THAT -- FROM THAT ANSWER.

11 Q AND THEN YOU'D HAVE TO RECALCULATE THE
12 PERCENT NEEDED TO WIN?

13 A YES. OR YOU CAN RECALCULATE THE -- I MEAN,
14 YOU WOULD. IF YOU GOT NEW ESTIMATES, THEN YOU WOULD
15 HAVE TO RECALCULATE, YES.

16 Q SO THE PERCENT NEEDED TO WIN IN THAT
17 DISTRICT MIGHT BE DIFFERENT?

18 A IN ANY DISTRICT THAT YOU DREW IT MIGHT BE
19 DIFFERENT. SO THE THOUGHT EXPERIMENT, AGAIN, AS WE
20 TALKED ABOUT YESTERDAY, HOLDS CERTAIN THINGS CONSTANT
21 THAT IN REALITY MIGHT NOT BE CONSTANT.

22 Q SO I'D LIKE TO TAKE AN EXAMPLE.

23 MS. ROHANI: STEPHEN, CAN YOU PULL UP LDTX
24 52 AT B-21 OF THE APPENDIX. B-21 WOULD BE THE PAGE.

25 BY MS. ROHANI:

10:44a

1 Q AND THIS IS YOUR INITIAL REPORT, DR. LEWIS.
2 THANK YOU.

3 SO I'D LIKE TO LOOK AT -- ACTUALLY, IS IT
4 YOUR UNDERSTANDING THAT ENACTED DISTRICT 69 AND
5 ILLUSTRATIVE DISTRICT 69 OVERLAP?

6 MS. MCKNIGHT: OBJECTION. BEYOND THE SCOPE
7 OF HIS OPINION; OVERLAP BETWEEN DISTRICTS ENACTED AND
8 SIMULATED IN THE ILLUSTRATIVE.

9 THE COURT: YOU CAN RESPOND.

10 MS. ROHANI: YOUR HONOR, THIS IS ABOUT HIS
11 UNDERSTANDING OF HIS NUMBERS THAT HE STATED HIMSELF
12 WERE HIS OPINIONS AND CONCLUSIONS.

13 THE COURT: I'M GOING TO ALLOW IT.
14 OVERRULED.

15 BY MS. ROHANI:

16 Q SO, DR. LEWIS, AGAIN, IS IT YOUR
17 UNDERSTANDING THAT ENACTED DISTRICT 69 AND
18 ILLUSTRATIVE DISTRICT 69 OVERLAP?

19 A I DON'T KNOW IF THEY OVERLAP OR NOT.

20 Q SO JUST LOOKING AT YOUR TABLES, ENACTED
21 DISTRICT 69 IS 23.7 PERCENT BVAP. DID I READ THAT
22 CORRECTLY?

23 A YES.

24 Q AND ILLUSTRATIVE DISTRICT 69, WHICH WOULD BE
25 ON THE NEXT PAGE -- ON B-23. WE CAN TURN TO THAT,

10:46a

1 TWO PAGES LATER.

2 SO ILLUSTRATIVE DISTRICT 69, HOUSE DISTRICT
3 69, IS 50.2 PERCENT BVAP. IS THAT CORRECT?

4 A YES.

5 Q AND THEN TURNING BACK TO B-21, IN TABLE 4
6 YOUR PERCENT NEEDED TO WIN FOR ENACTED DISTRICT 69 IS
7 60 PERCENT. IS THAT CORRECT?

8 A YES.

9 Q AND THEN TURNING BACK TO B-23 TO TABLE 4,
10 YOUR PERCENT NEEDED TO WIN IN ILLUSTRATIVE DISTRICT
11 69 IS 42 PERCENT. IS THAT CORRECT?

12 A YES.

13 Q AND THAT'S BECAUSE THERE ARE DIFFERENT
14 VOTERS IN ENACTED DISTRICT 69 THAN ILLUSTRATIVE
15 DISTRICT 69. IS THAT CORRECT?

16 A I ASSUME SO, YES.

17 Q YOU ASSUME SO?

18 A WELL, I -- YOU KNOW, I DON'T ACTUALLY KNOW
19 HOW MANY OF THE VOTERS ARE THE SAME VOTERS OR
20 DIFFERENT VOTERS OR --

21 Q OF COURSE.

22 A SO THAT WOULD EXPLAIN THE DIFFERENCE, YES.

23 Q SO IN THE ENACTED PLAN, ARE YOU -- WE CAN
24 PULL THIS DOWN.

25 ARE YOU AWARE OF ANY DISTRICTS THAT ARE NOT

10:47a

1 MAJORITY BLACK THAT WHERE THE WIN RATE YOU CALCULATED
2 IS OVER 30 PERCENT?

3 A I HAVEN'T THOUGHT ABOUT THAT NUMBER, SO I
4 DON'T KNOW. I'M NOT -- ACTUALLY, IT'S FAIR TO SAY
5 I'M NOT AWARE. I DON'T THINK IT'S FAIR TO SAY THAT
6 I -- THAT THERE ARE OR AREN'T ANY ON THE BASIS OF
7 WHETHER I'M AWARE.

8 Q OKAY. I WILL SUBMIT TO YOU THAT I LOOKED
9 THROUGH YOUR TABLES AND WAS ONLY ABLE TO FIND ONE,
10 WHICH IS HOUSE DISTRICT 91. DO YOU AGREE WITH THAT?

11 A I BELIEVE THAT YOU WOULD NOT LIE TO ME.

12 Q THANK YOU.

13 DO YOU KNOW IF THAT DISTRICT IS MAJORITY
14 WHITE?

15 A I DO NOT KNOW.

16 Q AND WOULD IT SURPRISE YOU TO FIND OUT THAT
17 THIS DISTRICT IS ACTUALLY A MAJORITY-MINORITY
18 DISTRICT?

19 A WOULD IT SURPRISE ME? I GUESS I -- I
20 HAVEN'T GIVEN THAT QUESTION VERY MUCH THOUGHT,
21 EITHER. IT'S CERTAINLY POSSIBLE. I KNOW THAT THERE
22 ARE DISTRICTS WHERE THE OTHER POPULATION -- AND I'D
23 BE LESS FAMILIAR WITH WHAT THE CENSUS BREAKDOWN WOULD
24 BE BECAUSE I WAS MORE IN THE VOTING SIDE OF THE
25 EQUATION HERE AND JUST MAKING SOME ADJUSTMENTS FOR

10:48a

1 TURNOUT AT THE END.

2 BUT THERE ARE PLACES WHERE THERE IS A
3 SIGNIFICANT OTHER POPULATION, SO I KNOW THERE TO BE
4 DISTRICTS WHICH ARE MAJORITY-MINORITY BUT NOT
5 MAJORITY BLACK. SO I KNOW SUCH THINGS EXIST. I
6 COULDN'T TELL YOU WHETHER THE ONE YOU'RE REFERRING TO
7 IS ONE OF THEM.

8 Q THANK YOU.

9 AND JUST TO CLARIFY, YOU'D AGREE WITH ME
10 THAT A MAJORITY-MINORITY DISTRICT IN LOUISIANA IS ANY
11 DISTRICT IN WHICH A MAJORITY OF THE VOTERS ARE
12 NON-WHITE?

13 A I BELIEVE THAT YOU COULD DEFINE IT THAT WAY,
14 YES.

15 Q THANK YOU.

16 AND SO JUST TO RETURN, ARE THERE ANY HOUSE
17 DISTRICTS THAT ARE NOT MAJORITY BLACK WHERE THE WIN
18 RATE IS ABOVE 30 PERCENT?

19 A I DON'T KNOW, AGAIN. MAYBE YOU WILL TELL ME
20 THAT THAT'S THE CASE.

21 MS. ROHANI: JUST ONE MOMENT WHILE I CONFER
22 WITH MY COLLEAGUES.

23 NO FURTHER QUESTIONS, YOUR HONOR.

24 THE COURT: ANY REDIRECT?

25 MS. MCKNIGHT: JUST ONE QUESTION.

10:49a

1 **REDIRECT EXAMINATION**

2 **BY MS. MCKNIGHT:**

3 **Q** DR. LEWIS, ARE YOU AWARE OF ANY EXPERT
4 REPORT IN THIS MATTER THAT STUDIED THE OVERLAP
5 PERCENTAGE OF ENROLLED, THE ENACTED DISTRICTS AS
6 COMPARED TO THE ILLUSTRATIVE DISTRICTS, ON A
7 DISTRICT-BY-DISTRICT BASIS?

8 **A** I'M NOT AWARE.

9 **MS. MCKNIGHT:** YOUR HONOR, I WOULD LIKE TO
10 LODGE A STANDING OBJECTION TO ANY TESTIMONY OR
11 PROVISION OF EVIDENCE THAT PLAINTIFFS WILL SEEK TO
12 PUT FORWARD IN FINDINGS OF FACT, ET CETERA, THAT
13 COMPARES THE ILLUSTRATIVE DISTRICT TO THE ENACTED
14 PLAN AND THE POPULATION OVERLAP. THAT IS SOMETHING
15 THAT COULD HAVE BEEN DONE BY AN EXPERT. IT WAS NOT
16 DONE HERE. IT REQUIRES A COMPARISON OF PERCENTAGE OF
17 POPULATION AND WHAT IT'S LIKE AND WHAT IT'S LIKE.
18 IT'S DONE IN THESE CASES. IT WASN'T DONE HERE.

19 **THE COURT:** DO YOU WANT TO RESPOND?

20 **MS. KEENAN:** YES, YOUR HONOR. BECAUSE THIS
21 IS AN OBJECTION TO THE FINDING OF FACT, MEGAN KEENAN
22 FOR THE PLAINTIFFS RESPONDING.

23 **THE COURT:** GO AHEAD.

24 **MS. KEENAN:** MR. COOPER'S REPORT HAS
25 DETAILED TABLES WITH THE POPULATION OF EACH, IN

10:50a

1 ADDITION TO MAPS THAT SHOW THE OVERLAPPING OF THE
2 DISTRICTS, SO WE WOULD DEFINITELY DISAGREE ABOUT WHAT
3 WE CAN PUT INTO THE FINDINGS OF FACT AS TO THAT
4 POINT.

5 **MS. MCKNIGHT:** TO BE SPECIFIC, YOUR HONOR,
6 WORDS MATTER HERE. I SAID DISTRICT-BY-DISTRICT
7 BASIS, AND THAT'S IMPORTANT HERE. AND THAT WAS
8 NOT -- THAT WAS NOT DONE BY MR. COOPER.

9 SO WE'LL -- WE NEED TO ASSERT THAT
10 OBJECTION AND MAKE CLEAR ON THE RECORD THAT THAT WAS
11 NOT DONE.

12 **MS. KEENAN:** AND, YOUR HONOR, WE CAN POINT
13 YOU TO -- THE TABLES ARE ALL IN THE RECORD. THEY ARE
14 DISTRICT BY DISTRICT AND MAY BREAK DOWN A DECENT
15 AMOUNT OF INFORMATION ABOUT THE POPULATION.
16 ADDITIONALLY, THE MAPS SHOW EACH DISTRICT, OF COURSE,
17 SO YOU CAN SEE IT IN THE PHOTOS AS WELL.

18 **THE COURT:** WELL, THE COURT WILL TAKE --
19 WILL CONSIDER THE OBJECTION AND TAKE IT UNDER
20 CONSIDERATION IN RENDERING ITS RULING.

21 **MS. MCKNIGHT:** YOUR HONOR, ONE MORE ISSUE.
22 I NEED -- I WOULD LIKE TO MOVE FOR THE ADMISSION OF
23 THOSE FOUR LEWIS DEMONSTRATIVES. IT'S LEWIS 1
24 THROUGH 4. THOSE ARE THE DEMONSTRATIVES WE DISCUSSED
25 YESTERDAY. THEY ARE SUMMARIES UNDER RULE 1006 OF

10:51a

1 VOLUMINOUS DATA. THERE IS NO CHANGE FROM THE
2 INFORMATION FROM HIS REPORT TO WHAT THEY APPEAR ON
3 THE DEMONSTRATIVES.

4 MS. ROHANI: SUBJECT TO OUR OBJECTION THAT
5 THE INFORMATION ABOUT PERCENT NEEDED TO WIN IS
6 IRRELEVANT, WE HAVE NO OBJECTIONS TO THE EXHIBITS
7 BEING INTRODUCED.

8 THE COURT: WHAT ARE YOUR EXHIBIT NUMBERS?

9 MS. MCKNIGHT: SO THIS WOULD BE -- I BEG
10 YOUR PARDON, YOUR HONOR.

11 THANK YOU, YOUR HONOR. WE WILL SUBMIT
12 THAT AS LDTX 62. AND THOSE ARE LEWIS 1 THROUGH 4
13 DEMONSTRATIVES.

14 THE COURT: ADMITTED.

15 MS. MCKNIGHT: THANK YOU, YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN. THANK YOU,
17 SIR.

18 THE WITNESS: THANK YOU.

19 (OFF THE RECORD)

20

21

22

23

24

25

10:52a

1 **THE COURT:** OKAY. NEXT WITNESS.

2 **MR. STRACH:** WE DON'T HAVE ANY FURTHER
3 WITNESSES AT THIS TIME. WE'LL MOVE THE ADMISSION OF
4 ANY EXHIBITS THAT WE NEED TO MOVE IN, PLUS A PROFFER.
5 WE'LL DO A PROFFER OF SOLANKY'S REPORT. AND I THINK
6 MR. LEWIS WANTS TO ADDRESS THE PROFFER OF PARTS OF
7 THE DOUG JOHNSON REPORT.

8 **THE COURT:** OKAY. SO LET'S START WITH
9 WHATEVER EXHIBITS THAT YOU THINK YOU NEED TO MOVE IN.

10 **MS. HOLT:** YES, YOUR HONOR. WE HAVE NO
11 FURTHER EXHIBITS FOR THE RECORD AT THIS TIME. BUT WE
12 DO WANT TO MAKE A PROFFER.

13 MY NAME IS CASSIE HOLT ON BEHALF OF
14 SECRETARY ARDOIN. AND PURSUANT TO RULE 103 AND FOR
15 THE REASONS SET FORTH IN RECORD DOCUMENT 160,
16 DEFENDANTS PROFFER DR. SOLANKY'S THREE EXPERT
17 REPORTS, WHICH WERE PREVIOUSLY UPLOADED TO JERS AT
18 SOS 2, WHICH IS ENTITLED "EXPERT REPORT OF TUMULESH"
19 -- THAT'S T-U-M-U-L-E-S-H -- "K. SOLANKY" -- THAT'S
20 S-O-L-A-N-K-Y -- "PH.D." DATED JULY 28, 2023.

21 ADDITIONALLY, THAT'S SOS 5, WHICH IS
22 DR. SOLANKY'S REBUTTAL REPORT DATED AUGUST 21, 2023,
23 AND SOS 39, WHICH IS DR. SOLANKY'S SUPPLEMENTAL
24 REPORT DATED OCTOBER 27, 2023.

25 **THE COURT:** THE FIRST REPORT -- I'M SORRY, I

10:54a

1 JUST DIDN'T WRITE THE EXHIBIT NUMBER DOWN. HIS
2 INITIAL REPORT WAS EXHIBIT NUMBER WHAT?

3 MS. HOLT: SOS 2, YOUR HONOR.

4 THE COURT: 2.

5 ALL RIGHT. THE COURT WILL ADMIT 2, 5
6 AND 39 AS PROFFERS AND THAT --

7 MS. GIGLIO: YOUR HONOR --

8 THE COURT: YOU MAY BE HEARD, YES.

9 MS. GIGLIO: I APOLOGIZE, YOUR HONOR, FOR
10 INTERRUPTING.

11 THE COURT: GO AHEAD. YOU MAY BE HEARD.

12 MS. GIGLIO: WE'D JUST LIKE TO MAINTAIN THE
13 OBJECTIONS TO DR. SOLANKY'S REPORTS AS ARTICULATED IN
14 THE MOTION IN LIMINE PRACTICE BEFORE THIS COURT AND
15 AS ARTICULATED IN YOUR HONOR'S DECISION ON DR.
16 SOLANKY'S TESTIMONY.

17 WE WOULD ALSO FURTHER OBJECT TO THE
18 PROFFER OF DR. SOLANKY'S SUPPLEMENTAL REPORT. THAT'S
19 AT SOS 39 I BELIEVE, AS COUNSEL REPRESENTED. TO THE
20 EXTENT THAT DR. SOLANKY'S SUPPLEMENTAL REPORT GOES
21 BEYOND RESPONDING TO DR. HANDLEY'S SUPPLEMENTAL
22 REPORT WHICH WAS PREVIOUSLY ADMITTED TO THIS COURT AS
23 PLAINTIFFS' EXHIBIT 19 -- 16 THROUGH 19, YOUR HONOR.

24 THE COURT: OKAY. THE COURT OF APPEAL WILL
25 TAKE UP YOUR OBJECTIONS IN THE EVENT THAT THE COURT

10:55a

1 DETERMINES THAT THE MOTION IN LIMINE EXCLUDING DR.
2 SOLANKY'S PROPOSED OPINION TESTIMONY WAS EXCLUDED BY
3 THE COURT.

4 EXHIBITS 2, 5 AND 39 ARE ADMITTED AS
5 PROFFER EXHIBITS. AND COUNSEL FOR THE DEFENDANTS ARE
6 INSTRUCTED TO AMEND YOUR JERS DESCRIPTION TO SHOW
7 "PROFFER," SO THAT WHEN IT GOES TO THE COURT OF
8 APPEAL THERE IS NO CONFUSION ABOUT WHAT'S PART OF THE
9 PROFFER AND WHAT'S PART OF THE RECORD.

10 SO THE FIRST -- THE FIRST WORDS IN YOUR
11 DESCRIPTION SHOULD SAY "PROFFER" AND THEN SAY, YOU
12 KNOW, "DR. SOLANKY REPORT" OR WHATEVER.

13 **MS. GIGLIO:** AND, YOUR HONOR, FOR THE SAKE
14 OF THE RECORD -- MY NAME IS AMANDA GIGLIO ON BEHALF
15 OF PLAINTIFFS. AND I JUST WANT TO BE CLEAR, YOUR
16 HONOR, THAT OUR OBJECTION TO USE DR. SOLANKY'S REPORT
17 OR DR. SOLANKY'S SUPPLEMENTAL REPORT AT SOS 39 IS
18 THAT ANY PORTIONS OF IT THAT GO BEYOND DR.
19 HANDLEY'S -- BEYOND RESPONDING TO DR. HANDLEY'S OWN
20 SUPPLEMENTAL REPORT ARE UNTIMELY.

21 **THE COURT:** OKAY. IT'S NOTED FOR THE
22 RECORD.

23 **MS. HOLT:** YES. AND, YOUR HONOR, IF I MAY
24 BRIEFLY RESPOND.

25 **THE COURT:** YOU MAY.

10:56a

1 **MS. HOLT:** SOS 39 IS DIRECTLY IN RESPONSE TO
2 DR. HANDLEY'S SUPPLEMENTAL REPORT, WHICH DEFENDANTS
3 MAINTAIN WAS UNTIMELY. THANK YOU.

4 **THE COURT:** OKAY. ANYTHING ELSE THAT THE
5 DEFENDANTS NEED TO TAKE CARE OF IN THE WAY OF
6 HOUSEKEEPING OR PROFFERS BEFORE YOU CLOSE --
7 BEFORE YOU REST?

8 **MR. LEWIS:** YES. YOUR HONOR, PATRICK LEWIS
9 ON BEHALF OF THE LEGISLATIVE DEFENDANTS.

10 YOUR HONOR, YOUR RULING ON THE MOTION
11 IN LIMINE EXCLUDED PORTIONS BUT NOT THE ENTIRETY OF
12 THE TWO REPORTS OF DR. DOUGLAS JOHNSON AT LDTX 51 AND
13 58. YOUR HONOR DIRECTED US TO PREPARE A REDACTED
14 VERSION OF THOSE TWO EXHIBITS THAT REDACTED THE
15 EXCLUDED PORTIONS.

16 I AM PLEASED TO REPORT TO THE COURT
17 THAT WE HAVE MET AND CONFERRED WITH PLAINTIFFS'
18 COUNSEL AND, AS OF ROUGHLY 20 MINUTES AGO, HAVE FINAL
19 REDACTED VERSIONS. WE WOULD PROPOSE TO UPLOAD THOSE
20 AT THE NEXT BREAK.

21 **THE COURT:** SO YOUR REDACTED VERSIONS WILL
22 BE 1 AND 58. IS THAT CORRECT?

23 **MR. LEWIS:** 51 AND 58. YES, YOUR HONOR.

24 **THE COURT:** 51 AND 58. OKAY.

25 **MR. LEWIS:** YES, YOUR HONOR.

10:58a

1 AND THEN I UNDERSTAND -- AND WE WILL
2 VERIFY AT THE BREAK -- THAT THE UNREDACTED VERSIONS
3 HAVE BEEN RELABELED AS LDTX 51-A AND LDTX 58-A. AND
4 THOSE UNREDACTED VERSIONS, YOUR HONOR, PURSUANT TO
5 RULE OF EVIDENCE 103 AND FOR THE REASONS STATED ON
6 THE RECORD, AS WELL AS IN RECORD DOCUMENT NO. 160, WE
7 WOULD PROFFER IS THE TESTIMONY OF AND OPINIONS OF
8 DR. JOHNSON, THE SUBSTANCE OF THAT TESTIMONY AND
9 OPINIONS THAT HE WOULD HAVE PROVIDED IF HE WOULD HAVE
10 BEEN ALLOWED TO TESTIFY AS TO THOSE ISSUES.

11 **THE COURT:** DO YOU WANT TO BE HEARD?

12 **MS. KEENAN:** YOUR HONOR, I BELIEVE THAT WE
13 MADE THE OBJECTION AT THE TIME THAT THE REPORTS WERE
14 ATTEMPTED TO BE ADMITTED DURING DR. JOHNSON'S DIRECT.
15 WE WOULD STAND AGAIN ON THE MOTIONS IN LIMINE
16 PRACTICE AS WELL AS THE RULINGS ARTICULATED IN YOUR
17 HONOR'S ORDER AS TO WHY THE PORTIONS OF MISTER -- OF
18 DR. JOHNSON'S REPORT SHOULD BE EXCLUDED.

19 AND I WOULD OTHERWISE JUST REPRESENT
20 THAT MR. LEWIS IS CORRECT THAT WE AGREED TO THE
21 REDACTED PORTIONS THAT CAN BE ADMITTED INTO THE
22 RECORD.

23 **THE COURT:** OKAY. SO HERE'S WHAT I WANT YOU
24 TO DO. ON 51-A AND 58-A -- IS IT THE FULL REPORT ALL
25 OVER AGAIN?

10:59a

1 **MR. LEWIS:** YES, IT IS LITERALLY THE
2 ORIGINAL VERSIONS OF 51 AND 58 RELABELED.

3 **THE COURT:** WHY DON'T YOU JUST PUT THE
4 REDACTED VERSIONS IN SO WE DON'T HAVE SO VOLUMINOUS A
5 RECORD? I'M ACTUALLY JUST TRYING TO SAVE SOME --
6 WHAT?

7 **THE COURTROOM DEPUTY:** I'VE ALREADY MARKED
8 THEM "PROFFERED" AND "UNDER SEAL," THE AS.

9 **THE COURT:** OKAY. THEY'RE ALREADY IN JERS
10 AS 51-A AND 58-A AS PROFFER AND UNDER SEAL. AND THE
11 SAME NAMING NOMENCLATURE WILL APPLY TO THE
12 DR. JOHNSON PROFFER AS APPLIED TO THE DR. SOLANKY
13 PROFFER. OKAY?

14 **MR. LEWIS:** THANK YOU, YOUR HONOR.

15 **THE COURT:** YOU'RE WELCOME.

16 **MS. KEENAN:** YOUR HONOR, IF I MAY BRIEFLY
17 CLARIFY ONE OTHER THING NOT RELATED TO DR. JOHNSON
18 BUT RELATED TO MS. MCKNIGHT'S OBJECTION RELATED TO
19 THE OVERLAPPING DISTRICTS.

20 JUST FOR THE CLARITY OF THE RECORD, THE
21 COOPER EXHIBITS AND REPORT THAT I WAS SPEAKING ABOUT
22 CAN BE FOUND AT EXHIBIT 20, PARAGRAPHS 92 AND 120, AS
23 WELL AS EXHIBITS 56, 57, 58, 59, 75, 76, 77 AND 78,
24 JUST SO THE RECORD IS CLEAR ON THAT ISSUE.

25 **MS. MCKNIGHT:** YOUR HONOR, I NEED TO

11:00a

1 WITHDRAW MY OBJECTION. I'VE BEEN CORRECTED, AND I
2 WANT TO MAKE CLEAR THAT I WITHDRAW THAT OBJECTION.

3 THE COURT: THANK YOU FOR YOUR
4 PROFESSIONALISM.

5 MS. MCKNIGHT: THANK YOU.

6 THE COURT: ALL RIGHT.

7 MR. STRACH: THANK YOU, YOUR HONOR. PHIL
8 STRACH.

9 ALL OF THE DEFENDANTS REST.

10 THE COURT: THE DEFENDANTS AND THE
11 INTERVENING DEFENDANTS ARE RESTING?

12 MR. STRACH: CORRECT.

13 THE COURT: OKAY.

14 ALL RIGHT. IS THERE ANY REBUTTAL?

15 MS. GIGLIO: YES, YOUR HONOR. PLAINTIFFS
16 CALL DR. MARVIN KING TO THE STAND.

17 THE COURT: I'M SO SORRY. I WAS READING
18 SOMETHING. WHAT -- WHO ARE YOU CALLING?

19 MS. GIGLIO: PLAINTIFFS CALL REBUTTAL
20 WITNESS DR. MARVIN P. KING TO THE STAND.

21 (WHEREUPON, MARVIN P. KING, BEING DULY
22 SWORN, TESTIFIED AS FOLLOWS.)

23 MS. GIGLIO: YOUR HONOR, MAY I APPROACH THE
24 WITNESS TO HAND HIM A COPY OF HIS REPORT?

25 THE COURT: YOU MAY.

11:02a

1 THE CIVIL RIGHTS MOVEMENT.

2 Q WHAT HAVE YOU DONE SINCE RECEIVING YOUR
3 PH.D., DR. KING?

4 A I HAVE BEEN A PROFESSOR -- ASSOCIATE
5 PROFESSOR OF POLITICAL SCIENCE WITH A JOINT
6 APPOINTMENT IN AFRICAN-AMERICAN STUDIES AT THE
7 UNIVERSITY OF MISSISSIPPI.

8 Q DO YOU HAVE TENURE AT THE UNIVERSITY OF
9 MISSISSIPPI?

10 A I DO. I'M A ASSOCIATE PROFESSOR WITH THAT
11 JOINT APPOINTMENT.

12 Q WHAT ARE YOUR AREAS OF RESEARCH?

13 A AFRICAN-AMERICAN VOTING BEHAVIOR. AND RIGHT
14 NOW I'M WRITING A BOOK MANUSCRIPT ON ECONOMIC AND
15 WEALTH INEQUALITY AND HOW IT AFFECTS POLITICS BUT
16 SPECIFIC TO BLACK AMERICANS.

17 Q DO YOU STUDY AFRICAN-AMERICAN POLITICS?

18 A YES.

19 Q WHAT IS AFRICAN-AMERICAN POLITICS?

20 A AFRICAN-AMERICAN POLITICS IS UNDERSTANDING
21 THAT BLACKS AS A NUMERIC MINORITY IN THE UNITED
22 STATES HAVE ALWAYS HAD A DIFFERENT POLITICAL
23 EXPERIENCE. SO WHEN WE THINK OF AFRICAN-AMERICAN
24 POLITICS, AT LEAST IN MY CLASSES I EXPLAIN HOW IT'S
25 BEEN A DIFFERENT POLITICAL ORIENTATION FOR BLACKS

11:03a

1 GOING ALL THE WAY BACK TO THE CONSTITUTION. WE'LL
2 LOOK AT, FOR INSTANCE, THE IMPOSITION OF JIM CROW,
3 HOW JIM CROW WAS OVERCOME LEGALLY AND THROUGH
4 LEGISLATION AS WELL AS THROUGH THE COURTS, AND THEN
5 CONTEMPORARY POLITICAL AND VOTING ISSUES TODAY.

6 Q AND ASIDE FROM YOUR DISSERTATION, DR. KING,
7 HAVE YOU PUBLISHED ACADEMIC ARTICLES?

8 A YES, I HAVE.

9 Q ARE ALL OF THE ARTICLES THAT YOU'VE
10 PUBLISHED REFLECTED ON YOUR C.V.?

11 A YES, THEY ARE.

12 Q WHAT'S THE GENERAL FOCUS OF YOUR ACADEMIC
13 RESEARCH -- OR YOUR ACADEMIC ARTICLES? EXCUSE ME,
14 DR. KING.

15 A AFRICAN-AMERICAN POLITICS, VOTING BEHAVIOR,
16 DONATIONS, POLITICAL DONATIONS.

17 Q AND YOU MENTIONED THAT YOU'RE WORKING ON A
18 BOOK MANUSCRIPT, DR. KING. CAN YOU TELL THE COURT A
19 LITTLE BIT MORE ABOUT THE BOOK THAT YOU'RE WORKING
20 ON?

21 A YES. SO I'M LOOKING AT INCOME AND WEALTH
22 INEQUALITY AND HOW POLITICS AFFECTS THAT. AND SO,
23 YOU KNOW, ONE OF THE POLITICAL MANIFESTATIONS OF
24 POLITICAL INEQUALITY, IF YOU WILL, BEING A NUMERIC
25 MINORITY, CAN MANIFEST ITSELF IN TERMS OF INCOME AND

11:04a

1 WEALTH INEQUALITY.

2 Q DR. KING, ARE YOU FAMILIAR WITH THE CONCEPT
3 OF RACIALLY POLARIZED VOTING?

4 A YES, I AM.

5 Q CAN YOU BRIEFLY DESCRIBE RACIALLY POLARIZED
6 VOTING FOR THE COURT?

7 A YES. RACIALLY POLARIZED VOTING IS WHEN YOU
8 HAVE A MAJORITY OF ONE RACE VOTING AGAINST A MAJORITY
9 OF ANOTHER RACE.

10 Q AND IS RACIALLY POLARIZED VOTING A TOPIC
11 THAT YOU STUDY?

12 A YES. IT HAS APPEARED IN A COUPLE OF MY
13 PUBLISHED WORKS AND IN THE CLASSES THAT I TEACH.

14 Q CAN YOU TELL US A LITTLE BIT ABOUT HOW IT
15 COMES UP IN THE CLASSES THAT YOU TEACH?

16 A SO TWO CLASSES IN PARTICULAR -- I TEACH
17 SEVERAL CLASSES, BUT TWO IN PARTICULAR THAT ARE
18 RELEVANT TO THIS WOULD BE MY AFRICAN-AMERICAN
19 POLITICS CLASS AS WELL AS POLITICS OF THE AMERICAN
20 SOUTH.

21 Q CAN YOU TELL US A LITTLE BIT HOW ABOUT --
22 CAN YOU TELL US A LITTLE BIT ABOUT HOW RACIALLY
23 POLARIZED VOTING COMES UP IN YOUR POLITICS OF THE
24 AMERICAN SOUTH CLASS?

25 A SURE. SO THAT CLASS IS ESSENTIALLY ABOUT

11:05a

1 PARTY CHANGE. THE AMERICAN SOUTH WAS LARGELY A
2 ONE-PARTY DEMOCRATIC PARTY STRONGHOLD, BUT THEN
3 BEGINNING IN THE 1960s IT TRANSITIONED TO REPUBLICAN
4 PARTISANSHIP.

5 SO IN UNDERSTANDING AFRICAN-AMERICAN
6 POLITICS HERE, THERE HAS LONG BEEN A RECOGNITION THAT
7 BLACK AND WHITE VOTING BEHAVIOR HAS BEEN DIFFERENT,
8 AND SO THAT HELPS EXPLAIN THE PARTY CHANGE FROM
9 DEMOCRATIC PARTY DOMINANCE TO REPUBLICAN PARTY
10 DOMINANCE IN THE SOUTH. MUCH OF THE LITERATURE
11 ASSERTS THAT YOU HAD A RACE-BASED PARTISAN
12 REALIGNMENT, SO YOU DID HAVE PARTY POLARIZATION BUT
13 IT WAS BECAUSE OF A RACIAL TRIGGER.

14 Q CAN YOU TELL US A LITTLE BIT ABOUT HOW
15 RACIALLY POLARIZED VOTING COMES UP IN YOUR AFRICAN-
16 AMERICAN POLITICS CLASS?

17 A SURE. SO IT COMES UP LOTS OF WAYS. BUT
18 JUST AS ONE EXAMPLE: SO IN MY CLASSES I MIGHT
19 EXPLAIN, FOR INSTANCE, THE EXISTENCE OF, SAY, THE
20 CONGRESSIONAL BLACK CAUCUS, OR AT THE STATE LEVEL YOU
21 HAVE LEGISLATIVE BLACK CAUCUSES. AND SO THEN I HAVE
22 TO EXPLAIN TO MY CLASS WHY WE HAVE BLACK CAUCUSES,
23 WHAT TYPE OF DISTRICTS THEY REPRESENT. SO THAT LEADS
24 INTO A DISCUSSION OF MAJORITY-MINORITY DISTRICTS. SO
25 THEN I MIGHT EXPLAIN WHY WE HAVE MAJORITY-MINORITY

11:06a

1 DISTRICTS.

2 AND WHEN I SAY "WHY," YOU KNOW, THE PROCESS
3 OF WHERE THE COURTS HAVE ALLOWED THESE TYPES OF
4 DISTRICTS TO BE CREATED. SO ALL OF THAT, THOUGH, IS
5 LAID ON A FOUNDATION THAT THERE IS RACIALLY POLARIZED
6 VOTING AND, THEREFORE, WE HAVE THESE LEGAL, YOU KNOW,
7 LEGISLATIVE AND JUDICIAL, YOU KNOW, EDICTS TO CREATE
8 THESE MAJORITY-MINORITY DISTRICTS.

9 Q IS RACIALLY POLARIZED VOTING A TOPIC THAT
10 YOU PUBLISH ON?

11 A YEAH. IT HAS COME UP IN A COUPLE OF THE
12 ARTICLES I HAVE PUBLISHED.

13 Q CAN YOU POINT THOSE ARTICLES OUT TO THE
14 COURT?

15 A SURE. SO POLITICAL RACIAL CYCLES, THE
16 ELECTORAL CYCLES IN RACIAL POLARIZATION IN THE 2006
17 SENATE ELECTIONS, AND THEN THE ELECTORAL GEOGRAPHY OF
18 BLACK ELECTORAL SUCCESS.

19 Q AND AGAIN, BOTH OF THOSE ARTICLES ARE
20 REFLECTED ON YOUR C.V. IS THAT RIGHT?

21 A YES, THAT IS CORRECT.

22 Q DR. KING, ARE YOU FAMILIAR WITH REGRESSION
23 ANALYSIS?

24 A YES, I AM.

25 Q HOW DID YOU BECOME FAMILIAR WITH IT?

11:07a

1 A IN GRADUATE SCHOOL IN A METHODS COURSE.

2 Q DO YOU USE REGRESSION ANALYSIS IN YOUR WORK?

3 A YES, IT HAS COME UP IN MY WORK.

4 Q CAN YOU BRIEFLY DESCRIBE WHAT REGRESSION
5 ANALYSIS IS FOR US?

6 A SURE. ESSENTIALLY REGRESSION ANALYSIS IS
7 JUST SEEING WHAT THE EFFECTS OF ONE VARIABLE ARE ON
8 OTHER VARIABLES.

9 Q AND ARE YOU FAMILIAR WITH ECOLOGICAL
10 INFERENCE?

11 A YES, I AM.

12 Q IF I REFER TO IT AS EI, WILL YOU UNDERSTAND
13 WHAT I MEAN?

14 A YES.

15 Q DO YOU ENCOUNTER ECOLOGICAL INFERENCE IN
16 YOUR WORK?

17 A YES, ESPECIALLY AND MOST RELEVANT TO, YOU
18 KNOW, UNDERSTANDING THIS SORT OF SPECIFIC WORK THAT
19 WE'RE LOOKING AT IN THIS SORT OF CASE; YOU KNOW,
20 UNDERSTANDING VOTING BEHAVIOR.

21 Q WHEN YOU SAY "THIS SORT OF CASE," WHAT DO
22 YOU MEAN BY THAT?

23 A SO REDISTRICTING CASES, YES.

24 Q AND CAN YOU BRIEFLY DESCRIBE WHAT ECOLOGICAL
25 INFERENCE ACCOMPLISHES TO THE COURT?

11:08a

1 A SURE. SO ESSENTIALLY YOU'RE JUST TAKING --
2 YOU'RE TRYING TO UNCOVER INDIVIDUAL LEVEL BEHAVIOR
3 WITH AGGREGATE DATA. SO ESSENTIALLY YOU'VE GOT A
4 POPULATION AND THEN YOU'RE TRYING TO FIGURE OUT MAYBE
5 HOW A SUBPOPULATION BEHAVED. AND SO ECOLOGICAL
6 INFERENCE IS THE TOOL AND IT'S WHAT'S RECOMMENDED FOR
7 USE IN REDISTRICTING CASES INVOLVING RACE, YES.

8 **MS. GIGLIO:** YOUR HONOR, AT THIS TIME
9 PLAINTIFFS SEEK TO MOVE DR. KING'S REPORT, WHICH IS
10 PLAINTIFFS 133, AND DR. KING'S C.V., WHICH IS
11 PLAINTIFFS 134, INTO EVIDENCE. PLAINTIFFS ALSO SEEK
12 TO TENDER DR. KING AS AN EXPERT IN POLITICAL SCIENCE,
13 VOTING BEHAVIOR, AND RACIALLY POLARIZED VOTING.

14 **THE COURT:** ALL RIGHT. ANY CROSS ON THE
15 TENDER?

16 **MR. LEWIS:** NO, YOUR HONOR.

17 **THE COURT:** AND NO OBJECTIONS TO THE
18 ADMISSIONS?

19 **MR. LEWIS:** THAT IS CORRECT, YOUR HONOR.

20 **THE COURT:** THE C.V. AND REPORT ARE
21 ADMITTED.

22 **DIRECT EXAMINATION**

23 **BY MS. GIGLIO:**

24 Q DR. KING, WE'RE NOW GOING TO TAKE A LOOK AT
25 THE EXPERT REPORT THAT YOU PREPARED IN THIS CASE.

11:09a

1 AND CAN WE PULL UP PLAINTIFFS' EXHIBIT 133.

2 AND IF YOU TURN TO THE FIRST TAB IN YOUR
3 BINDER, DR. KING, IS THAT A COPY OF THE REPORT THAT
4 YOU PREPARED FOR THIS CASE?

5 A YES, IT IS.

6 Q AND, DR. KING, WHAT WERE YOU ASKED TO DO?

7 A I WAS ASKED TO PROVIDE A REBUTTAL REPORT TO
8 DR. ALFORD SPECIFIC TO HIS CONCLUSIONS ON THE
9 EXISTENCE OR NONEXISTENCE OF RACIALLY POLARIZED
10 VOTING AS WELL AS A DISCUSSION ON COHESION AND POLICY
11 PREFERENCES.

12 Q AND I'M GOING TO TAKE THOSE IN TURN, DR.
13 KING. WHAT DID YOU DO TO REBUT DR. ALFORD'S
14 CONCLUSIONS REGARDING POLITICAL -- OR REGARDING THE
15 EXISTENCE OF RACIAL POLARIZATION?

16 A SO I RAN A ECOLOGICAL INFERENCE TEST ON AN
17 ELECTION -- THE 2022 U.S. SENATE ELECTION. AND I DID
18 IT SLIGHTLY DIFFERENT THAN SOME OTHER ECOLOGICAL
19 INFERENCE TESTS, BUT -- JUST BECAUSE I WANTED TO
20 RECREATE A DEMOCRATIC PRIMARY, WHICH DOESN'T STRICTLY
21 EXIST HERE IN LOUISIANA BECAUSE OF LOUISIANA'S UNIQUE
22 ELECTORAL SYSTEM.

23 Q CAN YOU TELL US A LITTLE BIT ABOUT WHY OR
24 HOW LOUISIANA'S ELECTORAL SYSTEM IS UNIQUE?

25 A SURE. SO, YOU KNOW, HISTORICALLY IT WAS

11:11a

1 KNOWN AS A JUNGLE PRIMARY WHERE IN LOUISIANA YOU
2 WOULD HAVE CANDIDATES OF BOTH PARTIES, REPUBLICAN AND
3 DEMOCRATS AS WELL AS INDEPENDENTS, ALL ON ONE BALLOT.
4 AND SO THEN VOTERS WOULD BE FACED WITH ANY NUMEROUS
5 NUMBER OF CANDIDATES.

6 AND SO IN DR. ALFORD'S REPORT, HIS
7 CONCLUSION IS THAT THERE IS EVIDENCE OF PARTY
8 POLARIZATION. AND PARTY POLARIZATION DOES EXIST, BUT
9 THAT DOESN'T MEAN THAT RACIAL POLARIZATION DOESN'T
10 ALSO EXIST. AND SO WHAT I WANTED TO DO ESSENTIALLY
11 WAS SIMULATE A DEMOCRATIC PRIMARY. IN OTHER STATES
12 YOU REALLY WOULDN'T HAVE TO WORRY ABOUT IT. YOU
13 WOULD HAVE A DEMOCRATIC PRIMARY AND A REPUBLICAN
14 PRIMARY. BUT HERE IN LOUISIANA THAT'S NOT THE CASE.

15 SO ESSENTIALLY WHAT I DID WAS JUST -- IN THE
16 ANALYSIS I RAN THE SAME ECOLOGICAL INFERENCE METHODS.
17 IT WAS JUST A DIFFERENT UNIT OF ANALYSIS. SO I JUST
18 EXCLUDED THE REGISTERED REPUBLICANS AND JUST FOCUSED
19 ON REGISTERED DEMOCRATS. AND THAT WAY PARTISANSHIP
20 IS KIND OF OUT OF THE EQUATION AND NOW WE'RE JUST
21 LOOKING AT: IS THERE STILL A DIFFERENCE IN VOTING
22 AMONG WHITE VOTERS AND BLACK VOTERS, BUT NOW YOU'VE
23 ELIMINATED PARTY. SO THAT'S WHAT I WANTED TO DO.

24 Q EXCUSE ME. HOW DID THE 2022 U.S. SENATE
25 ELECTION IN LOUISIANA ALLOW YOU TO ACCOMPLISH THIS

11:12a

1 GOAL?

2 A WELL, SO THE NICE THING ABOUT A FEDERAL
3 SENATE ELECTION IS IT'S A BIG ELECTION, AND THAT'S
4 IMPORTANT IN THE SENSE THAT YOU'RE GOING TO HAVE THE
5 HIGHEST LEVELS OF TURNOUT WITH YOUR FEDERAL
6 ELECTIONS, ESPECIALLY A STATEWIDE FEDERAL ELECTION.
7 AND THEN ALSO THIS PARTICULAR ELECTION FEATURED A
8 VIABLE BLACK DEMOCRATIC CANDIDATE AS WELL AS A VIABLE
9 WHITE DEMOCRATIC CANDIDATE. SO YOU HAVE GARY
10 CHAMBERS, THE BLACK CANDIDATE, AND LUKE MIXON, THE
11 WHITE CANDIDATE. THERE WERE OTHER CANDIDATES AS
12 WELL, BUT YOU HAD TWO VIABLE CANDIDATES; ONE BLACK,
13 ONE WHITE.

14 Q WHAT DO YOU MEAN BY "VIABLE"?

15 A WHAT I MEAN IS THAT THEY RAISED MONEY, THEY
16 HAD NAME RECOGNITION, SO THEY WERE ABLE TO RUN
17 STRONG, CREDIBLE CAMPAIGNS. THERE WERE SOME MINOR
18 CANDIDATES THAT DID NOT RAISE SUBSTANTIAL AMOUNTS OF
19 MONEY, SO THEY WEREN'T ABLE TO REALLY CONDUCT A
20 STRONG CAMPAIGN, AND THEY WERE MINOR CANDIDATES, IF
21 YOU WILL. BUT THIS RACE FEATURED A VIABLE BLACK
22 CANDIDATE AS WELL AS A VIABLE WHITE CANDIDATE.

23 Q AND, DR. KING, WHAT DATA DID YOU USE TO
24 CONDUCT THE ECOLOGICAL INFERENCE ANALYSIS YOU DID ON
25 THE 2022 U.S. SENATE ELECTION IN LOUISIANA?

11:13a

1 A SO PLAINTIFFS' COUNSEL PROVIDED ME A DATA
2 SET WITH ALL OF THE INFORMATION. AND THEIR
3 INFORMATION CAME FROM THE SECRETARY OF STATE'S
4 INFORMATION, WHICH HAD THE VOTE RESULTS BY -- WELL,
5 ACTUALLY BY PRECINCT, BUT PARISH. AND IT HAD THE
6 NUMBER OF WHITE REGISTERED DEMOCRATS AND THE NUMBER
7 OF BLACK REGISTERED DEMOCRATS, YOU KNOW, SO THAT
8 INFORMATION IS JUST PROVIDED.

9 Q AND DID YOU DO ANYTHING TO CONFIRM THE
10 ACCURACY OF THAT DATA?

11 A SURE. I THEN LOOKED AT THE SECRETARY OF
12 STATE'S DATA JUST TO MAKE SURE THAT THE DATA I
13 RECEIVED FROM PLAINTIFFS COMPORTED WITH THE SECRETARY
14 OF STATE'S DATA. AND IT DID.

15 Q AND DO YOU THINK THAT ANALYZING ONLY
16 REGISTERED DEMOCRATS AS OPPOSED TO ALL VOTERS AFFECTS
17 THE RELIABILITY OF YOUR ANALYSIS?

18 A NO. IT'S THE SAME METHOD. IT'S JUST A
19 DIFFERENT UNIT OF ANALYSIS. THEY JUST FOCUSED ON
20 DEMOCRATS, AGAIN, JUST TO TAKE PARTISANSHIP OUT OF
21 THE EQUATION.

22 BUT THAT'S WHY IT WAS IMPORTANT TO DO A --
23 YOU KNOW, FOR ME AT LEAST -- A STATEWIDE FEDERAL
24 RACE, BECAUSE THEN YOU HAD A LARGE IN, A LARGE NUMBER
25 OF VOTERS; YOU KNOW, COMBINED -- I DON'T KNOW THE

11:15a

1 NUMBER OFFHAND. BUT COMBINED, CHAMBERS AND MIXON HAD
2 TWO HUNDRED AND FIFTY-SOMETHING THOUSAND VOTES, SO
3 YOU'RE DEALING WITH A LARGE NUMBER.

4 Q I'D LIKE TO TURN TO PAGE 5 AND 6 OF YOUR
5 REPORT, WHICH AGAIN IS PLAINTIFFS' EXHIBIT 133 FOR
6 THE RECORD, SPECIFICALLY TABLE 4.

7 A OKAY.

8 Q ARE THESE RESULTS OF THE ECOLOGICAL
9 INFERENCE ANALYSIS YOU CONDUCTED ON THE U.S. SENATE
10 ELECTION IN 2022 IN LOUISIANA?

11 A IT IS.

12 Q AND CAN YOU JUST DESCRIBE THE DATA THAT IS
13 REFLECTED IN THIS CHART FOR THE COURT?

14 A SURE. JUST MOVING LEFT TO RIGHT WE HAVE
15 FIVE COLUMNS. THE FIRST COLUMN LIST THE PARISH, AND
16 UNDERNEATH THAT YOU HAVE YOUR CREDIBLE INTERVALS,
17 WHICH IS JUST A MEASURE OF UNCERTAINTY. AND THEN
18 I'VE GOT THE PERCENTAGE OF BLACK SUPPORT FOR
19 CHAMBERS -- THIS WAS THE RESULTS FROM THE EI -- THE
20 PERCENTAGE OF WHITE SUPPORT FOR CHAMBERS, AND THEN
21 THE PERCENTAGE OF BLACK SUPPORT FOR MIXON AND THE
22 PERCENTAGE OF WHITE SUPPORT FOR MIXON.

23 Q AND CAN YOU REMIND THE COURT OF THE RACES OF
24 THESE CANDIDATES AGAIN?

25 A SURE. SO CHAMBERS, COLUMNS 2 AND 3, IS THE

11:16a

1 BLACK CANDIDATE; AND MIXON, COLUMNS 4 AND 5, WOULD BE
2 THE WHITE CANDIDATE.

3 Q AND, DR. KING, YOU INDICATE THAT YOU
4 SELECTED PARISHES TO ANALYZE HERE. HOW DID YOU
5 SELECT THOSE PARISHES?

6 A MY UNDERSTANDING IS THAT PLAINTIFFS ARE NOT
7 BRINGING A STATEWIDE CHALLENGE, AND SO THAT THE
8 PARISHES THAT I USED ARE THE ONES THAT ARE MOST
9 RELEVANT TO THE SPECIFIC CHALLENGE IN THIS CASE.

10 Q AND YOU INDICATED THAT THE -- THAT YOU
11 INCLUDED CREDIBLE -- CREDIBLE INTERVIEWS?

12 A INTERVALS, YES.

13 Q CREDIBLE INTERVALS. EXCUSE ME. AND THAT
14 THEY INDICATE A MEASURE OF UNCERTAINTY. CAN YOU
15 EXPLAIN THAT A LITTLE BIT FURTHER TO THE COURT?

16 A SURE. IT'S JUST A RANGE. SO ESSENTIALLY IF
17 YOU WERE TO RUN THIS TEST A HUNDRED TIMES, 95 PERCENT
18 OF THE TIME YOUR MEDIAN RESULT IS GOING TO BE
19 SOMEWHERE BETWEEN -- SO, FOR INSTANCE, WITH ASCENSION
20 AND BLACK SUPPORT FOR CHAMBERS, THE RANGE YOU'RE
21 GOING TO GET WILL BE SOMEWHERE BETWEEN 71 AND 76
22 PERCENT.

23 Q AND, DR. KING, LOOKING AT ALL OF TABLE 4 AS
24 A WHOLE -- AND IF WE COULD JUST PULL THEM UP SIDE BY
25 SIDE -- WHAT DOES THE EVIDENCE REFLECTED IN TABLE 4

11:17a

1 EVIDENCE?

2 A WHEN I LOOK AT THIS I SEE EVIDENCE OF
3 RACIALLY POLARIZED VOTING, BECAUSE, AGAIN, WE'RE JUST
4 LOOKING AT REGISTERED DEMOCRATIC VOTERS. AND SO, FOR
5 INSTANCE, WITH ASCENSION YOU SEE 73 -- ALMOST 74
6 PERCENT OF BLACKS SUPPORTED CHAMBERS BUT ONLY 40
7 PERCENT OF WHITES, SO THAT'S A 33 PERCENT GAP. AND
8 THEN LIKEWISE SUPPORT FOR MIXON YOU HAVE 25
9 PERCENT -- ALMOST 26 PERCENT OF BLACKS WHO SUPPORTED
10 MIXON BUT 60 PERCENT OF WHITES SUPPORTED MIXON. SO,
11 YOU KNOW, MORE THAN A TWO-TO-ONE DIFFERENCE. SO WHEN
12 I LOOK AT THAT, I'M SEEING EVIDENCE OF RACIALLY
13 POLARIZED VOTING.

14 Q WE CAN TAKE THIS DOWN.

15 SO, DR. KING, YOU INDICATED THAT YOU WERE --
16 YOU REVIEWED DR. ALFORD'S REPORT IN THIS CASE. IS
17 THAT RIGHT?

18 A YES, I DID.

19 Q SO I'D LIKE TO BRING UP DR. ALFORD'S REPORT.
20 THAT'S LDTX 53, AND IT'S BEEN PREVIOUSLY ADMITTED.
21 AND I'D LIKE TO PULL UP TABLE 3, WHICH IS ON PAGE 10
22 OF THIS REPORT. IF WE COULD BLOW THAT UP, THAT WOULD
23 BE GREAT.

24 SO, DR. KING, WHAT DO YOU UNDERSTAND TABLE 3
25 TO REPRESENT?

11:18a

1 A I AM LOOKING AT A VARIETY OF STATEWIDE
2 ELECTIONS SHOWING THE DATE, THE CONTEST, THE
3 CANDIDATES, THEIR PARTY, THEIR RACE, AND SIMILAR
4 ECOLOGICAL INFERENCE RESULTS.

5 Q AND I'D LIKE TO FOCUS SPECIFICALLY ON THE
6 DATA CONTAINED IN THE BOTTOM-MOST CHART OF THIS, OF
7 TABLE 3, WHICH IS THE NOVEMBER 2022 SENATE ELECTION.

8 DR. KING, IS THIS THE SAME ELECTION THAT YOU
9 ANALYZED IN YOUR REPORT?

10 A YES, IT IS.

11 Q AND CAN YOU WALK ME THROUGH WHAT
12 DR. ALFORD'S DATA INDICATES TO YOU?

13 A SURE. SO AGAIN, WE'RE LOOKING AT THE DATE,
14 THE CONTEST, THE CANDIDATES; WE'VE GOT THEIR PARTY
15 AND THEIR RACE AND THEN THE BLACK SUPPORT, AGAIN,
16 WITH THOSE CREDIBLE INTERVALS, AND THEN THE WHITE
17 SUPPORT WITH THOSE CREDIBLE INTERVALS.

18 Q WHAT WAS THE BLACK SUPPORT FOR MR. CHAMBERS,
19 THE BLACK CANDIDATE IN THIS RACE, AS REPORTED BY DR.
20 ALFORD?

21 A SO THIS IS 56.8 PERCENT. AND I WOULD JUST
22 NOTE THAT THIS WOULD BE STATEWIDE RESULTS.

23 Q AND THIS -- THESE RESULTS REFLECT ALL
24 VOTERS?

25 A YES. YES. WE'VE GOT BOTH DEMOCRATS AND

11:19a

1 REPUBLICAN VOTERS HERE, YES.

2 Q UNDERSTOOD. SO WE INDICATE -- YOU INDICATED
3 EARLIER THAT THE BLACK SUPPORT FOR GARY CHAMBERS AS
4 REFLECTED IN DR. ALFORD'S DATA IS 56.8 PERCENT. WHAT
5 ABOUT THE WHITE SUPPORT FOR GARY CHAMBERS AS
6 REFLECTED IN DR. ALFORD'S REPORT?

7 A 4.3 PERCENT.

8 Q AND CAN WE TAKE US THROUGH THE DATA
9 REFLECTED FOR MR. MIXON, THE WHITE CANDIDATE?

10 A SURE. FOR MR. MIXON IT IS 23.9 PERCENT
11 BLACK SUPPORT AND NINE PERCENT WHITE SUPPORT. SO
12 JUST -- YOU KNOW, SO THAT WOULD BE AMONG, YOU KNOW,
13 VOTES FOR THE DEMOCRATS THERE. SO NINE PERCENT OF
14 WHITES VOTED FOR MIXON, FOUR PERCENT OF WHITES VOTED
15 FOR CHAMBERS.

16 Q AND HOW DID THOSE RESULTS COMPARE?

17 A SO WHEN I LOOK AT THAT, I'M SEEING A --
18 ESSENTIALLY LIKE A TWO-TO-ONE DIFFERENCE. SO AMONG
19 VOTE -- AMONG PEOPLE WHO VOTED FOR DEMOCRATS, I'M
20 SEEING A TWO-TO-ONE ADVANTAGE FOR THE WHITE CANDIDATE
21 FROM WHITE VOTERS, SO I'M SEEING RACIALLY POLARIZED
22 VOTING JUST -- WHEN YOU JUST LOOK AT DEMOCRATS.

23 AND SO WHEN I WAS DOING MY REBUTTAL,
24 ACTUALLY I SAW THIS FIRST AND I THOUGHT, OKAY, THIS
25 IS EVIDENCE OF RACIALLY POLARIZED VOTING. AND SO

11:21a

1 THEN I JUST WANTED TO LOOK AT THOSE PARISHES SPECIFIC
2 TO THE AREAS THAT ARE BEING CHALLENGED IN THIS CASE.

3 Q UNDERSTOOD. I'D LIKE TO TAKE ANOTHER --
4 TAKE A LOOK AT ANOTHER ELECTION CONTAINED IN TABLE 3
5 OF DR. ALFORD'S REPORT. CAN WE TURN TO PAGE 9 OF DR.
6 ALFORD'S REPORT. AND AGAIN, THIS IS LDTX 53. SO I'D
7 LIKE TO TAKE A LOOK AT THE ELECTION THAT TOOK PLACE
8 IN NOVEMBER 2018 FOR SECRETARY OF STATE.

9 AND, DR. KING, BASED ON THE DATA IN FRONT OF
10 YOU, HOW MANY DEMOCRATS RAN IN THIS ELECTION?

11 A I SEE TWO CANDIDATES.

12 Q AND WHO WERE THEY?

13 A WE HAVE GWEN COLLINS-GREENUP, WHO IS BLACK,
14 AND RENEE FONTENOT FREE, WHO IS WHITE.

15 Q WHAT ARE THE -- YOU ALREADY GAVE ME THE
16 RESPECTIVE RACES, DR. KING. WAY TO JUMP AHEAD.

17 A APOLOGIES.

18 Q SO LET'S LOOK AT THE PERCENTAGE OF BLACK
19 SUPPORT FOR MS. COLLINS-GREENUP AS REFLECTED. WHAT
20 DOES THAT FIGURE REFLECT?

21 A SO I SEE 56.3 PERCENT BLACK SUPPORT FOR
22 COLLINS-GREENUP.

23 Q WHAT WAS THE PERCENTAGE OF WHITE SUPPORT FOR
24 MS. COLLINS-GREENUP?

25 A 5.4 PERCENT.

11:22a

1 Q WHAT ABOUT FOR MS. FONTENOT FREE? WHAT WAS
2 THE BLACK SUPPORT FOR MS. FONTENOT FREE?

3 A 31.1 PERCENT.

4 Q AND WHAT ABOUT THE WHITE SUPPORT FOR
5 MS. FONTENOT FREE?

6 A 9.7 PERCENT.

7 Q AND AGAIN, WHAT CONCLUSIONS CAN YOU DRAW
8 FROM THIS ELECTION?

9 A WHILE IT'S NOT QUITE A TWO-TO-ONE, IT'S MORE
10 ABOUT -- I CAN'T DO THAT MATH IN MY HEAD, BUT 1.75
11 PERCENT DIFFERENCE ROUGHLY. SO I'M SEEING EVIDENCE
12 OF RACIALLY POLARIZED VOTING. SO JUST EVEN AMONG
13 THOSE VOTING FOR THE DEMOCRATS, WE SEE WHITE AND
14 BLACK VOTERS DIFFER SUBSTANTIALLY ON THEIR PREFERRED
15 CANDIDATE.

16 Q AND IN YOUR EXPERT OPINION, DR. KING, WHAT
17 DOES THE EI ANALYSIS THAT WE JUST EXAMINED FROM
18 YOURSELF AND FROM DR. ALFORD TELL YOU ABOUT VOTING
19 BEHAVIOR IN LOUISIANA?

20 A IT TELLS ME THAT PARTY POLARIZATION IS ONLY
21 PART OF THE STORY, THAT RACIAL POLARIZATION ALSO
22 EXISTS EVEN AMONG COPARTISANS. AND BY "COPARTISANS,"
23 I MEAN EVEN PEOPLE WHO SHARE THE SAME PARTY
24 IDENTIFICATION, YOU STILL SEE RACIALLY POLARIZED
25 PREFERENCES. VOTERS CAN SHARE THE SAME PARTY BUT NOT

11:23a

1 WANT THE SAME CANDIDATE. WE ARE SEEING THIS WITH
2 THE -- SORRY. I WAS GOING TO SAY THE REPUBLICAN
3 PRESIDENTIAL NOMINATION RIGHT NOW. SO YOU CAN SHARE
4 THE SAME PARTY BUT HAVE STRONGLY DIFFERENT
5 PREFERENCES ON WHO YOU WANT.

6 Q HOW, IF AT ALL, DOES THIS OBSERVATION IMPACT
7 BLACK VOTERS IN LOUISIANA?

8 A OH. WELL, WHAT IT MEANS IS IN THE ABSENCE
9 OF A DISTRICT DRAWN WHERE BLACKS ARE A NUMERIC
10 MAJORITY, LIKE A MAJORITY-MINORITY DISTRICT OR AT
11 LEAST A STRONG POLARITY, BLACK VOTERS CANNOT COUNT ON
12 WHITE COPARTISANS TO ELECT THEIR PREFERRED CANDIDATE.

13 Q DR. KING, I'D LIKE TO MOVE TO A
14 DISCUSSION -- THANK YOU SO MUCH, STEPHEN.

15 I'D LIKE TO MOVE TO A DISCUSSION OF THE
16 CONCEPT OF COHESION. WHAT IS YOUR UNDERSTANDING OF
17 COHESION?

18 A COHESION IS WHEN YOU HAVE -- YOU KNOW, SO IN
19 THIS INSTANCE WHERE WE'RE DEALING WITH RACIAL GROUPS,
20 COHESION WOULD BE WHERE YOU HAVE MORE THAN 50 PERCENT
21 SUPPORT FOR A PREFERRED CANDIDATE.

22 Q AND ARE YOU FAMILIAR WITH DR. ALFORD'S
23 PERSPECTIVE ON COHESION?

24 A YES, I AM.

25 Q WHAT IS IT?

11:24a

1 A SO MY UNDERSTANDING OF DR. ALFORD'S -- THE
2 WAY HE REPRESENTS COHESION IS THAT IT'S A CONTINUUM
3 BUT THAT YOU -- IN ORDER TO -- COHESION TO BE
4 OPERATIONAL OR DEFINITIVE, IT WOULD NEED TO BE CLOSER
5 TO 70 PERCENT OR MORE, EVEN CLOSER TO 80 PERCENT. HE
6 DOES NOT -- IN HIS REPORT HE SAYS THAT THERE IS NOT A
7 THRESHOLD OR A CUT POINT, WHICH I WOULD AGREE WITH.
8 BUT I WOULD ARGUE THAT 70 PERCENT IS TOO HIGH TO SAY
9 THAT A GROUP IS VOTING COHESIVELY.

10 Q YOU INDICATED THAT YOU WOULD AGREE WITH DR.
11 ALFORD THAT THERE IS NO THRESHOLD. IS THERE ANY
12 POLITICAL SCIENCE LITERATURE THAT YOU'RE AWARE OF
13 THAT DISCUSSES A THRESHOLD?

14 A THERE IS NOT.

15 Q YOU MENTIONED BEFORE, DR. KING, THAT
16 LOUISIANA HAS A UNIQUE ELECTION SYSTEM. DOES THAT
17 UNIQUE ELECTION SYSTEM AFFECT YOUR UNDERSTANDING OF
18 COHESION?

19 A SURE. SO PRIMARIES AND GENERAL ELECTIONS
20 ARE GOING TO SEE SOMETHING DIFFERENT, AND THAT'S JUST
21 BECAUSE IN PRIMARIES WHERE YOU'VE GOT LOTS OF
22 CANDIDATES, BY DEFINITION -- I SHOULDN'T SAY BY
23 DEFINITION, BUT ALMOST INVARIABLY YOU'RE GOING TO
24 HAVE VOTES SPREAD OUT AMONG MORE CANDIDATES. AND SO
25 AS A RESULT, YOU'RE LESS LIKELY TO SEE COHESION

11:26a

1 REACHED. I WOULD STILL SAY IT'S THE SAME -- TO ME
2 COHESION IS ONCE YOU GET TO ABOUT 50 PERCENT.

3 BUT IN A GENERAL ELECTION WHERE YOU JUST
4 HAVE TWO CANDIDATES, COHESION IS GOING TO LOOK --
5 IT'S GOING TO BE EASIER TO REACH THAT BAR BECAUSE
6 YOU'RE JUST LOOKING AT TWO CANDIDATES. BUT IN A
7 WIDE-RANGING PRIMARY, ESPECIALLY THE WAY IT'S
8 CONDUCTED IN LOUISIANA WHERE YOU CAN HAVE MANY, MANY
9 CANDIDATES OF BOTH PARTIES, COHESION IS GOING TO LOOK
10 DIFFERENT.

11 Q AND ARE YOU AWARE OF ANY POLITICAL SCIENCE
12 LITERATURE THAT DISCUSSES THE CONCEPT OF COHESION?

13 A NO, NOT IN THIS SENSE. THE ONLY -- THE ONLY
14 PLACE WHERE I'VE SEEN VOTING COHESION TALKED ABOUT IN
15 A SIMILAR MANNER IS ACTUALLY IN STUDIES OF
16 LEGISLATIVE BODIES, SO SPECIFICALLY HOW PARTIES VOTE
17 TOGETHER, HOW MAYBE DEMOCRATS VOTE TOGETHER AS A
18 GROUP AGAINST REPUBLICANS IN LEGISLATIVE, SO IN
19 CONGRESS OR IN STATE LEGISLATIVE BODIES. BUT EVEN
20 THEN THERE IS NO DEFINITION OF SAYING HERE'S WHEN
21 COHESION IS MET.

22 BUT, YOU KNOW, THE CLOSER YOU GET TO 100
23 PERCENT IN SAYING THAT'S COHESIVE, THEN YOU'RE REALLY
24 ACTUALLY GETTING TOWARDS UNANIMITY, WHICH TO ME IS A
25 DIFFERENT STANDARD THAN COHESION.

11:27a

1 Q UNDERSTOOD. DR. KING, ARE YOU FAMILIAR WITH
2 DR. MURRAY'S PERSPECTIVE ON COHESION?

3 A YES. I LOOKED AT A COUPLE OF PARAGRAPHS OF
4 DR. MURRAY'S REPORT, NOT HIS ENTIRE REPORT BUT JUST A
5 COUPLE OF THOSE PARAGRAPHS DEALING WITH COHESION.
6 AND MY UNDERSTANDING OF DR. MURRAY'S REPORT IS THAT
7 IF YOU REDUCE THE NUMBER OF BLACKS, THE BLACK VOTING
8 AGE POPULATION IN A DISTRICT, THAT THAT MIGHT SOMEHOW
9 REDUCE COHESION.

10 Q AND DO YOU AGREE WITH THAT PERSPECTIVE?

11 A NO. COHESION IS IRRESPECTIVE OF THE NUMBER
12 OF -- THE BLACK VOTING AGE POPULATION IN A DISTRICT.
13 SO YOU COULD HAVE 50 BLACKS OR 500,000 BLACKS, BUT
14 THAT'S NOT GOING TO CHANGE COHESION OR HOW I WOULD
15 THINK OF WHAT COHESION MEANS.

16 Q UNDERSTOOD. I'D LIKE TO TAKE A LOOK AT
17 ANOTHER PORTION OF YOUR REPORT, DR. KING. SO IF WE
18 COULD TURN TO TABLE 5, WHICH IS PAGE 7 OF PLAINTIFFS'
19 EXHIBIT 133.

20 DR. KING, WHAT TABLE -- WHAT DATA IS SHOWN
21 IN TABLE 5?

22 A SO THIS IS WHITE SUPPORT FOR RECENT
23 DEMOCRATIC PRESIDENTIAL NOMINEES.

24 Q WHY DID YOU INCLUDE THIS DATA IN YOUR
25 REPORT?

11:28a

1 A WELL, AGAIN, AS I WAS WRITING A REBUTTAL
2 REPORT TO DR. ALFORD, HE HAD TALKED ABOUT IN HIS
3 REPORT THE PERFORMANCE OF THE CLINTON-KAINE TICKET IN
4 2016 AND HOW IT PERFORMED POORLY AMONG WHITES. AND
5 HE WAS USING IT TO DEMONSTRATE THAT AN ALL-WHITE
6 TICKET, THAT THERE WAS STILL -- THAT THERE WAS STILL
7 -- HE WAS JUST ESSENTIALLY -- FROM MY RECOLLECTION
8 NOW IS THAT HE WAS CITING THE CLINTON-KAINE TICKET AS
9 A PROXY FOR WHITE SUPPORT FOR -- WHITE VOTER SUPPORT
10 FOR AN ALL-WHITE DEMOCRATIC TICKET.

11 Q HOW DOES THE DATA THAT YOU INCLUDE IN TABLE
12 5 ADDRESS THAT CONCLUSION?

13 A I JUST WANTED TO PUT IT IN CONTEXT HOW WELL
14 CLINTON AND KAINE DID. CLINTON AND KAINE WERE
15 PARTICULARLY ILL-RECEIVED IN LOUISIANA AND OTHER DEEP
16 SOUTH STATES, AND SO I JUST WANTED TO PUT THAT IN
17 CONTEXT. SO DEPENDING ON WHICH CANDIDATE YOU SELECT,
18 YOU CAN ALWAYS DRAW, YOU KNOW, CERTAIN INFERENCES.
19 BUT CLINTON-KAINE WERE PARTICULARLY UNDERPERFORMING,
20 IF YOU WILL, AND SO I JUST WANTED TO ILLUSTRATE THAT
21 WITH THIS.

22 Q ARE ANY OTHER ALL-WHITE TICKETS REFLECTED ON
23 THIS CHART?

24 A WELL, SURE. SO IN PARTICULAR IN 2004 YOU
25 HAVE THE KERRY-LIEBERMAN TICKET WHICH RECEIVED 41

11:30a

1 PERCENT SUPPORT, SO FOUR PERCENT MORE THAN CLINTON-
2 Kaine. AND IN MY REPORT I REFERENCE SOME LITERATURE
3 SPECIFIC TO LOUISIANA AND THE WHITE VOTER SUPPORT FOR
4 THESE -- IN THESE ELECTIONS.

5 Q WE CAN TAKE THIS DOWN.

6 SO, DR. KING, I'D LIKE TO MOVE TO A
7 DISCUSSION OF ONE OF THE OTHER ISSUES THAT YOU
8 STATED YOU ADDRESSED IN YOUR REPORT, WHICH IS BLACK
9 AND WHITE ATTITUDES ON POLICY ISSUES.

10 A OKAY.

11 Q WHAT DO YOU UNDERSTAND DR. ALFORD'S POSITION
12 TO BE ON THAT TOPIC?

13 A MY UNDERSTANDING OF DR. ALFORD'S REPORT IS
14 THAT BECAUSE WE ELECTED -- "WE" AS IN AMERICANS --
15 ELECTED A BLACK MAN, BARACK OBAMA, AS PRESIDENT AND
16 BECAUSE THERE IS SOME PUBLIC OPINION POLLING SHOWING
17 CONVERGENCE ON INTERRACIAL MARRIAGE, THAT BLACKS AND
18 WHITES HAVE LARGELY THE SAME POLICY PREFERENCES.

19 Q DO YOU AGREE WITH DR. ALFORD'S POSITION?

20 A I DO NOT.

21 Q WHY NOT?

22 A SO FIRST, WHEN IT COMES TO INTERRACIAL
23 MARRIAGE, IT HAS BEEN SETTLED LAW SINCE 1967 WITH THE
24 *LOVING V VIRGINIA* DECISION, AND AS A RESULT IT'S NOT
25 A SALIENT ISSUE. IT JUST MEANS THIS ISN'T SOMETHING

11:31a

1 THAT PEOPLE ARE THINKING ABOUT WHEN THEY'RE VOTING,
2 BECAUSE IT'S SETTLED LAW. AND SO AS A RESULT, IT'S
3 NOT THE MOST RELEVANT -- IT'S RELEVANT BUT IT'S NOT
4 SALIENT.

5 MORE IMPORTANTLY, YOU'VE GOT SOMETHING OF A
6 SOCIAL DESIRABILITY BIAS, SO WITH SOME SPECIFIC
7 ISSUES IN INTERRACIAL MARRIAGE WOULD BE ONE OF THEM.
8 SOCIAL DESIRABILITY BIAS JUST SIMPLY MEANS THAT
9 RESPONDENTS TO SURVEYS MAY NOT GIVE THEIR FULLY
10 TRUTHFUL ANSWER FOR FEAR OF OFFENDING OR JUST SAYING
11 SOMETHING THAT THEY MIGHT -- THEY KNOW MIGHT BE
12 CONSIDERED AS LIKE POLITICALLY INCORRECT, IF YOU
13 WILL. AND SO THAT CAN BE AN ISSUE WITH THAT.

14 BUT MORE IMPORTANTLY, YOU KNOW -- SO BEYOND
15 THOSE SPECIFIC CRITICISMS OF INTERRACIAL MARRIAGE TO
16 ACT AS A PROXY FOR POLICY CONVERGENCE, I WOULD JUST
17 SAY THAT THERE ARE MANY OTHER EXAMPLES OF PUBLIC
18 POLICY ISSUES WHERE WE KNOW THERE IS WIDE POLICY
19 DIVERGENCE BETWEEN BLACKS AND WHITES.

20 Q SO I JUST WANT TO BREAK THAT DOWN A LITTLE
21 BIT. SO YOU SAID THAT THE CONCEPT OF SOCIAL
22 DESIRABILITY BIAS COULD IMPACT SURVEY RESULTS ON
23 ISSUES LIKE INTERRACIAL MARRIAGE. HOW WOULD THAT
24 POSSIBLY PLAY OUT?

25 A SO LET ME -- COULD YOU REASK THAT? I JUST

11:33a

1 WANT TO MAKE SURE I UNDERSTAND WHAT YOU'RE ASKING ME.

2 Q SURE. SO YOU INDICATED THAT SOCIAL
3 DESIRABILITY BIAS COULD IMPACT POLLING RESULTS ON
4 ISSUES LIKE INTERRACIAL MARRIAGE. HOW WOULD IT
5 IMPACT POLLING RESULTS?

6 A WELL, SO IF PEOPLE DON'T GIVE THEIR
7 FORTHRIGHT RESPONSE, THERE IS SOME -- IN THE
8 POLITICAL SCIENCE LITERATURE THERE IS SOME RATIONALE
9 WHY PEOPLE MIGHT DO THAT. AND SO IF THEY DO THAT,
10 THEN IT MIGHT -- WE MIGHT HAVE A CONFUSED SENSE OF
11 WHAT POLICIES ARE MOST IMPORTANT FOR BLACK VOTERS AND
12 WHITE VOTERS. AND SO IN THE LITERATURE THERE IS
13 EVIDENCE OF HOW THIS SOCIAL DESIRABILITY BIAS CAN
14 AFFECT OUR UNDERSTANDING OF PUBLIC POLICY
15 PREFERENCES.

16 Q DOES DR. ALFORD CITE POLLING TO SUPPORT HIS
17 VIEWS ON INTERRACIAL MARRIAGE?

18 A YES. SO HE CITES A -- YES, HE DOES. HE
19 USES GALLUP, AND I USE GALLUP AS WELL.

20 Q SO HE USES A GALLUP POLL TO SUPPORT HIS
21 POSITION ON INTERRACIAL MARRIAGE ON CHANGING
22 ATTITUDES?

23 A I BELIEVE THAT'S WHAT HE USES, YES.

24 Q AND YOU ALSO INDICATED THAT THERE ARE OTHER
25 POLICY ISSUES THAT ARE MORE SALIENT THAN INTERRACIAL

11:34a

1 MARRIAGE. CAN YOU DESCRIBE THOSE KINDS OF POLICY
2 ISSUES TO THE COURT?

3 A SURE. SO, FOR INSTANCE, YOU WOULD HAVE USE
4 OF FORCE BY POLICE. THAT IS WHERE WE SEE -- AN
5 EXAMPLE WHERE WE SEE WIDE DIVERGENCE BETWEEN BLACKS
6 AND WHITES. ALSO WHEN PEOPLE ARE ASKED QUESTIONS
7 ABOUT WHETHER OR NOT BLACKS AND WHITES HAVE EQUAL
8 CHANCES TO SUCCEED, WE SEE WIDE DIVERGENCE. IN FACT,
9 THE POLLING SHOWS THAT THAT DIVERGENCE HAS GOTTEN
10 WIDER OVER TIME, EVEN DURING THE OBAMA
11 ADMINISTRATION. AND THAT'S ONE OF THE REASONS WHY I
12 WANTED TO USE THE GALLUP AS AIDS, INFORMATION THAT
13 DR. ALFORD USED. AND SO BECAUSE I WAS WRITING A
14 REBUTTAL REPORT, I JUST WANTED, YOU KNOW, SIMILAR
15 INFORMATION. BUT ALSO THE GALLUP POLL SPANS THE
16 OBAMA ADMINISTRATION.

17 AND SO SPECIFICALLY DR. ALFORD HAD SAID --
18 HAD CITED THE ELECTION OF BARACK OBAMA AS EVIDENCE
19 THAT WE'RE MOVING TOWARDS SOME SORT OF POST-RACIAL
20 AMERICA. BUT I JUST WANTED TO DEMONSTRATE, IN FACT,
21 THAT GALLUP SHOWS THE OPPOSITE.

22 Q AND IN YOUR OPINION, DR. ALFORD, WHAT
23 MOTIVATES THE GAP BETWEEN BLACK AND WHITE AMERICANS
24 ON THESE POLICY ISSUES?

25 A SO FOR A LONG TIME THE POLITICAL SCIENCE

11:35a

1 LITERATURE HAS UTILIZED THIS CONCEPT OF RACIAL
2 RESENTMENT IN EXPLAINING THE VOTING BEHAVIOR OF
3 WHITES.

4 Q WHAT IS RACIAL RESENTMENT?

5 A SO RACIAL RESENTMENT IS -- IT'S AN ATTITUDE
6 BORNE OF BOTH SOME ANTI-BLACK SENTIMENT MARRIED WITH
7 CONSERVATIVE VIEWS. AND SO BOTH GALLUP AS WELL AS
8 SOME -- MANY DIFFERENT POLITICAL SCIENCE SPECIFIC
9 POLLS HAVE BEEN ASKING QUESTIONS THAT GET AT RACIAL
10 RESENTMENT FOR MANY, MANY, MANY YEARS NOW.

11 Q SO IN THE GALLUP POLL THAT YOU REFERENCED,
12 HOW DOES THAT GALLUP POLL SEEK TO MEASURE RACIAL
13 RESENTMENT?

14 A SO I LIST FOUR DIFFERENT -- ON PAGES -- AT
15 LEAST ON THIS PAPER COPY I'VE GOT IN FRONT OF ME.

16 Q YEAH, WE CAN PULL IT UP.

17 A -- PAGES 9 AND 10 OF MY REPORT WHERE IT
18 LISTS --

19 Q AND THAT WILL BE PAGES -- JUST FOR THE
20 RECORD --

21 A SORRY.

22 Q I'M SO SORRY. NO, I'M SORRY, DR. KING. FOR
23 THE RECORD, THAT'S PAGES 10 AND 11 OF PL 133. THAT'S
24 JUST A PDF ISSUE. CAN WE HAVE THAT PULLED UP? 10
25 AND 11. GREAT.

11:37a

1 AND SO, DR. KING, I CAN REASK THE QUESTION.
2 SO HOW DOES THE GALLUP POLL MEASURE RACIAL RESENTMENT
3 AS INDICATED ON THESE PAGES?

4 A OKAY. SO, YOU KNOW, WE'VE GOT HERE -- SO AT
5 THE TOP HERE OF PAGE 10 ON THIS PDF, THAT WOULD BE
6 THE THIRD AND FOURTH QUESTIONS. SO THESE
7 QUESTIONS -- THE NICE THING ABOUT THESE QUESTIONS IS
8 THEY DON'T ASK ABOUT A SPECIFIC POLICY. IT'S JUST
9 MORE ABOUT AN ATTITUDE. AND SO THESE QUESTIONS ASKED
10 IN A VERY SIMILAR FORMAT OVER A NUMBER OF YEARS ALLOW
11 US TO UNDERSTAND IF PEOPLE HAVE DIFFERENT ATTITUDES
12 TOWARDS RACIAL GROUPS.

13 AND SO, FOR INSTANCE, WITH THIS QUESTION NO.
14 3: "IN GENERAL, DO YOU THINK THAT BLACKS HAVE AS
15 GOOD A CHANCE AS WHITES IN YOUR COMMUNITY TO GET ANY
16 HOUSING THEY CAN AFFORD, OR DON'T YOU THINK THEY HAVE
17 AS GOOD S A CHANCE?" AND THEN WITH NO. 4: "ARE
18 BLACKS TREATED LESS FAIRLY THAN WHITES?"

19 SO WHEN WE LOOK AT THESE QUESTIONS AND THEN
20 HOW PEOPLE ANSWER THEM AND THEN SEE HOW THAT AFFECTS
21 THEIR VOTING BEHAVIOR OR IF HOW PEOPLE RESPOND TO
22 THIS IN ANY WAY CORRELATES TO THEIR VOTING
23 BEHAVIOR -- OR IF THERE IS A RELATIONSHIP, I SHOULD
24 SAY -- THAT RACIAL RESENTMENT INDEX CAN TELL US A LOT
25 ABOUT WHO'S LIKELY TO SUPPORT CERTAIN CANDIDATES.

11:38a

1 Q HOW DOES IT TELL US WHO'S LIKELY TO SUPPORT
2 CERTAIN CANDIDATES?

3 A WELL, WHAT WE SEE IS WHITE VOTERS WHO
4 EXPRESS RACIAL RESENTMENT ARE LESS LIKELY TO SUPPORT
5 BLACK CANDIDATES EVEN WHEN THEY SHARE THE SAME PARTY.

6 Q AND, DR. KING, YOU INDICATED THAT THIS IS A
7 GALLUP SURVEY OR GALLUP POLL. WHY DO YOU THINK THAT
8 A GALLUP POLL IS A RELIABLE SOURCE OF THIS DATA?

9 A GALLUP POLL. GALLUP IS ONE OF THE MOST
10 WIDELY RESPECTED, LONG-USED POLLSTERS. THEY'VE BEEN
11 AROUND FOR DECADES. AGAIN, THERE IS OTHERS:
12 NATIONAL ELECTION STUDIES THAT POLITICAL SCIENTISTS
13 COMMONLY USE ASKS VERY SIMILAR QUESTIONS AND HAVE FOR
14 A LONG TIME. BUT GALLUP IS WIDELY RESPECTED, AND
15 THEY HAVE A GOOD TRACK RECORD. AND AGAIN, DR. ALFORD
16 ALSO USED GALLUP, SO I JUST WANTED TO USE SOMETHING
17 SIMILAR.

18 Q DOES TABLE 6 OF YOUR REPORT INDICATE THE
19 RESULTS OF THE GALLUP POLL?

20 A YES. AND --

21 Q CAN YOU DESCRIBE THEM FOR THE COURT?

22 A SURE. SO THIS IS JUST LOOKING AT WHITE
23 VOTERS. SO WE SEE THAT THERE ARE SOME LEVELS OF
24 RACIAL RESENTMENT AMONG BOTH BLACK -- EXCUSE ME --
25 AMONG BOTH DEMOCRATS, INDEPENDENTS AND REPUBLICANS.

11:39a

1 YOU TEND TO SEE OVER TIME RACIAL RESENTMENT WENT DOWN
2 A LITTLE BIT AMONG WHITE DEMOCRATS, IT STAYED
3 CONSTANT AMONG WHITE REPUBLICANS, BUT WE STILL SEE
4 IT. AND SO THERE IS LOTS OF IMPLICATIONS FOR THIS
5 EXISTENCE OF RACIAL RESENTMENT.

6 Q CAN YOU TELL US SOME OF THOSE IMPLICATIONS?

7 A WELL, WHAT IT MEANS IS THAT IF YOU'RE A
8 BLACK CANDIDATE, YOU CANNOT COUNT ON WHITE SUPPORT,
9 EVEN AMONG COPARTISANS, TO THE SAME LEVEL THAT YOU
10 MIGHT BE ABLE TO COUNT ON BLACK SUPPORT. SO WE OFTEN
11 USE THIS TO EXPLAIN WHY YOU MIGHT GET NON-VOTING, SO
12 YOU MIGHT GET A LOT OF PEOPLE WHO JUST STAY HOME ON
13 ELECTION DAY.

14 SO THE RESEARCH SHOWS THAT IF YOU'VE GOT
15 BLACK CANDIDATES, SAY, IN A BLACK PRIMARY, YOU'RE
16 MORE LIKELY TO HAVE RACIALLY RESENTFUL WHITE
17 DEMOCRATS JUST STAY HOME. THEY MAY NOT VOTE FOR THE
18 REPUBLICAN, BUT THEY MAY JUST NOT VOTE FOR ANYBODY AT
19 ALL, OR THEY'RE LESS LIKELY TO SUPPORT BLACK
20 CANDIDATES. AND THE REASON FOR THIS IS -- AS I
21 REFERENCED EARLIER -- IS PEOPLE CAN SHARE THE SAME
22 PARTY BUT STILL HAVE DIFFERENT PREFERENCES ON WHO
23 THEY WANT TO REPRESENT THEM.

24 Q WE CAN TAKE THIS DOWN.

25 DR. KING, YOU TALKED ABOUT HOW RACIAL

11:40a

1 RESENTMENT CAN IMPACT ELECTIONS. ARE THERE ANY
2 EXAMPLES OF RACIAL RESENTMENT IMPACTING ELECTIONS
3 THAT YOU CAN THINK OF?

4 A SURE. SO AS I CITE IN MY REPORT, THERE IS
5 RESEARCH SHOWING THAT BARACK OBAMA EVEN IN VICTORY
6 STILL LOST SUPPORT BECAUSE OF RACIALLY RESENTFUL
7 VOTERS; THAT LIKELY HE WOULD HAVE WON BY MORE, ALL
8 THINGS CONSIDERED, HAD IT NOT BEEN FOR RACIALLY
9 RESENTFUL VOTERS. AND WE ALSO KNOW AT -- THERE IS
10 ALSO SOME RESEARCH THAT I CITE AT LOWER LEVELS WHERE
11 YOU SEE SOMETHING SIMILAR, AND IT TENDS TO MANIFEST
12 ITSELF IN NON-VOTING, SO PEOPLE JUST STAY HOME. THEY
13 MAY NOT VOTE FOR THE REPUBLICAN BUT THEY JUST WON'T
14 VOTE AT ALL.

15 Q AND, DR. KING, IS THERE ANY EVIDENCE OF HOW
16 MUCH -- HOW MANY MORE VOTES PRESIDENT OBAMA MAY HAVE
17 GOTTEN IF NOT FOR RACIALLY RESENTFUL VOTERS?

18 A IN THE LITERATURE I CITE, THEY ESTIMATE THAT
19 IT'S THE EQUIVALENT OF ABOUT ONE STATE'S WORTH OF
20 ELECTORAL COLLEGE VOTES, SO ON AVERAGE THAT WOULD BE
21 ABOUT SEVEN ELECTORAL COLLEGE VOTES, WHICH HAD IT
22 BEEN A CLOSER ELECTION COULD HAVE BEEN -- WE KNOW HOW
23 MUCH A DIFFERENCE ONE STATE CAN MAKE IN PRESIDENTIAL
24 ELECTIONS.

25 Q JUST IN SUMMARY, DR. KING, WHAT DOES YOUR

11:42a

1 ANALYSIS INDICATE ABOUT BLACK LOUISIANANS' ABILITY TO
2 ELECT THEIR CANDIDATE OF CHOICE?

3 A IN THE ABSENCE OF DISTRICTS WHERE BLACKS ARE
4 A MAJORITY OR CLOSE TO MAJORITY -- A STRONG POLARITY,
5 I GUESS YOU COULD SAY IT -- THAT BLACK VOTERS
6 CANNOT -- EXCUSE ME -- BLACK CANDIDATES CANNOT JUST
7 ASSUME THAT WHITE CROSSOVER VOTES WILL BE THERE; THAT
8 THEY'LL BE IN SUBSTANTIAL ENOUGH NUMBERS FOR EITHER
9 THE BLACK CANDIDATE TO WIN OR FOR BLACK VOTERS TO
10 ELECT THEIR PREFERRED CANDIDATE. RACIAL RESENTMENT
11 WOULD ARGUE THAT THAT IS IN NO WAY GUARANTEED.

12 Q THANK YOU, DR. KING.

13 MS. GIGLIO: YOUR HONOR, MAY I HAVE A MOMENT
14 TO CONFER WITH COUNSEL?

15 THE COURT: YOU MAY.

16 MS. GIGLIO: YOUR HONOR, JUST QUICKLY,
17 BEFORE I TENDER THE WITNESS, WE NOTE THAT I'M NOT
18 SURE THAT YOU ACTUALLY TENDERED DR. KING AS AN EXPERT
19 WHEN RULING ON OUR TENDER.

20 THE COURT: ACCEPTING HIM AS AN EXPERT?

21 MS. GIGLIO: OH, DID YOU?

22 THE COURT: WELL, LET ME JUST -- I THOUGHT I
23 DID, BUT LET'S JUST MAKE SURE.

24 MS. GIGLIO: WELL, YOUR HONOR --

25 THE COURT: THE COURT ACCEPTS DR. KING TO

11:43a

1 GIVE OPINION TESTIMONY IN THE FIELDS OF POLITICAL
2 SCIENCE, VOTING BEHAVIOR, AND RACIALLY POLARIZED
3 VOTING. IS THAT THE CORRECT FIELDS?

4 MS. GIGLIO: YES, YOUR HONOR. THANK YOU
5 VERY MUCH. AND WE TENDER THE WITNESS.

6 THE COURT: MR. LEWIS, ABOUT HOW MUCH TIME
7 DO YOU THINK YOU NEED?

8 MR. LEWIS: I WOULD HOPE ABOUT 20 MINUTES.

9 THE COURT: OKAY.

10 CROSS-EXAMINATION

11 BY MR. LEWIS:

12 Q GOOD MORNING, DR. KING.

13 A GOOD MORNING. IS IT STILL MORNING?

14 Q IT IS. I JUST WANT TO GO THROUGH QUICKLY
15 SOME OF THE ASPECTS OF YOUR REPORT.

16 SO LET ME START BY ASKING YOU: YOU WERE
17 ASKED ON DIRECT EXAMINATION ABOUT YOUR EXPERIENCE
18 WITH THE ECOLOGICAL INFERENCE TECHNIQUE. IS THAT
19 RIGHT?

20 A CORRECT.

21 Q NOW, YOU'VE NOT CONDUCTED ECOLOGICAL
22 INFERENCE ANALYSES IN YOUR PUBLISHED RESEARCH. IS
23 THAT RIGHT?

24 A THAT IS CORRECT.

25 Q AND I BELIEVE YOU TAUGHT YOURSELF HOW TO USE

11:44a

1 THE SOFTWARE. IS THAT RIGHT?

2 A YES. I WOULD JUST SAY THAT THE SOFTWARE --
3 I'M NOT SURE IT EXISTED WHEN I WAS IN GRADUATE
4 SCHOOL. MAYBE IT DID, BUT IT WASN'T FAMILIAR TO ME,
5 SO I DIDN'T REALLY HAVE A CHOICE.

6 Q OKAY. ALL RIGHT. AND I BELIEVE YOU
7 TESTIFIED ON DIRECT EXAMINATION THAT YOU TOOK -- THE
8 VOTING DATA THAT YOU USED FOR YOUR ECOLOGICAL
9 INFERENCE ANALYSIS, YOU OBTAINED THAT DATA FROM THE
10 ACLU. IS THAT RIGHT?

11 A YES.

12 Q AND THEN I BELIEVE YOU INDICATED THAT YOU
13 ENSURED THAT YOUR DATA, QUOTE, COMPORTED WITH THE
14 SECRETARY OF STATE'S DATA. IS THAT RIGHT?

15 A YES.

16 Q BUT YOU'D AGREE WITH ME THAT THE SECRETARY
17 OF STATE'S OFFICE REPORTS EARLY AND ABSENTEE BALLOTS
18 AT THE PRECINCT -- OR EXCUSE ME -- AT THE PARISH
19 LEVEL INSTEAD OF THE PRECINCT LEVEL. IS THAT RIGHT?

20 A THAT'S MY UNDERSTANDING HOW THEY DO IT.

21 Q AND YOU'D AGREE WITH ME THAT THE DATA YOU
22 OBTAINED FROM THE ACLU HAD ALLOCATED THE CENTRAL
23 ABSENTEE AND EARLY VOTING DATA FROM THE PARISH TO THE
24 PRECINCT LEVEL. IS THAT RIGHT?

25 A YES, THAT'S MY UNDERSTANDING.

11:45a

1 Q AND YOU DIDN'T PERFORM THAT ALLOCATION
2 YOURSELF. RIGHT?

3 A I DID NOT.

4 Q TURNING TO YOUR ANALYSIS OF THE NOVEMBER
5 2022 U.S. SENATE ELECTION, AS I UNDERSTAND IT, YOU
6 RAN YOUR ECOLOGICAL INFERENCE STUDY BY COMPARING THE
7 TOP TWO DEMOCRATIC VOTE-GETTERS IN THAT ELECTION
8 AMONG VOTES CAST BY REGISTERED DEMOCRATS. IS THAT
9 RIGHT?

10 A YES.

11 Q ALL RIGHT. AND ARE YOU AWARE OF PUBLISHED
12 ACADEMIC RESEARCH THAT USES -- WELL, LET ME TAKE A
13 STEP BACK.

14 SO DO I UNDERSTAND CORRECTLY THAT THE
15 ECOLOGICAL INFERENCE TECHNIQUE THAT YOU USED IS
16 DESIGNED TO ESTIMATE THE PERCENTAGE OF WHITE AND
17 BLACK SUPPORT FOR A CANDIDATE BECAUSE YOU DON'T KNOW
18 HOW INDIVIDUALS ARE GOING TO VOTE. IS THAT RIGHT?

19 A YES, RIGHT. SO ECOLOGICAL INFERENCE IS
20 JUST, YOU KNOW, INFERRING, YOU KNOW, THAT VOTING
21 BEHAVIOR. BUT WE HAVE THE DATA OF HOW MANY BLACKS
22 AND WHITES VOTED BECAUSE THAT IS REPORTED.

23 Q SO JUST AT VERY, VERY HIGH LEVELS, IS IT THE
24 GENERAL IDEA THAT YOU'RE LOOKING THROUGHOUT THE --
25 YOU'RE COMPARING DIFFERENT PRECINCTS, YOU'RE

11:47a

1 COMPARING THE ELECTION RETURNS FROM THAT PRECINCT TO
2 THE PERCENTAGE OF THE RACIAL COMPOSITION OF THAT
3 PRECINCT. THAT'S THE BASIC IDEA AS TO HOW YOU'RE
4 ESTIMATING SUPPORT. RIGHT?

5 A WELL, I JUST LOOKED AT EVERYTHING AT THE
6 PARISH LEVEL, SO I DIDN'T --

7 Q I SEE.

8 A SO, YOU KNOW -- BECAUSE I JUST REPORTED IT
9 BY THE PARISHES, SO I JUST COMBINED ALL THE PRECINCT
10 DATA FOR EACH PARISH.

11 Q OKAY. I SEE. SO YOU JUST USED IT AT THE
12 PARISH LEVEL?

13 A YES, THAT'S RIGHT. THAT'S RIGHT. SO I
14 DIDN'T NEED TO -- HOW THOSE VOTES ARE ALLOCATED TO
15 THE PRECINCT LEVEL DOESN'T MATTER FOR ME BECAUSE I
16 JUST COMBINED IT ALL IN, YOU KNOW, PARISH TOTALS.

17 Q I SEE. ARE YOU AWARE OF PUBLISHED RESEARCH
18 THAT USES ECOLOGICAL INFERENCE TO SIMULTAN- -- TO
19 ESTIMATE TURNOUT AMONG BLACK DEMOCRATS VERSUS WHITE
20 DEMOCRATS; IN OTHER WORDS, WHERE YOU'RE CONTROLLING
21 FOR BOTH RACE AND PARTISAN AFFILIATION?

22 A WELL, I MEAN, THAT'S -- I MEAN, THAT WOULD
23 BE THE PURPOSE HERE, IS JUST TO -- WELL, YOU KNOW,
24 AND SO FOR ME BY RUNNING -- BY EXCLUDING THE
25 REPUBLICAN VOTES AND JUST LOOKING AT THE DEMOCRATIC

11:48a

1 VOTES, SO THEN I'M JUST FOCUSING ON DEMOCRATIC VOTES.

2 Q RIGHT. BUT --

3 A I MAY HAVE MISUNDERSTOOD THE QUESTION, SO IF
4 YOU WANT TO ASK IT AGAIN.

5 Q SURE. SO YOU DON'T -- YOU'RE NOT ABLE -- IN
6 YOUR DATABASE YOU'RE NOT ABLE TO EXCLUDE SPECIFIC
7 VOTES CAST BY REGISTERED REPUBLICANS. RIGHT?

8 A NO. I MEAN, THAT'S WHAT I DID, IS -- YOU
9 KNOW, WITH THE DATASET. SO THEN I -- I MEAN, SO ALL
10 OF THAT DATA WAS PRESENTED TO ME, BUT THEN I JUST
11 KIND OF SET THE REPUBLICAN VOTES ASIDE AND JUST
12 FOCUSED ON DEMOCRATIC VOTES, WHITES AND BLACKS WHO
13 ARE DEMOCRATIC, AND THEN THAT WAY PARTY IS OUT OF THE
14 EQUATION.

15 Q OKAY. BUT YOU HAD TO ESTIMATE THE VOTES
16 AMONG REGISTERED DEMOCRATS IN ORDER TO DO THAT
17 ANALYSIS. RIGHT?

18 A YEAH -- SO I WAS ESTIMATING THE PERCENT -- I
19 WAS ESTIMATING WHAT PERCENTAGE OF THE BLACK VOTE WENT
20 TO EACH CANDIDATE AND WHAT PERCENTAGE OF THE WHITE
21 VOTE WENT TO EACH CANDIDATE. BUT THE DATA AS
22 PRESENTED -- LIKE FROM THE SECRETARY OF STATE'S
23 WEBSITE THAT THE ACLU USED, IT PRESENTS WHITE
24 DEMOCRATIC VOTES, BLACK DEMOCRATIC VOTES, WHITE
25 REPUBLICAN VOTES. THERE AREN'T MANY BLACK REPUBLICAN

11:50a

1 VOTES USUALLY BUT THERE IS A HANDFUL AND -- YOU KNOW,
2 AT THE PRECINCT LEVEL. AND THEN I JUST KIND OF
3 AGGREGATED IT TO THE PARISH LEVEL. SO THAT ALL COMES
4 WITH THE DATA. SO I DON'T HAVE TO -- THE ONLY THING
5 I'M INFERRING IS JUST THE PERCENT THAT THE BLACK VOTE
6 WENT TO EACH CANDIDATE OR THE WHITE VOTE WENT TO EACH
7 CANDIDATE.

8 Q SINCE YOU DON'T KNOW HOW ANY PARTICULAR
9 PERSON VOTED, YOU'RE STILL HAVING TO DRAW AN
10 INFERENCE --

11 A YES.

12 Q -- ABOUT HOW WHITE --

13 A CORRECT.

14 Q -- ABOUT THE DIFFERENCE BETWEEN A REGISTERED
15 DEMOCRAT AND SOMEBODY THAT MIGHT BE A REGISTERED
16 INDEPENDENT THAT MIGHT ALSO VOTE FOR A DEMOCRAT.
17 RIGHT?

18 A YES. BUT I JUST LOOKED AT THE REGISTERED
19 DEMOCRATIC VOTERS.

20 Q AND IN ORDER FOR YOU TO LOOK AT JUST THE
21 REGISTERED DEMOCRATS, YOU HAD TO PERFORM AN
22 ESTIMATION PROCEDURE. CORRECT?

23 A NO. NO. I MEAN, IT -- THEY TELL YOU WHO'S
24 VOTING -- I MEAN, SO THE DATA TELLS YOU WHO'S -- LIKE
25 HOW MANY WHITE REGISTERED DEMOCRATS VOTED IN EACH

11:51a

1 PARISH.

2 Q RIGHT.

3 A SO I DON'T HAVE TO INFER THAT. THAT JUST
4 COMES WITH THE DATA FROM THE SECRETARY OF STATE.

5 Q CORRECT. BUT THE SECRETARY OF STATE'S DATA
6 DOESN'T -- IS IT YOUR POSITION THAT THE SECRETARY OF
7 STATE'S DATA IS SAYING THAT THERE WERE -- FOR
8 EXAMPLE, IN ASCENSION PARISH, THAT THERE WERE -- I'LL
9 MAKE UP A NUMBER -- 10,000 VOTES CAST FOR CANDIDATE
10 CHAMBERS BY WHITE DEMOCRATS?

11 A NO. IT WOULD JUST TELL ME HOW MANY WHITE
12 DEMOCRATS VOTED. SO YES, THE ECOLOGICAL INFERENCE
13 WOULD THEN HAVE TO INFER HOW MANY OF THOSE VOTED FOR
14 CHAMBERS.

15 Q OKAY. AND IT WOULD HAVE TO INFER THAT FOR
16 BOTH RACE AND FOR PARTY. CORRECT?

17 A YES.

18 Q OKAY. AND ARE YOU AWARE OF -- WELL, LET ME
19 ASK THIS. DO YOU CITE ANY ACADEMIC RESEARCH IN YOUR
20 REPORT THAT HAS USED THE ECOLOGICAL INFERENCE
21 TECHNIQUE TO SIMULTANEOUSLY ESTIMATE RACE AND PARTY?

22 A I DO NOT CITE THAT.

23 Q OKAY. NOW, BECAUSE OF THE WAY YOU'VE
24 CONSTRUCTED YOUR STUDY, YOUR STUDY WOULD NOT CONSIDER
25 HOW BLACK VOTERS WHO ARE NOT REGISTERED DEMOCRATS

11:52a

1 WOULD HAVE VOTED IN THAT PRIMARY. IS THAT RIGHT?

2 A CORRECT.

3 Q OKAY. AND VICE VERSA; YOU WOULD NOT -- YOU
4 WOULDN'T BE ABLE TO TELL HOW WHITE VOTERS WHO AREN'T
5 REGISTERED DEMOCRATS VOTED IN THE PRIMARY. RIGHT?

6 A CORRECT.

7 Q ALL RIGHT. SO IF WE GO TO TABLE 4 ON PAGE 4
8 OF YOUR REPORT, PL 133, IF WE COULD PULL THAT UP.
9 THERE WE GO.

10 THIS IS YOUR RESULTS AT THE PARISH LEVEL FOR
11 THIS ELECTION -- FOR THE TWO CANDIDATES IN THIS
12 ELECTION. IS THAT RIGHT?

13 A YES.

14 Q SO IF WE JUST LOOK AT CADDO PARISH, AM I
15 LOOKING -- AM I READING THIS CORRECTLY THAT YOU
16 ESTIMATE 43 PERCENT OF WHITE REGISTERED DEMOCRATS
17 SUPPORTED THE BLACK CANDIDATE CHAMBERS? IS THAT
18 RIGHT?

19 A THAT IS CORRECT.

20 Q OKAY. AND WOULD YOU VIEW THAT 43 PERCENT AS
21 WHITE CROSSOVER VOTING?

22 A IT COULD BE VIEWED THAT WAY.

23 Q OKAY. AND DO YOU VIEW 43 -- AND THAT'S A
24 FAIR AMOUNT OF WHITE CROSSOVER VOTING. WOULD YOU
25 AGREE?

11:53a

1 A IT DEPENDS ON THE NUMBER. I MEAN, THIS
2 COULD BE 43 PERCENT OF FIVE PEOPLE. IT'S NOT
3 ACTUALLY, BUT I MEAN -- SO IT WOULD JUST DEPEND ON
4 HOW BIG OF A POLL POPULATION YOU'RE TALKING WITH. SO
5 MY OFFICIAL ANSWER I GUESS IS IT DEPENDS.

6 Q IT DEPENDS, OKAY.

7 AND YOU'RE NOT OFFERING IN THIS CASE A
8 PARTICULAR CUT POINT OR A MINIMUM OF WHITE CROSSOVER
9 VOTING. IS THAT CORRECT?

10 A I AM NOT.

11 Q I'D LIKE TO TURN VERY QUICKLY TO YOUR
12 DISCUSSION OF COHESION. BEFORE I DO, I BELIEVE YOU
13 AGREE WITH DR. ALFORD'S DATA IN THIS CASE. IS THAT
14 CORRECT?

15 A YES, I DO.

16 Q OKAY. SO THIS IS REALLY A DISAGREEMENT OVER
17 THE INTERPRETATION OF THE DATA. IS THAT RIGHT?

18 A CORRECT.

19 Q OKAY. SO I BELIEVE YOU TESTIFIED THAT YOU
20 -- THAT YOU GENERALLY LIKE TO SEE 50 PERCENT SUPPORT
21 FOR A CANDIDATE TO FIND COHESION. IS THAT RIGHT?

22 A YES. THAT'S A MAJORITY, SO TO ME THAT MAKES
23 COHESION.

24 Q OKAY. BUT WOULD YOU AGREE WITH ME THAT AT
25 50 PERCENT, JUST AS MANY VOTERS OF A GIVEN RACE MAY

11:55a

1 BE VOTING AGAINST THE, QUOTE, PREFERRED CANDIDATE AS
2 VOTING FOR THAT CANDIDATE?

3 A IF IT'S 50 PERCENT ON THE NOSE, YES. BUT TO
4 ME, 50 -- YOU KNOW, WHEN I SAY A MAJORITY, I'M
5 ASSUMING THAT IT'S, YOU KNOW, 50 PERCENT PLUS ONE.

6 Q OKAY. SO AT 50 PERCENT PLUS ONE, THEN THAT
7 ONE EXTRA PERSON IS WHAT DEFINES COHESION FOR YOU?

8 A IT HAS TO BE SOMEWHERE.

9 Q IT HAS TO BE SOMEWHERE.

10 A IT HAS TO BE SOMEWHERE, AND A MAJORITY IS A
11 MAJORITY. AND IN ELECTIONS THE MAJORITY IS WHAT
12 WE'RE LOOKING FOR. YOU KNOW, THAT'S HOW ELECTIONS
13 ARE WON, IS WITH A MAJORITY.

14 SO THAT TO ME BECOMES THE DECISIVE NUMBER,
15 NOT A SUPER MAJORITY OR TWO-THIRDS OR THREE-FOURTHS.
16 THAT'S -- TO ME THEN YOU'RE GETTING CLOSER TO
17 UNANIMITY, WHICH IS A COMPLETELY DIFFERENT THRESHOLD
18 THAN COHESION.

19 Q BUT YOU'D AGREE WITH ME THAT 50 PERCENT PLUS
20 ONE COMPARED TO 40 -- WELL, OR 50 PERCENT MINUS
21 ONE --

22 A SURE.

23 Q -- IS NOT EXACTLY UNANIMITY. RIGHT?

24 A MY UNDERSTANDING OF DR. ALFORD -- AND AGAIN,
25 ME JUST WRITING REBUTTAL -- IS THAT HE SAYS COHESION

11:56a

1 IS A CONTINUUM. AND I WOULD AGREE WITH THAT. BUT AS
2 FAR AS I KNOW, THE -- CERTAINLY NOT IN THE POLITICAL
3 SCIENCE LITERATURE AND I DON'T THINK THE COURTS HAVE
4 SAID THERE HAS TO BE A CERTAIN AMOUNT OF COHESION.
5 IT'S JUST COHESION IS COHESION, SO IT HAS TO BEGIN
6 SOMEWHERE. AND I ARGUE THAT IT'S A MAJORITY.

7 Q AND AT A 50-PERCENT-PLUS-ONE STANDARD, FAIR
8 TO SAY THAT, YOU KNOW, YOU'D ALMOST ALWAYS FIND
9 COHESION IN A TWO-CANDIDATE RACE. RIGHT?

10 A IN A TWO-CANDIDATE -- IN A TWO-CANDIDATE
11 RACE, YES. BUT, YOU KNOW, LOUISIANA DOESN'T OFTEN
12 HAVE TWO-CANDIDATE RACES, YOU KNOW, ESPECIALLY WITH
13 ITS UNIQUE PRIMARY SYSTEM.

14 Q ALL RIGHT. DR. KING, I'D NOW LIKE TO TURN
15 TO YOUR DISCUSSION OF POLICY DIVERGENCE BASED ON
16 RACE. NOW, YOU MENTIONED -- WE HAD THIS DISCUSSION
17 ABOUT ATTITUDES TOWARDS SAME-SEX MARRIAGE. DO YOU
18 RECALL THAT?

19 A SAME-SEX MARRIAGE OR INTERRACIAL MARRIAGE?

20 Q I'M SORRY. INTERRACIAL MARRIAGE. IT WAS IN
21 MY NOTES WRONG. IT'S INTERRACIAL MARRIAGE.

22 A WE CAN TALK ABOUT THAT, TOO.

23 Q DIFFERENT CASE.

24 BUT INTERRACIAL MARRIAGE -- WE HAD A
25 DISCUSSION OF INTERRACIAL MARRIAGE. CORRECT?

11:57a

1 A CORRECT.

2 Q OKAY. AND I BELIEVE YOU GAVE THE VIEW THAT
3 YOU VIEWED IT AS BEING LESS SALIENT BECAUSE IT HAD
4 BEEN SORT OF SETTLED LAW SINCE THE '60s THAT
5 INTERRACIAL MARRIAGE WAS LEGAL. IS THAT RIGHT?

6 A THAT IS CORRECT.

7 Q AND THEN YOU OFFERED AN OPINION IN YOUR
8 REPORT -- I BELIEVE YOU TESTIFIED TO IT -- THAT THERE
9 WAS A WIDE PARTISANSHIP GAP IN OPPOSITION TO
10 INTERRACIAL MARRIAGE EVEN TODAY. IS THAT RIGHT?

11 A YES.

12 Q OKAY.

13 A I DON'T KNOW IF I USED THE WORD "WIDE,"
14 BUT -- AND IF I DID, THEN I DID. BUT A PARTISAN GAP,
15 YES.

16 Q WELL, WE'LL SHOW -- SINCE I'M GOING TO GET
17 INTO THE FOOTNOTES, WE MIGHT AS WELL. IF WE COULD GO
18 TO PAGE 8 OF YOUR REPORT, TOWARD THE BOTTOM. AND I
19 BELIEVE IT ALSO MOVES ON TO THE TOP OF PAGE 9, BUT
20 WE'RE LOOKING AT THAT BOTTOM PARAGRAPH ON PAGE 8.

21 OKAY. SO I GUESS MY QUESTION FOR YOU IS --
22 NOW, YOU CITE FOR VIEWS ON INTERRACIAL MARRIAGE THIS
23 ARTICLE BY CHRISTOPHER INGRAHAM. IS THAT RIGHT?

24 A YES.

25 Q OKAY. WOULD YOU AGREE WITH ME THAT THAT

11:59a

1 CITATION INDICATES THAT IN 2021 ONLY SEVEN PERCENT OF
2 AMERICAN ADULTS EXPRESSED OPPOSITION TO A CLOSE
3 RELATIVE MARRYING A BLACK PERSON?

4 A YES, SEVEN PERCENT.

5 Q SEVEN PERCENT, OKAY.

6 AND DO YOU RECALL WHERE THAT SAME -- THAT
7 ARTICLE REPORTED THAT THE SAME PERCENTAGE WAS ABOUT
8 60 PERCENT IN 1990?

9 A YES.

10 Q OKAY. AND YOU HAVE NO BASIS TO DISAGREE
11 WITH MR. INGRAHAM'S CALCULATIONS. IS THAT RIGHT?

12 A THAT IS CORRECT.

13 Q OKAY. SO WOULD YOU AGREE THAT A REDUCTION
14 OF SOME 53 PERCENTAGE POINTS OF AMERICANS OPPOSED TO
15 INTERRACIAL MARRIAGE FROM 1990 TO 2021 REPRESENTS A
16 SIGNIFICANT SHIFT IN PUBLIC OPINION?

17 A YES AND NO. YES, BUT IT'S RELATIVE.

18 Q OKAY. WOULD YOU AGREE WITH ME THAT THE
19 *LOVING VS VIRGINIA* DECISION WAS JUST AS SETTLED LAW
20 IN 1990 AS IT WAS IN 2021?

21 A YES. BUT WE ALSO KNOW THAT THERE IS A LONG
22 LAG OF TIME BETWEEN COURT DECISIONS AND PUBLIC
23 ACCEPTANCE OF THOSE COURT DECISIONS. SO, FOR
24 INSTANCE, WITH BUSSING CASES FROM THE COURTS IN THE
25 1970s, A FULL GENERATION AFTER *BROWN VS BOARD*,

12:00p

1 SETTLED LAW DOESN'T MEAN ACCEPTANCE.

2 Q AND SO I BELIEVE THERE WAS ALSO A DISCUSSION
3 IN YOUR DIRECT EXAMINATION ABOUT SOCIAL DESIRABILITY
4 BIAS. DO YOU RECALL THAT?

5 A YES.

6 Q OKAY. AND THE WAY THAT QUESTION THAT YOU
7 CITED FROM MR. INGRAHAM WAS PHRASED, THAT TALKED
8 ABOUT AMERICAN ADULTS BEING OPPOSED TO A CLOSE
9 RELATIVE MARRYING A BLACK PERSON. DO YOU RECALL
10 THAT?

11 A YES.

12 Q OKAY. AND IS THAT AN EXAMPLE OF A SURVEY
13 DESIGN THAT'S DESIGNED TO MITIGATE THE EFFECTS OF
14 SOCIAL DESIRABILITY BIAS?

15 A TO THE BEST OF ITS POSSIBILITY, YES.

16 Q JUST TO BE VERY CLEAR FOR THE RECORD, IS THE
17 IDEA THAT IF YOU ASK SOMEBODY "ARE YOU" -- "WOULD YOU
18 BE WILLING TO BE IN" -- FOR EXAMPLE, "WOULD YOU BE
19 WILLING TO BE IN AN INTERRACIAL MARRIAGE?" THAT
20 PERSON MAY FEEL PRESSURED TO SAY "YES"?

21 A CORRECT. THAT'S RIGHT.

22 Q SO THEN THE IDEA IS IF YOU ASK ABOUT THE --
23 "WOULD YOU BE OPPOSED TO A CLOSE RELATIVE?" THAT THAT
24 MAY OFFER MORE COMFORT TO GIVE THE LESS DESIRABLE
25 OPINION?

12:01p

1 A THAT IS CORRECT.

2 Q OKAY. ALL RIGHT. SO I'D LIKE TO NOW TURN
3 TO PAGE 9 OF YOUR REPORT, WHICH IS ALREADY ON OUR
4 SCREEN. AND SPECIFICALLY THAT SECOND -- WELL, FIRST
5 AND SECOND FULL PARAGRAPHS AT THE TOP, IF WE CAN
6 START THERE.

7 AND HERE YOU TALK ABOUT GALLUP DIVERGENCES
8 ON POLICIES. I JUST HAD A QUESTION FOR YOU ABOUT --
9 IT'S SORT OF IN THE MIDDLE OF THE PAGE WHERE YOU TALK
10 ABOUT A GALLUP QUESTION ABOUT RACE RELATIONS AND YOU
11 INDICATE THAT THE GAP INCREASED FROM FOUR TO 14
12 POINTS ON THAT QUESTION.

13 A YES.

14 Q DO YOU SEE THAT?

15 A YES.

16 Q AND THE QUESTION IS SPECIFICALLY: "DO YOU
17 THINK THAT RELATIONS BETWEEN BLACKS AND WHITES WILL
18 ALWAYS BE A PROBLEM FOR THE UNITED STATES, OR THAT A
19 SOLUTION WILL EVENTUALLY BE WORKED OUT?" IS THAT
20 CORRECT?

21 A YES.

22 Q OKAY. IS IT FAIR TO SAY THAT THAT QUESTION
23 IS ATTEMPTING TO MEASURE OPTIMISM VERSUS PESSIMISM?

24 A I THINK YOU COULD LOOK AT IT THAT WAY, YES.

25 Q AND WOULD YOU AGREE THAT MUCH OF THE GROWTH

12:03p

1 IN THAT GAP FROM FOUR TO 14 POINTS BETWEEN 1996 AND
2 2016 IS EXPLAINABLE BY WHITE RESPONDENTS BECOMING
3 MORE OPTIMISTIC AS TIME PASSES?

4 A I WOULD HAVE TO GO BACK AND LOOK AT THAT
5 DATA SPECIFICALLY. IT COULD BE WHITES BEING MORE
6 OPTIMISTIC BECAUSE OF THE ELECTION OF OBAMA, BUT THEN
7 IT COULD ALSO BE BLACKS BECOMING MORE PESSIMISTIC.
8 SO I WOULD HAVE TO -- I COULD ONLY QUALIFY MY ANSWER.

9 Q ALL RIGHT. AND DO YOU RECALL GIVING A
10 DEPOSITION IN THIS CASE?

11 A YES.

12 Q OKAY. AND DO YOU RECALL BEING ASKED HOW
13 THAT GAP CAN BE EXPLAINED?

14 A IF YOU TELL ME.

15 Q OKAY.

16 A THERE WERE A LOT OF QUESTIONS.

17 Q THERE WERE A LOT OF QUESTIONS. ALL RIGHT.
18 SO I'D LIKE TO PULL UP YOUR DEPOSITION ON -- AT PAGE
19 102.

20 THE COURTROOM DEPUTY: YOU'RE DOING IT FROM
21 HERE OR BACK THERE?

22 MR. LEWIS: HE'S DOING IT, BUT WE'RE ON THE
23 SCREEN.

24 BY MR. LEWIS:

25 Q AND DO YOU RECALL GIVING AN OATH TO TELL THE

12:04p

1 TRUTH IN THAT DEPOSITION?

2 A YES.

3 Q OKAY. AND YOU DID SO. IS THAT RIGHT?

4 A YES.

5 Q OKAY. AND SO I'M JUST GOING TO READ TO YOU
6 THE QUESTION BEGINNING ON LINE 11.

7 A OKAY.

8 Q AND IT READS: "IS IT FAIR TO SAY THAT MUCH
9 OF THE GAP THAT YOU DESCRIBED, DR. KING, IS
10 EXPLAINABLE BY WHITE RESPONDENTS BECOMING MORE
11 OPTIMISTIC AS TIME PASSES INSTEAD OF BLACK
12 RESPONDENTS BECOMING MORE PESSIMISTIC AS TIME
13 PASSES?" DO YOU SEE THAT?

14 MS. GIGLIO: YOUR HONOR, RESPECTFULLY, THIS
15 IS IMPROPER IMPEACHMENT. THIS IS NOT THE QUESTION
16 THAT MR. LEWIS ASKED. AND, FRANKLY, IT REFLECTS THE
17 WITNESS'S RESPONSE.

18 THE COURT: IT'S NOT EXACTLY THE SAME
19 QUESTION. I'M GOING TO OVERRULE THE OBJECTION. YOU
20 CAN ASK THE QUESTION.

21 MR. LEWIS: THANK YOU, YOUR HONOR.

22 BY MR. LEWIS:

23 Q DO YOU SEE YOUR ANSWER BEGINNING ON LINE 18?

24 A YES.

25 Q OKAY. AND DOES IT SAY "I WOULD MOSTLY AGREE

12:05p

1 WITH THAT, YES"?

2 A YES.

3 Q OKAY. THANK YOU. WE CAN TAKE THAT DOWN.

4 SO, DR. KING, WHEN YOU LOOKED AT THOSE
5 GALLUP QUESTIONS ABOUT RACE RELATIONS, NONE OF THOSE
6 WERE SPECIFICALLY STUDYING AREAS OF LOUISIANA AT
7 ISSUE IN THIS LAWSUIT. IS THAT RIGHT?

8 A FROM THE GALLUP QUESTIONS?

9 Q YES.

10 A NO. I MEAN, SO THIS WOULD HAVE BEEN A
11 NATIONAL SURVEY.

12 Q OKAY.

13 A A SURVEY OF NATIONAL RESPONDENTS.

14 Q SURE. BUT NOT JUST -- IT WAS NOT, YOU KNOW,
15 A SURVEY EXCLUSIVELY OF PEOPLE WITHIN THE AREAS OF
16 LOUISIANA THAT ARE AT ISSUE IN THIS CASE. RIGHT?

17 A THAT IS CORRECT.

18 Q ALL RIGHT. SO, DR. KING, I'D NOW LIKE TO
19 TURN TO THE -- THIS ANALYSIS OF RACIAL RESENTMENT
20 THAT YOU PERFORMED. AND I'D LIKE TO TAKE A LOOK AT
21 THE QUESTIONS. SO IF WE COULD GO TO -- LOOKS LIKE
22 THE BOTTOM OF PAGE 9 AND THE TOP OF PAGE 10 OF YOUR
23 REPORT. IF WE COULD PUT THOSE UP SIDE BY SIDE.

24 AND SO WE LOOK AT THE VERY FIRST QUESTION,
25 AND IT READS, QUOTE, IN GENERAL DO YOU THINK THAT

12:06p

1 BLACKS HAVE AS GOOD A CHANCE AS WHITES IN YOUR
2 COMMUNITY TO GET ANY KIND OF JOB FOR WHICH THEY ARE
3 QUALIFIED, OR DON'T YOU THINK THEY HAVE AS GOOD A
4 CHANCE. IS THAT RIGHT?

5 A YES.

6 Q OKAY. AND SO AS I UNDERSTAND IT, IF THE --
7 IF A RESPONDENT WERE TO ANSWER "YES" TO THAT
8 QUESTION, THAT WOULD COUNT AS A FINDING OF RACIAL
9 RESENTMENT. IS THAT RIGHT?

10 A YES.

11 Q OKAY. AND DO I UNDERSTAND YOUR POSITION --
12 AND WHY IS THAT?

13 A SO RACIAL RESENTMENT IS AN INDEX. SO WHEN
14 YOU COMBINE THE ANSWERS TO ALL OF THESE, WHAT -- AS
15 RACIAL RESENTMENT IS DEFINED AND ARTICULATED IS YOU
16 HAVE WHITES WHO FEEL THAT BLACKS DO HAVE AS GOOD OF A
17 CHANCE AS WHITES. AND FOR BLACKS TO SAY THAT THEY
18 DON'T MEANS THAT THEY ARE NOT PUTTING IN MAYBE FULL
19 EFFORT OR TRYING AS HARD AS WHITES AND THAT THEY HAVE
20 ALL THE ADVANTAGES THAT THEY NEED AND SO THEY DON'T
21 NEED ANY ADDITIONAL HELP FROM GOVERNMENT.

22 Q BUT THEY DON'T -- THERE IS NOTHING IN THIS
23 QUESTION THAT ACTUALLY SAYS THAT ANYONE NEEDS HELP
24 FROM THE GOVERNMENT. RIGHT?

25 A THAT IS CORRECT. AND AGAIN, THAT'S WHY THE

12:08p

1 RACIAL RESENTMENT SCALE IS -- IT'S AN ADDITIVE INDEX,
2 SO IT'S LOOKING AT THE RESPONSES TO A VARIETY OF
3 QUESTIONS.

4 Q AND THEN IS THE IDEA THAT IF SOMEBODY
5 ANSWERS "NO," THAT THEY MAY UNDERSTAND, FOR EXAMPLE,
6 THAT THERE ARE SOCIETY LEVEL INFLUENCES THAT MAY MAKE
7 CHANCES FOR SUCCESS FOR BLACK AMERICANS MORE
8 DIFFICULT? IS THAT THE IDEA?

9 A YES, I WOULD AGREE WITH THAT.

10 Q OKAY. AND THEN IF THE PERSON ANSWERS "YES,"
11 AM I UNDERSTANDING YOU TO TRY TO DRIVE IT, THE
12 RESPONDENT MAY BE LOOKING AT MORE INDIVIDUAL LEVEL
13 FACTORS? IS THAT RIGHT?

14 A CORRECT.

15 Q OKAY. AND SO THE IDEA THAT SOCIETY LEVEL
16 INFLUENCES THAT MIGHT IMPACT CHANGES FOR -- OR
17 OPPORTUNITY FOR BLACK SUCCESS, THAT'S THE IDEA OF
18 SYSTEMIC RACISM. IS THAT CORRECT?

19 A YES.

20 Q NOW, YOU'D AGREE THAT SOMEONE WHO ANSWERS
21 "YES" TO, FOR EXAMPLE, THIS QUESTION MAY NOT
22 NECESSARILY BE RACIALLY RESENTFUL. RIGHT?

23 A YES. BUT I'M -- I MEAN, YOU'RE ASKING ME --
24 I MEAN, I'M NOT SURE I CAN GET INTO THE HEAD OF
25 INDIVIDUAL RESPONSES. SO AGAIN, THIS IS WHY IT'S

12:10p

1 JUST AN ADDITIVE INDEX LOOKING AT, YOU KNOW, THE
2 CUMULATIVE RESPONSES TO SEVERAL QUESTIONS, SO -- BUT
3 I WOULD AGREE WITH YOU IN PRINCIPLE, IF I UNDERSTAND
4 YOU CORRECTLY.

5 Q SURE. OKAY. ALL RIGHT. NOW, IF WE LOOK AT
6 THE RESULTS -- IF WE COULD PULL BACK FROM THIS AND
7 THEN LOOK AT TABLE 6. SO YOU HAVE SOME -- YOU HAVE
8 SOME VALUES HERE ON THE PAGE. DO I UNDERSTAND THAT
9 WHERE YOU HAVE THE .87 FOR REPUBLICANS -- WELL, I
10 GUESS YOU HAVE TWO .87s FOR REPUBLICANS. BUT THAT
11 THAT VALUE MEANS THAT -- DO I UNDERSTAND CORRECTLY
12 THAT THAT MEANS 87 PERCENT OF REPUBLICANS ANSWERED
13 "YES" TO AT LEAST ONE QUESTION ON THE BATTERY?

14 A THAT IS CORRECT. AND IF I COULD, EARLIER
15 YOU ASKED -- YOU PHRASED THIS AS MY ANALYSIS. AND
16 JUST TO BE CLEAR, THIS IS GALLUP ANALYSIS. I'M JUST
17 RE- -- REPRINTING, CITING WHAT THEY HAD USED. SO
18 THIS ISN'T MY ANALYSIS. THIS IS JUST ME REPORTING
19 GALLUP ANALYSIS. BUT YES, THAT IS CORRECT.

20 Q OKAY. ALL RIGHT. SO THEN IF WE COULD GO
21 BACK TO -- AND I DON'T MEAN -- YOU KNOW, I DON'T
22 THINK WE HAVE TO BELABOR THIS. BUT I BELIEVE OF THE
23 EIGHT QUESTIONS ON THIS BATTERY, WOULD YOU AGREE WITH
24 ME THAT ONLY THE VERY LAST QUESTION ABOUT DEALING
25 WITH THE POLICE IS DIRECTLY ASKING A SURVEY

12:11p

1 RESPONDENT ABOUT RACIAL DIFFERENCES AND HOW THE
2 GOVERNMENT TREATS BLACK AMERICANS?

3 A YES. AND I WOULD JUST SAY, AGAIN, THIS
4 IS -- IT'S JUST A FUNCTION OF WHICH SOURCE YOU USE.
5 THE NES, THE NATIONAL ELECTION STUDIES, THEY HAVE
6 DIFFERENT QUESTIONS THAT GET TO THE SAME EFFECT,
7 BUT -- AND AGAIN, I JUST WANTED TO USE GALLUP BECAUSE
8 DR. ALFORD HAD USED GALLUP, SO I JUST WANTED TO USE
9 SIMILAR DATA.

10 Q SURE. AND AGAIN, YOUR RACIAL RESENTMENT
11 SCALE DOES NOT MEASURE RACIAL RESENTMENT AMONG
12 LOUISIANA -- WHITE LOUISIANA RESIDENTS ALONE. IS
13 THAT CORRECT?

14 A CORRECT.

15 Q OKAY. AND NOT WHITE LOUISIANANS WITHIN THE
16 AREAS OF LOUISIANA STUDIED IN THIS LAWSUIT. RIGHT?

17 A THAT IS CORRECT.

18 Q OKAY. NOW, IS THE RACIAL RESENTMENT INDEX
19 THAT YOU REPORT IN YOUR EXPERT REPORT THE ONLY ONE
20 USED IN THE ACADEMIC LITERATURE?

21 A NO.

22 Q ALL RIGHT. SO, FOR EXAMPLE, IF WE GO TO
23 PAGE 10 OF YOUR REPORT -- AND I'M LOOKING AT THE
24 FIRST SENTENCE UNDER TABLE 6 WHERE IT SAYS, "THERE
25 ARE ELECTORAL CONSEQUENCES TO RACIAL RESENTMENT WITH

12:13p

1 MULTIPLE RESEARCH FINDINGS OF EVIDENCE THAT WHITE
2 VOTERS DISCRIMINATE AGAINST BLACK CANDIDATES." DO
3 YOU SEE THAT?

4 A YES.

5 Q OKAY. AND I BELIEVE THE CITATION FOOTNOTE
6 15 AT THE BOTTOM IS TO AN ARTICLE FROM JACK CITRIN
7 AND OTHERS IN "PUBLIC OPINION QUARTERLY." DO YOU SEE
8 THAT?

9 A YES.

10 Q THERE WE GO. SO WE HAVE A COPY OF THAT
11 ARTICLE, AND I'D LIKE TO PUT THAT UP NOW ON THE
12 SCREEN AS -- THE FIRST PAGE OF WHICH I BELIEVE IS
13 LDTX KING 4. IF WE CAN GO TO THAT.

14 OKAY. SORRY FOR THAT DELAY, DR. KING. DO
15 YOU RECOGNIZE THIS ARTICLE?

16 A YES.

17 Q OKAY. AND SO I'D LIKE TO TURN TO -- LOOKS
18 LIKE THERE IS A COUPLE OF TITLE PAGES, SO WE'RE GOING
19 TO GO TO PAGE 3 OF THE EXHIBIT, WHICH I UNDERSTAND IS
20 PAGE 1 OF THIS ARTICLE. THERE WE GO.

21 ALL RIGHT. AND JUST LOOKING AT THE
22 ABSTRACT, DO I UNDERSTAND CORRECTLY THAT THIS STUDY
23 EXAMINED THE 1982 CALIFORNIA GUBERNATORIAL ELECTION?

24 A I BELIEVE IT DOES, YES.

25 Q AND SPECIFICALLY THE ONE WITH TOM BRADLEY

12:15p

1 WHO WAS A BLACK CANDIDATE. IS THAT RIGHT?

2 A YES.

3 Q OKAY. AND THIS PARTICULAR STUDY ALSO LOOKED
4 AT THE CONCEPT OF RACIAL RESENTMENT. IS THAT RIGHT?

5 A I BELIEVE SO, YES.

6 Q OKAY. SO I'D LIKE TO TURN TO PAGE 11 OF THE
7 ARTICLE, WHICH UNDER THEIR NUMBERING IS -- I THINK
8 IT'S PAGE -- NUMBERED PAGE 82. THERE WE GO. ALL
9 RIGHT. THIS IS TABLE 2.

10 AND THIS TABLE IS REPORTING RACIAL OPINIONS
11 EXPRESSED AMONG WHITE CALIFORNIA VOTERS. IS THAT
12 RIGHT?

13 A YES.

14 Q AND SO LIKE THE FIRST QUESTION ASKED, QUOTE,
15 THE GOVERNMENT SHOULD NOT MAKE ANY SPECIAL EFFORT TO
16 HELP BLACKS AND OTHER RACIAL MINORITIES BECAUSE THEY
17 SHOULD HELP THEMSELVES. DO YOU SEE THAT QUESTION?

18 A I DO, YES.

19 Q AND IS THAT A QUESTION THAT COULD MEASURE
20 RACIAL RESENTMENT?

21 A IT COULD.

22 Q AND IS IT FAIR TO SAY THAT A QUESTION LIKE
23 THAT IS MEASURING RESENTMENT BASED ON QUESTIONS
24 TESTING WHAT PEOPLE THINK ABOUT HOW THE GOVERNMENT
25 TREATS MEMBERS OF ONE RACIAL GROUP VERSUS ANOTHER?

12:16p

1 A YES.

2 Q OKAY. AND IF WE THEN GO TO -- I FEEL LIKE
3 IT'S THE NEXT PAGE. LET'S SEE IF I'M RIGHT -- PAGE
4 83, THERE IS THEN ANOTHER CATEGORY OF QUESTIONS THAT
5 THIS STUDY IS ALSO LOOKING AT UNDER THE HEADING
6 "PERCEIVED TRAITS OF BLACKS." DO YOU SEE THAT?

7 A YES.

8 Q OKAY. AND SO THE FIRST QUESTION ASKS WHICH
9 OF THE FOLLOWING GROUPS ARE THE LEAST LAW-ABIDING,
10 AND THEN IT LISTS A SERIES OF GROUPS. DO YOU SEE
11 THAT?

12 A YES.

13 Q OKAY. AND IS IT FAIR TO SAY THAT QUESTIONS
14 LIKE THAT ONE ARE TESTING IF SURVEY RESPONDENTS AGREE
15 WITH A RACIAL STEREOTYPE?

16 A YES. I WOULD -- I WOULD ALSO -- YES.

17 Q OKAY. AND WE CAN TAKE THAT DOWN.

18 SO IS IT FAIR TO SAY THAT THE QUESTIONS LIKE
19 THOSE USED IN THE CITRIN ARTICLE THAT YOU CITE IN
20 YOUR EXPERT REPORT ARE MEASURING DIFFERENT RACIAL
21 ATTITUDES AND VIEWS THAN THE BATTERY OF QUESTIONS
22 THAT YOU SELECTED IN YOUR STUDY?

23 A THAT 1982 GUBERNATORIAL RACE IN CALIFORNIA
24 IS OFTEN CITED AS THE PROTOTYPICAL EXAMPLE OF SOCIAL
25 DESIRABILITY BIAS, BECAUSE TOM BRADLEY LED IN ALL THE

12:18p

1 POLLS BUT THEN LOST. AND SO I WOULD HAVE TO REREAD
2 THAT ARTICLE PROBABLY IN ITS ENTIRETY TO UNDERSTAND
3 IF THEY'RE TRYING TO -- IF THAT ARTICLE IS
4 SPECIFICALLY FOCUSED ON THE RACIAL RESENTMENT OR THE
5 SOCIAL DESIRABILITY.

6 Q BUT THOSE QUESTIONS ARE MEASURING RACIAL
7 ATTITUDES AND VIEWS VERY DIFFERENTLY THAN YOUR
8 QUESTIONS IN THIS CASE. IS THAT RIGHT?

9 A AS I SAID, THERE ARE MANY DIFFERENT SURVEYS
10 LOOKING AT RACIAL RESENTMENT; FOR INSTANCE, THE
11 NATIONAL ELECTION STUDIES THAT POLITICAL SCIENTISTS
12 OFTEN USE, SO THEY'RE GOING TO ASK SIMILAR QUESTIONS
13 BUT THEY WILL BE WORDED SLIGHTLY DIFFERENTLY.

14 SO I WOULD AGREE THAT YES, THESE QUESTIONS
15 ARE DIFFERENT, THEY'RE GETTING AT THE SAME ATTITUDE,
16 BUT YES, THEY ARE ASKED DIFFERENTLY AND YOU MIGHT GET
17 SOME SPECIFIC DIFFERENCES, YES.

18 Q SURE. OKAY.

19 AND SO TO WRAP THIS UP, I WANT TO -- AND I'M
20 SORRY TO HAVE TO KIND OF REWIND A LITTLE BIT. BUT I
21 WANT TO JUST KIND OF CONCLUDE WITH YOUR REVIEW OF THE
22 2018 SECRETARY OF STATE ELECTION. SO I'D LIKE TO GO
23 INTO YOUR REPORT ON PAGE 7. I BELIEVE IT'S THE
24 SECOND PARAGRAPH. DID I GET THAT RIGHT? THE FIRST
25 FULL PARAGRAPH. EXCUSE ME. IF WE COULD JUST ZOOM IN

12:19p

1 ON THAT. OKAY.

2 SO DO I UNDERSTAND YOUR POSITION THAT YOU'RE
3 LOOKING AT A MEASURE OF DIFFERENCE BY RACE BECAUSE
4 YOU'RE LOOKING AT HOW THE -- AMONG WHITE DEMOCRAT --
5 AMONG WHITE VOTERS THE BLACK DEMOCRATIC CANDIDATE
6 RECEIVED FIVE PERCENT OF THE WHITE VOTE AND THE OTHER
7 RECEIVED 9.7. IS THAT RIGHT?

8 A YES.

9 Q OKAY. AND SO FOR YOU, THE -- YOU'RE FINDING
10 POLARIZATION BECAUSE YOU'RE SEEING THAT NINE PERCENT
11 IS HIGHER THAN THE FIVE. IS THAT RIGHT?

12 A YES. MY INTERPRETATION OF DR. ALFORD'S
13 ANALYSIS.

14 Q AND SO JUST TO MAKE SURE WE'RE LOOKING AT
15 THE WHOLE THING, I'D LIKE TO PULL UP DR. ALFORD'S
16 REPORT ADMITTED AS LDTX 53. AND WE'RE GOING TO GO
17 BACK TO PAGE 9, WHICH I THINK WE LOOKED AT IN YOUR
18 DIRECT. OKAY. AND IF WE COULD JUST HIGHLIGHT THAT
19 BOTTOM ELECTION, NOVEMBER 2018 SECRETARY OF STATE.
20 THERE WE GO. ALL RIGHT.

21 SO DO YOU AGREE WITH ME, JUST AS I'M READING
22 THIS TABLE, THAT AT THE BOTTOM OF THE PAGE, THE
23 BOTTOM OF THIS TABLE, IT'S SUMMARIZING THE TOTAL
24 PERCENT OF BLACK SUPPORT FOR DEMOCRATIC CANDIDATES AT
25 87 PERCENT?

12:21p

1 A YES.

2 Q OKAY. AND FOR THE PERCENTAGE OF WHITE
3 SUPPORT FOR DEMOCRATIC CANDIDATES AT 15 PERCENT. IS
4 THAT RIGHT?

5 A YES.

6 Q AND SO IS IT FAIR TO SAY THAT YOU'RE LOOKING
7 AT RACIAL POLARIZATION IN THIS ELECTION BY LOOKING
8 JUST AT THE 15 PERCENT OF THE WHITE VOTES CAST FOR
9 DEMOCRATIC CANDIDATES. IS THAT RIGHT?

10 A YES, THAT IS CORRECT.

11 Q OKAY. SO YOU'RE NOT ABLE TO EVALUATE THE
12 VOTE -- RACIAL POLARIZATION SEPARATE FROM PARTY
13 POLARIZATION IN THIS ELECTION FROM 85 PERCENT OF
14 WHITE VOTERS. IS THAT RIGHT?

15 A I'M JUST -- YES. SO IN MY INTERPRETATION OF
16 DR. ALFORD'S DATA, YES, THAT IS CORRECT. I'M JUST
17 LOOKING AT THE COPARTISANS, JUST THE DEMOCRATS.

18 Q I SEE. OKAY. AND SO IF WE LOOK AT THE 15
19 PERCENT AND YOU LOOK AT THE 5.4, WOULD YOU AGREE THAT
20 IN THIS ELECTION THAT THE BLACK CANDIDATE -- THE
21 BLACK DEMOCRATIC CANDIDATE WAS RECEIVING ABOUT A
22 THIRD OF THE WHITE VOTE -- WHITE DEMOCRATIC VOTE?

23 A YES.

24 Q OKAY. AND SO YOU'RE UNABLE -- JUST FROM
25 LOOKING AT THIS, YOU'RE NOT ABLE TO EXCLUDE THE

12:22p

1 POSSIBILITY THAT PARTISAN POLARIZATION RATHER THAN
2 RACIAL POLARIZATION IS INFLUENCING THE VOTING
3 BEHAVIOR OF THE 85 PERCENT OF THE WHITE VOTERS THAT
4 VOTED FOR A REPUBLICAN CANDIDATE IN THIS ELECTION.
5 IS THAT RIGHT?

6 A TWO THINGS CAN EXIST AT THE SAME TIME WHEN I
7 LOOK AT THIS. SO AMONG THE DEMOCRATS, AMONG THE
8 WHITES WHO VOTED FOR DEMOCRATS, THERE'S RACIAL
9 POLARIZATION. AMONG THE WHITES WHO VOTED FOR THE
10 REPUBLICANS, I'M NOT MAKING ANY CHARACTERIZATION ON
11 WHY THEY VOTED FOR THE REPUBLICAN.

12 MR. LEWIS: THANK YOU, YOUR HONOR. I HAVE
13 NO FURTHER QUESTIONS.

14 THE COURT: ANY REDIRECT?

15 MS. GIGLIO: NO REDIRECT, YOUR HONOR.

16 THE COURT: OKAY. THANK YOU.

17 YOU MAY STEP DOWN, SIR.

18 OKAY. AS A MATTER OF HOUSEKEEPING, I
19 HAVE SOME GOOD NEWS. AND THE GOOD NEWS IS THAT THE
20 COURT REPORTER WHO WAS HERE YESTERDAY CAN FILL IN
21 TODAY FROM TWO TO FIVE, SO WE CAN GO THIS AFTERNOON
22 MAYBE UNTIL COMPLETION, IF YOU-ALL ARE PREPARED FOR
23 THAT. I REALIZE THAT I'M KIND OF DOUBLE-CROSSING
24 YOU, BUT I JUST FOUND OUT THIS MORNING.

25

12:23p

1 MS. KEENAN: YES, YOUR HONOR, PLAINTIFFS ARE
2 PREPARED TO CALL THE REMAINDER OF THEIR WITNESSES
3 TODAY. WE WOULD LIKE TO INQUIRE ABOUT WHETHER THERE
4 IS ANY ADDITIONAL LEGAL ARGUMENT YOUR HONOR WOULD
5 LIKE SO WE CAN PREPARE IN THE REMAINING TIME.

6 THE COURT: I WAS GETTING TO THAT.

7 MS. KEENAN: SURE.

8 THE COURT: SO NO CLOSING ARGUMENTS. AND
9 FINALLY, I AM GOING TO -- I HAVE RECONSIDERED MY
10 STATEMENTS AT THE INITIAL -- AT THE OUTSET OF THIS
11 TRIAL ABOUT TRIAL BRIEFS. THE COURT WILL ACCEPT
12 TRIAL BRIEFS FROM BOTH PARTIES BUT THEY'LL BE
13 SIMULTANEOUS FILINGS; PAGE LIMIT OF 40 PAGES AND A
14 TIME DEADLINE. I DON'T -- I'M TRYING NOT TO MAKE
15 YOU-ALL HAVE A BRIEF RIGHT DURING THE HOLIDAY SEASON,
16 BUT I'LL LISTEN TO WHAT YOU HAVE TO SAY.

17 MS. KEENAN: YOUR HONOR, MAYBE WE CAN CONFER
18 WITH OUR COUNSEL DURING THE BREAK AND THEN LET YOU
19 KNOW WHAT TIME WORKS FOR EACH SIDE.

20 THE COURT: YES, WHY DON'T YOU DO THAT.

21 MR. LEWIS: WE AGREE WITH THAT.

22 MR. TUCKER: AND, YOUR HONOR, ONE OTHER
23 QUESTION THE -- WE HAD DISCUSSED AT THE BEGINNING OF
24 TRIAL ABOUT UPDATING THE FINDINGS OF FACT. WOULD THE
25 COURT STILL WANT UPDATES WITH CITATIONS TO THE RECORD

12:24p

1 AND --

2 **THE COURT:** I THINK NOT. I THINK THAT'S
3 GOING TO BE PROBABLY MORE LABORIOUS AFTER HAVING GONE
4 BACK AND LOOKED AT THE PROPOSED FINDINGS OF FACT AND
5 CONCLUSIONS OF LAW. I'M SORRY TO DOUBLE-CROSS YOU,
6 MR. TUCKER, BUT IT'S MY PREROGATIVE.

7 **MR. TUCKER:** THAT'S FINE, YOUR HONOR. WE
8 JUST WANTED TO KNOW WHAT THE COURT WOULD BE LOOKING
9 FOR.

10 **THE COURT:** I'M REALLY LOOKING FOR TRIAL
11 BRIEFS SIMULTANEOUSLY FILED, NOT TO EXCEED 40 PAGES,
12 AND CITATIONS TO THE RECORD WHERE HUMANLY POSSIBLE.
13 I REALIZE THAT -- YOU'VE GOT A REALTIME REPORTER SO
14 YOU SHOULD BE ABLE TO CITE TO THE RECORD, BUT, YOU
15 KNOW, DO THE BEST YOU CAN.

16 **MR. LEWIS:** AND, YOUR HONOR, WE WILL MEET
17 AND CONFER. I THINK ONE QUESTION I'M SURE WE'LL
18 DISCUSS IS, YOU KNOW, CITATIONS TO THE ROUGH VERSUS
19 THE FINAL TRANSCRIPTS. I SUSPECT THE COURT MAY
20 PREFER US TO CITE TO FINALS, BUT I WILL -- WE WILL
21 OBVIOUSLY DEFER TO YOUR HONOR.

22 **THE COURT:** OKAY. WELL, YOU MEAN THE
23 CERTIFIED RECORD FROM THE COURT?

24 **MR. LEWIS:** THAT IS CORRECT, YOUR HONOR.

25 **THE COURT:** NO. I DON'T WANT TO DELAY THIS

12:25p

1 THING THAT LONG, SO YOU CAN CITE TO ROUGH TRANSCRIPT
2 TESTIMONY. AS YOU WELL KNOW, WE HAVE A RECORDING OF
3 THIS AND I CAN LISTEN TO THE RECORDING, SO I CAN -- I
4 MEAN, IF YOU BLATANTLY MISREPRESENT SOMETHING FROM A
5 ROUGH TRANSCRIPT OR IF -- IT WOULDN'T BE NECESSARILY
6 A MISREPRESENTATION. IF THE ROUGH TRANSCRIPT IS JUST
7 REALLY ROUGH, I'M GOING TO BE ABLE TO TELL THAT.

8 OKAY?

9 **MR. LEWIS:** YOUR HONOR, WE APPRECIATE THAT.
10 I KNOW WE HAVE PEOPLE WORKING. I KNOW THE COURT
11 REPORTERS HERE HAVE BEEN WORKING VERY HARD TO GET US
12 DAILIES. THERE ARE SOME, YOU KNOW, PEOPLE
13 MISIDENTIFIED AND LITTLE MISTAKES HERE AND THERE.
14 THAT'S THE ONLY REASON WE WERE ASKING. THAT HAPPENS
15 WHEN PEOPLE ARE WORKING VERY QUICKLY. BUT AGAIN,
16 PERHAPS WE CAN MEET AND CONFER WITH COUNSEL.

17 **THE COURT:** YES. AND, YOU KNOW, WHEN YOU'RE
18 CITING TO THE ROUGH TESTIMONY AND IF YOU WANT TO
19 BRACKET SOMETHING AND THEN DRAW UP A FOOTNOTE THAT
20 SAYS "IT WAS TRANSCRIBED AS THIS BUT COUNSEL RECALLS
21 IT TO BE THAT," THAT'S FINE. IF YOU POINT THAT OUT
22 TO ME, I WILL LISTEN TO THE RECORDINGS, OKAY? SO --
23 AND THEN WE'LL KNOW.

24 ALL RIGHT. SO LET'S BE IN RECESS UNTIL
25 1:30.

01:33p

1 (WHEREUPON, A LUNCH RECESS WAS TAKEN.)

2 THE COURT: BE SEATED.

3 ALL RIGHT. BEFORE WE GET STARTED, DID
4 Y'ALL MAKE ANY DECISIONS ABOUT PRETRIAL OR POST-TRIAL
5 BRIEFING?

6 MS. KEENAN: YES, YOUR HONOR. MEGAN KEENAN
7 FOR THE PLAINTIFFS.

8 OUR TEAM HAS CONFERRED. WE THINK WE'D
9 BE ABLE TO GET THOSE TO YOUR HONOR BY NOT THIS FRIDAY
10 BUT THE FOLLOWING FRIDAY, THE 20TH. I BELIEVE THE
11 DEFENDANTS HAVE A DIFFERENT TIMELINE IN MIND. I'M
12 HAPPY TO LET MR. LEWIS REPRESENT THAT.

13 THE COURT: MR. LEWIS, WHAT'S YOUR PROPOSAL?

14 MR. LEWIS: YOUR HONOR, THE DEFENDANTS WOULD
15 PROPOSE FRIDAY, DECEMBER 22ND. I BELIEVE PLAINTIFFS
16 ARE -- WELL, YOU SAID THE 20TH AND FRIDAY. I THINK
17 YOU MEANT THE 15TH.

18 MS. KEENAN: THAT'S MY FAULT, YOUR HONOR.
19 IT'S FRIDAY, THE 15TH. AND THE DEFENDANTS ARE
20 PROPOSING FRIDAY, THE 22ND.

21 THE COURT: OKAY. WE'RE GOING TO SPLIT THE
22 DIFFERENCE. THEY'LL BE DUE ON TUESDAY, THE 19TH.

23 MR. LEWIS: THANK YOU, YOUR HONOR.

24 MS. KEENAN: THANK YOU, YOUR HONOR.

25 THE COURT: ALL RIGHT.

01:34p

1 OKAY. NEXT WITNESS.

2 MS. BRANNON: YOUR HONOR, SARA BRANNON FOR
3 THE PLAINTIFFS. AND I CALL DR. CORY MCCARTAN.

4 (WHEREUPON, CORY MCCARTAN, BEING DULY SWORN,
5 TESTIFIED AS FOLLOWS.)

6 MS. BRANNON: YOUR HONOR, MAY I APPROACH THE
7 WITNESS TO GIVE HIM A COPY OF HIS REPORT?

8 THE COURT: YES.

9 SIR, IF YOU'LL STATE AND SPELL YOUR
10 NAME FOR THE RECORD, PLEASE.

11 THE WITNESS: SURE. IT'S CORY MCCARTAN.
12 C-O-R-Y, M-C-C-A-R-T-A-N.

13 MS. BRANNON: FOR THE RECORD, DR. MCCARTAN'S
14 REPORT IS EXHIBIT PL 135.

15 VOIR DIRE

16 BY MS. BRANNON:

17 Q DR. MCCARTAN, IS THE C.V. ATTACHED TO YOUR
18 REPORT?

19 A IT IS.

20 Q CAN WE SEE DR. MCCARTAN'S C.V. ON THE
21 SCREEN. I BELIEVE IT IS EXHIBIT A IN HIS REPORT.

22 IS THIS A COMPLETE AND ACCURATE SUMMARY OF
23 YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE?

24 A IT IS.

25 Q WHAT IS YOUR EDUCATIONAL BACKGROUND?

01:35p

1 A I HAVE A BACHELOR'S IN MATH FROM GRINNELL
2 COLLEGE AND A MASTER'S AND PH.D. IN STATISTICS FROM
3 HARVARD.

4 Q WHAT IS YOUR CURRENT EMPLOYMENT?

5 A I'M A DATA SCIENCE ASSISTANT PROFESSOR, A
6 FACULTY FELLOW AT THE CENTER FOR DATA SCIENCE AT NYU.

7 Q WHAT ARE YOUR FUTURE EMPLOYMENT PLANS?

8 A THIS NEXT SUMMER I'LL START ON THE TENURE
9 TRACK AS AN ASSISTANT PROFESSOR OF STATISTICS AT PENN
10 STATE.

11 Q APPROXIMATELY HOW MANY PEER-REVIEW ARTICLES
12 HAVE YOU PUBLISHED?

13 A MAYBE A DOZEN OR SO.

14 Q CAN YOU DESCRIBE SOME OF YOUR ACADEMIC WORK
15 THAT YOU HAVE DONE ON THE TOPIC OF REDISTRICTING AND
16 THE USE OF SIMULATIONS?

17 A SURE. SO THE FIRST THING I DID THERE IS I
18 WROTE AN ARTICLE DEVELOPING A REDISTRICTING
19 SIMULATION ALGORITHM TO GENERATE REDISTRICTING PLANS.
20 AND THEN IN WORK SINCE THEN I'VE APPLIED THAT TOOL TO
21 STUDY --

22 **THE REPORTER:** I'M SORRY. A LITTLE SLOWER.
23 "TO STUDY" --

24 **THE WITNESS:** I'M SORRY. PARTISAN
25 GERRYMANDERING, CENSUS DATA, AND OTHER TOPICS.

01:36p

1 **BY MS. BRANNON:**

2 **Q** ARE YOU FAMILIAR WITH THE REPORTS THAT DR.
3 BARBER PROVIDED IN THIS CASE?

4 **A** I AM.

5 **Q** DID YOU REVIEW THOSE REPORTS?

6 **A** YES.

7 **Q** WHAT SOFTWARE DID DR. BARBER USE IN
8 CONDUCTING THE ANALYSIS IN HIS REPORTS?

9 **A** HE USED THE REDIST SOFTWARE, WHICH IS
10 SOFTWARE THAT I HELPED WRITE THAT IMPLEMENTS THIS
11 ALGORITHM THAT I WAS JUST TALKING ABOUT.

12 **Q** ARE THERE PEER-REVIEWED ARTICLES ABOUT THE
13 WORK YOU HAVE DONE IN CREATING THIS SOFTWARE?

14 **A** YES. SO I THINK IT'S ACTUALLY THE FIRST ONE
15 THERE IN MY LIST: "SEQUENTIAL MONTE CARLO FOR
16 SAMPLING BALANCED AND COMPACT REDISTRICKING PLANS"
17 THAT DEVELOPED THIS ALGORITHM. AND AS PART OF THAT
18 WE ALSO RELEASED THE SOFTWARE THAT IMPLEMENTS THAT.

19 **MS. BRANNON:** PLAINTIFFS MOVE TO ADMIT DR.
20 MCCARTAN AS AN EXPERT IN THE FIELD OF REDISTRICKING
21 AND THE USE OF SIMULATIONS IN REDISTRICKING.

22 **THE COURT:** ANY OBJECTION OR CROSS ON THE
23 TENDER?

24 **MS. HOLT:** NO OBJECTION, YOUR HONOR.

25 **THE COURT:** DR. MCCARTAN WILL BE PERMITTED

01:37p

1 TO GIVE OPINION TESTIMONY ON REDISTRICTING AND THE
2 USE OF -- I'M SORRY. CAN Y'ALL NOT HEAR ME -- AND
3 THE USE OF SIMULATIONS IN REDISTRICTING.

4 **DIRECT EXAMINATION**

5 **BY MS. BRANNON:**

6 Q WHAT DID THE PLAINTIFFS ASK YOU TO DO IN
7 THIS CASE?

8 A I WAS RETAINED TO STUDY DR. BARBER'S REPORT
9 AND THE EVIDENCE HE PRESENTED THERE.

10 Q CAN YOU DESCRIBE IN VERY GENERAL TERMS WHAT
11 ANALYSIS DR. BARBER DID IN THESE REPORTS?

12 A SURE. SO IN HIS FIRST REPORT DR. BARBER
13 ATTEMPTED TO RUN A SIMULATION ANALYSIS GENERATING
14 RANDOM PLANS AND COMPARING THEM AGAINST THE
15 ILLUSTRATIVE MAP, THE ENACTED PLAN. HE ALSO
16 PERFORMED A NUMBER OF WHAT HE CALLED REGIONAL
17 ANALYSES TO FURTHER EXAMINE THOSE TWO PLANS.

18 Q AND DID THESE SIMULATIONS USE A PARTICULAR
19 SOFTWARE?

20 A YES. HE GENERATED THOSE SIMULATIONS WITH
21 THIS REDIST SOFTWARE THAT I HELPED WRITE.

22 Q DID THOSE -- DOES THAT SOFTWARE IMPLEMENT AN
23 ALGORITHM?

24 A YES. SO AS PART OF THAT SOFTWARE YOU CAN
25 RUN THIS -- WE CALL IT THE SMC ALGORITHM, SEQUENTIAL

01:38p

1 MONTE CARLO. IT'S A WAY OF GENERATING RANDOM
2 REDISTRICTING PLANS.

3 Q SO IF WE CALL IT SMC THROUGHOUT TODAY'S
4 PRESENTATION, YOU'LL KNOW WHAT WE'RE TALKING ABOUT?

5 A YES.

6 Q CAN YOU DESCRIBE WHAT THE ALGORITHM DOES?

7 A SURE. SO AS WE SAY, ITS GOAL IS TO GENERATE
8 A REPRESENTATIVE RANDOM SAMPLE OF REDISTRICTING PLANS
9 THAT -- FROM THE SET OF ALL THE PLANS THAT MEET
10 VARIOUS CRITERIA OR SATISFY OR FOLLOWS CERTAIN
11 PRINCIPLES. SO THE WAY IT DOES THAT IS IT STARTS
12 WITH A BLANK MAP OF WHATEVER STATE YOU'RE IN. IT
13 DRAWS DISTRICTS ONE AT A TIME ON THAT MAP. AND IT
14 DOES THIS ACTUALLY FOR MANY, MANY MAPS AT A TIME.
15 AND BY KEEPING TRACK OF HOW IT'S DRAWING ALL THESE
16 DISTRICTS ON THE MAPS, IT'S DESIGNED THEN TO
17 GUARANTEE THAT THE ULTIMATE SAMPLE YOU HAVE IS
18 REPRESENTATIVE.

19 Q IS THE REDIST SOFTWARE AVAILABLE FOR PUBLIC
20 USE?

21 A YEAH. SO IT'S WHAT WE CALL OPEN SOURCE,
22 MEANING THAT THE CODE AND THE SOFTWARE ITSELF ARE
23 FREE TO USE AND AVAILABLE, YOU KNOW, FROM OUR
24 WEBSITE. ANYONE CAN GO AND INSTALL IT VERY QUICKLY
25 AND EASILY. AND IT COMES ALONG WITH SOME PLAIN

01:40p

1 ENGLISH DOCUMENTATION THAT EXPLAINS WHAT THE SOFTWARE
2 IS, HOW TO USE IT, AND HOW TO RUN PARTICULAR CODE TO
3 ACCOMPLISH CERTAIN OBJECTIVES.

4 Q AND YOU JUST MENTIONED CREATING A
5 REPRESENTATIVE SAMPLE. HOW DO YOU DETERMINE THAT A
6 SAMPLE IS REPRESENTATIVE?

7 A RIGHT. SO WHEN I SAY "REPRESENTATIVE," I
8 THINK -- THE GOOD ANALOGY IS LIKE A POLL. YOU HAVE A
9 BIG POPULATION. IN THE CASE OF A POLL, IT'S LIKE
10 U.S. VOTERS. IN THE CASE OF THIS ALGORITHM, IT'S ALL
11 THE PLANS POSSIBLE OUT THERE THAT MEET THESE CRITERIA
12 OR FOLLOW THESE PRINCIPLES. AND YOU CAN'T ACTUALLY
13 GO AND CHECK ALL OF THE WHOLE POPULATION. YOU HAVE
14 TO ONLY LOOK AT A SUBSET, AND YOU CAN LOOK AT A
15 SAMPLE. AND FOR THAT EXERCISE TO BE USEFUL, THAT
16 SAMPLE HAS TO BE REPRESENTATIVE SO THAT THE
17 CONCLUSIONS YOU DRAW FROM THE SAMPLE ALSO HOLD IN THE
18 POPULATION.

19 SO THE GOAL OF THE ALGORITHM IS TO PROVIDE A
20 REPRESENTATIVE SAMPLE, JUST LIKE THE GOAL OF A POLL
21 IS TO TALK TO A REPRESENTATIVE SAMPLE OF THE VOTERS
22 SO YOU CAN MAKE CONCLUSIONS. AND OBVIOUSLY IF YOU
23 ARE NOT LOOKING AT A REPRESENTATIVE SAMPLE, YOU CAN
24 MAKE CONCLUSIONS THAT ARE GOING TO BE FAULTY. SO
25 LIKE FAMOUSLY WRITE IN, IN 2016 ELECTION POLLING, YOU

01:41p

1 KNOW, HAD HILLARY CLINTON WINNING THE ELECTION AND
2 THEN THAT DIDN'T HAPPEN, THAT WAS BECAUSE THE SAMPLES
3 WEREN'T REPRESENTATIVE.

4 SO IN OUR SOFTWARE, UNLIKE IN POLLING, WE
5 ACTUALLY HAVE CONFLICT WAYS TO TRY TO HELP USER
6 IDENTIFY WHEN THEY'RE IN THOSE SCENARIOS AND ACTUALLY
7 KNOW IN ADVANCE THAT WHETHER OR NOT THEY ARE SAMPLES
8 REPRESENTATIVE OR NOT.

9 Q AND ARE THOSE THE STANDARD DIAGNOSTICS?

10 A RIGHT. SO THE WAY WE DO THAT -- AND YOU
11 CANNOT BE A HUNDRED PERCENT SURE. BUT WE'VE COME UP
12 AND WE THEN DEVELOPED WHAT WE CALL DIAGNOSTIC
13 MEASURES. THESE ARE BASICALLY FORMULAS. THEY
14 PRODUCE A NUMBER AND THAT NUMBER TAKES ON CERTAIN
15 VALUES THAT'S INDICATIVE OF PROBLEMS LIKE A RED FLAG,
16 IF YOU WILL, THAT THE SAMPLE YOU'VE GENERATED IS NOT
17 REPRESENTATIVE.

18 Q SO WE'RE GOING TO DISCUSS THE IMPLEMENTATION
19 OF THE STANDARD DIAGNOSTICS AND A FEW OF YOUR OTHER
20 OPINIONS ABOUT THE STEPS DR. BARBER TOOK TO IMPLEMENT
21 YOUR SOFTWARE SHORTLY. BUT LET'S START WITH THE BIG
22 PICTURE.

23 DID YOU REVIEW DR. BARBER'S CONCLUSIONS?

24 A I DID.

25 Q IN VERY GENERAL TERMS, CAN YOU DESCRIBE YOUR

01:42p

1 UNDERSTANDING OF DR. BARBER'S CONCLUSIONS?

2 A RIGHT. SO AS WE TALKED ABOUT, HE ATTEMPTED
3 TO FIRST RUN THIS SIMULATION STUDY, GENERALLY WHAT HE
4 CALLED A RACE-NEUTRAL BASELINE OF PLANS, WHICH HE
5 THEN COMPARED AGAINST THE ILLUSTRATIVE MAP AND THE
6 ENACTED. ON THE BASIS OF THAT SET, DR. BARBER
7 CONCLUDED THAT RACE PLAYED A ROLE IN THE DRAWING OF
8 THE ILLUSTRATIVE MAP.

9 DR. BARBER THEN ALSO PERFORMED WHAT HE
10 CALLED THESE REGIONAL ANALYSES. AND PUTTING THOSE
11 THINGS TOGETHER HE CONCLUDED THAT RACE PLAYED A
12 SIGNIFICANT ROLE, MORE SO AND ABOVE THESE OTHER
13 TRADITIONAL REDISTRICTING PRINCIPLES.

14 Q DO YOU AGREE WITH DR. BARBER'S CONCLUSIONS?

15 A I DON'T.

16 Q DO YOU THINK DR. BARBER ESTABLISHED -- DR.
17 BARBER'S SIMULATIONS ESTABLISHED THAT -- LET ME
18 REPHRASE THE QUESTION.

19 DO DR. BARBER'S SIMULATIONS ESTABLISH A MORE
20 SIGNIFICANT FACTOR IN THE ILLUSTRATIVE MAP OTHER THAN
21 REDISTRICTING PRINCIPLES?

22 A NO, THEY DON'T.

23 Q WHY NOT?

24 A WELL, REALLY -- SO DR. BARBER ONLY RAN WHAT
25 WE CALL ONE SIMULATION STUDY. HE GENERATED ONE SET,

01:43p

1 IN THIS CASE A HUNDRED THOUSAND PLANS. AND THAT ONE
2 SET IS ACTUALLY NEVER GOING TO BE ENOUGH TO MAKE A --
3 EVEN IF YOU RUN THAT SET CORRECTLY, IT'S NEVER GOING
4 TO BE ENOUGH TO ESTABLISH THAT ONE FACTOR DOMINATED
5 OR OVERWHELMED OTHER FACTORS, BECAUSE FUNDAMENTALLY
6 IT'S ABOUT HOW FACTORS ARE PLAYING AGAINST EACH
7 OTHER. AND ALL YOU CAN DO WITH A SINGLE STUDY IS
8 MEASURE THE IMPACT OF ONE FACTOR ON A PARTICULAR
9 OUTCOME.

10 Q THE HUNDRED THOUSAND RUNS THAT YOU JUST
11 MENTIONED, THAT'S THE SIMULATION STUDY THAT DR.
12 BARBER DID IN HIS FIRST REPORT. IS THAT CORRECT?

13 A THAT'S RIGHT.

14 Q IN GENERAL TERMS, WHAT IS YOUR OPINION OF
15 THE VALUE OF THAT FIRST SIMULATION STUDY?

16 A SO AS I SAID, YOU KNOW, WHEN DONE CORRECTLY,
17 THESE SIMULATIONS CAN COME UP WITH A REPRESENTATIVE
18 SAMPLE, THEY CAN MEASURE THE IMPACT OF MAYBE ONE
19 FACTOR. BUT DR. BARBER DIDN'T PERFORM THIS FIRST SET
20 OF SIMULATIONS CORRECTLY. AND SO REALLY, AS FAR AS
21 I'M CONCERNED, THAT FIRST SET REALLY IS KIND OF
22 USELESS FOR ANSWERING THE QUESTIONS HE WAS TRYING TO
23 ASK.

24 Q SO WITH HIS SECOND SIMULATION STUDY BEING OF
25 MORE VALUE, WHICH WE'LL GET TO, HE ESSENTIALLY ONLY

01:44p

1 RAN ONE SIMULATION STUDY, IN YOUR OPINION?

2 A THAT'S RIGHT. BECAUSE THE FIRST ONE, LIKE I
3 SAID, WAS -- DIDN'T HAVE ANY VALUE.

4 Q IN YOUR OPINION, CAN SIMULATIONS BE USED TO
5 CREATE A REPRESENTATIVE SAMPLE OF PLANS THAT COMPLY
6 WITH CERTAIN REDISTRICTING PRINCIPLES?

7 A YEAH. SO WHEN USED CORRECTLY, THAT'S ONE OF
8 THE THINGS THEY'RE DESIGNED TO DO.

9 Q HAVE YOU DONE ANY WORK IN ANOTHER STATE
10 USING THE SMC ALGORITHM TO EVALUATE REDISTRICTING
11 MAPS?

12 A YEAH. SO AS I MENTIONED, WE -- IN A LOT OF
13 MY ACADEMIC WORK WE'VE USED THIS ALGORITHM. WE HAD A
14 PROJECT WHERE WE WERE TRYING TO MEASURE THE IMPACT OF
15 PARTISAN CONSIDERATIONS OR PARTISAN GERRYMANDERING IN
16 ALL 50 STATES' CONGRESSIONAL MAPS WHERE WE USED THIS
17 ALGORITHM THROUGHOUT.

18 Q AND WHAT STEPS WERE INVOLVED IN THAT WORK?

19 A SURE. WELL, MAYBE IT'S EASY TO GIVE YOU AN
20 EXAMPLE. SO ONE STATE WE LOOKED AT OBVIOUSLY WAS
21 FLORIDA. AND AS I SAY, THERE WE'RE TRYING TO MEASURE
22 THE IMPACT OF THIS PARTISANSHIP FACTOR, SO THAT
23 INVOLVES COMPARING THE PLAN THAT WAS ACTUALLY ADOPTED
24 IN FLORIDA WITH A SET THAT INCLUDES ALL THE OTHER
25 FACTORS AND PRINCIPLES THAT YOU WANT IN CONGRESSIONAL

01:46p

1 MAPS IN FLORIDA EXCEPT PARTISANSHIP. SO WE STILL
2 WANT TO CONSIDER THE COMPACTNESS OF THE DISTRICTS,
3 THE POPULATION, MAYBE PRESERVING COUNTIES,
4 MUNICIPALITIES. THE VOTING RIGHTS ACT IS OBVIOUSLY A
5 CONSIDERATION IN THAT STATE.

6 SO TO INCORPORATE ALL THOSE FACTORS INTO A
7 SIMULATION, YOU KNOW, YOU START WITH THE FACTORS IN
8 PLAIN ENGLISH. YOU NEED TO SOMEHOW TRANSLATE THOSE
9 TO CODE OR MATH THAT THE ALGORITHM CAN ACTUALLY
10 UNDERSTAND AND WORK WITH. AND THAT'S NOT, YOU KNOW,
11 A SIMPLE OR ONE-TO-ONE PROCESS. THERE IS CHOICES YOU
12 CAN MAKE AS TO HOW TO DO THAT INTERPRETATION.

13 AND IN PARTICULAR, YOU KNOW, FOR MANY OF
14 THESE PRINCIPLES, YOU HAVE TO SORT OF DECIDE HOW
15 STRONG OF AN INSTRUCTION YOU WANT TO PROVIDE TO THE
16 ALGORITHM; HOW MUCH SHOULD IT PRIORITIZE THIS
17 PRINCIPLE AND THIS FACTOR. AND THERE IS NO WAY A
18 PRIORITY TO REALLY KNOW EXACTLY HOW TO MAKE ALL THE
19 SETTINGS. WHAT YOU HAVE TO DO IS TRY SOME VALUES,
20 SOME SETTINGS, SOME WAYS OF INCORPORATING THESE
21 PRINCIPLES. YOU CAN TRY THAT OUT, PRODUCE A
22 SIMULATED SET, AND THEN LOOK AT IT AND STUDY IT AND
23 SAY, OKAY, DID THIS MEET -- DID THIS INCORPORATE THE
24 PRINCIPLES I WANT? ARE THESE PLANS SATISFACTORY?
25 YOU MIGHT WANT TO TRY WRITING THE ALGORITHM MULTIPLE

01:47p

1 TIMES, JUST CHANGING ONE THING AT A TIME TO EVALUATE
2 THE IMPACT OF A SINGLE FACTOR, A SINGLE CHANGE.
3 THESE TYPE OF EXPERIMENTS ARE LIKE REALLY CRUCIAL FOR
4 COMING UP ULTIMATELY WITH A SET OF PLANS THAT
5 INCORPORATES OTHER PRINCIPLES THAT YOU WANT TO
6 INCORPORATE.

7 SO IN THE CASE OF FLORIDA, I THINK IT TOOK
8 US ON THE ORDER OF MONTHS REALLY TO RUN ALL THE
9 EXPERIMENTS WE WANTED, TRY THINGS OUT, STUDY THE
10 RESULTS AND COME UP WITH ULTIMATELY A FINAL SET OF
11 INSTRUCTIONS OR PARAMETERS FOR THE ALGORITHM THAT WE
12 WERE HAPPY WITH.

13 Q HAVE YOU RUN ANY SIMULATION STUDIES YOURSELF
14 RELATED TO THE LOUISIANA STATE LEGISLATIVE MAPS?

15 A NO, I HAVEN'T. I WASN'T RETAINED TO DO
16 SIMULATIONS SPECIFICALLY, AND REALLY I DIDN'T NEED TO
17 DO SIMULATIONS MYSELF TO EVALUATE THE SIMULATION WORK
18 THAT DR. BARBER DID AND THE OTHER EVIDENCE HE
19 PRESENTED.

20 Q AND WHY NOT?

21 A WELL, I LIKE I SAY, YOU KNOW -- YOU KNOW,
22 WHEN YOU'RE DOING A SIMULATION ANALYSIS, THAT
23 INVOLVES, YOU KNOW, A CERTAIN PROCEDURE AND STEPS.
24 IT'S NOT A FORMULA, BUT THERE IS A WORKFLOW ISSUE YOU
25 GENERALLY FOLLOW. AND THERE IS ALSO THINGS YOU CAN

01:48p

1 DO AS PART OF THAT WORKFLOW LIKE CHECKING THESE
2 DIAGNOSTICS THAT WE'VE BEEN TALKING ABOUT. AND SO IF
3 YOU'RE NOT CHECKING THESE DIAGNOSTICS OR IF YOU'RE
4 NOT FOLLOWING THE WORKFLOW PROPERLY, YOU KNOW, YOU --
5 I WAS ABLE TO, YOU KNOW, SEE IF THOSE STEPS WERE
6 BEING FOLLOWED, WHERE THE DIAGNOSTICS WERE
7 APPROPRIATE WITHOUT HAVING TO GO AND DO MY OWN
8 SIMULATION WORK.

9 Q AND DO YOU KNOW HOW LONG IT MIGHT TAKE TO
10 RUN REPRESENTATIVE SIMULATION STUDIES FOR THE
11 LOUISIANA STATE LEGISLATIVE MAPS?

12 A YEAH. WELL, YOU KNOW, IT DEPENDS WHAT WE
13 MEAN BY "REPRESENTATIVE." AND WHAT I MEAN BY THAT IS
14 IT DEPENDS WHAT CONSTRAINTS AND PRINCIPLES AND
15 CRITERIA WE'RE TRYING TO INCORPORATE INTO THE
16 ALGORITHM, THE SIMULATIONS. YOU KNOW, SOMETIMES
17 IT'S -- YOU CAN JUST ASK TOO MUCH. YOU KNOW, THESE
18 ALGORITHMS AREN'T LIKE A MAGIC BULLET. IT'S POSSIBLE
19 TO SAY -- TO TRY TO PUT TOO MUCH IN. AND IT COULD
20 ACTUALLY JUST NOT EVEN BE POSSIBLE TO GENERATE A
21 REPRESENTATIVE SAMPLE WITH CERTAIN COMBINATIONS OF
22 CONSTRAINTS OR PRINCIPLES. THE ONLY WAY YOU CAN KNOW
23 FOR SURE IS BY TRYING OUT AND GOING THROUGH THE SORT
24 OF ITERATIVE EXPERIMENTAL PROCESS THAT I STARTED
25 TALKING ABOUT WHAT WE DID IN FLORIDA. AND SO JUST

01:49p

1 SITTING AT THE START YOU CAN'T ALWAYS KNOW IF IT'S
2 POSSIBLE OR, IF IT IS POSSIBLE, HOW LONG IT WOULD
3 TAKE.

4 Q DID YOU REVIEW THE REPORTS THAT DR. BARBER
5 ENTERED INTO THIS CASE?

6 A I DID.

7 Q AFTER REVIEWING DR. BARBER'S FIRST REPORT,
8 DID YOU DRAFT A REPORT REFLECTING YOUR OPINIONS?

9 A YES, I DID.

10 Q CAN WE SEE PL 135.

11 IS THAT -- IS THIS THAT REPORT?

12 A IT LOOKS LIKE IT.

13 Q CAN WE TURN TO PAGES 5 AND 6.

14 ARE YOU FAMILIAR WITH THESE PAGES?

15 A YEAH. THIS IS A SECTION WHERE I SUMMARIZE
16 MY OPINIONS.

17 Q CAN WE HIGHLIGHT LANGUAGE IN THE FIRST
18 BULLET POINT? IT STARTS -- CAN YOU READ THE
19 HIGHLIGHTED LANGUAGE?

20 A SURE. "DR. BARBER DID NOT FOLLOW BEST
21 PRACTICES IN USING THE SMC ALGORITHM AND REDIST
22 SOFTWARE. IN PARTICULAR, HE DIDN'T CHECK STANDARD
23 DIAGNOSTICS THAT WOULD HAVE IDENTIFIED NUMEROUS
24 PROBLEMS IN BOTH THE SIMULATED SETS OF SENATE AND
25 HOUSE PLANS."

01:50p

1 Q WHAT DO YOU MEAN BY THIS SENTENCE?

2 A SURE. SO WE'VE TOUCHED ON SORT OF IN
3 GENERAL TERMS THERE IS NUMERICAL DIAGNOSTICS THAT
4 INDICATE OR THAT A SIMULATION SAMPLE YOU'VE GENERATED
5 IS LIKELY NOT REPRESENTATIVE. AND IT'S AN IMPORTANT
6 PART OF PERFORMING THESE SIMULATION ANALYSES TO RUN
7 THOSE DIAGNOSTICS AND CHECKS SO THAT YOU KNOW IF
8 THERE IS PROBLEMS THAT YOU CAN TAKE STEPS TO ADDRESS.

9 DR. BARBER DIDN'T DO THAT, ALTHOUGH HE COULD
10 HAVE. HE DIDN'T CHECK THESE DIAGNOSTICS AND,
11 THEREFORE, DIDN'T FIX PROBLEMS THAT TURNED OUT TO BE
12 PRESENT.

13 Q DR. MCCARTAN, WERE YOU HERE YESTERDAY WHEN
14 DR. BARBER TESTIFIED?

15 A I WAS.

16 Q WHEN YOU'RE TALKING ABOUT THE STANDARD
17 DIAGNOSTICS, IS THAT THE SAME THING AS THE CONVERGENT
18 DIAGNOSTICS DR. BARBER WAS DISCUSSING YESTERDAY?

19 A OH, YES. SO I THINK FOR OUR PURPOSES THESE
20 ARE PRETTY MUCH SYNONYMOUS. SO WHEN WE SAY A SAMPLE
21 IS REPRESENTATIVE OR THAT THE ALGORITHM IS CONVERGED,
22 THOSE ARE REALLY GETTING AT THE SAME THING: YOU
23 KNOW, CAN WE TRUST THE RESULTS. SO THESE DIAGNOSTICS
24 ARE DESIGNED TO CHECK CONVERGENCE OR ESTABLISH
25 REPRESENTATIVENESS. IT'S TWO SIDES OF THE SAME COIN.

01:51p

1 Q DID YOU HEAR DR. BARBER TESTIFY YESTERDAY
2 THAT HE PROVIDED STANDARD DIAGNOSTICS FOR HIS FIRST
3 SET OF SIMULATIONS?

4 A I DID.

5 Q AND DO YOU BELIEVE HE ACTUALLY CHECKED THESE
6 DIAGNOSTICS?

7 A NO. WHAT I UNDERSTOOD HIM TO MEAN WHEN HE
8 SAID "PROVIDED THE DIAGNOSTICS" IS THAT -- SO THE
9 DATA THAT ARE NEEDED TO CALCULATE THESE DIAGNOSTICS
10 ARE ACTUALLY SAVED AUTOMATICALLY BY THE SOFTWARE SO
11 THAT WHEN THE FINALS WERE TURNED OVER TO ME, I GUESS
12 THROUGH THE DISCOVERY PROCESS, THAT DATA WAS STILL
13 INCLUDED. BUT TO ACTUALLY CHECK AND RUN THE
14 DIAGNOSTICS REQUIRES THAT THE ANALYST, YOU KNOW, RUN
15 SOME CODE -- RUN A LINE OF CODE AND LOOK AT THE
16 RESULTS AND EVALUATE THEM.

17 AND THE CODE THAT DR. BARBER TURNED OVER
18 THAT I REVIEWED, THERE WERE NO SUCH INSTRUCTIONS TO
19 CHECK THESE DIAGNOSTICS. IN FACT, IF HE HAD RUN THE
20 CODE, THERE WOULD HAVE BEEN -- THE DIAGNOSTICS WOULD
21 HAVE IDENTIFIED SEVERAL PARTICULAR ISSUES AND ACTION
22 STEPS THAT IT RECOMMENDED SHOULD BE TAKEN. SINCE DR.
23 BARBER DIDN'T, YOU KNOW, ADDRESS THOSE ISSUES, I CAN
24 ONLY ASSUME THAT HE DIDN'T ACTUALLY CHECK THE
25 DIAGNOSTICS EVEN THOUGH, AS WE SAID, THEY WERE -- THE

01:53p

1 DATA WERE THERE TO CALCULATE THEM.

2 Q DID YOU CHECK THE DIAGNOSTICS?

3 A I DID.

4 Q CAN WE SEE PAGES 22 AND 23 FROM DR.

5 MCCARTAN'S REPORT, WHICH --

6 AND THEN WHAT DO THESE PAGES SHOW?

7 A SURE. SO THIS SECTION A HERE IS THE ACTUAL
8 OUTPUT FROM THE COMPUTER YOU'D GET IF YOU RAN THIS
9 CODE TO PRODUCE THE DIAGNOSTICS FOR HIS SENATE
10 SAMPLE.

11 Q CAN WE JUST HIGHLIGHT THE LANGUAGE THAT'S ON
12 PAGE 23 ABOVE THE B BULLET POINT.

13 CAN YOU TELL US IN VERY GENERAL TERMS WHAT
14 THAT LANGUAGE IS?

15 A SURE. SO EVERYTHING ABOVE THAT IS A BUNCH
16 OF NUMBERS THAT ARE SORT OF -- CONSTITUTE THE
17 DIAGNOSTICS. AND THEN WHAT THE COMPUTER DOES IS IT
18 GOES THROUGH AND SORT OF CHECKS THOSE NUMBERS
19 ACCORDING TO SOME SORT OF RULES OF THUMB AND FIGURES
20 OUT IF IT THINKS THERE IS PROBLEMS. AND IF THERE ARE
21 PROBLEMS, IT SUMMARIZES THOSE HERE AT THE BOTTOM IN
22 THESE BULLET POINTS.

23 SO HERE THERE IS SORT OF THREE -- THREE
24 POTENTIAL PROBLEMS THEY IDENTIFIED. THESE ARE ALL
25 INDICATIVE OF A SAMPLE THAT'S NOT REPRESENTATIVE. SO

01:54p

1 FOR EACH OF THESE PARTICULAR PROBLEMS, SOMETIMES IT
2 WILL RECOMMEND STEPS THAT YOU COULD TAKE TO TRY TO
3 ADDRESS THEM. THE GOAL ISN'T NECESSARILY, YOU KNOW
4 -- THESE AREN'T LIKE -- THESE ARE SYMPTOMS. BUT THE
5 REAL PROBLEM IS A LACK OF REPRESENTATIVENESS.

6 Q AND HOW WOULD A PERSON WHO IS USING YOUR
7 REDIST SOFTWARE KNOW ABOUT THESE STANDARD
8 DIAGNOSTICS?

9 A OH, SURE. SO IN THE PAPER THAT WE TALKED
10 ABOUT IN MY C.V. THAT INTRODUCED THIS ALGORITHM, WE
11 ACTUALLY HAVE A WHOLE SECTION TITLED "DIAGNOSTICS"
12 THAT EXPLAINS WHY THESE ARE IMPORTANT AND RECOMMENDS
13 PARTICULARLY FORMULAS TO USE IN CALCULATING THESE
14 DIAGNOSTICS. AS I THINK I MENTIONED, THE SOFTWARE
15 ALSO COMES WITH DOCUMENTATION. SO IN ADDITION TO
16 CODE, THERE IS ACTUAL, YOU KNOW, ENGLISH WRITE-UPS OF
17 HOW TO USE THE SOFTWARE, ET CETERA. AND THOSE
18 CONTAIN MULTIPLE REFERENCES ABOUT THE IMPORTANCE OF
19 USING THE DIAGNOSTICS AS WELL AS THE ACTUAL CODE YOU
20 WOULD RUN TO CHECK -- TO CHECK THEM. AND THAT'S --
21 LIKE I SAY, THAT DOCUMENTATION IS ACTUALLY BUNDLED
22 WITH THE SOFTWARE, SO WHEN YOU INSTALL IT IT'S -- A
23 COPY OF THAT IS DOWNLOADED TO YOUR COMPUTER AND IT'S
24 REAL EASY TO GO AND VIEW THAT.

25 THE COURT: MS. BRANNON, CAN I JUST

01:56p

1 COMPLETE AND ACCURATE SORT OF TRANSCRIPT, IF YOU
2 WILL, OF THE CODE THAT DR. BARBER RAN AS PART OF HIS
3 COMPLETE ANALYSIS. AND NOWHERE IN THAT SCRIPT, THAT
4 COMPUTER CODE, WAS WITH THE INSTRUCTIONS TO RUN THESE
5 DIAGNOSTICS.

6 IN ADDITION, IT'S -- YOU KNOW, IT'S
7 ALWAYS POSSIBLE, I SUPPOSE, THAT HE RAN THEM WITHOUT
8 RECORDING THEM IN THE SCRIPT. BUT AS WE SEE HERE,
9 YOU KNOW, IF HE HAD RUN THEM, THERE WOULD HAVE BEEN,
10 YOU KNOW, STEPS RECOMMENDED THAT HE SHOULD HAVE
11 TAKEN. AND SINCE THERE WERE NO EFFORTS TO ADDRESS
12 ANY OF THESE ISSUES IN HIS CODE THAT HE TURNED OVER,
13 IT HELPED ME SORT OF ALSO CONCLUDE THAT HE HADN'T
14 CHECKED.

15 THE COURT: THANK YOU.

16 PARDON THE INTERRUPTION.

17 MS. BRANNON: OF COURSE, YOUR HONOR.

18 BY MS. BRANNON:

19 Q JUST TO CLARIFY FOR THE RECORD, THE SCRIPT
20 WAS PROVIDED BY DEFENDANTS IN THE DISCOVERY IN THIS
21 CASE AND GIVEN TO YOU BY COUNSEL?

22 A THAT'S MY UNDERSTANDING, YES. YEAH.

23 Q OKAY. TURNING BACK TO YOUR REPORT, CAN WE
24 GO BACK TO PAGES 5 AND 6 OF PL 135. AND CAN YOU READ
25 THE SECOND HIGHLIGHTED SENTENCE?

01:57p

1 A YEAH. "HE" -- DR. BARBER -- "ALSO FAILED TO
2 PERFORM MULTIPLE INDEPENDENT RUNS OF THE ALGORITHM,
3 WHICH PREVENTED THE CALCULATION OF IMPORTANT
4 ADDITIONAL DIAGNOSTICS AND MARGINS OF ERROR."

5 Q WHAT DO YOU MEAN BY THIS STATEMENT?

6 A SURE. SO I'VE BEEN USING DIAGNOSTICS AS
7 SORT OF AN UMBRELLA TERM. THERE'S A NUMBER OF THEM;
8 YOU KNOW, DIFFERENT FORMULAS. AN IMPORTANT SET OF
9 DIAGNOSTICS CENTER AROUND BASICALLY CHECKING THAT THE
10 RESULTS OF THE ALGORITHM ARE RELIABLE. SO I
11 MENTIONED THIS ALGORITHM IS RANDOM; IT USES RANDOM
12 NUMBERS. AND SO IF YOU RUN THE ALGORITHM WITH THE
13 EXACT SAME INSTRUCTIONS TWICE, YOU MIGHT GET SLIGHTLY
14 DIFFERENT RESULTS.

15 AND SO AN IMPORTANT THING TO DO IS ACTUALLY
16 TO DO THAT; TO RUN IT WITH THE EXACT SAME
17 INSTRUCTIONS TWICE OR MORE AND CHECK THAT THE RESULTS
18 ARE SIMILAR. AND WE HAVE A PARTICULAR WAY OF
19 MEASURING THAT. AND THAT CHECK IS AN ADDITIONAL
20 IMPORTANT SET OF DIAGNOSTICS THAT I'M REFERRING TO
21 HERE. AND IF YOU DO THAT, YOU CAN HAVE A LOT MORE
22 CONFIDENCE THAT THE RESULTS YOU HAVE ARE
23 REPRESENTATIVE AND THE ALGORITHM IS CONVERGED.

24 IF YOU DON'T DO THESE MULTIPLE INDEPENDENT
25 RUNS, THEN YOU'RE NOT EVEN ABLE TO RUN THOSE

01:58p

1 DIAGNOSTICS AND YOU'RE LACKING AN IMPORTANT PIECE OF
2 INFORMATION AROUND CONVERGENCE, REPRESENTATIVENESS.

3 IN THIS CASE DR. BARBER DID NOT RUN MULTIPLE
4 INDEPENDENT RUNS AND SO HE DIDN'T EVEN HAVE ACCESS TO
5 THIS IMPORTANT SECOND SET OF DIAGNOSTICS.

6 Q AND DO YOU BELIEVE THAT WAS A MISTAKE THAT
7 HE DIDN'T RUN THE SECOND SET OF INDEPENDENT -- AN
8 INDEPENDENT RUN OF THE ALGORITHM?

9 A YES. CERTAINLY, YOU KNOW, LIKE IN THE PAPER
10 THAT WE TALKED ABOUT, WE ARE VERY CLEAR THIS IS
11 PROBABLY THE MOST IMPORTANT OF THE DIAGNOSTICS, IS
12 THIS ONE THAT REQUIRES MULTIPLE INDEPENDENT RUNS. WE
13 MADE CLEAR THAT'S OUR STRONG RECOMMENDATION FOR
14 ANYONE USING THE ALGORITHM.

15 Q AND YOU TESTIFIED EARLIER ABOUT THE VALUE
16 AND NEEDING TO DO MULTIPLE ADDITIONAL VALID
17 SIMULATIONS. CAN YOU EXPLAIN THE DIFFERENCE BETWEEN
18 THAT CONCEPT AND THIS CONCEPT THAT WE'RE TALKING
19 ABOUT DOING AN INDEPENDENT RUN OF THE SAME ALGORITHM?

20 A SURE. THE ALGORITHM IS PROBABLY A LITTLE
21 CONFUSING. SO A SIMULATION STUDY, WHEN I SAY THAT,
22 THAT'S -- YOU'RE PRODUCING A SET OF THE RANDOM
23 PLANS -- TEN THOUSAND, A HUNDRED THOUSAND,
24 WHATEVER -- AND THAT'S TO ANSWER -- MAKE A PARTICULAR
25 COMPARISON, ANSWER A PARTICULAR QUESTION WITH A

01:59p

1 PARTICULAR SET OF CRITERIA, PRINCIPLES, WHAT HAVE
2 YOU.

3 SO WE TALKED ABOUT WHEN YOU'RE DOING THESE
4 ANALYSES LIKE I DID IN FLORIDA, YOU HAVE TO DO THAT
5 WHOLE SIMULATION STUDY PROCESS MANY TIMES -- OFTEN
6 ITERATIVELY, EXPERIMENTALLY -- TO ARRIVE AT A SET OF
7 INSTRUCTIONS, PARAMETERS, CRITERIA THAT YOU'RE HAPPY
8 WITH THAT PROVIDES THE EVIDENCE YOU'RE TRYING TO, YOU
9 KNOW, LOOK FOR. WITHIN ANY SINGLE SIMULATION STUDY,
10 THIS PRACTICE OF -- WITH THE EXACT SAME INSTRUCTIONS
11 AND NUMBERS, RUNNING THE ALGORITHM MULTIPLE TIMES, IS
12 AN IMPORTANT DIAGNOSTIC, YOU KNOW, TECHNICAL CHECK.
13 SO THAT'S HAPPENING WITHIN EACH OF THESE STIMULATION
14 STUDIES. BUT DOING MANY STUDIES IS PART OF SORT OF
15 THE SCIENCE PROCESS OF ALL THIS THAT'S IMPORTANT.

16 Q DO YOU BELIEVE, BASED ON YOUR EXPERIENCE AND
17 EXPERTISE, THAT THE SIMULATION STUDY IN DR. BARBER'S
18 FIRST REPORT HAS ANY VALUE?

19 A TO BE HONEST, NO. I THINK IT'S BASICALLY
20 USELESS FOR THE QUESTIONS HE WAS TRYING TO ANSWER.

21 Q DID YOU REVIEW DR. BARBER'S REBUTTAL REPORT?

22 A I DID.

23 Q AND WHAT'S PROVIDED IN DR. BARBER'S REBUTTAL
24 REPORT?

25 A SO IN HIS REPLY OR REBUTTAL REPORT, HE DID A

02:01p

1 NEW SET OF SIMULATIONS TO ADDRESS SOME OF THE
2 CONCERNS I RAISED IN MY REPORT. SO HE DOES ONE
3 ADDITIONAL SET OF SIMULATIONS WHERE HE CHANGES A
4 NUMBER OF THINGS ABOUT HOW HE RAN IT, AND THEN HE
5 CONCLUDES THAT NOTHING REALLY CHANGED AS FAR AS HIS
6 CONCLUSIONS OR, YOU KNOW, QUANTITATIVE RESULTS
7 BETWEEN THE FIRST AND SECOND SET.

8 Q AND DID HE CORRECT SOME OF THE MISTAKES THAT
9 WE HAVE BEEN DISCUSSING TODAY IN HIS SECOND
10 SIMULATION STUDY?

11 A YEAH. SO SOME OF THESE LIKE TECHNICAL
12 ISSUES WE'VE BEEN TALKING ABOUT WITH THE DIAGNOSTICS,
13 WITH THE MULTIPLE INDEPENDENT RUNS, HE DID ADDRESS
14 THOSE CONCERNS IN THE SECOND SET. SO HE REPRESENTS
15 IN HIS SECOND REPORT THAT HE DID MULTIPLE INDEPENDENT
16 RUNS, RAN ALL OF THE DIAGNOSTICS, AND THAT NONE OF
17 THOSE INDICATED ANY TECHNICAL ISSUES WITH HIS SECOND
18 SET OF SIMULATIONS.

19 Q CAN WE STILL -- WE HAVE PAGE 5 AND 6 UP.
20 CAN WE HAVE -- CAN YOU READ THE SECOND HIGHLIGHTED
21 BULLET POINT?

22 A SURE. "DR. BARBER DID NOT CORRECTLY
23 IMPLEMENT A 'CORE RETENTION' CONSTRAINT FOR HIS
24 SENATE SAMPLES, MEANING THAT THEY DO NOT 'RESPECT
25 PRE-EXISTING DISTRICT BOUNDARIES' BY DESIGN AS

02:02p

1 REQUIRED BY JOINT RULE 21."

2 Q WHAT DOES THIS SENTENCE MEAN?

3 A SURE. SO IN HIS FIRST REPORT DR. BARBER
4 WROTE THAT HE INSTRUCTED THE ALGORITHM TO FOCUS ON
5 PRESERVING THE CORES OF THE 2011 DISTRICTS IN THE NEW
6 MAP THAT HE WAS DRAWING. THE WAY HE WENT ABOUT DOING
7 THAT -- BECAUSE THAT'S JUST -- YOU KNOW, THE CORE OF
8 THE DISTRICTS, THAT'S JUST AN ENGLISH SENTENCE. TO
9 ACTUALLY PUT THAT INTO CODE, YOU HAVE TO COME UP WITH
10 A WAY OF TRANSLATING WHAT "CORES" MEANS FOR THE
11 ALGORITHM.

12 THE WAY HE DID THAT IS BY INSTRUCTING THE
13 ALGORITHM TO MEASURE CORE RETENTION AS FOLLOWS: LOOK
14 AT A 2011 DISTRICT AND SEE WHETHER OR NOT A NEW
15 DISTRICT YOU'RE DRAWING IS CONTAINED ENTIRELY WITHIN
16 IT OR IF IT IS SPLIT OR CROSSES THE 2011 DISTRICT.
17 ONLY IF IT'S -- IT ALL CROSSES, UNLESS IT'S ENTIRELY
18 CONTAINED WITHIN THE 2011 DISTRICT, HE HAS THE
19 ALGORITHM TO RECORD THAT AS ZERO CORE RETENTION. AND
20 THEN HE TELLS THE ALGORITHM: USING THIS DEFINITION
21 OF CORE RETENTION, TRY TO MAXIMIZE THIS CORE
22 RETENTION OR PLACE MORE WEIGHT ON DISTRICTS THAT
23 RETAIN CORES.

24 SO WHAT I DID IS I ACTUALLY WENT THROUGH ALL
25 100,000 SENATE MAPS IN HIS SAMPLE AND I LOOKED AT THE

02:04p

1 CORE RETENTION USING THE DEFINITION THAT HE GAVE THE
2 ALGORITHM AND FOUND THAT ACTUALLY ALL 100,000 PLANS
3 HAD ZERO CORE RETENTION USING THIS DEFINITION. SO
4 WHAT THAT MEANS IS, EVEN THOUGH HE TOLD THE ALGORITHM
5 TRY TO MAXIMIZE YOUR -- OR PLACE MORE WEIGHT USING
6 THIS DEFINITION OF CORE RETENTION, ALL OF THE PLANS
7 WERE ZERO. SO THIS INSTRUCTION WAS ACTUALLY HAVING
8 NO EFFECT ON THE PLANS THAT HE SIMULATED AND,
9 THEREFORE, HIS CONCLUSIONS.

10 Q AND YOU HEARD DR. BARBER TESTIFY YESTERDAY
11 THAT IN HIS FIRST SET OF SIMULATIONS HE IMPOSED VERY
12 LOW CORE RETENTION CONSTRAINTS OR NO CORE RETENTION
13 CONSTRAINTS. CORRECT?

14 A THAT'S WHAT I REMEMBER, YEAH.

15 Q SO DO YOU AGREE THAT HE IMPOSED NO CORE
16 RETENTION CONSTRAINTS IN HIS FIRST SET OF
17 SIMULATIONS, PARTICULARLY IN THE SENATE MAP?

18 A I DO.

19 Q AND THIS IS BECAUSE OF THE REVIEW THAT YOU
20 HAVE JUST REVIEWED TO THE COURT OF THE RESULTS?

21 A THAT'S RIGHT.

22 Q DO YOU THINK IT WAS A MISTAKE TO NOT
23 IMPLEMENT ANY CORE RETENTION IN HIS FIRST SET OF HIS
24 FIRST SIMULATION STUDY?

25 A I THINK IF YOU SAY THAT YOU'RE TRYING TO

02:05p

1 GENERATE SAMPLES THAT RESPECT THE CORES OR PRESERVE
2 THE CORES, IT WOULD BE A MISTAKE TO IMPLEMENT IT THIS
3 WAY BECAUSE IT'S -- AS WE'VE SEEN, IT ENDED UP NOT
4 ACTUALLY HAVING ANY EFFECT.

5 Q DID HE CORRECT THIS MISTAKE IN HIS SECOND
6 SIMULATION STUDY DISCUSSED IN HIS REBUTTAL REPORT?

7 A WELL, HE COMPLETELY CHANGED HOW HE
8 IMPLEMENTED THIS CORE RETENTION PRINCIPLE OR
9 OBJECTIVE IN HIS SECOND SET.

10 Q DID YOU HEAR DR. BARBER TESTIFY ABOUT HIS
11 DEFINITION OF CORE RETENTION YESTERDAY?

12 A YES.

13 Q AND WHAT'S YOUR UNDERSTANDING OF HIS
14 DEFINITION OF CORE RETENTION?

15 A IF I REMEMBER RIGHT, HE SAID THAT HE
16 MEASURES CORE RETENTION AS LOOKING AT THE PERCENT --
17 PERCENTAGE OF THE POPULATION IN AN OLD DISTRICT
18 THAT'S MAINTAINED INTO A NEW DISTRICT.

19 Q IS THIS THE MEASUREMENT OF CORE RETENTION
20 THAT DR. BARBER ACTUALLY USED IN HIS SECOND SET OF
21 SIMULATIONS?

22 A NO. SO IN HIS SECOND -- SO IN THE FIRST SET
23 HE DID THIS THING WITH THE SPLITS. IN THE SECOND SET
24 HE -- BEFORE HE EVEN RAN THE SIMULATIONS, HE SORT OF
25 PREDEFINED WHAT HE MEANT BY THE CORE OF EACH

02:06p

1 DISTRICT. SO HE DID THAT BY BASICALLY TAKING EACH
2 PRECINCT AND SAYING, YOU KNOW, THIS PRECINCT BELONGS
3 TO THE CORE OF A PARTICULAR DISTRICT OR THIS PRECINCT
4 DOESN'T BELONG TO THE CORE. AND THE WAY HE DEFINED
5 THESE CORES WAS BY ANY PRECINCT THAT WASN'T ON THE
6 BOUNDARY OF A DISTRICT. SO IF A PRECINCT TOUCHED A
7 PRECINCT IN ANOTHER DISTRICT, IT WASN'T IN THE CORE.
8 OTHERWISE IT WAS IN THE CORE OF THE DISTRICT. SO
9 ACTUALLY MOST OF THE PRECINCTS IN THE STATE ENDED UP
10 BEING IN ONE OF DR. BARBER'S CORES BASED ON THE 2011
11 DISTRICTS.

12 SO ONCE HE PREDEFINED THESE CORES, HE THEN
13 TOLD THE ALGORITHM TO GUARANTEE THAT ALL THE CORES
14 WOULD REMAIN TOGETHER, SO ALL THE PRECINCTS IN THE
15 CORE WOULD HAVE TO END UP IN THE SAME NEW DISTRICT
16 THAT WOULD BE SIMULATED. SO THIS IS ACTUALLY -- THIS
17 IS ACTUALLY -- THIS TYPE OF APPROACH WHERE YOU
18 PREDEFINE THE CORE AND THEN TRY TO HOLD THOSE
19 TOGETHER, THAT'S ACTUALLY AN APPROACH THAT I'VE USED
20 IN SOME OF MY ACADEMIC WORK. IT'S A SORT OF GENERAL
21 APPROACH IN THAT YOU CAN DECIDE HOW BIG YOU WANT
22 THESE CORES TO BE, RIGHT? SO YOU CAN HAVE THE CORES
23 GO ALL THE WAY TO THE BOUNDARY OR YOU CAN HAVE THE
24 CORES JUST BE MUCH SMALLER AND JUST BE IN THE CENTER
25 OF EACH DISTRICT. SO YOU SORT OF HAVE TO CHOOSE HOW

02:07p

1 STRONG YOU WANT THIS CORE CONSTRAINT TO BE
2 IMPLEMENTED. WHAT DR. BARBER DID WAS TO JUST MAKE IT
3 AS STRONG AS POSSIBLE, SO HE MADE THE CORES AS LARGE
4 AS POSSIBLE.

5 Q AND DO YOU HAVE AN OPINION ABOUT THE IMPACT
6 ON OUTCOME OF HIS SECOND SIMULATION STUDY OF THIS
7 APPROACH OF IMPLEMENTING A STRONG CORE RETENTION
8 CONSTRAINT?

9 A YEAH. WE CAN'T KNOW FOR SURE BECAUSE DR.
10 BARBER ONLY PROVIDED THIS ONE ADDITIONAL SET OF
11 SIMULATIONS WHERE HE CHANGED A NUMBER OF OTHER
12 THINGS, INCLUDING THIS WAY OF DOING CORE RETENTION.
13 SO WE DON'T HAVE A SIDE-BY-SIDE WHERE ALL HE CHANGED
14 WAS THIS CORE RETENTION AND WE CAN MEASURE THE IMPACT
15 OF THAT, SO WE DON'T KNOW FOR SURE.

16 YOU WOULD EXPECT, ESPECIALLY IF WE HAVE A
17 STRONG CORE CONSTRAINT, THAT WOULD TEND TO PRODUCE
18 DISTRICTS THAT LOOK MORE LIKE THE 2011 MAP, WHICH THE
19 CORES ARE BASED ON. TO THE EXTENT THAT THE ENACTED
20 PLAN LOOKS LIKE THE 2011 MAP, IT WOULD ALSO TEND TO
21 MAKE THE DISTRICTS LOOK MORE LIKE THE ENACTED MAP.
22 BUT AGAIN, LIKE I SAY, HOW MUCH OF AN EFFECT THAT
23 HAD, HARD TO KNOW. WE DO KNOW THAT THE CORE
24 CONSTRAINT WAS ON THE STRONG END OF THE SCALE.

25 Q DID DR. BARBER EVALUATE THE IMPACT OF THIS

02:08p

1 APPROACH TO IMPLEMENTING A CORE RETENTION CONSTRAINT
2 IN HIS SECOND SET OF SIMULATIONS?

3 A NOT TO MY KNOWLEDGE. AS I SAID, HE WOULD
4 HAVE HAD TO, YOU KNOW, RUN THIS WHOLE SIMULATION
5 STUDY WITH AND WITHOUT A CORE CONSTRAINT OR VARYING
6 THE STRENGTH OF HIS CONSTRAINT AND THEN REPORT THOSE
7 RESULTS. HE CERTAINLY DIDN'T REPORT ANYTHING. AND
8 SO, YOU KNOW, WE JUST DON'T KNOW WHAT THE EFFECT
9 WOULD HAVE BEEN.

10 Q AND WHAT ARE SOME OTHER OPTIONS FOR
11 IMPLEMENTING A CORE RETENTION CONSTRAINT THAT YOU
12 MIGHT RECOMMEND?

13 A WELL, I THINK -- AS I SAID, YOU KNOW, I
14 DON'T NECESSARILY OBJECT TO THIS GENERAL STRATEGY
15 THAT HE HAD FOR THIS CORE CONSTRAINT. BUT IT'S UP TO
16 THE ANALYST TO DECIDE HOW STRONG YOU WANT THAT
17 CONSTRAINT TO BE. IF IT'S TOO STRONG, IT COULD
18 ACTUALLY OVERWHELM OTHER PRINCIPLES OR FACTORS YOU'RE
19 TRYING TO INCORPORATE IN THE MAPS.

20 AND SO AS FAR AS I'M CONCERNED, THE PRACTICE
21 AN ANALYST SHOULD FOLLOW INVOLVES TRYING MULTIPLE
22 LEVELS OR STRENGTHS OF HIS CONSTRAINT AND EVALUATING
23 THAT. I'M SURE THERE IS OTHER WAYS THAT ONE COULD
24 IMPLEMENT A CORE CONSTRAINT. THERE IS NOT
25 NECESSARILY EXACTLY ONE WAY. BUT IF YOU'RE GOING TO

02:10p

1 GO DOWN THIS ROUTE, YOU HAVE TO HAVE SOME REASON FOR
2 PICKING THAT PARTICULAR STRENGTH OF A CONSTRAINT THAT
3 YOU SETTLE ON.

4 Q CAN WE GO BACK TO PAGE 5 AND 6 OF YOUR
5 REPORT. AND CAN YOU READ THE NEXT HIGHLIGHTED
6 SENTENCE IN THE BULLET POINT?

7 A SURE. "DR. BARBER GENERATED HOUSE PLANS BY
8 DIVIDING LOUISIANA INTO THREE SEPARATE DIVISIONS,
9 DEFINED BY ARBITRARY GROUPINGS OF PARISHES, AND THEN
10 GENERATING PLANS WITHIN EACH DIVISION."

11 Q AND HOW DOES THAT WORK?

12 A SURE. SO DR. BARBER LITERALLY TOOK THE
13 STATE OF LOUISIANA AND DREW TWO LINES ACROSS IT ALONG
14 PARISH BOUNDARIES, AND THAT CREATED THREE SEPARATE
15 REGIONS OF THE STATE. I THINK I HAVE A MAP IN MY
16 REPORT ACTUALLY OF WHAT THAT LOOKS LIKE. BUT WITHIN
17 EACH DIVISION, THEN, HE RUNS A COMPLETELY SEPARATE
18 RUN OF THE ALGORITHM TO PRODUCE ROUGHLY A THIRD OF
19 THE TOTAL DISTRICTS, AND THEN HE PUTS THOSE ALL
20 TOGETHER TO FORM A STATEWIDE MAP.

21 Q WHAT IMPACT DOES DIVIDING THE STATE INTO
22 PARTITIONS HAVE ON THE OPTIONS THAT MIGHT BE
23 GENERATED BY A SIMULATION STUDY?

24 A YEAH. SO AS YOU CAN IMAGINE, IF I'M
25 GENERATING DISTRICTS WITHIN EACH REGION SEPARATELY,

02:11p

1 NO DISTRICT THAT I GENERATE CAN POSSIBLY CROSS THE
2 LINES THAT, YOU KNOW, DELINEATE THESE REGIONS. AND
3 SO IT'S IMPOSSIBLE, ONCE YOU'VE DEFINED THE REGIONS
4 AND TAKE THIS APPROACH, TO COME UP WITH A PLAN THAT
5 HAS ANY DISTRICTS CROSSING THESE LINES. YOU'RE
6 GUARANTEED TO HAVE ALL THE DISTRICTS SORT OF STICK TO
7 THEIR OWN REGION.

8 NOTABLY, THE ENACTED PLAN IS ONE OF THE
9 PLANS THAT WOULD ACTUALLY BE IMPOSSIBLE TO GENERATE
10 UNDER THIS APPROACH.

11 Q DR. MCCARTAN, WHAT DOES IT MEAN TO HAVE
12 TRANSPARENCY WHEN YOU'RE IMPLEMENTING CONSTRAINTS
13 INTO AN ALGORITHM BEING RUN BY THE REDIST SOFTWARE?

14 A SO IN PERFORMING ANY SIMULATION ANALYSIS, AS
15 YOU MAKE THE TRANSLATION FROM SORT OF A PLAIN-
16 LANGUAGE UNDERSTANDING OF A PRINCIPLE OR A CRITERIA,
17 AS YOU TRANSLATE THAT INTO CODE YOU HAVE CHOICES.
18 THERE IS NUMBERS YOU HAVE TO SET, THERE IS DIFFERENT
19 STRATEGIES YOU CAN TAKE TO IMPLEMENT IT, AS WE SAW
20 WITH CORE RETENTION. AND BECAUSE THOSE CAN HAVE AN
21 EFFECT ON YOUR RESULTS, I THINK IT'S IMPORTANT TO BE
22 TRANSPARENT IN REPORTING YOUR RESULTS ABOUT WHAT
23 THOSE PARAMETERS WERE OR AT LEAST SORT OF THE
24 CRITERIA YOU PUT IN AND THE DECISIONS YOU MADE AND
25 MAYBE WHY YOU MADE THOSE DECISIONS.

02:12p

1 IT WOULD NOT BE, IN MY VIEW, APPROPRIATE OR
2 SURELY NOT TRANSPARENT TO PUT IN SOME KIND OF
3 INSTRUCTION OR CRITERIA AND THEN NOT REPORT THAT,
4 BECAUSE IT COULD HAVE AN EFFECT ON THE RESULTS.

5 Q WOULD YOU CHARACTERIZE DR. BARBER'S REPORTS
6 AS TRANSPARENT?

7 A I WOULDN'T, ESPECIALLY -- YOU KNOW, THE
8 FIRST REPORT, THIS DIVISION OF THE HOUSE INTO THREE
9 REGIONS WASN'T DISCLOSED AT ALL, DESPITE IT, YOU
10 KNOW, AFFECTING WHAT TYPES OF MAPS COULD EVEN BE
11 DRAWN. I ONLY DISCOVERED THAT BY GOING THROUGH THAT
12 TRANSCRIPT OF THE CODE HE RAN. YOU KNOW, THAT --
13 THERE'S JUST ONE EXAMPLE OF SORT OF THE LACK OF
14 TRANSPARENCY AROUND THE INSTRUCTIONS HE PROVIDED TO
15 THE ALGORITHM.

16 Q DID DR. BARBER IMPLEMENT PARTITIONS OF THE
17 STATE IN THE HOUSE AND SENATE MAPS IN HIS SECOND SET
18 OF SIMULATIONS?

19 A YEAH. SO IN THE FIRST SET THE SENATE WAS
20 DONE STATEWIDE. THERE WERE NO REGIONS. THE HOUSE
21 WAS DIVIDED INTO THREE. IN THE SECOND SET HE DIVIDED
22 THE STATE INTO SEVEN REGIONS FOR THE HOUSE AND FOUR
23 FOR THE SENATE.

24 Q HAVE YOU EVER RUN SIMULATIONS WHERE YOU
25 PARTITIONED A JURISDICTION INTO SUBPARTS?

02:15p

1 STATES, YOU KNOW, WE'LL TRY TO FIRST OF ALL BASE THE
2 GROUPS ON SOMETHING OBJECTIVE LIKE A METROPOLITAN
3 AREA, AND THEN WE'LL ALWAYS MAKE SURE TO TRY TO
4 EVALUATE THE EFFECT THAT THAT'S HAVING ON OUR
5 CONCLUSIONS.

6 Q AND DID DR. BARBER EVALUATE THE EFFECT OF
7 HIS DECISIONS TO PARTITION THE STATE IN HIS SECOND
8 SIMULATION RUN?

9 A NOT TO MY KNOWLEDGE. HE ONLY HAS THIS
10 SINGLE SIMULATION STUDY. AS FAR AS WE CAN SEE, HE
11 ONLY DIVIDED THE STATE IN ONE PARTICULAR WAY. HE
12 DOESN'T RECORD ANY OTHER EXPERIMENTS THAT HE RAN.

13 Q DR. MCCARTAN, DID YOU HEAR DR. BARBER
14 TESTIFY YESTERDAY THAT HE USED THE BOUNDARIES OF THE
15 ILLUSTRATIVE MAP AS THE BOUNDARIES OF HIS SUBPART HE
16 CREATED IN THE SECOND SIMULATION STUDY?

17 A YES, I DID.

18 Q DID YOU HEAR HIM TESTIFY THAT HE IMPLEMENTED
19 THE SUBPARTS IN THIS WAY BECAUSE HE BELIEVED IT WOULD
20 PROVIDE THE BEST CASE FOR THE ILLUSTRATIVE MAP?

21 A I DID HEAR THAT.

22 Q DO YOU AGREE?

23 A WELL, I DON'T THINK DR. BARBER OR MYSELF OR
24 ANYONE CAN REALLY KNOW EXACTLY WHAT THE EFFECT WOULD
25 BE. AGAIN, THAT'S BECAUSE DR. BARBER DIDN'T JUST

02:16p

1 CHANGE THIS REGIONAL DIVISION THING IN HIS SECOND
2 SET. HE ALSO CHANGED THE CORE RETENTION. HE CHANGED
3 A NUMBER OF PLANS. HE CHANGED A LOT OF STUFF. SO WE
4 DON'T HAVE THE SIDE-BY-SIDE THAT WOULD LET US
5 EVALUATE THE IMPACT OF THIS PARTICULAR CHOICE.

6 THAT BEING SAID, I WOULD PROBABLY AGREE WITH
7 DR. BARBER TO THE EXTENT THAT THERE MIGHT BE A
8 TENDENCY TO MAKE THE DISTRICTS LOOK A LITTLE MORE
9 LIKE THE ILLUSTRATIVE MAP WHEN YOU'RE DEFINING THESE
10 REGIONS ON THE BASIS OF THE ILLUSTRATIVE MAP. AGAIN,
11 THE EXTENT TO WHICH THAT'S HAPPENING, I DON'T THINK
12 ANYONE CAN KNOW BECAUSE WE DIDN'T RUN A SIDE-BY-SIDE
13 THAT MEASURED THAT.

14 Q AND YOU JUST MENTIONED, AND WE HAD DISCUSSED
15 EARLIER, THAT THERE IS A POTENTIAL UNKNOWN IMPACT OF
16 DR. BARBER'S IMPLEMENTATION OF A STRONG CONSTRAINT
17 FOR CORE RETENTION; AND, THEN, ALSO IT'S AN UNKNOWN
18 IMPACT WHAT IMPACT THE PARTITIONS HAD ON THE
19 SIMULATIONS.

20 WHAT IMPACT DOES IT HAVE ON THE MAPS CREATED
21 BY THE SECOND STIMULATION TO BOTH THESE CONSTRAINTS
22 IMPOSED TOGETHER?

23 A RIGHT. SO ONCE AGAIN, WE CAN'T KNOW FOR
24 SURE BECAUSE WE HAVEN'T BROKEN OUT THE PIECES
25 SEPARATELY. BUT AS WE SAID, ON THE ONE HAND YOU HAVE

02:17p

1 THE CORE CONSTRAINT THAT ANYTHING IS GOING TO PULL
2 DISTRICTS TO LOOK LIKE THE 2011 MAP; AND THEN ON THE
3 OTHER HAND YOU HAVE THIS WAY HE DIVIDED THE STATE,
4 WHICH, IF ANYTHING, IS GOING TO PULL THE DISTRICTS TO
5 LOOK MORE LIKE THE ILLUSTRATIVE MAP. SO THAT
6 POSSIBLY CREATES A TENSION. IT CERTAINLY SORT OF
7 REDUCES YOUR OPTIONS. RIGHT? YOU'RE TRYING TO
8 SATISFY BOTH THESE THINGS AT THE SAME TIME.

9 AND SO, IF ANYTHING, THAT SORT OF TENDS TO
10 NARROW, YOU KNOW, THE RANGES OF OUTCOMES YOU MIGHT
11 EXPECT. BUT THE OVERALL IMPACT REALLY IS NOT
12 KNOWABLE BECAUSE HE CHANGED ALL THESE THINGS AT ONCE
13 AND DIDN'T EVALUATE THEIR IMPACTS SEPARATELY.

14 Q DID YOU HEAR DR. BARBER TESTIFY YESTERDAY
15 THAT IN HIS OPINION THERE WAS VERY LITTLE DIFFERENCE
16 IN THE RESULTS OF HIS TWO DIFFERENT STIMULATION
17 STUDIES?

18 A I DID.

19 Q CAN WE CALL UP FROM DR. BARBER'S ORIGINAL
20 REPORT, WHICH IS EXHIBIT SOS 1, PAGE 56, AND CALL OUT
21 FIGURE 17; AND THEN ALSO FROM DR. BARBER'S REBUTTAL
22 REPORT, WHICH IS, FOR THE RECORD, SECRETARY OF STATE
23 EXHIBIT 4 AT PAGE 5; AND THEN CALL OUT THE HOUSE MAP
24 THAT IS ON THE RIGHT SIDE OF THE PAGE.

25 DR. MCCARTAN, ARE YOU FAMILIAR WITH THESE

02:19p

1 FIGURES THAT WE'VE JUST PUT ON THE SCREEN?

2 A YES. SO THEY'RE SHOWING THE RANGE OR THE
3 DISTRIBUTION OF BVAP-MAJORITY HOUSE DISTRICTS. AND
4 ON THE LEFT I THINK THIS IS A FIRST SIMULATION SET,
5 AND ON THE RIGHT IS HIS SECOND SIMULATION SET. AND
6 THEN ALSO PLOTTED ARE THE BVAP DISTRICTS IN THE
7 ENACTED AND ILLUSTRATIVE MAPS.

8 Q AND DO YOU AGREE WITH DR. BARBER'S OPINION
9 THAT THERE IS VERY LITTLE DIFFERENCE BETWEEN THE
10 OUTCOMES OF HIS TWO STIMULATION STUDIES?

11 A I DON'T.

12 Q CAN YOU EXPLAIN?

13 A WELL, JUST EVEN EYEBALLING, THESE ARE PRETTY
14 DIFFERENT DISTRIBUTIONS. SO THE LEFT IS THE FIRST
15 SET. THE RANGE OF BVAP DISTRICTS RUNS FROM NINE TO
16 18, 19, AND THE AVERAGE IS MAYBE 13, 14. IN THE
17 SECOND SET THE RANGE GOES FROM TEN OR 11 TO I THINK
18 25, AND THE AVERAGE IS 18. SO IN THE AVERAGE OF THE
19 NEW SET WAS BASICALLY THE UPPER END OF THE FIRST SET.
20 SO I WOULD DEFINITELY NOT DESCRIBE THAT AS VERY
21 LITTLE DIFFERENCE.

22 Q IN YOUR OPINION, THERE WAS A SIGNIFICANT
23 DIFFERENCE?

24 A YEAH.

25 Q WHAT'S YOUR UNDERSTANDING OF DR. BARBER'S

02:20p

1 ULTIMATE CONCLUSIONS IN HIS SECOND REPORT?

2 A AS I UNDERSTOOD IT, HE, AS WE TALKED ABOUT,
3 CHANGED A NUMBER OF THINGS, RERAN SIMULATIONS. BUT
4 HE MADE THE SAME CONCLUSION; THAT THERE WAS NOT --
5 THAT BASICALLY THE SECOND REPORT WAS -- HAD THE --
6 MADE THE SAME CONCLUSIONS AS THE FIRST REPORT.

7 Q WHAT'S YOUR OPINION ABOUT THOSE CONCLUSIONS?

8 A I DON'T THINK IT'S FAIR TO CHARACTERIZE THE
9 SECOND REPORT AS MAKING THE SAME CONCLUSIONS AS THE
10 FIRST REPORT BECAUSE OF THESE CHANGES IN BOTH THE
11 HOUSE AND THE SENATE. YEAH.

12 Q AND DO YOU HAVE AN OPINION -- JUST GOING
13 BACK TO REPEAT SOMETHING I THINK THAT YOU SAID
14 BEFORE, DO YOU HAVE AN OPINION AS TO WHETHER DR.
15 BARBER'S SIMULATIONS ESTABLISHED THAT ONE FACTOR WAS
16 MORE SIGNIFICANT IN THE ILLUSTRATIVE PLAN THAN OTHER
17 REDISTRICTING PRINCIPLES?

18 A RIGHT. SO WE TALKED ABOUT IN -- ON THE
19 BASIS OF HIS FIRST SET OF SIMULATIONS AND THE
20 REGIONAL ANALYSES, I DON'T THINK THAT CONCLUSION WAS
21 SUPPORTED, PRIMARILY BECAUSE THE FIRST SET OF
22 SIMULATIONS IS USELESS. THE SECOND SET I STILL THINK
23 IS NOT SUFFICIENT TO REACH THE CONCLUSION THAT DR.
24 BARBER DRAWS THERE, MOSTLY, AGAIN, BECAUSE A SINGLE
25 SET OF SIMULATIONS, A SINGLE SIMULATION STUDY, CAN'T

02:21p

1 EVER REALLY BE SUFFICIENT TO ESTABLISH THAT ONE
2 FACTOR, YOU KNOW, OVERWHELMINGLY WAS MORE SIGNIFICANT
3 THAN OTHER FACTORS, BECAUSE FUNDAMENTALLY THAT'S
4 ABOUT COMPARING MULTIPLE FACTORS OR HOW THOSE TWO
5 FACTORS INTERSECT OR BUMP UP AGAINST EACH OTHER. AND
6 A SINGLE STUDY CAN ONLY LOOK AT THE IMPACT OF ONE
7 FACTOR, SO YOU CAN'T MAKE OR STUDY HOW THOSE FACTORS,
8 YOU KNOW, RUN INTO EACH OTHER.

9 Q AND I JUST WANT TO ASK ONE FINAL QUESTION
10 FOR A POINT OF CLARIFICATION. WHEN YOU'RE TALKING
11 ABOUT MULTIPLE ADDITIONAL VALID SIMULATIONS AND THEN
12 A SIMULATION STUDY THAT HAS, FOR EXAMPLE, A HUNDRED
13 THOUSAND MAPS OR FIVE HUNDRED THOUSAND MAPS, THOSE
14 ARE TWO DISTINCT THINGS. CAN YOU JUST EXPLAIN?

15 A YEAH.

16 Q I JUST WANT THE RECORD TO BE CLEAR.

17 A YEAH. SO AGAIN -- SORRY. IT'S ALL A LITTLE
18 CONFUSING. BUT WHEN YOU RUN A SINGLE RUN OF THE
19 ALGORITHM OR SINGLE SIMULATION STUDY, YOU ALSO GET TO
20 PICK HOW MANY PLANS ARE GOING TO BE IN YOUR SAMPLE.
21 IN HIS FIRST SET, THAT WAS A HUNDRED THOUSAND; IN THE
22 SECOND SET, THAT'S 500,000. ALL 500,000 ARE STILL
23 FOLLOWING THE VARIOUS CRITERIA AND PRINCIPLES THAT
24 HAD BEEN INSTRUCTED. SO, FOR EXAMPLE, WHEN HE MAKES
25 THE DIVISIONS OF THE STATE, YOU KNOW, ALL 500,000

02:22p

1 PLANS ARE GOING TO HAVE NO DISTRICTS THAT CROSS THE
2 LINES HE'S DRAWN IN THE STATE AND SO ON.

3 SO IT'S IMPORTANT TO HAVE ENOUGH -- A
4 HUNDRED THOUSAND, FIVE -- IT'S IMPORTANT TO GENERATE
5 ENOUGH PLANS TO GET A REPRESENTATIVE SAMPLE. BUT,
6 SAY, GOING FROM A HUNDRED THOUSAND TO 500,000 DOESN'T
7 MAGICALLY PRODUCE SORT OF MORE EVIDENCE AROUND YOUR
8 ULTIMATE QUESTION. IT'S STILL JUST ONE SIMULATION
9 STUDY.

10 MS. BRANNON: YOUR HONOR, CAN I JUST CONFER
11 WITH MY ASSOCIATES?

12 THE COURT: YES, YOU MAY.

13 BY MS. BRANNON:

14 Q IS IT POSSIBLE THAT THE CORE RETENTION
15 CONSTRAINT IN THE SECOND SIMULATION COULD MAKE IT
16 IMPOSSIBLE FOR THE COMPUTER TO GENERATE
17 ILLUSTRATIVE -- THE ILLUSTRATIVE PLAN?

18 A YEAH, IT'S CERTAINLY IMPOSSIBLE. I -- YOU
19 KNOW, NEITHER DR. BARBER OR MYSELF, YOU KNOW,
20 PERFORMED EXPERIMENTS TO SORT OF DETERMINE WHETHER
21 THAT -- WHETHER OR NOT THAT'S POSSIBLE. BUT AGAIN,
22 GIVEN SORT OF THE FACT THAT THE WAY HE DID THE CORE
23 CONSTRAINT IN THE SECOND SET WAS SORT OF THE
24 STRONGEST POSSIBLE WAY YOU COULD TAKE THAT PARTICULAR
25 APPROACH, YEAH, IT WOULDN'T SURPRISE ME IF IT WAS, IN

02:24p

1 FACT, NOT POSSIBLE TO GENERATE THE ILLUSTRATIVE MAP
2 USING THAT APPROACH.

3 MS. BRANNON: AND PLAINTIFFS MOVE TO ADMIT
4 DR. MCCARTAN'S REPORT, PL 135.

5 THE COURT: ADMITTED.

6 CROSS.

7 MS. BRANNON: I PASS THE WITNESS.

8 CROSS-EXAMINATION

9 BY MS. HOLT:

10 Q GOOD AFTERNOON, DR. MCCARTAN. MY NAME IS
11 CASSIE HOLT. I'M WITH THE LAW FIRM NELSON MULLINS,
12 AND WE REPRESENT THE LOUISIANA SECRETARY OF STATE IN
13 THIS MATTER. IT'S NICE TO MEET YOU.

14 A NICE TO MEET YOU.

15 Q DR. MCCARTAN, YOU RECEIVED THE BACK-UP DATA
16 FOR DR. BARBER'S REPORT. CORRECT?

17 A HIS -- YES, I DID.

18 Q AND THE PARAMETERS THAT DR. BARBER USED WERE
19 DISCLOSED IN HIS BACK-UP MATERIAL THAT WAS RECEIVED
20 BY YOU?

21 A THE PARAMETERS HE SET WERE IN THE CODE THAT
22 WAS PROVIDED, YES.

23 Q ARE YOU AWARE THAT SOME EXPERTS IN THIS
24 FIELD HAVE WHOLLY REFUSED TO DISCLOSE THE PARAMETERS
25 USED IN SIMILAR SIMULATIONS?

02:25p

1 A I AM NOT.

2 Q DR. MCCARTAN, DR. BARBER RAN YOUR
3 DIAGNOSTICS AND CHECKED THEM IN HIS SECOND SET OF
4 SIMULATIONS. IS THAT CORRECT?

5 A HE REPRESENTED THAT HE DID IN HIS REPORT.

6 Q OKAY. AND IT'S YOUR UNDERSTANDING FROM
7 REVIEWING HIS REPORT THAT THEY ALL CAME BACK OKAY?

8 A HE SAID THAT THEY DID.

9 Q AND I UNDERSTAND YOUR TESTIMONY TO BE -- TO
10 CRITICIZE DR. BARBER FOR FAILING TO PERFORM MULTIPLE
11 INDEPENDENT RUNS OF THE ALGORITHM. CORRECT?

12 A THAT WAS ONE OF THE PROBLEMS IN HIS FIRST
13 SET OF SIMULATIONS, BECAUSE IT PREVENTED HIM FROM
14 CALCULATING THAT IMPORTANT SECOND ROUND OF
15 DIAGNOSTICS.

16 Q "MULTIPLE" MEANS AT LEAST TWO. RIGHT?

17 A RIGHT. SO IT'S IMPOSSIBLE TO COMPUTE THESE
18 DIAGNOSTICS WITH JUST ONE. BUT TWO WOULD BE
19 SUFFICIENT.

20 Q THANK YOU, DR. MCCARTAN.

21 AND DR. BARBER DID PERFORM INDEPENDENT RUNS
22 OF THE ALGORITHM IN HIS SECOND SET OF SIMULATIONS.
23 IS THAT CORRECT?

24 A YES.

25 Q AND IN YOUR REPORT YOU DID NOT FORM AN

02:26p

1 OPINION ON WHAT REGIONS MIGHT BE NECESSARY TO RUN
2 SIMULATIONS IN LOUISIANA. IS THAT CORRECT?

3 A SORRY. WHAT DO YOU MEAN BY, LIKE, REGIONS
4 THAT MIGHT BE NECESSARY?

5 Q SURE. SO YOU DID NOT DEFINE REGIONS IN
6 LOUISIANA THAT WOULD BE DIFFERENT THAN WHAT DR.
7 BARBER PROPOSED IN THE HOUSE. IS THAT CORRECT?

8 A LIKE WHAT KIND OF REGIONS? SORRY.

9 Q SURE. SO MY UNDERSTANDING IS THAT DR.
10 BARBER SET A PARAMETER DIVIDING THE STATE OF
11 LOUISIANA INTO THREE REGIONS. AND CORRECT ME IF I'M
12 WRONG, BUT I BELIEVE YOUR TESTIMONY WAS THAT YOU HAD
13 PERFORMED SIMILAR ANALYSES IN OTHER STATES. IS THAT
14 CORRECT?

15 A IN OTHER STATES AT SOME POINT I BELIEVE I
16 HAVE DIVIDED THE STATE INTO DIFFERENT REGIONS.

17 Q OKAY. AND YOUR REPORT HERE DOES NOT CONTAIN
18 ANY RECOMMENDATIONS ON HOW TO SIMILARLY -- EXCUSE
19 ME -- DIVIDE THE STATE OF LOUISIANA. IS THAT
20 CORRECT?

21 A RIGHT. AS I EXPLAINED, MY OBJECTION TO WHAT
22 DR. BARBER DID WAS NOT THE CREATION OF THE REGIONS
23 PER SE BUT IN FAILING TO EVALUATE THEIR IMPACT OR
24 DISCLOSE THEIR PRESENCE OR THE IMPACT THAT THAT WOULD
25 NECESSARILY HAVE ON THE TYPES OF MAPS THAT THE

02:28p

1 ALGORITHM WOULD GENERATE.

2 Q AND IN DR. BARBER'S FIRST REPORT HE
3 PERFORMED 100,000 SIMULATIONS. IS THAT CORRECT?

4 A IN EACH OF THE HOUSE AND THE SENATE, YES.

5 Q YES. AND THEN 500,000 IN HIS REPLY REPORT?

6 A YEAH. HE DID 250,000 FOR TWO INDEPENDENT
7 RUNS. SO PUT THOSE TOGETHER, HALF A MILLION.

8 Q AND ARE YOU AWARE OF OTHER EXPERTS IN THIS
9 FIELD USING AS LITTLE AS 5,000 TO 10,000 INDIVIDUAL
10 MAPS?

11 A FOR WHAT KIND OF ANALYSIS?

12 Q FOR SIMULATION FOR PARTISAN REDISTRICTING
13 ANALYSIS.

14 A I GUESS THE REASON I ASK IS THERE IS NOT
15 LIKE A THRESHOLD MAGIC NUMBER. THE APPROPRIATE
16 NUMBER OF PLANS TO GENERATE IN ANY ANALYSIS IS
17 DEPENDENT ON THE PARTICULARS OF THAT ANALYSIS; THE
18 DIFFICULTY, THE PROBLEM, HOW MANY DISTRICTS ARE
19 PRESENT, THE TYPE OF -- THE CONCLUSIONS OR NUMERICAL
20 SUMMARIES YOU'RE TRYING TO DRAW. AND SO OUR
21 RECOMMENDATION -- AND YOU'LL FIND THIS IN THE PAPER
22 THAT WE WERE DISCUSSING -- IS TO USE THE DIAGNOSTICS
23 TO GUIDE YOU IN DETERMINING WHETHER OR NOT YOU HAVE
24 ENOUGH PLANS.

25 AND SO IF YOU DON'T -- IF THE DIAGNOSTICS

02:29p

1 ARE INDICATING PROBLEMS, ONE OF THE BEST STEPS YOU
2 CAN TAKE AT THAT POINT IS TO INCREASE THE NUMBER OF
3 RANDOM PLANS YOU'RE GENERATING. AND SO AS WE SAW IN
4 THE DIAGNOSTICS THAT WERE AVAILABLE BUT NOT CHECKED
5 BY DR. BARBER IN THE FIRST SET, A HUNDRED THOUSAND
6 WAS NOT SUFFICIENT FOR THE ANALYSIS HE WAS TRYING TO
7 RUN IN THAT FIRST SET OF SIMULATIONS.

8 MS. HOLT: YOUR HONOR, IF I MAY HAVE A
9 MOMENT TO CONFER WITH MY CO-COUNSEL.

10 THE COURT: YOU MAY.

11 MS. HOLT: THANK YOU, DR. MCCARTAN. NO
12 FURTHER QUESTIONS.

13 THE COURT: ANY REDIRECT, MS. BRANNON?

14 MS. BRANNON: NO REDIRECT, YOUR HONOR.

15 THE COURT: THANK YOU, DR. MCCARTAN. YOU
16 MAY STEP DOWN.

17 THE WITNESS: THANK YOU.

18 THE COURT: SO YOU HAVE ONE MORE WITNESS.
19 IS THAT CORRECT?

20 MS. BRANNON: YES, YOUR HONOR. WE CALL
21 DR. LISA HANDLEY TO THE STAND. AND JUST GIVE ME A
22 MINUTE.

23 THE COURT: OKAY.

24 DR. HANDLEY, YOU HAVE -- GO AHEAD AND
25 SWEAR HER IN AGAIN.

02:31p

1 (WHEREUPON, LISA HANDLEY, BEING PREVIOUSLY
2 SWORN, TESTIFIED AS FOLLOWS.)

3 THE COURT: IT'S JUST A FORMALITY. I MEAN,
4 TECHNICALLY YOU'RE PROBABLY STILL UNDER OATH, BUT
5 THAT WAS SEVERAL DAYS AGO, SO...

6 MS. BRANNON: YOUR HONOR, WE HAVE A BINDER I
7 THINK FOR DR. HANDLEY WITH COPIES OF HER REPORT THAT
8 MY PARALEGAL IS ABOUT TO GO GET, BUT I'M HAPPY TO
9 START IF YOU DON'T MIND THE INTERRUPTION.

10 THE COURT: IF YOU DON'T MIND GOING AHEAD
11 AND STARTING, AND THEN WHEN SHE GETS HERE SHE MAY
12 CERTAINLY APPROACH AND PROVIDE HER WITH HER REPORTS.

13 IF THERE IS SOMETHING THAT YOU CAN'T
14 ANSWER BECAUSE OF YOUR REPORTS, WE'LL JUST -- WE'LL
15 TAKE A MINUTE.

16 MS. BRANNON: I THINK IT WON'T BE NECESSARY
17 FOR THE FIRST PART OF THE DIRECT.

18 DIRECT EXAMINATION

19 BY MS. BRANNON:

20 Q DR. HANDLEY -- WE'LL COME BACK TO THE
21 REBUTTAL REPORT THAT YOU DRAFTED. DR. HANDLEY, YOU
22 DID REVIEW THE REPORTS THAT DR. LEWIS PROVIDED IN
23 THIS CASE. CORRECT?

24 A I DID.

25 Q AND YOU WERE PRESENT WHEN DR. LEWIS

02:32p

1 TESTIFIED TODAY AND YESTERDAY. CORRECT?

2 A YES.

3 Q AND DO YOU KNOW IF DR. LEWIS PROVIDED --

4 MS. BRANNON: YOUR HONOR, CAN I APPROACH THE
5 WITNESS?

6 THE COURT: YOU MAY APPROACH.

7 MS. BRANNON: WE'LL COME BACK TO THE REPORT,
8 BECAUSE IT'S MORE RELEVANT TO THE LATER LINE OF
9 QUESTIONING.

10 BY MS. BRANNON:

11 Q DR. HANDLEY, DO YOU KNOW IF DR. LEWIS
12 PROVIDED WHAT HE IS REFERRING TO AS WIN RATES IN HIS
13 REPORTS?

14 A YES. AMONG THE THINGS HE PROVIDED IN HIS
15 TABLES WERE WHAT HE CALLED WIN RATES.

16 Q AND WHAT'S YOUR UNDERSTANDING OF HOW DR.
17 LEWIS IS DEFINING A WIN RATE?

18 A IN TWO OF THE TABLES, TABLES 1 AND 3, WITH
19 MORE THAN -- WITH THREE OR MORE CANDIDATES, A WIN,
20 ACCORDING TO HIS DEFINITION, WAS SIMPLY EITHER MAKING
21 IT TO A RUNOFF OR WINNING OUTRIGHT.

22 Q AND DO YOU AGREE WITH HIS DEFINITION?

23 A NO. I THINK MAKING IT TO THE RUNOFF IS
24 MAKING IT TO THE RUNOFF. YOU STILL HAVE TO WIN THE
25 ELECTION IN THE RUNOFF TO ACTUALLY WIN THE SEAT.

02:33p

1 Q CAN WE SEE PLAINTIFFS' ILLUSTRATIVE AID 41.

2 MS. BRANNON: YOUR HONOR, WOULD YOU LIKE A
3 PAPER COPY OF THIS?

4 THE COURT: IS THIS THE SAME ONE THAT WAS
5 USED WITH DR. LEWIS?

6 MS. BRANNON: NO. THIS IS A NEW ONE.

7 THE COURT: YES, I'D LIKE A PAPER COPY.

8 MS. BRANNON: JUST FOR THE RECORD, YOUR
9 HONOR, THIS IS AN ILLUSTRATIVE. WE DON'T HAVE ANY
10 INTENTION TO ENTER THIS INTO THE EVIDENCE.

11 THE COURT: OKAY.

12 BY MS. BRANNON:

13 Q DR. HANDLEY, WOULD YOU LIKE A PAPER COPY?

14 A THIS IS PERFECT. I'M GOOD.

15 MS. BRANNON: OKAY. DOES DEFENSE COUNSEL
16 WANT A PAPER COPY?

17 MS. MCKNIGHT: THANK YOU.

18 BY MS. BRANNON:

19 Q DR. HANDLEY, DID YOU CREATE THIS CHART?

20 A I DID.

21 Q WHAT INFORMATION -- WHAT IS THE SOURCE OF
22 INFORMATION PROVIDED IN THIS CHART?

23 A I HAVE PROVIDED THE PERCENT BLACK VAP FOR A
24 SET OF DISTRICTS AS WELL AS THE PERCENT NEEDED TO
25 WIN. THIS IS FROM -- DIRECTLY FROM DR. LEWIS, HIS

02:34p

1 TABLE 1 THROUGH 4. I'VE ALSO INCLUDED THE WIN RATES
2 FROM DR. LEWIS' TABLES 1 THROUGH 4. AND THEN THE
3 EFFECTIVENESS SCORES COME FROM MY EXPERT REPORT.

4 Q AND FOR THE RECORD, THAT'S PLAINTIFFS'
5 EXPERT EXHIBIT 1.

6 DO YOU KNOW HOW DR. LEWIS DEFINES WINNING IN
7 HIS TABLE 1?

8 A IN HIS TABLE 1, FOR BOTH THE WIN RATE AND
9 THE PERCENT NEEDED TO WIN, THAT WAS, AGAIN, WHETHER
10 THE BLACK-PREFERRED CANDIDATE EITHER WON OUTRIGHT OR
11 PROCEEDED TO THE RUNOFF.

12 Q AND WHAT ABOUT IN HIS TABLE 2?

13 A IN TABLE 2 HE FOCUSED ON TWO CANDIDATE RACES
14 SO THAT THE WINNER WOULD ACTUALLY BE THE WINNER OF
15 THE SEAT.

16 Q AND WHAT ABOUT TABLE 3?

17 A TABLE 3 LOOKS LIKE TABLE 1, IN THAT HE
18 LOOKED AT THREE OR MORE CANDIDATES; AND THE CANDIDATE
19 MERELY HAD TO PROCEED TO THE RUNOFF FOR HIM TO
20 CONSIDER IT A WIN.

21 Q AND WHAT ABOUT TABLE 4?

22 A TABLE 4, AGAIN, WAS TWO-CANDIDATE CONTESTS,
23 SO THE WINNER WAS SOMEBODY WHO WOULD -- WAS THE
24 CANDIDATE WHO RECEIVED AT LEAST 50 PERCENT OF THE
25 VOTE AND ACTUALLY OBTAINED THE SEAT.

02:36p

1 Q IS -- IN TABLE 3 -- IN TABLE 1 AND TABLE 2,
2 IS THE METHODOLOGY THAT DR. LEWIS USED HOW YOU WOULD
3 CALCULATE A WIN RATE?

4 A NO. I THINK THAT A WIN RATE MEANS THAT YOU
5 HAVE TO HAVE WON THE SEAT.

6 Q AND HOW DID YOU SELECT THE ENACTED DISTRICTS
7 THAT YOU HAVE INCLUDED IN THIS CHART?

8 A COUNSEL SUGGESTED THAT THOSE ARE THE --
9 THOSE ARE THE DISTRICTS THAT I SHOULD LOOK AT.

10 Q LET'S WALK THROUGH AN EXAMPLE. CAN WE
11 HIGHLIGHT ENACTED DISTRICT 8.

12 CAN YOU WALK US THROUGH WHAT'S SHOWN IN EACH
13 COLUMN THAT HAS BEEN HIGHLIGHTED FOR ENACTED DISTRICT
14 8 IN THIS CHART?

15 A SO FOR ENACTED DISTRICT 8, IN THE SECOND
16 COLUMN I REPORT THE PERCENT BLACK VOTING AGE
17 POPULATION. AND THEN THE NEXT FOUR COLUMNS ARE THE
18 PERCENT-NEEDED-TO-WIN ESTIMATES THAT DR. LEWIS
19 PRODUCED IN HIS REPORT.

20 SO IN THE THIRD ROW -- IN THE THIRD COLUMN
21 WE SEE THAT HE ESTIMATES THAT BASED ON CROSSOVER AND
22 COHESION AND TURNOUT RATES, THAT A 25 PERCENT BLACK
23 VAP DISTRICT WOULD BE SUFFICIENT FOR THE
24 BLACK-PREFERRED CANDIDATE TO WIN. IN TABLE 2 WE ARE
25 LIMITING IT TO TWO CANDIDATES, AND NOW THE PERCENT

02:37p

1 BLACK VAP NEEDED TO WIN RISES TO 38 PERCENT. IN
2 TABLE 3 WE'RE GOING BACK TO THREE OR MORE CANDIDATES,
3 BUT ONE OF THE CANDIDATES AT LEAST HAS TO BE A BLACK
4 CANDIDATE; AND WE'RE AT 24 PERCENT. AND FINALLY IN
5 TABLE 4 WE'RE CALCULATING OUR PERCENT NEEDED TO WIN
6 BASED ON TWO CANDIDATES, ONE OF WHOM IS BLACK; AND
7 WE'RE UP AT 40 PERCENT FOR THE PERCENT NEEDED TO WIN.

8 SO YOU CAN SEE WE HAVE A VERY LARGE
9 DIFFERENCE WHEN WE MOVE FROM TABLE 1 AT 25 PERCENT TO
10 TABLE 4 AT 40 PERCENT.

11 Q DR. HANDLEY, YOU DID NOT DO ANY PERCENT-
12 NEEDED-TO-WIN ANALYSIS IN THIS CASE. CAN YOU EXPLAIN
13 TO THE COURT AGAIN WHY NOT?

14 A BECAUSE I ACTUALLY HAD DISTRICTS THAT I
15 COULD LOOK AT TO DETERMINE IF THEY WERE EFFECTIVE OR
16 NOT. I DIDN'T NEED TO CALCULATE A PERCENT NEEDED TO
17 WIN IN TERMS OF IDENTIFYING SOME HYPOTHETICAL
18 DISTRICT THAT MIGHT OR MIGHT NOT WORK.

19 Q NOW, LET'S TURN TO THE WIN RATES
20 SPECIFICALLY. AND AGAIN, GOING BACK TO ENACTED
21 DISTRICTS -- ENACTED SENATE DISTRICT 8, WHAT IS THE
22 WIN RATE IN DR. LEWIS' TABLE 1 FOR CD 8?

23 A THE WIN RATE IS ACTUALLY AKIN TO MY
24 RECOMPILED ELECTION RESULTS, SO THIS IS NOT A
25 HYPOTHETICAL AT THIS POINT. THIS IS LOOKING AT A SET

02:39p

1 OF CONTESTS RECONSTITUTED FOR THIS ENACTED DISTRICT.
2 AND IT'S TELLING US THE PERCENTAGE OF CONTESTS THAT
3 DR. LEWIS EXAMINED, IN WHICH IN TABLE 1 THE
4 CANDIDATES EITHER WON OUTRIGHT OR PROCEEDED TO THE
5 RUNOFF. IN TABLE 2 WE'VE GOT TWO CANDIDATES AGAIN,
6 SO THE WINNER IS THE OUTRIGHT WINNER OF THE SEAT. IN
7 TABLE 3 WE'RE BACK TO THREE OR MORE CANDIDATES, ONE
8 OF WHOM -- AT LEAST ONE OF WHOM IS BLACK. SO AGAIN,
9 IT'S A MATTER OF IS THE CANDIDATE GOING TO PROCEED TO
10 THE RUNOFF OR WIN OUTRIGHT. AND FINALLY IN TABLE 4
11 WE HAVE TWO CANDIDATES, AT LEAST ONE OF WHOM IS
12 BLACK.

13 Q CAN YOU EXPLAIN HOW THE WIN RATES IN DR.
14 LEWIS REPORTS -- DR. LEWIS' REPORT RELATE TO YOUR
15 EFFECTIVENESS SCORE NO. 1?

16 A MY EFFECTIVENESS SCORE NO. 1 LOOKS
17 CONSISTENTLY AT ALL 16 CONTESTS THAT I ANALYZED
18 STATEWIDE AND JUST DETERMINES IF THE CANDIDATE
19 PREFERRED BY BLACK VOTERS PROCEEDED TO THE RUNOFF --
20 EITHER WON OUTRIGHT OR PROCEEDED TO THE RUNOFF. SO
21 IT'S SIMILAR TO TABLE 3, EXCEPT IN DR. LEWIS' TABLE 3
22 HE ONLY LOOKS AT CONTESTS WITH THREE OR MORE
23 CANDIDATES. MY EFFECTIVENESS SCORE LOOKS AT ALL
24 CONTESTS THAT I EXAMINED, WHETHER THERE WAS TWO OR
25 THREE CANDIDATES.

02:40p

1 THE SECOND SCORE, SCORE NO. 2, IS MORE
2 SIMILAR TO HIS TABLE NO. 4 BECAUSE IT'S LOOKING AT
3 TWO CANDIDATES, ONE OF WHOM MUST BE BLACK. BUT YOU
4 CAN SEE WE HAVE SLIGHTLY DIFFERENT RESULTS, AND
5 THAT'S BECAUSE WE'RE LOOKING AT A DIFFERENT SET OF
6 ELECTIONS. WE HAVE THE SAME DEFINITION AT THIS
7 POINT; THE BLACK-PREFERRED CANDIDATE WAS INEVITABLY
8 BLACK IN THESE -- IN MY CONTEST ANYWAY. I DON'T KNOW
9 ABOUT HIS CONTEST. BUT IT'S BLACK IN MY INSTANCE.
10 AND YOU CAN SEE THAT I HAVE SCORES OF ZERO TO 25
11 PERCENT.

12 HE LOOKS AT A DIFFERENT SET OF ELECTIONS AND
13 COMES UP WITH A DIFFERENT SCORE. I DON'T KNOW WHAT
14 SET OF ELECTIONS HE'S LOOKING AT. AND IT VARIES,
15 BECAUSE YOU CAN SEE -- LOOKING AT THE TOP WE'VE GOT
16 7, 7, 6, 6, 7. I'M NOT SURE WHAT THOSE CONTESTS ARE.

17 BUT OTHER THAN THE DIFFERENCE IN THE
18 CONTESTS WE'RE LOOKING AT AND, THEREFORE, GETTING
19 SLIGHTLY DIFFERENT RESULTS, THAT TABLE 4 WIN RATE
20 COMES THE CLOSEST TO MY EFFECTIVENESS SCORE OF 2.

21 Q WHAT'S YOUR UNDERSTANDING OF HOW DR. LEWIS
22 SELECTED THE ELECTIONS THAT ARE USED IN HIS WIN RATE
23 CALCULATIONS?

24 A IT'S A LITTLE BIT PUZZLING. HE DOES LIST A
25 SERIES OF ELECTIONS THAT HE LOOKS AT BUT THEN

02:42p

1 LATER -- I THINK IT WAS IN THE DEPOSITION -- SAYS HE
2 NARROWED THEM DOWN AT SOME POINT FOR SOME PURPOSE.
3 HE -- IT'S UNCLEAR AND IT CHANGES.

4 AND ANOTHER THING ABOUT THE ELECTIONS THAT
5 HE LOOKS AT IS SOME OF THE DISTRICTS -- SOME OF THE
6 ELECTIONS ARE WHAT WE CALL DISTRICTED ELECTIONS. SO
7 HE COULD LOOK AT A STATE SENATE ELECTION THAT DOESN'T
8 COMPLETELY OVERLAP WITH EITHER THE ENACTED OR THE
9 ILLUSTRATIVE PLAN. BUT SO LONG AS ONLY 75 PERCENT OF
10 THE VOTERS ARE IN THAT DISTRICT, THE PLAN -- THE
11 ORIGINAL PLAN DISTRICT, HE WILL TELL YOU WHETHER THEY
12 WON OR NOT. SO IT'S THESE DISTRICTED CONTESTS
13 INCLUDED. WE DON'T KNOW WHERE AND WE DON'T KNOW IF
14 ALL OF THE VOTERS ARE, IN FACT, OVERLAPPING SO THAT
15 YOU COULD ACTUALLY GET A TRUE WIN RATE.

16 Q THAT'S BECAUSE AT THE TIME THAT HE DID THIS
17 ANALYSIS THERE WERE NO ELECTIONS THAT HAD BEEN RUN IN
18 ANY OF THE ACTUAL ENACTED DISTRICTS. CORRECT?

19 A THAT'S CORRECT.

20 Q AND DO YOU HAVE ANY CONCERNS ABOUT HIS
21 POLICY OF USING -- HIS PRACTICE OF USING DISTRICTED
22 ELECTIONS THAT OVERLAP 75 PERCENT IN HIS WIN RATE
23 CALCULATIONS?

24 A SURE. THE OTHER 25 PERCENT COULD HAVE MADE
25 A DIFFERENCE IN TERMS OF WINNING OR LOSING.

02:43p

1 Q AND THEN DID DR. LEWIS LIST SPECIFICALLY THE
2 ELECTION CONTESTS HE LOOKED AT FOR THE WIN RATE IN CD
3 8?

4 A NO.

5 Q DID HE LIST SPECIFICALLY ANY OF THE ELECTION
6 CONTESTS HE LOOKED AT FOR THE WIN RATES FOR ANY OF
7 THE ENACTED DISTRICTS THAT ARE REFLECTED ON THIS
8 CHART?

9 A NO.

10 Q AND THEN I THINK YOU MAY HAVE ALREADY
11 ADDRESSED THIS. BUT JUST TO MAKE SURE IT'S CLEAR FOR
12 THE RECORD, HOW DOES DR. LEWIS' DEFINITION OF WINNING
13 IN TABLE 4 COMPARE WITH YOUR EFFECTIVENESS SCORE IN
14 TABLE 2?

15 A AGAIN, THAT IS THE MOST COMPARABLE IN TERMS
16 OF HIS WIN RATE IN TABLE 4 AND MY SCORE TOO, WITH THE
17 EXCEPTION OF THE FACT THAT DIFFERENT CONTESTS ARE
18 BEING CONSIDERED.

19 Q AND THEN CAN WE JUST TAKE -- ALSO TAKE A
20 LOOK AT THE WIN RATE FOR ENACTED SENATE DISTRICT 38.
21 AND CAN YOU TELL US WHAT THE WIN RATES ARE FOR SENATE
22 DISTRICT 38?

23 A THE WIN RATES, ACCORDING TO TABLE 1, IS 43
24 PERCENT. BUT IN TABLE 2 IT'S ZERO PERCENT. IN TABLE
25 3 IT'S 50 PERCENT. BUT IN TABLE 4 IT'S AT ZERO

02:45p

1 PERCENT.

2 Q AND WHAT ARE THE PERCENT NEEDED TO WINS
3 REFLECTED FOR TABLE 2 AND TABLE 4 IN DR. LEWIS'
4 REPORT AS IT'S SHOWN IN THIS CHART?

5 A I'M SORRY. CAN YOU REPEAT THAT? FIRST
6 START WITH THE DISTRICT. WHAT DISTRICT --

7 Q WE'RE GOING BACK TO DISTRICT THIRTY --
8 SENATE DISTRICT 38, WHICH HAS BEEN HIGHLIGHTED. AND
9 I JUST WANT TO KNOW THE PERCENT NEEDED TO WIN AS
10 REFLECTED IN TABLE 2 AND TABLE 4.

11 A THE PERCENT NEEDED TO WIN UNDER TABLE 2 IS
12 51 PERCENT; IN TABLE 4, 55 PERCENT.

13 Q AND, DR. HANDLEY, DO YOU THINK THESE
14 DISTRICTS ARE OPPORTUNITY DISTRICTS, GIVEN THE
15 RESULTS SHOWN ON THIS CHART?

16 A I DO NOT.

17 Q DR. HANDLEY, WAS YOUR RPV ANALYSIS A
18 REGIONAL ANALYSIS?

19 A I CALLED IT AN AREA OF INTEREST. IT WAS, I
20 THINK, NARROWER THAN A REGION. IT WAS ONE-TO-FOUR
21 PARISHES WIDE.

22 Q AND WHY DID YOU CONDUCT YOUR RPV ANALYSIS
23 USING THAT METHOD?

24 A WELL, BECAUSE WE DON'T KNOW WHAT REMEDIAL
25 DISTRICTS WILL LOOK LIKE IF THERE ARE REMEDIAL

02:46p

1 DISTRICTS. WE COULD DO THE ENACTED, WE COULD DO THE
2 ILLUSTRATIVE. BUT WHAT WE REALLY WANT TO KNOW IS:
3 IN THAT AREA IN GENERAL, IF YOU WERE GOING TO CREATE
4 REMEDIAL DISTRICTS, WHAT -- WHAT THE VOTING PATTERNS
5 ARE A LITTLE MORE BROADLY THAN THE VOTING PATTERNS IN
6 THESE ILLUSTRATIVE DISTRICTS FOR CERTAIN.

7 Q BECAUSE YOU HEARD -- DID YOU HEAR DR. LEWIS
8 TESTIFY THIS MORNING THAT DOING A REALITY CHECK OF
9 HIS PERCENT NEEDED TO -- PERCENTS NEEDED TO WIN WAS
10 DIFFICULT?

11 A YES.

12 Q DO YOU HAVE ANY OPINION ABOUT WHETHER IT
13 WOULD BE POSSIBLE TO DO A REALITY CHECK?

14 A IT DEPENDS ON WHAT TABLES YOU'RE TALKING
15 ABOUT. IF YOU'RE TALKING ABOUT TABLES 2 AND 4 WHERE
16 HIS PERCENT NEEDED TO WINS FELL WITHIN THE RANGE OF,
17 SAY -- I THINK IT WAS ABOUT 30 AND 50 PERCENT --
18 THE -- THERE ARE VERY FEW, IF ANY, DISTRICTS THAT
19 ACTUALLY FALL WITHIN THAT RANGE IN BOTH THE 2011 PLAN
20 AND THE TWO THOUSAND TWENTY -- WHATEVER IT WAS --
21 2021 PLAN.

22 BUT IF YOU'RE TALKING ABOUT TABLES 1 AND 3
23 WHERE HE FOUND PERCENT NEEDED TO WINS IN THE AREA OF
24 LIKE 15, 17, 22 PERCENT, CERTAINLY HE COULD HAVE DONE
25 WHAT I WOULD CALL A REALITY CHECK AND SEE IF

02:47p

1 DISTRICTS COMPOSED OF, SAY, 22 PERCENT BLACK VOTING
2 AGE POPULATION WERE ELECTING BLACKS TO OFFICE. AND
3 YOU WOULD FIND THERE WERE NO BLACK LEGISLATORS
4 ELECTED FROM OFFICES -- FROM DISTRICTS WITH LESS THAN
5 50 PERCENT, INCLUDING DISTRICTS AROUND 19 OR 27 OR
6 31, ET CETERA.

7 Q AND, DR. HANDLEY, YOU DID PREPARE A REBUTTAL
8 REPORT IN THIS CASE. CORRECT?

9 A YES.

10 Q AND THAT REBUTTAL REPORT REFLECTS SOME OF
11 YOUR OPINIONS ABOUT DR. LEWIS' INITIAL REPORT?

12 A YES.

13 Q AND THAT REPORT, FOR THE RECORD, IS PL 12.
14 CAN YOU TURN TO YOUR BINDER. AND I BELIEVE
15 IT'S THE VERY FIRST TAB. AND CAN WE SHOW PL 12 ON
16 THE SCREEN.

17 IS THIS THE REBUTTAL REPORT THAT YOU DRAFTED
18 IN THIS CASE?

19 A IT IS.

20 Q DOES THIS REPORT ALSO DISCUSS THE REBUTTAL
21 REPORT THAT DR. ALFORD PRESENTED IN THIS CASE?

22 A DO YOU WANT TO REPEAT THAT?

23 Q SORRY. DOES THIS -- YOUR REBUTTAL REPORT
24 ALSO DISCUSS THE REPORT THAT DR. ALFORD PRESENTED IN
25 THIS CASE?

02:49p

1 A YES.

2 Q DR. HANDLEY, WHAT IS YOUR DEFINITION OF
3 RACIALLY POLARIZED VOTING?

4 A I BELIEVE A CONTEST IS POLARIZED IF BLACK
5 AND WHITE VOTERS VOTE DIFFERENTLY SUCH THAT,
6 CONSIDERED SEPARATELY, BLACK VOTERS WOULD HAVE
7 ELECTED A DIFFERENT CANDIDATE THAN WHITE VOTERS.

8 Q DR. HANDLEY, DID YOU HEAR DR. ALFORD'S
9 TESTIMONY LAST WEEK?

10 A I DID.

11 Q AND WHAT IS YOUR UNDERSTANDING OF DR.
12 ALFORD'S APPROACH TO DETERMINING IF THERE IS RACIALLY
13 POLARIZED VOTING?

14 A I WOULD SAY THAT WE DIFFER IN AT LEAST TWO
15 WAYS ON HOW WE APPROACH THIS. THE FIRST IS, HE SEEMS
16 TO -- HE DOES INSERT A REQUIREMENT THAT BLACK VOTERS
17 BE VERY COHESIVE BEFORE HE WILL DETERMINE THAT A
18 SINGLE -- THAT A CONTEST CONSIDERED ALONE IS RACIALLY
19 POLARIZED. I LOOK AT COHESION AS A SEPARATE INQUIRY
20 RELATED TO THE SECOND PRONG OF *GINGLES* AND DON'T
21 INSERT IT INTO MY DETERMINATION OF WHETHER A CONTEST
22 IS RACIALLY POLARIZED.

23 BUT MORE IMPORTANTLY, HE BELIEVES THAT IF,
24 US HERE IN LOUISIANA, BLACK VOTERS USUALLY SUPPORT
25 DEMOCRATS AND WHITE VOTERS USUALLY SUPPORT

02:50p

1 REPUBLICANS, THAT YOU COULD ONLY CONCLUDE YOU HAD
2 RACIALLY POLARIZED VOTING IF WHITE VOTERS WHO WERE
3 SUPPORTING DEMOCRATS SUPPORTED BLACK DEMOCRATS AND
4 WHITE DEMOCRATS UNEQUALLY; DIDN'T PROVIDE THE SAME
5 SUPPORT FOR BLACK AND WHITE DEMOCRATS.

6 Q DR. HANDLEY, DID YOU DO ANY ANALYSIS TO
7 REBUT DR. ALFORD'S OPINIONS ABOUT VOTING PATTERNS OF
8 WHITE AND BLACK DEMOCRATS AND ASSIST YOU IN
9 EVALUATING WHETHER WHITE VOTERS WHO VOTE FOR
10 DEMOCRATS ARE VOTING FOR WHITE AND BLACK CANDIDATES
11 EQUALLY?

12 A I DID DO SUCH AN ANALYSIS.

13 Q CAN WE SEE PL 13.

14 DR. HANDLEY, IS THIS AN EXHIBIT THAT WAS
15 ATTACHED TO YOUR REBUTTAL REPORT?

16 A YES.

17 Q DO YOU RECOGNIZE THIS TABLE?

18 A YES.

19 Q IS THIS -- CAN YOU EXPLAIN WHAT INFORMATION
20 IS PROVIDED IN THIS TABLE?

21 A WHAT I WANTED TO DO WAS TO SEE IF WHITE
22 VOTERS AND BLACK -- AND BLACK VOTERS, AS A MATTER OF
23 FACT, WERE SUPPORTING WHITE DEMOCRATS AND BLACK
24 DEMOCRATS AT DIFFERENT RATES. AND I DID THIS USING
25 THE ESTIMATES PRODUCED BY DR. ALFORD'S REPORT. AND I

02:51p

1 DID IT FOR EACH AREA. SO THIS IS JUST THE AVERAGE
2 VOTE FOR -- THE AVERAGE, SAY, PERCENT SUPPORT FROM
3 BLACK VOTERS FOR BLACK DEMOCRATS AND THE AVERAGE
4 PERCENT OF BLACK VOTER SUPPORT FOR WHITE DEMOCRATS.
5 AND I COMPARED IT TO THE AVERAGE PERCENT SUPPORT FROM
6 WHITE VOTERS FOR BLACK DEMOCRATS AND WHITE DEMOCRATS.
7 AND AGAIN, THIS IS USING DR. ALFORD'S EI ESTIMATES
8 AND SIMPLY AVERAGING THEM ACROSS THE SEVEN AREAS.

9 Q THE SEVEN AREAS THAT ARE REFERENCED IN THIS
10 TABLE ARE THE SAME SEVEN AREAS THAT YOU CREATED FOR
11 YOUR INITIAL REPORT AND HAVE ALREADY TESTIFIED ABOUT
12 IN THIS CASE?

13 A THEY ARE. AND DR. ALFORD ALSO USED THOSE
14 AREAS, WHICH IS WHY I WAS ABLE TO USE HIS ESTIMATES.

15 Q DO YOU HAVE ANY OPINION -- DO YOU HAVE AN
16 OPINION, IF ANY, AS TO WHETHER WHITE VOTERS IN
17 LOUISIANA WHO VOTED FOR DEMOCRATS, IN THE AREAS OF
18 INTEREST IN THE ELECTIONS ANALYZED AND INCLUDED IN
19 THIS TABLE, ON AVERAGE VOTED FOR BLACK CANDIDATES AND
20 WHITE CANDIDATES EQUALLY?

21 A YOU CAN SEE LOOKING AT THIS TABLE THEY DID
22 NOT. THE DIFFERENCES ARE VERY -- THEY'RE SMALL, BUT
23 THEY'RE VERY CONSISTENT. IN EVERY AREA IN ALL
24 INSTANCES WHITE VOTERS GAVE MORE SUPPORT TO THE WHITE
25 DEMOCRATS THAN THE BLACK DEMOCRATS. AND CONVERSELY,

02:53p

1 AT LEAST IN THE LARGER SET, BLACK VOTERS GAVE MORE
2 SUPPORT TO BLACK DEMOCRATS THAN WHITE DEMOCRATS.

3 THE FIRST TWO ROWS ARE LOOKING AT ALL BLACK
4 DEMOCRATS AND WHITE DEMOCRATS. AND THEN IN THE
5 SECOND TWO I'M LOOKING AT BLACK AND WHITE DEMOCRATS
6 WHO WERE RUNNING IN CONTEST WITH ONLY TWO CANDIDATES.
7 AND FINALLY, THE THIRD IS BLACK DEMOCRATS AND WHITE
8 DEMOCRATS IN CONTESTS WITH THREE OR MORE.

9 Q AND THERE IS NOT A SINGLE EXAMPLE REFLECTED
10 IN THIS TABLE WHERE WHITE VOTERS SUPPORTED BLACK
11 DEMOCRATS AND WHITE DEMOCRATS EQUALLY?

12 A THAT'S CORRECT.

13 Q CAN WE SEE PL 14. AND I THINK THIS IS TAB C
14 IN YOUR BINDER.

15 DO YOU RECOGNIZE THIS TABLE?

16 A YES.

17 Q THIS IS AN APPENDIX THAT WAS CREATED AS PART
18 OF YOUR EXPERT REBUTTAL REPORT. CORRECT?

19 A CORRECT.

20 Q CAN YOU DESCRIBE WHAT'S IN THIS TABLE?

21 A I ESSENTIALLY JUST PULLED OUT TWO CONTESTS
22 TO LOOK AT -- BECAUSE THESE TWO CONTESTS HAD BOTH A
23 BLACK AND A WHITE DEMOCRAT RUNNING FOR THE SAME
24 OFFICE AT THE SAME TIME -- TO SEE IF BLACK AND WHITE
25 VOTERS WERE SUPPORTING THE BLACK AND WHITE DEMOCRATS

02:54p

1 AT EQUAL AMOUNTS.

2 Q I THINK YOU JUST SAID IT, BUT CAN YOU
3 EXPLAIN AGAIN, JUST SO IT'S CLEAR, WHY YOU THOUGHT
4 THESE TWO ELECTIONS WERE PARTICULARLY IMPORTANT TO
5 LOOK AT?

6 A BECAUSE THERE WAS A WHITE DEMOCRAT AND A
7 BLACK DEMOCRAT RUNNING IN EACH OF THESE ELECTIONS AT
8 THE SAME TIME.

9 Q DO YOU HAVE AN OPINION IF WHAT -- DO YOU
10 HAVE AN OPINION, IF ANY, AS TO WHETHER WHITE VOTERS
11 IN LOUISIANA WHO VOTED FOR DEMOCRATS IN THE NOVEMBER
12 2022 SENATE ELECTION CONTEST, IN THE AREAS OF
13 INTEREST ANALYZED BY YOU AND DR. ALFORD, DID NOT
14 SUPPORT BLACK AND WHITE CANDIDATES EQUALLY?

15 A THAT'S CORRECT. YOU CAN SEE THAT IN THAT
16 PARTICULAR ELECTION WHITE VOTERS DIDN'T SUPPORT
17 EITHER DEMOCRAT VERY MUCH. BUT IN ALL INSTANCES IN
18 ALL AREAS THAT I LOOKED AT, THEY SUPPORTED THE WHITE
19 DEMOCRAT TO A HIGHER PERCENTAGE THAN THE BLACK
20 DEMOCRAT.

21 Q AND DO YOU HAVE AN OPINION, IF ANY, AS TO
22 WHETHER WHITE VOTERS IN LOUISIANA VOTED FOR DEMOCRATS
23 IN THE NOVEMBER 2018 SECRETARY OF STATE ELECTION
24 CONTEST, IN THE AREAS OF INTEREST ANALYZED IN THIS
25 CASE BY YOU AND DR. ALFORD, DID NOT SUPPORT WHITE AND

02:55p

1 BLACK CANDIDATES EQUALLY?

2 A AGAIN, THEY DID NOT SUPPORT WHITE AND BLACK
3 DEMOCRATS EQUALLY. AGAIN, THE DIFFERENCES ARE SMALL
4 BUT CONSISTENT. IN EVERY SINGLE AREA IN THIS CONTEST
5 WHITE VOTERS PROVIDED THE WHITE DEMOCRAT WITH A
6 HIGHER PERCENTAGE OF THE VOTES THAN THE BLACK
7 DEMOCRAT. THE RELATIONSHIP WAS REVERSED FOR BLACK
8 VOTERS.

9 Q DR. HANDLEY, DID YOU DO ANY ADDITIONAL
10 ANALYSIS RELATED TO YOUR OPINION THAT WHITE VOTERS IN
11 LOUISIANA, IN THE AREAS OF INTEREST ANALYZED IN THIS
12 CASE BY YOU AND DR. ALFORD, WHO VOTE FOR DEMOCRATIC
13 CANDIDATES DO NOT SUPPORT WHITE AND BLACK CANDIDATES
14 EQUALLY?

15 A I THINK I GOT THE QUESTION. I DID DO
16 ANOTHER TABLE, AND THAT MIGHT BE WHAT YOU'RE
17 REFERRING TO.

18 Q YES.

19 A YES.

20 Q LET'S TURN TO -- CAN WE TURN TO PLAINTIFFS'
21 EXHIBIT 15.

22 IS THIS THE ADDITIONAL TABLE THAT YOU DID AS
23 PART OF YOUR REBUTTAL REPORT?

24 A YES.

25 Q DO YOU RECOGNIZE THIS -- THIS IS A

02:56p

1 SPREADSHEET, I THINK. DO YOU RECOGNIZE THIS
2 SPREADSHEET?

3 A YES.

4 Q AND WHAT ANALYSIS IS REFLECTED ON THIS
5 SPREADSHEET?

6 A HERE I WANTED TO DETERMINE IF WHITE
7 DEMOCRATS -- NOT JUST WHITE VOTERS IN GENERAL -- BUT
8 IF WHITE DEMOCRATS VOTED DIFFERENTLY FOR WHITE
9 DEMOCRATS AND BLACK DEMOCRATS. SO I'M LOOKING
10 SPECIFICALLY AT WHITE VOTERS WHO ARE REGISTERED AS
11 DEMOCRATS IN THIS ANALYSIS. THIS IS AN EI ANALYSIS,
12 THE SAME STATISTICAL TECHNIQUE THAT I USED TO DRAW
13 ALL OF MY ESTIMATES OF VOTING PATTERNS. AND I LOOKED
14 AT ALL OF THE VOTERS, AND I'M REPORTING HERE HOW
15 BLACK REGISTERED DEMOCRATS AND WHITE REGISTERED
16 DEMOCRATS VOTED IN THESE CONTESTS ACROSS THE SEVEN
17 AREAS.

18 Q AND JUST TO CLARIFY FOR THE RECORD, HOW DOES
19 THIS ANALYSIS DIFFER FROM YOUR ANALYSIS IN TABLE 1
20 AND 2 WE WERE JUST LOOKING AT?

21 A HERE I'M JUST FOCUSING ON VOTERS WHO ARE
22 REGISTERED AS DEMOCRATS RATHER THAN ALL BLACK VOTERS
23 AND ALL WHITE VOTERS.

24 Q AND CAN YOU WALK US THROUGH IN GENERAL TERMS
25 WHAT SPECIFIC ANALYSIS IS REFLECTED ON THIS TABLE 3?

02:58p

1 A LET'S TAKE AREA 1. YOU SEE THE
2 GUBERNATORIAL AND THE LIEUTENANT GOVERNOR'S CONTEST
3 HERE. THIS IS THE NOVEMBER 2015 RUNOFF. AND I AM
4 ESTIMATING THE PERCENTAGE OF BLACK VOTERS WHO ARE
5 REGISTERED AS DEMOCRATS WHO SUPPORTED THE CANDIDATES
6 FOR -- HOW THEY SUPPORTED THE CANDIDATES FOR GOVERNOR
7 AND LIEUTENANT GOVERNOR. I PROVIDED THE COMPETENCE
8 INTERVALS. AND THEN I HAVE THE PERCENTAGE OF WHITE
9 REGISTERED VOTERS -- REGISTERED DEMOCRATS WHO
10 SUPPORTED EACH OF THESE CANDIDATES AND THE ASSOCIATED
11 COMPETENCE INTERVALS.

12 Q WHAT FOUR ELECTIONS DID YOU INCLUDE IN THIS
13 TABLE ALTOGETHER?

14 A SO WE HAVE THE NOVEMBER 2015 RUNOFF FOR
15 GOVERNOR AND LIEUTENANT GOVERNOR AND WE HAVE THE 2019
16 RUNOFF FOR GOVERNOR AND SECRETARY OF STATE.

17 Q AND WHY DID YOU SELECT THESE FOUR ELECTIONS?

18 A BECAUSE ALTHOUGH THEY WEREN'T RUNNING FOR
19 THE SAME OFFICE, WE HAVE A TWO-CANDIDATE CONTEST THAT
20 INCLUDES A WHITE DEMOCRAT FOR GOVERNOR AND, IN 2015,
21 A BLACK DEMOCRAT FOR LIEUTENANT GOVERNOR; IN NOVEMBER
22 OF 2019, A BLACK CANDIDATE FOR SECRETARY OF STATE --
23 A BLACK DEMOCRAT.

24 Q JUST FOR THE RECORD, KIP HOLDEN WAS THE
25 BLACK CANDIDATE RUNNING FOR LIEUTENANT GOVERNOR.

02:59p

1 CORRECT?

2 A CORRECT.

3 Q AND COLLINS-GREENUP WAS THE BLACK CANDIDATE
4 RUNNING FOR SECRETARY OF STATE IN THE NOVEMBER
5 2018 SECRETARY OF STATE -- 2019 SECRETARY OF STATE --
6 LET ME REPHRASE THIS.

7 COLLINS-GREENUP WAS THE BLACK CANDIDATE
8 RUNNING FOR SECRETARY OF STATE IN THE NOVEMBER 2019
9 SECRETARY OF STATE RACE?

10 A CORRECT.

11 Q DO YOU HAVE AN OPINION, IF ANY, AS TO
12 WHETHER WHITE VOTERS REGISTERED AS DEMOCRATS ARE
13 SUPPORTING JOHN BEL EDWARDS AT THE SAME RATE AS THEY
14 ARE SUPPORTING KIP HOLDEN IN THE NOVEMBER 2015 RUNOFF
15 ELECTION?

16 A NO. WHITE REGISTERED VOTERS ARE SUPPORTING
17 EDWARDS AT A HIGHER RATE THAN THEY ARE SUPPORTING
18 HOLDEN ACROSS ALL OF THE DISTRICT -- ALL OF THE
19 AREAS.

20 Q DO YOU HAVE AN OPINION AS TO WHETHER WHITE
21 VOTERS REGISTERED AS DEMOCRATS ARE SUPPORTING JOHN
22 BEL EDWARDS AT THE SAME RATE AS THEY SUPPORTED
23 COLLINS-GREENUP IN THE NOVEMBER 2019 RUNOFF ELECTION?

24 A AGAIN, THE WHITE REGISTERED DEMOCRATS
25 SUPPORTED EDWARDS AT A HIGHER RATE THAN THEY

03:01p

1 SUPPORTED COLLINS-GREENUP IN EVERY AREA. ACTUALLY,
2 NOT EVERY AREA IS UP HERE, BUT I BELIEVE IT'S EVERY
3 AREA. THERE IS ANOTHER PAGE THAT HAS MORE AREAS.

4 Q JUST FOR THE RECORD, CAN WE TURN TO THE
5 SECOND PAGE OF TABLE 3. OR THERE'S -- I THINK THERE
6 ARE THREE PAGES OF TABLE 3.

7 A THAT'S WHY YOU DIDN'T PUT THEM UP.

8 Q THERE ARE THREE PAGES OF TABLE 3.

9 BUT THIS REFLECTS THE SAME EI ANALYSIS FOR
10 ALL OF THE AREAS OF INTEREST THAT YOU HAVE USED
11 THROUGHOUT YOUR ANALYSIS IN THIS CASE FOR THESE TWO
12 RUNOFF ELECTIONS WE'VE BEEN DISCUSSING. CORRECT?

13 A CORRECT.

14 Q OKAY. DR. HANDLEY, WHAT DID YOU CONCLUDE
15 ABOUT THE BEHAVIOR OF WHITE REGISTERED DEMOCRATS IN
16 THESE ELECTIONS ACROSS THE AREAS OF INTEREST?

17 A WHITE DEMOCRATIC VOTERS ARE WILLING TO
18 SUPPORT A WHITE DEMOCRAT IN -- IN FACT, IN 2015 -- IN
19 ALL -- AT LEAST SIX OF THE SEVEN AREAS A MAJORITY OF
20 WHITE DEMOCRATS SUPPORTED EDWARDS, BUT IN NO INSTANCE
21 DID A MAJORITY SUPPORT THE BLACK DEMOCRAT THAT WAS
22 RUNNING AT THE SAME TIME.

23 MS. BRANNON: PLAINTIFFS MOVE TO ADMIT DR.
24 HANDLEY'S REBUTTAL REPORT AND RELATED EXHIBITS. SO
25 THAT IS PLAINTIFFS' EXHIBITS 12, 13, 14 AND 15.

03:02p

1 MS. MCKNIGHT: NO OBJECTIONS, YOUR HONOR.

2 THE COURT: ADMITTED.

3 MS. BRANNON: AND THEN LET ME JUST CONFER
4 WITH MY CO-COUNSEL.

5 BY MS. BRANNON:

6 Q CAN WE SEE PLAINTIFFS' ILLUSTRATIVE AID 41
7 AGAIN.

8 AND, DR. HANDLEY, CAN YOU JUST WALK THROUGH
9 WHICH ENACTED DISTRICTS ARE INCLUDED ON THIS TABLE?

10 A SENATE DISTRICTS 8, 19 AND 38, HOUSE
11 DISTRICTS 7, 60, 68, 69 AND 70.

12 Q AND IT'S YOUR OPINION THAT NONE OF THESE
13 DISTRICTS THAT YOU HAVE JUST LISTED OUT ARE
14 OPPORTUNITY DISTRICTS?

15 A I DO NOT BELIEVE THAT ANY OF THESE DISTRICTS
16 ARE BLACK OPPORTUNITY DISTRICTS.

17 MS. BRANNON: LET ME JUST CONFER AGAIN.

18 BY MS. BRANNON:

19 Q AND ALSO, DR. HANDLEY, FOR THE RECORD, CAN
20 YOU TELL US IF ANY OF THOSE ENACTED DISTRICTS THAT
21 ARE LISTED ON THIS TABLE, THIS CHART, ARE
22 MAJORITY-BLACK DISTRICTS?

23 A NONE OF THESE DISTRICTS ARE MAJORITY-BLACK
24 DISTRICTS.

25 Q THE PERCENTAGE BLACK BVAP IS REFLECTED ON

03:04p

1 THE TABLE?

2 A THAT'S CORRECT.

3 MS. BRANNON: AND, YOUR HONOR, WE DID SAY WE
4 WEREN'T GOING TO MOVE THIS INTO EVIDENCE. BUT GIVEN
5 THAT DR. LEWIS' ILLUSTRATIVE DEMONSTRATIVE EXHIBIT
6 WAS MOVED INTO EVIDENCE, WE ARE GOING TO REQUEST THAT
7 WE CAN MOVE PLAINTIFFS' ILLUSTRATIVE AID 41 INTO
8 EVIDENCE. ALL OF THE INFORMATION COMES FROM DR.
9 LEWIS' TABLES, WHICH ARE IN EVIDENCE, AND DR.
10 HANDLEY'S TABLES, WHICH ARE ALSO IN EVIDENCE.

11 THE COURT: IS THERE ANY OBJECTION?

12 MS. MCKNIGHT: NO OBJECTION, YOUR HONOR.

13 THE COURT: WHAT'S YOUR EXHIBIT NUMBER?

14 MS. BRANNON: THIS IS -- WHAT'S OUR FINAL
15 EXHIBIT NUMBER? JUST GIVE US ONE MINUTE. SO THIS
16 WILL BE EXHIBIT 257.

17 THE COURT: EXHIBIT 257 IS ADMITTED.

18 MS. BRANNON: AND I PASS THE WITNESS.

19 THE COURT: MS. MCKNIGHT?

20 MS. MCKNIGHT: THANK YOU, YOUR HONOR.

21 CROSS-EXAMINATION

22 BY MS. MCKNIGHT:

23 Q GOOD AFTERNOON, DR. HANDLEY.

24 A HELLO.

25 Q DR. HANDLEY, I JUST HEARD YOU TESTIFY ABOUT

03:05p

1 DR. LEWIS' REPORTS. HOLD ON ONE MOMENT. LET ME -- I
2 THINK WE NEED TO -- THANK YOU.

3 I HEARD YOU TESTIFY ABOUT DR. LEWIS' REPORT.
4 DO YOU RECALL THAT?

5 A YES.

6 Q OKAY. AND YOU DON'T REPORT ANY QUALMS ABOUT
7 THE ACCURACY OF DR. LEWIS' REPORT. CORRECT?

8 A I WONDER IF YOU COULD -- DO YOU MEAN ABOUT
9 HOW HE'S CALCULATED THE PERCENT NEEDED TO WIN OR THE
10 WIN RATES? I DON'T KNOW WHAT YOU MEAN BY "ACCURACY."

11 Q OKAY.

12 A IF YOU COULD SPECIFY.

13 Q YOU DIDN'T REPORT ANY QUALMS ABOUT THE
14 ACCURACY OF DR. LEWIS' CALCULATIONS. CORRECT?

15 A CORRECT.

16 Q AND YOU RECEIVED BACK-UP DATA FOR DR. LEWIS'
17 REPORT. ISN'T THAT RIGHT?

18 A CORRECT.

19 Q LET'S BRING UP PLAINTIFFS' EXHIBIT 14.

20 DR. HANDLEY, DO YOU RECALL TESTIFYING ABOUT
21 THIS WITH PLAINTIFFS' COUNSEL JUST A MOMENT AGO?

22 A YES.

23 Q FOR ANY OF THE AREAS IS THE PERCENT SUPPORT
24 FROM WHITE VOTERS ZERO?

25 A NO.

03:07p

1 Q AND THE PERCENTAGE POINTS OF SUPPORT FROM
2 WHITE VOTERS IN THESE AREAS, WOULD YOU CONSIDER THAT
3 CROSSOVER VOTING?

4 A REPEAT THE QUESTION.

5 Q SURE. THE PERCENTAGE NUMBERS UNDER PERCENT
6 SUPPORT FROM WHITE VOTERS IN THE DIFFERENT AREAS,
7 WOULD YOU CONSIDER THAT CROSSOVER VOTING?

8 A I WOULD DEFINE CROSSOVER VOTING AS CONTESTS
9 THAT WERE -- THE PERCENTAGE OF WHITES WHO WERE VOTING
10 FOR THE BLACK-PREFERRED CANDIDATE IN A CONTEST THAT
11 WAS POLARIZED. IF WE UNDERSTAND THE DEFINITION THE
12 SAME, THEN I WOULD SAY THOSE PERCENTAGES WOULD
13 REPRESENT THE PERCENTAGE -- THAT WOULD BE CROSSOVER
14 IN MY DEFINITION.

15 Q OKAY. DR. HANDLEY, WOULD YOU AGREE WITH ME
16 THAT IT IS THE RACE OF THE CANDIDATE, NOT THE RACE OF
17 THE VOTER THAT IS RELEVANT TO A VOTE DILUTION CLAIM?

18 A NO. YOU SAID THE RACE OF THE CANDIDATE
19 IS -- I'M GOING TO MAKE SURE. YOU SAID DO I THINK
20 THE RACE OF THE CANDIDATE IS RELEVANT?

21 Q I'LL SAY IT AGAIN.

22 A OKAY.

23 Q YOU WOULD AGREE WITH ME THAT IT IS THE RACE
24 OF THE CANDIDATE, NOT THE RACE OF THE VOTER THAT IS
25 RELEVANT TO A VOTE DILUTION CLAIM. CORRECT?

03:08p

1 A NO.

2 MS. BRANNON: SO I'M GOING TO OBJECT, YOUR
3 HONOR. I THINK THAT THAT'S CALLING FOR A LEGAL
4 CONCLUSION.

5 MS. MCKNIGHT: YOUR HONOR, DR. HANDLEY HAS
6 COME BEFORE THE COURT AND SAID THAT CERTAIN ELECTIONS
7 ARE RELEVANT TO YOU AND CERTAIN ARE NOT. WE HAVE HER
8 SWORN TESTIMONY PRIOR TO TODAY WITH THIS EXACT
9 STATEMENT. I'M TRYING TO CONFIRM THAT THAT'S WHAT
10 SHE BELIEVES BEFORE EXPLORING SOME OF THE ELECTIONS
11 THAT SHE CHOSE TO PUT BEFORE THIS COURT AND SOME OF
12 THOSE THAT SHE CHOSE NOT TO PUT BEFORE THIS COURT.

13 I'M USING DR. HANDLEY'S WORDS IN
14 RELEVANT. I'M NOT LOOKING FOR A LEGAL CONCLUSION.
15 I'M LOOKING TO FOR WHAT SHE BELIEVES IS RELEVANT TO
16 HER ANALYSIS FOR THIS COURT.

17 THE COURT: WHICH IS ULTIMATELY WHAT'S
18 RELEVANT FOR THE TRIER OF FACT. I'M GOING TO ALLOW
19 IT, BUT I THINK IT'S VERY marginally IRRELEVANT.

20 MS. BRANNON: THANK YOU.

21 THE COURT: OVERRULED. GO AHEAD.

22 BY THE WITNESS:

23 A YOU'RE ASKING ME IF I -- ARE YOU SUGGESTING
24 THAT I BELIEVE THAT THE RACE OF THE VOTERS ARE
25 IRRELEVANT IN THIS KIND OF CASE?

03:09p

1 Q I'M SIMPLY ASKING IF YOU WOULD AGREE WITH ME
2 WITH THIS STATEMENT -- AND I CAN READ IT AGAIN.
3 WOULD YOU AGREE WITH ME THAT IT IS THE RACE OF THE
4 CANDIDATE, NOT THE RACE OF THE VOTER THAT IS RELEVANT
5 TO A VOTE DILUTION CLAIM?

6 A I WOULD NOT AGREE WITH YOU.

7 Q OKAY. SO IT'S YOUR TESTIMONY TODAY THAT
8 THAT IS NOT -- YOU DO NOT AGREE WITH THAT STATEMENT?

9 A I BELIEVE THAT WE'RE LOOKING AT HOW BLACK
10 VOTERS AND WHITE VOTERS ARE VOTING AND WHETHER
11 THEY'RE VOTING DIFFERENTLY. SO THAT'S THE RACE OF
12 THE VOTER, YES.

13 Q OKAY. AND SO PARDON ME, DR. HANDLEY, I HAVE
14 TO TAKE THIS IN BABY STEPS AND MAKE SURE I GET A
15 "YES" OR "NO" ANSWER TO THIS QUESTION.

16 IS IT YOUR TESTIMONY TODAY THAT YOU DO NOT
17 AGREE THAT THE RACE OF THE CANDIDATE AND NOT THE RACE
18 OF THE VOTER IS WHAT IS RELEVANT TO A VOTE DILUTION
19 CLAIM?

20 A I DO NOT AGREE WITH THAT STATEMENT.

21 Q DO YOU RECALL BEING DEPOSED IN THIS MATTER?

22 A I WAS DEPOSED. IF YOU'RE GOING TO ASK ME
23 SPECIFIC QUESTIONS ABOUT IT -- BUT YES, I WAS DEPOSED
24 IN THIS CASE.

25 Q OKAY. AND DO YOU RECALL MAKING THIS

03:11p

1 STATEMENT DURING THAT DEPOSITION?

2 A I WOULD HAVE TO SEE THE CONTEXT.

3 Q LET'S BRING UP THE HANDLEY DEPOSITION
4 TRANSCRIPT, PAGE 48, LINES 1 THROUGH 5.

5 THE COURT: MS. MCKNIGHT, HOLD ON JUST A
6 MINUTE.

7 (OFF THE RECORD)

8 THE COURT: ALL RIGHT. I HAD A MOMENTARY
9 PANIC ATTACK ABOUT THE COURT REPORTER. GO AHEAD.
10 I'M SORRY.

11 BY MS. MCKNIGHT:

12 Q AND PARDON ME. I THINK WE NEED TO GO TO THE
13 LINE -- TO THE PAGE BEFORE THIS. COULD WE TURN TO
14 PAGE 47.

15 DR. HANDLEY, IT SEEMS THAT YOU WERE
16 DISCUSSING HERE A SUPREME COURT CASE?

17 A RIGHT.

18 Q I WANT TO GIVE YOU THE CONTEXT, SO WE CAN
19 TURN THE PAGE TO PAGE 48.

20 A I'M GUESSING. I -- BUT I THINK THAT THIS IS
21 PROBABLY THE *GINGLES* CASE, AND I'M TALKING ABOUT MY
22 MENTOR, DR. BERNIE GROFMAN, WHO WAS AN EXPERT IN THAT
23 CASE.

24 MS. BRANNON: YOUR HONOR, I JUST WANT TO
25 OBJECT. I THINK THAT THIS LINE OF QUESTIONING DOES

03:13p

1 CROSS OVER THE LINE ABOUT -- INTO ASKING DR. HANDLEY
2 FOR A LEGAL OPINION. SHE'S DISCUSSING THE *GINGLES*
3 CASE.

4 **THE COURT:** THE QUESTION ASKED HER IF SHE
5 WAS DISCUSSING A SUPREME COURT CASE. I WILL SUSTAIN
6 THE OBJECTION.

7 **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

8 **BY MS. MCKNIGHT:**

9 **Q** LET'S MOVE ON. DR. HANDLEY, YOU ANALYZED 16
10 ELECTIONS -- CORRECT? -- IN THIS CASE?

11 **A** YES.

12 **Q** OKAY. AND OF THOSE 16 ELECTIONS, ONLY TWO
13 HAD BOTH A BLACK DEMOCRATIC CANDIDATE AND A WHITE
14 DEMOCRATIC CANDIDATE. CORRECT?

15 **A** YES; ALTHOUGH THERE MIGHT HAVE BEEN WHAT I
16 WOULD CALL A NONVIABLE BLACK OR WHITE CANDIDATE IN
17 SOME OTHER CONTESTS. THESE WERE THE ONLY VIABLE
18 BLACK AND WHITE CANDIDATES, YES.

19 **Q** OKAY. LET'S TAKE A LOOK. LET'S BRING UP
20 LDTX 53 AT PAGE 9. THIS IS TABLE 3 IN DR. ALFORD'S
21 REPORT TITLED "RACIALLY CONTESTED STATEWIDE ELECTIONS
22 INCLUDED IN THE HANDLEY REPORT - AVERAGES OF EI RXC
23 ESTIMATES ACROSS HANDLEY'S SEVEN AREAS OF INTEREST."
24 DO YOU SEE THAT?

25 **A** I DO.

03:14p

1 Q AND THE NOVEMBER 2018 SECRETARY OF STATE
2 CONTEST -- LET'S FOCUS ON THAT ONE. SO THIS CONTEST
3 IS AN EXAMPLE WHERE IT INCLUDED BOTH A BLACK DEMOCRAT
4 AND A WHITE DEMOCRAT. CORRECT?

5 A THAT'S CORRECT.

6 Q AND THIS IS THE NOVEMBER 2018 SECRETARY OF
7 STATE RACE. AND HERE THE WHITE SUPPORT FOR THE BLACK
8 DEMOCRATIC CANDIDATE WAS 5.4 PERCENT. DO YOU SEE
9 THAT?

10 A YES.

11 Q AND THAT WOULD BE CROSSOVER VOTING, WOULDN'T
12 IT?

13 A THAT IS, YES.

14 Q AND WERE YOU AWARE THAT THE BLACK DEMOCRATIC
15 CANDIDATE HERE, GWEN COLLINS-GREENUP, MOVED ON TO THE
16 RUNOFF WITH THE WHITE REPUBLICAN CANDIDATE, NOT THE
17 WHITE DEMOCRAT CANDIDATE?

18 A YES.

19 Q LET'S LOOK AT THE SECOND EXAMPLE. WE'LL
20 TURN THE PAGE TO PAGE 10 AND GO TO THE NOVEMBER 2022
21 SENATE RACE.

22 THIS IS AN EXAMPLE OF A CONTEST THAT
23 INCLUDES BOTH A BLACK DEMOCRAT AND A WHITE DEMOCRAT.
24 CORRECT?

25 A YES.

03:16p

1 Q HERE WHITE VOTER SUPPORT FOR THE BLACK
2 DEMOCRATIC CANDIDATE WAS 4.3 PERCENT. IS THAT RIGHT?

3 A YES.

4 Q AND THAT'S CONSIDERED CROSSOVER VOTING?

5 A YES.

6 Q AND THE TWO ELECTIONS WE JUST DISCUSSED ARE
7 THE ONLY TWO OF THE 16 ELECTIONS THAT INCLUDED A
8 BLACK DEMOCRAT AND A WHITE DEMOCRAT. IS THAT RIGHT?

9 A AGAIN, THE ONLY TWO VIABLE I THINK, BUT
10 THERE WERE SOME INSTANT POSSIBLY -- I'M NOT SURE
11 ABOUT THIS, BUT THERE MIGHT HAVE BEEN A BLACK
12 DEMOCRAT IN THE CONTEST THAT GOT SOMETHING LIKE ONE
13 PERCENT OF THE VOTE. BUT THESE ARE THE TWO CONTESTS
14 THAT INCLUDED BLACK AND WHITE DEMOCRATS THAT RECEIVED
15 SOME PORTION OF THE VOTE.

16 Q I SEE. SO IF THERE WAS AN ISSUE WITH
17 VIABILITY, YOU WOULD NOT HAVE INCLUDED IT IN THIS
18 ELECTION LIST?

19 A IF THE CANDIDATE GOT, SAY, LESS THAN ONE OR
20 TWO PERCENT OF THE VOTE, I CAN'T GET RELIABLE
21 ESTIMATES. QUITE OFTEN I WILL GET ESTIMATES THAT
22 ACTUALLY EXCEED THE AMOUNT OF VOTE THE CANDIDATE GOT.
23 SO I GROUP THOSE CANDIDATES TOGETHER AND RUN AN
24 ANALYSIS AND CALL THEM OTHERS.

25 Q I SEE. NOW, LET'S GO BACK TO THE FULL-PAGE

03:17p

1 VIEW. ONE OF THE CONTESTS YOU ANALYZED AND WHICH
2 SUPPORTED YOUR CONCLUSIONS IN THIS CASE WAS A CONTEST
3 IN OCTOBER OF 2019 FOR ATTORNEY GENERAL. DO YOU SEE
4 THAT?

5 A YES.

6 Q AND IT WAS BETWEEN IKE JACKSON AND JEFF
7 LANDRY. DO YOU SEE THAT?

8 A YES.

9 Q I'M GOING TO HAVE SOME QUESTIONS FOR YOU
10 LATER ON. I JUST WANT TO RECALL THAT THIS ELECTION
11 IS PART OF YOUR ANALYSIS, SO THANK YOU.

12 NOW I'D LIKE TO TURN TO AN ELECTION THAT YOU
13 DID NOT INCLUDE IN YOUR ANALYSIS. LET'S BRING UP
14 YOUR REBUTTAL REPORT. THIS IS PLAINTIFFS' EXHIBIT
15 12. AND WE'RE GOING TO GO TO PAGE 10. WE'RE GOING
16 TO LOOK AT FOOTNOTE 17.

17 IN THAT FOOTNOTE -- AND I'D LIKE YOU TO
18 CORRECT ME IF I MISREAD THIS -- YOU STATED THERE WAS
19 A CONTEST YOU HAVE NOT COMPARED HERE. IT WAS FROM AN
20 OCTOBER 2019 ELECTION FOR COMMISSIONER OF
21 AGRICULTURE. IT INCLUDED TWO WHITE DEMOCRATS AND A
22 BLACK DEMOCRAT. IN THIS CONTEST BLACK AND WHITE
23 VOTERS BOTH SUPPORTED ONE OF THE WHITE DEMOCRATS OVER
24 THE OTHER WHITE DEMOCRAT AND THE BLACK DEMOCRAT. DO
25 YOU SEE THAT?

03:18p

1 A I DO.

2 Q LET'S TURN TO LDTX 53. THIS IS DR. ALFORD'S
3 REPORT ON PAGE 13, AND LET'S TAKE A LOOK AT THIS
4 CONTEST.

5 MS. MCKNIGHT: PAGE 13. THANK YOU,
6 MR. WILLIAMSON.

7 BY MS. MCKNIGHT:

8 Q NOW, DR. HANDLEY, I SEE ON HERE THAT THE
9 RACE IS INCLUDED IN DR. ALFORD'S REPORT. IT IS THE
10 OCTOBER 2019 COMMISSIONER OF AGRICULTURE RACE. DO
11 YOU SEE THAT?

12 A YES.

13 Q AND THE NUMBERS SHOW THAT OF DEMOCRATIC
14 VOTERS, WHITE AND BLACK DEMOCRATIC VOTERS BOTH
15 SUPPORTED THE WHITE DEMOCRAT MARGUERITE GREEN. DO
16 YOU SEE THAT?

17 A I'M SORRY. SAY THAT AGAIN. YOU SAID THAT
18 WHITE VOTERS SUPPORTED MARGUERITE GREEN? THEY
19 SUPPORTED --

20 Q I'LL SAY IT AGAIN, BECAUSE I WANT TO MAKE
21 SURE IT'S CLEAR.

22 I'M FOCUSED NOW ON THE TOP THREE ROWS OF
23 DEMOCRATIC PARTY VOTERS. SO OF DEMOCRATIC VOTERS,
24 WHITE AND BLACK DEMOCRATIC VOTERS BOTH SUPPORTED THE
25 WHITE DEMOCRAT MARGUERITE GREEN WITH THE MOST AMOUNT

03:20p

1 OF THEIR SUPPORT. ISN'T THAT RIGHT?

2 A I'M NOT SURE THAT THEY'RE DEMOCRATIC VOTERS.
3 BUT OF THE WHITES WHO VOTED FOR DEMOCRATS, THE
4 DEMOCRAT WHO GOT THE MOST VOTE WAS MARGUERITE GREEN.

5 Q AND WHITE AND BLACK DEMOCRAT VOTERS ALSO
6 SHARED THE SAME CANDIDATE AT THE -- WITH THE SECOND-
7 MOST AMOUNT OF VOTES, MEANING WHITE SUPPORT OF THE
8 SECOND AMOUNT -- MOST PERCENTAGE OF VOTES FOR WHITE
9 DEMOCRATS AND THE BLACK SUPPORT PERCENTAGE FOR THE
10 SECOND-MOST WAS -- THEY WERE BOTH FOR CHARLIE GREER,
11 A WHITE DEMOCRAT. ISN'T THAT RIGHT?

12 A I'M NOT SURE THAT YOUR PHRASING IS RIGHT,
13 BUT CHARLIE GREER WAS THE SECOND DEMOCRAT. I MEAN,
14 HE GOT 4.8 PERCENT OF THE WHITE VOTES. WE DON'T KNOW
15 IF THEY'RE DEMOCRATS. BUT HE WAS THE DEMOCRAT WHO
16 GOT THE SECOND-MOST VOTES OF THE DEMOCRATS FROM WHITE
17 VOTERS. IS THAT RIGHT? I'M NOT SURE IF I'M GETTING
18 THAT RIGHT. BUT I SEE WHAT YOU'RE SAYING.

19 Q THANK YOU.

20 A HE GOT 4.8 PERCENT OF THE VOTE.

21 Q AND SIMILARLY, ON THE BLACK SUPPORT SIDE OF
22 BLACK VOTERS, BLACK SUPPORT, THE CANDIDATE THAT GOT
23 THE SECOND-MOST PERCENTAGE OF BLACK SUPPORT WAS ALSO
24 CHARLIE GREER. CORRECT?

25 A YES.

03:21p

1 Q OKAY. AND THEN GOING DOWN TO THE THIRD
2 CANDIDATE, WHITE AND BLACK DEMOCRATIC VOTERS GAVE THE
3 SAME CANDIDATE, PETER WILLIAMS, THE LEAST AMOUNT OF
4 VOTES OF THEIR SUPPORT; MEANING BLACK SUPPORT FOR
5 PETER WILLIAMS WAS 19.8 PERCENT AND WHITE SUPPORT WAS
6 TWO PERCENT. DO YOU SEE THAT?

7 A YES.

8 Q AND YOU DID NOT INCLUDE THIS CONTEST IN YOUR
9 ANALYSIS. CORRECT?

10 A I DID NOT INCLUDE IT IN MY AVERAGES, AND I
11 EXPLAINED WHY. BUT I ALSO EXPLAINED THAT IT FOLLOWED
12 THE SAME PATTERN AS THE OTHER CONTEST. BUT IN THIS
13 PARTICULAR CASE THE BLACK DEMOCRAT WAS NOT THE BLACK-
14 PREFERRED CANDIDATE.

15 Q AND BY "SAME PATTERN," YOU MEAN THAT BLACK
16 SUPPORT PERCENTAGE WAS HIGHER THAN WHITE SUPPORT
17 PERCENTAGE FOR THESE CANDIDATES. RIGHT?

18 A FOR THE BLACK CANDIDATE.

19 Q OKAY. BUT THE BLACK CANDIDATE CAME IN THIRD
20 FOR BOTH BLACK VOTERS AND WHITE VOTERS. ISN'T THAT
21 RIGHT?

22 A YES.

23 Q DR. HANDLEY, WOULD YOU AGREE WITH ME THAT
24 DISTRICTS DRAWN -- AND WE CAN TAKE THIS DOWN -- THAT
25 DISTRICTS DRAWN BETWEEN 40 AND 50 PERCENT BVAP CAN

03:23p

1 OFFER BLACK VOTERS A BETTER THAN EQUAL OPPORTUNITY TO
2 ELECT THEIR CANDIDATES OF CHOICE?

3 A AS A GENERAL PROPOSITION, YES. WE'VE SEEN
4 THAT IN A LOT OF STATES.

5 Q AND YOU HAVE WRITTEN WITH COAUTHORS ABOUT
6 FINDING THE SO-CALLED SWEET SPOT FOR MINORITY
7 CANDIDATE SUCCESS IN NON-MAJORITY-MINORITY DISTRICTS.
8 RIGHT?

9 A YES.

10 Q AND YOU CONCLUDED WITH YOUR COAUTHORS THAT
11 CAUTION MUST BE EXERCISED. DETERMINING WHETHER A
12 MINORITY CANDIDATE CAN WIN ELECTION IN A GIVEN
13 DISTRICT REQUIRES A DISTRICT-SPECIFIC ANALYSIS.
14 CORRECT?

15 A I DON'T HAVE IT IN FRONT OF ME, BUT THAT --

16 MS. BRANNON: YOUR HONOR, I'M JUST GOING TO
17 OBJECT. I THINK THIS QUESTION IS BEYOND THE SCOPE OF
18 THE REBUTTAL PRESENTATION.

19 THE COURT: DO YOU WANT TO RESPOND?

20 MS. MCKNIGHT: THE REBUTTAL PRESENTATION IS
21 A REACTION TO DEFENDANTS' EXPERT REPORTS THAT TALK
22 ABOUT ABILITY OF CANDIDATES TO BE ELECTED. SHE HAS
23 COME IN WITH HER REBUTTAL REPORT AND TOLD THE COURT
24 THAT DEFENDANTS' REPORT SHOULD BE IGNORED; THEY DON'T
25 GIVE THE COURT MEANINGFUL INFORMATION.

03:24p

1 AND THIS GOES TO SHOWING THAT SHE
2 HERSELF UNDERSTANDS THAT THE CANDIDATES CAN WIN IN
3 THESE ELECTIONS AT LOWER PERCENTAGES AND THAT SHE'S
4 DONE THE ANALYSIS BEFORE OF WHAT IS REQUIRED TO DRAW
5 DISTRICTS THAT PERFORM. SO IT'S ABSOLUTELY RELEVANT
6 TO HER REBUTTAL REPORT AND WHAT DEFENDANTS' REPORTS
7 HAVE SAID.

8 MS. BRANNON: I THINK, YOUR HONOR, DR.
9 HANDLEY WAS GIVING A FAIRLY NARROW REBUTTAL
10 PRESENTATION OF SOME VERY SPECIFIC ELECTIONS IN
11 LOUISIANA THAT SHE ANALYZED AND SPOKE TO. THIS IS A
12 VERY GENERAL STATEMENT OF A ARTICLE DR. HANDLEY MAY
13 HAVE WRITTEN THAT WE DID NOT ADDRESS AT ALL IN HER
14 DIRECT. AND I THINK HER DIRECT WAS PRETTY LIMITED TO
15 SPECIFIC ANALYSIS OF LOUISIANA ELECTIONS.

16 MS. MCKNIGHT: YOUR HONOR, WE'RE NOT LIMITED
17 TO DIRECT. WE ARE ABLE TO EXAMINE HER ON HER
18 REBUTTAL REPORT IN THIS MATTER.

19 THE COURT: OVERRULED.

20 BY MS. MCKNIGHT:

21 Q WOULD YOU LIKE ME TO READ IT AGAIN, DR.
22 HANDLEY?

23 A I DON'T HAVE IT IN FRONT ME. BUT IF YOU'RE
24 READING SOMETHING, YOU COULD SHOW ME OR I COULD GUESS
25 THAT YOU'RE TELLING -- YOU'RE READING IT CORRECTLY.

03:25p

1 I'M NOT SURE WHAT TO DO HERE.

2 Q IT'S LESS ABOUT WHETHER IT'S ACCURATE. DO
3 YOU DISAGREE WITH IT?

4 A TELL ME AGAIN WHAT YOU WANT ME TO AGREE
5 WITH.

6 Q SURE. THAT CAUTION MUST BE EXERCISED
7 DETERMINING WHETHER A MINORITY CANDIDATE CAN WIN
8 ELECTION IN A GIVEN DISTRICT BECAUSE IT REQUIRES A
9 DISTRICT-SPECIFIC ANALYSIS.

10 A I AGREE WITH THAT.

11 Q WOULD YOU ALSO AGREE THAT A DISTRICT-
12 SPECIFIC ANALYSIS THAT INCLUDES AN ANALYSIS OF VOTING
13 PATTERNS WOULD PROVIDE AN INDICATION OF HOW TO ADJUST
14 A MODEL TO ACCOUNT FOR LESS THAN PERFECT MINORITY
15 VOTING COHESION, LESS THAN 100 PERCENT WHITE
16 DEMOCRATIC CROSSOVER VOTING FOR THE MAJORITY-MINORITY
17 CANDIDATE, AND LESS THAN EQUAL MINORITY AND WHITE
18 VOTING AGE PARTICIPATION?

19 A IT WOULD BE EASIER IF YOU JUST SHOWED ME
20 THIS. THIS IS KIND OF LENGTHY. IF YOU'RE READING
21 SOMETHING THAT I'VE WRITTEN, CAN'T WE JUST LOOK AT IT
22 AND AGREE OR DISAGREE THAT I WROTE IT?

23 Q SURE. BUT AS YOU SIT NOW -- I'M HAPPY TO
24 PUT IT UP. BUT AS YOU SIT NOW, DO YOU DISAGREE WITH
25 ANYTHING I JUST SAID?

03:27p

1 A I DOUBT IT. BUT COULD WE DO IT PIECE BY
2 PIECE THEN?

3 **THE COURT:** IT WAS COMPOUND. THERE WERE
4 THREE DIFFERENT STATEMENTS. AND HER STATEMENT MAY
5 HAVE BEEN COMPOUND, BUT IT IS RATHER DIFFICULT. I
6 HAVE A HARD TIME FOLLOWING IT. SO BREAK IT INTO
7 THREE SEPARATE SEGMENTS.

8 **MS. MCKNIGHT:** OKAY.

9 **BY MS. MCKNIGHT:**

10 Q I'LL BREAK IT INTO THREE SEPARATE SEGMENTS
11 AND LET'S SEE IF YOU AGREE WITH ME.

12 A DISTRICT-SPECIFIC ANALYSIS THAT INCLUDES
13 AN ANALYSIS OF VOTING PATTERNS WOULD PROVIDE AN
14 INDICATION OF HOW TO ADJUST A MODEL TO ACCOUNT FOR,
15 FIRST, LESS THAN PERFECT MINORITY VOTING COHESION.
16 IS THAT RIGHT?

17 A YES. I THINK WE'RE TALKING ABOUT ADJUSTING
18 THE BLACK VOTING AGE POPULATION. WE WOULD ADJUST IT
19 IF BLACK VOTERS WERE LESS COHESIVE OR MORE COHESIVE
20 DEPENDING ON THE LEVEL OF COHESION. IS THAT WHAT
21 WE'RE TALKING ABOUT?

22 Q I WAS ASKING IF YOU WOULD AGREE THAT A
23 DISTRICT-SPECIFIC ANALYSIS WOULD ALLOW YOU TO ADJUST
24 IN CIRCUMSTANCES WHERE YOU HAVE LESS THAN PERFECT
25 MINORITY VOTING COHESION.

03:28p

1 A I DON'T EVEN KNOW WHAT YOU MEAN BY
2 "DISTRICT-SPECIFIC" IN THIS PARTICULAR INSTANCE. I
3 MEAN, HERE IF WE WANTED TO DO A DISTRICT-SPECIFIC
4 ANALYSIS, WHICH I DID DO, WE KNOW IF IT'S EFFECTIVE
5 OR NOT. I GUESS -- CAN WE JUST LOOK AT THE ARTICLE?

6 **THE COURT:** SHOW HER WHAT YOU'RE READING
7 FROM.

8 **MS. MCKNIGHT:** SURE. LET'S BRING UP
9 SECRETARY OF STATE EXHIBIT 36 AT PAGE 19.

10 **THE COURT:** DID YOU SEE WHICH ARTICLE IT
11 WAS?

12 **THE WITNESS:** YES.

13 **MS. MCKNIGHT:** PARDON ME. COULD YOU START
14 WITH PAGE 1, MR. WILLIAMSON. LET'S GET THIS ON THE
15 RECORD.

16 **BY MS. MCKNIGHT:**

17 **Q** DR. HANDLEY, THIS IS A 2020 ARTICLE TITLED
18 "MINORITY SUCCESS IN NON-MAJORITY-MINORITY DISTRICTS:
19 FINDING THE SWEET SPOT." AND YOU COAUTHORED IT. IS
20 THAT RIGHT?

21 **A** YES.

22 **Q** LET'S TURN TO PAGE 19, WHICH IS PAGE 293 OF
23 THE ARTICLE. AND HERE I'M LOOKING AT THE VERY LAST
24 SENTENCE ON THE PAGE IN THIS CONCLUSION SECTION.

25 DR. HANDLEY, YOU WROTE HERE -- AND MAYBE WE

03:29p

1 COULD GET THAT BOTTOM PAGE CONNECTED WITH THE NEXT
2 PAGE SO WE CAN READ THE WHOLE QUOTE. YOU WROTE HERE
3 THAT A DISTRICT-SPECIFIC ANALYSIS THAT INCLUDES AN
4 ANALYSIS OF VOTING PATTERNS WOULD PROVIDE AN
5 INDICATION OF HOW TO ADJUST A MODEL TO ACCOUNT FOR
6 LESS THAN PERFECT MINORITY VOTING COHESION, LESS THAN
7 100 PERCENT WHITE DEMOCRATIC CROSSOVER VOTING FOR THE
8 MINORITY CANDIDATE, AND LESS THAN EQUAL MINORITY IN
9 WHITE VOTING AGE PARTICIPATION. CORRECT?

10 A YES. PARTICIPATION RATES, YES.

11 Q DR. HANDLEY, IN YOUR REPORT, THE ANALYSIS
12 YOU CONDUCTED IN THIS CASE, DID YOU REPORT OUT
13 NUMBERS ON MINORITY VOTING COHESION ON A DISTRICT-BY-
14 DISTRICT BASIS?

15 A YES.

16 Q DID YOU REPORT OUT MINORITY VOTING COHESION
17 ON A DISTRICT-BY-DISTRICT BASIS IN PLAINTIFFS'
18 ILLUSTRATIVE PLAN?

19 A THEY'RE INCORPORATED IN THE ANALYSIS, BUT
20 THERE ARE NOT SPECIFIC ESTIMATES.

21 Q AND IN YOUR REPORT DID YOU REPORT OUT WHITE
22 DEMOCRATIC CROSSOVER VOTING FOR PLAINTIFFS'
23 ILLUSTRATIVE PLAN ON A DISTRICT-BY-DISTRICT BASIS?

24 A THEY'RE INCORPORATED IN THE EFFECTIVENESS
25 ANALYSIS, BUT THEY'RE NOT REPORTED INDIVIDUALLY.

03:32p

1 Q AND THEY'RE INCORPORATED IN THE
2 EFFECTIVENESS ANALYSIS BECAUSE YOU USED RECOMPILED
3 ELECTION RESULTS TO CREATE THAT EFFECTIVENESS
4 ANALYSIS. IS THAT RIGHT?

5 A YES.

6 Q SO WHEN YOU SAY IT'S INCORPORATED, IT'S A
7 RESULT OF ELECTION RESULTS BEING RECOMPILED WITHIN
8 DISTRICTS. IS THAT RIGHT?

9 A THAT'S CORRECT.

10 Q ACTUALLY, IS IT NOT DISTRICTS? IT'S BY
11 REGION. ISN'T THAT RIGHT?

12 A NO.

13 Q OKAY. AND SO WITHIN THESE DISTRICTS YOU
14 NEVER IDENTIFIED THAT SEPARATE WHITE DEMOCRATIC
15 CROSSOVER VOTING ON A DISTRICT LEVEL. CORRECT?

16 A NOT FOR THE ILLUSTRATIVE DISTRICTS, BUT IT
17 IS ON A DISTRICT LEVEL. YOU WOULD BE INCORRECT.

18 Q WELL, I WANT TO MAKE SURE WE'RE CLEAR HERE,
19 WHEN YOU'RE PRESSING BACK ON "IT'S ON A DISTRICT
20 LEVEL." I'M INTERESTED IN UNDERSTANDING IF YOU
21 REPORTED ANY OF THESE NUMBERS FOR PLAINTIFFS'
22 ILLUSTRATIVE PLAN ON A DISTRICT LEVEL. I BELIEVE THE
23 ANSWER IS "NO." CORRECT?

24 A THAT'S CORRECT.

25 Q THANK YOU.

03:33p

1 AND NOW ON A DISTRICT-BY-DISTRICT BASIS, DO
2 YOU -- YOUR REPORT DID NOT IDENTIFY FOR PLAINTIFFS'
3 ILLUSTRATIVE PLAN WHETHER THERE WAS EQUAL MINORITY IN
4 WHITE VOTING AGE PARTICIPATION. CORRECT?

5 A AGAIN, IT INCORPORATES IT BUT NOT -- NO
6 INDIVIDUAL -- THEY WOULDN'T HAVE TO HAVE BEEN
7 ESTIMATES. THEY COULD HAVE BEEN ACTUAL FIGURES. BUT
8 NO, THEY WEREN'T DONE ON AN INDIVIDUAL DISTRICT
9 BASIS.

10 Q THANK YOU.

11 NOW, AT THE END OF THIS STATEMENT IN THIS
12 ARTICLE THERE IS A FOOTNOTE 22. DO YOU SEE THAT
13 INDICATION THERE?

14 A I SEE THE 22.

15 Q LET'S GO TO FOOTNOTE 22. AND THIS IS ON
16 PAGE 296. AS I READ THIS FOOTNOTE, IT SAYS:
17 "WHETHER ANY SPECIFIC CANDIDATE CAN WIN A GIVEN
18 GENERAL ELECTION IS ALSO DEPENDENT ON CONSIDERATIONS
19 THAT CANNOT BE INCLUDED IN THE MODEL, SUCH AS HOW
20 WELL-QUALIFIED THE CANDIDATES ARE AND HOW MUCH MONEY
21 THE CANDIDATES ARE ABLE TO RAISE." DID I READ THAT
22 CORRECTLY?

23 A YOU DID.

24 Q DO YOU AGREE WITH THAT?

25 A I DO.

03:34p

1 Q OKAY. AND SO DID YOU CONDUCT ANY KIND OF
2 ANALYSIS IN THIS CASE ON HOW WELL-QUALIFIED
3 CANDIDATES WERE OR HOW MUCH MONEY THE CANDIDATES WERE
4 ABLE TO RAISE?

5 A I DID NOT.

6 Q SO YOU DECIDED TO INCLUDE IN YOUR ANALYSIS
7 AN ELECTION -- I'D LIKE TO LOOK AT AN EXAMPLE OF AN
8 ELECTION YOU INCLUDED: THE 2019 ATTORNEY GENERAL
9 RACE BETWEEN JEFF LANDRY AND IKE JACKSON. DO YOU
10 REMEMBER DISCUSSING THAT A FEW MOMENTS AGO?

11 A YES.

12 Q AND YOU INCLUDED THAT CONTEST IN YOUR
13 ANALYSIS TO PROVIDE THE COURT CONCLUSIONS ABOUT
14 RACIALLY POLARIZED VOTING. CORRECT?

15 A CORRECT.

16 Q NOW, CANDIDATE FUND-RAISING IS A MATTER OF
17 PUBLIC RECORD. CORRECT?

18 A POSSIBLY.

19 Q YOU COULD HAVE LOOKED UP HOW MUCH MONEY JEFF
20 LANDRY AND IKE JACKSON RAISED IN THEIR CONTEST?

21 A IF IT'S PUBLICLY AVAILABLE, I SUPPOSE I
22 COULD HAVE.

23 Q BUT YOU DIDN'T IN THIS CASE?

24 A CERTAINLY NOT.

25 Q WOULD IT SURPRISE YOU TO KNOW THAT CANDIDATE

03:36p

1 JEFF LANDRY RAISED CLOSE TO TWO MILLION AND CANDIDATE
2 IKE JACKSON RAISED LESS THAN \$5,000?

3 A I HAVE NO IDEA.

4 MS. BRANNON: YOUR HONOR, I JUST WANT TO
5 OBJECT TO THIS LINE OF QUESTIONING, WHICH IS ABOUT
6 INFORMATION THAT'S NOT IN EVIDENCE AND IS ALSO, I
7 THINK, CLEARLY BEYOND THE SCOPE OF DR. HANDLEY'S
8 REBUTTAL AND PERHAPS EVEN BEYOND THE SCOPE OF DR.
9 HANDLEY'S OPINIONS IN THIS CASE.

10 MS. MCKNIGHT: I'M MOVING ON, YOUR HONOR.
11 BUT IT IS RELEVANT BECAUSE DR. HANDLEY IS TELLING
12 THIS COURT THAT CERTAIN CANDIDATES AND THEIR LOSS --
13 THEIR WIN OR LOSS IS TELLING -- TELLS THIS COURT --
14 IS PROBATIVE FOR THIS COURT TO EXAMINE WHETHER
15 CANDIDATES COULD WIN.

16 HERE DR. HANDLEY -- IT'S IMPEACHMENT.
17 SHE'S ALREADY TOLD THE COURT THAT IT'S IMPORTANT TO
18 UNDERSTAND IN CERTAIN CASES HOW WELL-QUALIFIED THE
19 CANDIDATES ARE, HOW MUCH MONEY THEY WERE ABLE TO
20 RAISE, THAT THAT AFFECTS WHETHER -- HOW PROBATIVE AN
21 ELECTION IS.

22 SO IT IS RELEVANT TO WHETHER -- TO HER
23 ANALYSIS, THE ELECTION SHE CHOSE, WHAT -- AND WHAT
24 ANALYSIS SHE DECIDED TO DO AND OFFER THE COURT AND
25 WHAT ANALYSIS SHE WITHHELD.

03:38p

1 BY MS. BRANNON:

2 Q DEFENSE COUNSEL WAS SHOWING YOU AN ARTICLE
3 THAT YOU WROTE I THINK IN 2015 THAT DISCUSSES A
4 NUMBER OF ELECTIONS AND CHANGES AND A NUMBER OF
5 THINGS.

6 BUT IS IT ACCURATE TO SAY THAT THAT ARTICLE
7 IS DISCUSSING OPPORTUNITIES FOR BLACK-PREFERRED
8 CANDIDATES IN DISTRICTS THAT HAVE BVAPs BETWEEN 40
9 AND 50 PERCENT?

10 A IT'S ACCURATE TO DESCRIBE IT THAT WAY, YES.

11 Q ARE THERE DISTRICTS IN THE STATE OF
12 LOUISIANA IN THE ENACTED MAP THAT HAVE BVAPs BETWEEN
13 40 AND 50 PERCENT?

14 A THERE MIGHT BE ONE IN THE HOUSE. THERE IS
15 CERTAINLY NONE IN THE SENATE.

16 Q SO IT'S FAIR TO SAY THERE IS ALMOST NO
17 DISTRICTS IN THE ENACTED MAP IN LOUISIANA THAT HAVE
18 BVAPs BETWEEN 40 AND 50 PERCENT?

19 A THAT WOULD BE CORRECT.

20 MS. BRANNON: NOTHING FURTHER, YOUR HONOR.

21 THE COURT: YOU MAY STEP DOWN. THANK YOU,
22 MA'AM.

23 ARE THERE ANY FURTHER WITNESSES?

24 MS. KEENAN: NO, YOUR HONOR, NO FURTHER
25 WITNESSES FROM THE PLAINTIFFS.

03:39p

1 THE COURT: SO BOTH PARTIES HAVE RESTED?

2 MS. KEENAN: YES, YOUR HONOR.

3 MS. MCKNIGHT: YES, YOUR HONOR.

4 THE COURT: THE COURT WILL TAKE THIS MATTER
5 UNDER SUBMISSION. WE'VE DISCUSSED THE POST-TRIAL
6 BRIEFS. I'VE FORGOTTEN THE DATE NOW. DO Y'ALL HAVE
7 THE DATE?

8 MS. KEENAN: DECEMBER 19TH. I THINK IT'S
9 THE TUESDAY.

10 THE COURT: DECEMBER 19TH. SIMULTANEOUS
11 BRIEFS, NO REPLIES, LIMITED TO 40 PAGES.

12 ARE THERE ANY OTHER MINISTERIAL MATTERS
13 THAT WE CAN TAKE UP?

14 MS. MCKNIGHT: YES, YOUR HONOR, BRIEFLY,
15 JUST ONE.

16 DEFENDANTS MUST RENEW THEIR RULE 52(C)
17 MOTION FOR THE REASONS DETAILED IN OUR MOTION PAPERS
18 AND DURING ARGUMENT. THANK YOU, YOUR HONOR.

19 THE COURT: THANK YOU. AND I WILL ADDRESS
20 IT MOST LIKELY AS ITEM NO. 1 IN THE WRITTEN RULING.

21 ANYTHING ELSE?

22 MS. MCKNIGHT: YOUR HONOR, BRIEFLY. WE JUST
23 WANT TO THANK EVERYONE, COUNSEL FOR THEIR
24 PROFESSIONALISM, THE COURT AND THE STAFF. THANK YOU
25 VERY MUCH.

03:40p

1 MS. KEENAN: SAME FROM PLAINTIFFS. NOTHING
2 FURTHER. THANK YOU, YOUR HONOR.

3 THE COURT: Y'ALL DID A REMARKABLE JOB, DOWN
4 TO THE LAST PERSON, SO I THANK YOU FOR YOUR
5 PROFESSIONALISM, YOUR COURTESY AND ALSO YOUR
6 PATIENCE.

7 ALL RIGHT. WE WILL STAND ADJOURNED.

8 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

9 C E R T I F I C A T E

10 I CERTIFY THAT THE FOREGOING IS A CORRECT
11 TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE
12 ABOVE-ENTITLED NUMBERED MATTER.

13 S:/NATALIE W. BREAUX

14 NATALIE W. BREAUX, RPR, CRR

15 OFFICIAL COURT REPORTER

16

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Exhibit 1

Figure 5: Location of Black and White populations in Cooper Illustrative District 1. One blue dot represents 10 Black residents of voting age. One orange 'x' represents 10 White residents of voting age. Dashed blue lines reflect Parish boundaries.

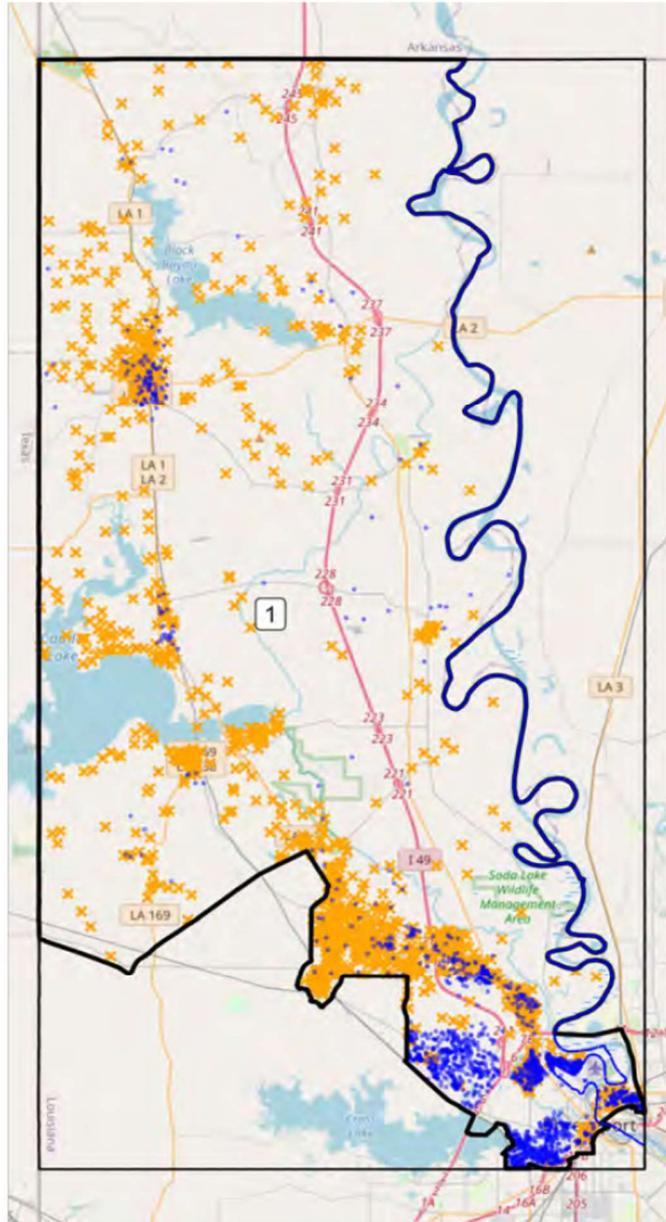


Figure 6: Most compact group of Black residents of voting age in Cooper Illustrative District 1 sufficient to constitute a majority of the population in the district, using the moment of inertia approach. Here, dashed blue lines indicate the outer boundary of precincts containing the most compact group. This is the most compact collection of at least 16,737 Black residents of voting age this approach identifies within the boundaries of of Illustrative District 1.

