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UNITED STATES OF AMERICA

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAVID TANGIPA, *et al.*,
Plaintiffs,
and
UNITED STATES OF AMERICA,
Plaintiff-Intervenor,
v.
GAVIN NEWSOM, in his official
capacity as the Governor of California,
et al.,

Case No. 2:25-cv-10616-JLS-KES
Three-Judge Court

**UNITED STATES' REPLY TO
OPPOSITION OF INTERVENOR-
DEFENDANT LEAGUE OF
UNITED LATIN AMERICAN
CITIZENS (LULAC) TO MOTIONS
FOR PRELIMINARY INJUNCTION**

* Assistant Attorney General Harmeet K. Dhillon is recused from this matter.

Defendants,

Hon. Josephine L. Staton
Hon. Wesley L. Hsu
Hon. Kenneth K. Lee

Hearing Date: December 15, 2025
Time: 9 a.m.
Courtroom: One

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1 **INTRODUCTION**

2 Defendant-Intervenor League of United Latin American Citizens’ (“LULAC”)
3 response to Plaintiffs’ and Plaintiff-Intervenor’s motions for a preliminary injunction
4 alleges that Plaintiffs have “repackaged a nonjusticiable partisan gerrymander and called
5 it an impermissible racial gerrymander.” LULAC Opp. at 1. The allegations in LULAC’s
6 brief and the undisputed facts and evidence introduced in the United States’ complaint and
7 motion, however, establish that California intentionally used race as a predominant factor
8 in creating the map that the legislature passed as Assembly Bill 604 (“AB 604”).

9 **A. The United States Has Established that AB 604 Violates the Equal**
10 **Protection Clause**

11 The Equal Protection Clause forbids a State, absent a compelling justification, from
12 “separat[ing] its citizens into different voting districts on the basis of race.” *Bethune-Hill*
13 *v. Virginia State Bd. of Elections*, 580 U.S. 178, 187 (2017). Under this rubric, plaintiffs
14 must show that race was the “predominant factor motivating the legislature’s decision to
15 place a significant number of voters within or without a particular district.” *Alexander v.*
16 *South Carolina State Conf. of the NAACP*, 602 U.S. 1, 7 (2024). Here, Plaintiffs and the
17 United States have introduced both “‘direct evidence’ of legislative intent, [and]
18 ‘circumstantial evidence of a district’s shape and demographics.’” *Cooper v. Harris*, 581
19 U.S. 285, 291 (2017) (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)); *see generally*
20 U.S. P.I. Mot. 3-6, 8-11; Pls.’ P.I. Mot. 10-14.

21 In enacting AB 604, California no doubt sought to increase Democrats’ voting
22 power. But this partisan goal was second to racial priorities. Paul Mitchell, who drew the
23 map, admitted in an interview with Hispanas Organized for Political Equality (“HOPE”)
24 on October 17, 2025, that his starting point for redistricting was implementing racial
25 targets that HOPE lobbied for in a 2021 letter. Doc. 42-3 at 25-26. In addition to this direct
26 evidence discussed in the United States’ Reply to Def. Opp., *see* Doc. 140 at 1-3, 10-11,
27 and Memo in Support of the Motion for a Preliminary Injunction, *see* Doc. 29-1 at 8-11,
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1 there is ample circumstantial evidence of race-based gerrymandering. The HOPE letter
2 also suggested moving Latino populations from districts that were “likely overpacked
3 beyond what is required to definitively allow for the election of a Latino candidate of
4 choice,” and deemed 52-54% Hispanic Citizen Voting Age Population (“CVAP”) an
5 optimal racial quota to “still be very likely to elect Latino candidates of choice.” App. A,
6 *Nov. 24, 2021 Letter from HOPE to Commissioners* at 5. And the evidence demonstrates
7 that Mitchell endeavored—indeed, successfully—to create a map that increased Democrat
8 voting power while prioritizing a similar racial quota.

9 Data submitted by LULAC’s own expert, Anthony Fairfax, indicates that Mitchell
10 implemented a racial quota to ensure that at least sixteen districts would be “very likely to
11 elect Latino candidates of choice”: 14/16 majority-Hispanic districts in the Proposition 50
12 Map have Hispanic CVAPs of 51.76-55.01%, whereas only 5/16 districts in the 2021 were
13 in this compact range. *Compare* Doc. 111-1 at 86-87 (2021 map’s Hispanic CVAP
14 percentages), *with id.* at 161-62 (Proposition 50 map’s Hispanic CVAP percentages).

15 Of course, it could be a coincidence that all but two majority-Hispanic districts have
16 Hispanic CVAP percentages within a compact range that is nearly identical to the range
17 that HOPE deemed optimal. But as LULAC included in its recent brief in *LULAC v.*
18 *Abbott*: “*Nothing’s a coincidence.*” No. 3:21-cv-00259, Doc. 1150 at 16 (W.D. Tex. Aug.
19 28, 2025) (quoting legislators’ discussions regarding two districts that were “just above”
20 50% Hispanic CVAP and two districts that were “just above” 50% black CVAP); *see also*
21 *LULAC v. Abbott*, --- F. Supp. 3d ---, 2025 WL 3215715, at *42 (W.D. Tex. Nov. 18,
22 2025) (finding it “very unlikely” that the map drawer “would have hit a barely 50%
23 CVAP *three times* by pure chance”), *stayed on other grounds*, 607 U.S. ---, 2025 WL
24 3484863 (W.D. Tex. Dec. 4, 2025).

25 Nonetheless, according to LULAC, California must not have racial gerrymandered
26 the Proposition 50 map because it has the same number of majority-Hispanic districts—
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1 sixteen—as did the 2021 map, which undisputedly complied with the VRA.¹ Doc. 111 at
2 10 (accusing the United States of “fail[ing] to explain how the sixteen districts in the
3 Commission plan could be constitutional while the sixteen districts in the current plan are
4 not”). But while fifteen of the sixteen majority-Hispanic districts may nominally be the
5 same in both maps, their boundaries are not the same. Instead, the districts are drawn to
6 racially sort voters into the most politically advantageous districts that satisfy desired
7 racial quotas.

8 Take District 13 for example. In the 2021 map, it had a bulge that protruded into
9 District 9. Doc. 111-1 at 22. But the Proposition 50 map adds a plume atop the existing
10 bulge. *Id.* at 22-23. Accepting the data submitted by LULAC’s expert, Fairfax, the revised
11 District 13 in the Proposition 50 map increased Democrats’ voting power while keeping
12 Hispanic CVAP roughly the same at 53.73%, compared to 53.66% in the 2021 map.
13 *Compare* Doc. 111-1 at 86, 137, 140, 143 (2021 District 13 Hispanic CVAP and Democrat
14 populations), *with id.* at 161, 214, 217, 220 (Proposition 50 District 13 Hispanic CVAP
15 and Democrat populations). Had partisan goals predominated, Mitchell could have
16 maximized Democrats’ voting power in District 13, while keeping District 9 reliably
17 Democrat and drawing a more regular district. This is demonstrated by Trende’s three
18 alternative maps. *See* Doc.16-5 at 37-42.² Even under Fairfax’s data, Trende’s Map A
19 shows that when push came to shove, Mitchell prioritized the racial quota over partisan
20 goals.³ *Compare* Doc. 111-1 at 161, 214, 217, 220 (Proposition 50 District 13 Hispanic
21

22 ¹ Different data sets and analyses produce varying conclusions about the number of
23 majority-Hispanic districts in the 2021 map. *See, e.g.*, Dr. Raquel Centeno & Dr. Jarred
24 Cuellar, *Latino Voters and the November 2025 Special Election: Redistricting and*
25 *Representation* at 1, <https://tinyurl.com/5pjj9x7r>; *see also infra* note 3.

26 ² LULAC disposes of the United States’ arguments on the basis that the United
27 States did not retain its own expert and instead merely cites an academic analysis. Doc.
28 111 at 11. This is not true; the United States relies on Trende. *See* U.S. P.I. Mot. 11.

³ Fairfax’s report shows unequal populations between the districts in Trende’s
alternative maps. LULAC Opp. 17; *see, e.g.*, 111-1 at 569. Fairfax testified, however, that
data produced in one redistricting application may not populate accurately when reviewed
on different software. App. B, *Deposition of Anthony Fairfax* at 74:1-18 (“If you use

1 CVAP and Democrat populations), *with id.* at 240, 389, 392, 395 (Trende Map A District
2 13 Hispanic CVAP and Democrat populations). Prior VRA compliance does not create a
3 safe harbor for subsequent unlawful discrimination.

4 Even if California had good in increasing the voting power of Latinos, the
5 Proposition 50 map remains an illegal racial gerrymander. Supposedly “benign” racial
6 classifications are held to the same strict scrutiny as “invidious” ones. *Adarand*
7 *Constructions, Inc. v. Pena*, 515 U.S. 200, 229-30 (1995). That is because in “zero-sum”
8 contexts such as electoral politics, a “benefit provided to some” racial groups “but not to
9 others necessarily advantages the former group at the expense of the latter.” *Students for*
10 *Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181, 218-19
11 (2023). When a state intentionally draws majority-minority districts to empower one racial
12 group, it therefore necessarily harms the political power of other racial groups. Here,
13 California’s “benign” discrimination to increase the political power of Latinos results in a
14 corresponding decrease in the political powers of other racial groups. That violates the
15 Equal Protection Clause. There is no “special category of ‘benign’ racial classification”
16 when voting rights are at stake. *Shaw v. Reno*, 509 U.S. 630, 653 (1993).

17 **B. The United States Has Established a VRA Violation Based on the Intentional**
18 **Use of Race in Redistricting**

19 Without ever citing the Voting Rights Act, LULAC further argues that the United
20 States is limited to bringing a vote-dilution claim under the VRA. *Compare* LULAC Opp.
21 14 (arguing that the United States “appears to ... bring[] an intentional vote dilution claim”
22 (citing U.S. P.I. Mot. 7-8)), *with* U.S. P.I. Mot. 7-8 (describing the legal standard for the
23 VRA claim). And according to LULAC, the United States’ vote-dilution claim is
24 inadequate. LULAC Opp. 14-15. In this case, there is ample evidence that the redistricting

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26 Census block, which is what I use when I transfer or transmit a plan, it matches up
27 correctly ... If you use some other – he used JSON, like I said, they may not conform to
28 Census geography correctly.”).

1 process—including in District 13—began with, and was motivated by, race-based
2 considerations.

3 **1. Section 2 of the VRA Prohibits Purposeful Race-Based Redistricting**

4 Section 2 imposes a “permanent, nationwide ban on racial discrimination in
5 voting.” *Shelby County v. Holder*, 570 U.S. 529, 557 (2013). Section 2 allows plaintiffs to
6 bring both “intent” (or “purpose”) claims and “results” claims. *See Democratic Nat’l*
7 *Comm. v. Hobbs*, 948 F.3d 989, 1011 (9th Cir. 2020) (*en banc*), *rev’d on other grounds*
8 *sub nom. Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647 (2021). Section 2 prohibits
9 both “those voting practices directly prohibited by the Fifteenth Amendment” and “also
10 any practice ‘imposed or applied . . . in a manner which results in a denial or abridgement
11 of the right . . . to vote on account of race or color.’” *United States v. Marengo Cnty.*
12 *Comm’n*, 731 F.2d 1546, 1553 (11th Cir. 1984) (emphasis removed). Or, said differently,
13 a Section 2 plaintiff “must either prove [discriminatory] intent, or, alternatively, must
14 show that the challenged system or practice, in the context of all the circumstances in the
15 jurisdiction in question, results in minorities being denied equal access to the political
16 process.” *Chisom v. Roemer*, 501 U.S. 380, 394 n.21 (1991); *Hobbs*, 948 F.3d at 1011.

17 When a state intentionally draws district lines on the basis of race, “[t]he racial
18 classification itself is the relevant harm.” *Alexander*, 602 U.S. at 38.⁴ That is because
19 “[c]lassifying citizens by race . . . threatens special harms that are not present in . . . vote-
20 dilution cases.” *Shaw v. Reno*, 509 U.S. 630, 649-50 (1993).

21 **2. The United States Has Established a Section 2 Intent Claim**

22 When considering a discriminatory purpose claim under Section 2, courts apply the
23 familiar approach outlined in *Village of Arlington Heights v. Metropolitan Housing*
24 *Development Corp.*, 429 U.S. 252, 266-68 (1977). *Hobbs*, 948 F.3d at 1038. Under this

25 ⁴ Moreover, to the extent that a claim of intentional racial gerrymandering requires
26 a showing that a certain racial or ethnic group’s voting power has been diminished (*see*
27 *LULAC Opp.* 14), the Proposition 50 map’s boost of Latino voting power necessarily
28 entails the concomitant diminution of the voting power of all other racial groups.

1 standard, plaintiffs must show that race was a motivating factor for the official action, but
2 they need not show “that the challenged action rested solely on racially discriminatory
3 purposes” or even that the discriminatory purpose “was the ‘dominant’ or ‘primary’ one.”
4 *Arlington Heights*, 429 U.S. at 265; *see also Allen v. Milligan*, 599 U.S. 1, 37 (2023)
5 (rejecting the contention that plaintiffs must show that a challenged districting plan “rested
6 solely on racially discriminatory purpose” (quoting *Arlington Heights*, 429 U.S. at 265)).

7 LULAC contends, and the United States does not dispute, that members of the
8 California legislature and government sold this plan to California voters as an attempt to
9 counteract the redistricting plans occurring in other states. *See* LULAC Opp. at 5-9.
10 However, these post-hoc rationalizations were made after the California legislature
11 passed, and the Secretary of State enrolled, AB 604, which set the proposed map in stone.
12 For example, the Official Voter Information Guide, *see* LULAC Opp. at 6, could not have
13 been created until after AB 604 passed. *See* Prop. 50 Voter Guide, *available at*
14 *ps://vig.cdn.sos.ca.gov/2025/special/pdf/complete-vig.pdf* (last visited Dec. 8, 2025). As
15 the United States has explained in its reply to the Defendants’ Opposition, the intent of
16 the voters is irrelevant to the analysis here. Doc. 140 at 6, 14. The Guide, and statements
17 by Governor Newsom and Republican Legislators who voted against the proposal, *see*
18 LULAC Opp. at 6-8, are similarly irrelevant as they were not made by relevant state actors.
19 *See Alexander*, 602 U.S. at 8; *see also Cooper*, 581 U.S. at 299 (finding a racial
20 gerrymander by examining evidence from the “State’s mapmakers”). Here Paul Mitchell
21 and the members of the California legislature were the State’s mapmakers—and relevant
22 state actors—who determined the final map that AB 604 enacted.

23 The mindset of the mapmaker is highly relevant to the question of whether invidious
24 discrimination tainted the mapmaking process. *See Perez v. Texas*, 891 F. Supp. 2d 808,
25 833 n.94 (W.D. Tex. 2012) (noting that “the actual mapdrawer[’s] ... state of mind and
26 decision-making appears to be the most relevant evidence concerning the extent to which
27 race played a role in determining district lines”); *see also Arlington Heights*, 429 U.S. at
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1 266 (“Determining whether invidious discriminatory purpose was a motivating factor
2 demands a sensitive inquiry into such circumstantial and direct evidence of intent as may
3 be available.”). Here, as demonstrated in the motion for a preliminary injunction, U.S. P.I.
4 Mot. 8-10, Mitchell prioritized bolstering the voting power of Latino voters as a bloc when
5 he set out to draw the map in AB 604.

6 “[T]argeting a particular race’s access to the franchise because its members vote for
7 a particular party, in a predictable manner, constitutes discriminatory purpose.” *League of*
8 *Women Voters of Florida Inc. v. Florida Sec’y of State*, 66 F.4th 905, 924 (11th Cir. 2023)
9 (quoting *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204, 222 (4th Cir. 2016)).
10 Although “[o]utright admissions of impermissible racial motivation are infrequent[,]”
11 *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999), such admissions actually occurred in this
12 case. Mitchell stated the “number one thing that [he] first started thinking about” when
13 creating the map was “drawing a replacement Latino majority/minority district in the
14 middle of Los Angeles.” Doc. 42-3 at 24-25. He told HOPE that the “[t]he Prop. 50 maps
15 [would] be great for the Latino community ... they [would] ensure that the Latino districts
16 that are the VRA seats are bolstered in order to make them most effective, particularly in
17 the Central Valley.” *Id.* at 31. He also boasted that he had redrawn another district to create
18 a “Latino-influenced district at 35 percent Latino by voting age population.” *Id.* at 25-26.
19 “Once racial discrimination is shown to have been a ‘substantial’ or ‘motivating’ factor
20 behind enactment of the law, the burden shifts to the law’s defenders to demonstrate that
21 the law would have been enacted without this factor.” *Hunter v. Underwood*, 471 U.S.
22 222, 228 (1985) (quoting *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274,
23 287 (1977)). Neither LULAC nor the State Defendants have satisfied this burden.

24 **C. The United States Has Established the Basis for a Preliminary Injunction**

25 As Defendants concede, *see* Def. Opp. 12, n.7, the Ninth Circuit has adopted “a
26 sliding scale variant of the *Winter* test—under which a party is entitled to a preliminary
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1 injunction if it demonstrates (1) serious questions going to the merits, (2) a likelihood of
2 irreparable injury, (3) a balance of hardships that tips sharply towards the plaintiff, and (4)
3 the injunction is in the public interest.” *Flathead-Lolo-Bitterroot Citizen Task Force v.*
4 *Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024) (quotation marks omitted). “[T]he serious
5 questions standard is ‘a lesser showing than likelihood of success on the merits,’” *id.*, a
6 burden that the United States has met. “Any racial discrimination in voting is too much,”
7 *Shelby County*, 570 U.S. at 557, and “[t]he federal interest in protecting voting rights is a
8 serious one,” *Harris v. Ariz. Indep. Redistricting Comm’n*, 993 F. Supp. 2d 1042, 1071
9 (D. Ariz. 2014). *See also Badham v. U.S. Dist. Ct. for N. Dist. of Cal.*, 721 F.2d 1170,
10 1173 (9th Cir. 1983) (“The right to vote is fundamental ‘because it is preservative of all
11 rights.” (alteration adopted and citation omitted)). Likewise, the right to be free from
12 discrimination on the basis of race is a vital constitutional right: “At the heart of the
13 Constitution’s guarantee of equal protection lies the simple command that the Government
14 must treat citizens as individuals, not as simply components of a racial, religious, sexual
15 or national class.” *Miller*, 515 U.S. at 911 (internal quotation marks and citation omitted).
16 The Proposition 50 map, including District 13, was purposefully drawn, using race-based
17 considerations, to bolster Latino voting power in California politics, thereby diminishing
18 the political power of all other races. LULAC has not, and cannot, contradict this evidence.
19 A preliminary injunction is proper.

20 LULAC raises no other new arguments not raised by Defendants. Accordingly,
21 Plaintiff-Intervenor refers the Court to, and incorporates, the United States’ Reply to
22 Defendants, Doc. 140.

23 CONCLUSION

24 For the foregoing reasons and those in the United States’ memorandum in support
25 of its motion for a preliminary injunction, the Court should grant the United States’
26 motion.

1 DATED: December 10, 2025

Respectfully submitted:

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14 United States Department of Justice

15 Attorneys for Plaintiff-Intervenor
16 UNITED STATES OF AMERICA

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27 _____
* Assistant Attorney General Harmeet K. Dhillon is recused from this matter.

CERTIFICATE OF COMPLIANCE

1
2 The undersigned, counsel of record for the United States of America certifies that
3 this brief contains 2823 words, which complies with the word limit required by the court
4 in Doc. No 82.
5

6 Dated: December 10, 2025

s/ Greta Gieseke
Greta Gieseke
Trial Attorney

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18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 DAVID TANGIPA, *et al.*,
21 *Plaintiffs*,
22 and

23 UNITED STATES OF AMERICA,
24 *Plaintiff-Intervenor*,
25 v.

26 GAVIN NEWSOM, in his official

Case No. 2:25-cv-10616-JLS-KES
Three-Judge Court

DECLARATION OF MATT ZANDI IN
SUPPORT OF PLAINTIFF-
INTERVENOR'S REPLY TO
DEFENDANT-INTERVENOR LULAC'S
OPPOSITION TO PLAINTIFF-
INTERVENOR'S MOTION FOR A
PRELIMINARY INJUNCTION

27 * Assistant Attorney General Harmeet K. Dhillon is recused from this matter.
28

1 capacity as the Governor of California, *et*
2 *al.*,
3 *Defendants*,

Hon. Josephine L. Staton
Hon. Wesley L. Hsu
Hon. Kenneth K. Lee

Hearing Date: December 15, 2025
Time: 9 a.m.
Courtroom: One

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10 I, Matthew Zandi, do hereby declare and state as follows.

11 1. I am a Special Counsel in the United States Department of Justice, Civil Rights
12 Division. I am admitted to practice in the Central District of California and represent the
13 United States in the above-captioned matter.

14 2. This Declaration is being submitted in support of Plaintiff-Intervenor's Reply to
15 Defendant-Intervenor LULAC's Opposition to Plaintiff-Intervenors' Motion for a
16 Preliminary Injunction.

17 3. The statements made in this Declaration are based on the knowledge acquired by
18 me in the performance of my official duties and in conjunction with factual and legal
19 research conducted by other attorneys and staff at the Department of Justice.

20 4. Attached hereto as Appendix A is a true and correct copy of a Letter from Hispanas
21 Organized for Political Equality to the Commissioners of the California Citizens
22 Redistricting Commission, dated November 24, 2021.

23 5. Attached hereto as Appendix B is a true and correct copy of a transcript of the
24 deposition of Anthony Fairfax, dated December 9, 2025.

25 Having reviewed this Declaration, I declare, under penalty of perjury and pursuant
26 to 28 U.S.C. § 1746, that the foregoing is true and correct.

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Executed on December 10, 2025, in Washington, D.C.

Respectfully submitted,

s/ Matthew Zandi
MATTHEW ZANDI
Chief of Staff & Special Counsel

Appendix A

*Nov. 24, 2021 Letter from HOPE to
Commissioners*



HOPE

Citizens Redistricting Commission
721 Capitol Mall, Suite 260
Sacramento, CA 95814
votersfirstact@crc.ca.gov

November 24, 2021

Dear Commissioners,

I am writing you with urgent concern, on behalf of Hispanas Organized for Political Equality (HOPE), regarding the congressional drafts you released on November 10th and will begin adjusting on this coming Monday, November 29th.

In particular, HOPE is concerned about the elimination of a majority-minority Latino district within the area of Los Angeles' Gateway cities. The seat, which was called by the Los Angeles Times the most Latino district in the country, disappeared off the map, despite the growth in Latino population throughout the state. This seat was absorbed by neighboring districts, with most of it going into a district "LBNORTH" which is only 40% Latino when looking at eligible voters.

Throughout HOPE's 32 years of community leadership, we have remained committed to our mission, ensuring political and economic parity for Latinas through leadership, advocacy, and education to the benefit of all communities and the status of women.

The work of HOPE and the influential base of HOPE graduates, local activists and local leaders has led a reformation of governance at every level – making our elected officials look more like the people they represent. Most recently this past fall, HOPE trained over 400 Latinas across California on importance of redistricting to all of our communities and the need for diverse representation. This movement and commitment has yielded important successes: Today there are more Latinas in elected government than ever before.

This revolution has been due to organizing and changes in how California conducts elections. The California Voting Rights Act has created more districted elections, benefiting Latinas who are seeking local office. And fair districts drawn with the Voting Rights Act in mind have expanded the number of legislative and congressional districts that can express the values and political choices of the state's growing Latino population.

HOPE has always been a supporter of independent redistricting and we are all grateful for your work on this daunting task. We also appreciate public statements by commissioners regarding the coming final weeks of the commission work and changes that need to be made to the map, particularly around the VRA issues in Los Angeles.

In order to help with your work I am attaching an analysis from two respected Southern California researchers, Christian Grose and Natalie Masuoka, who have looked closely at the draft lines and need under the Voting Rights Act to return a Latino Majority Minority district to the congressional plan in Los Angeles.

Based on this analysis, we believe the commission could achieve something that would be consistent with the Voting Right Act and also empower more communities of interest. The three steps would be:

- 1) Create a new GATEWAYCITIES District centered around Downey, as described in this analysis, allowing for the creation of FIVE Latino Majority minority districts where there currently are four.**

- 2) Take the current LBNorth seat to the south, through Seal Beach into Huntington Beach, making that a Latino influence seat at 35-40% Latino by voting age population.**

This would return to Los Angeles the now missing Latino Majority Minority district and ensure that the consequences of population losses statewide are not borne by the fastest growing population – the state's increasing Latino population.

Thank you for your attention to this matter.

With HOPE toward the future,



Helen Iris Torres
Executive Director & CEO
Hispanas Organized for Political Equality (HOPE)

**A voting rights analysis of high-Latino-CVAP proposed districts in south and east L.A. County:
Are proposed districts in L.A. County and the southern California area Latino-ability-to-elect
districts?**

Dr. Christian Grose and Raquel Centeno, Ph.D. student

November 23, 2021

The California Citizens Redistricting Commission has released its proposed congressional district maps. In this report, we look at congressional districts in southern California/L.A. County in the Commission’s proposed draft maps with a specific emphasis on voting rights, Latino ability to elect districts, and Latino influence districts in the area of south and east Los Angeles County.

Given racial polarization in Southern California, including parts of L.A. County, it is necessary to assess whether these proposed districts will provide sufficient opportunities to elect Latino candidates of choice. We also seek to analyze whether an additional Latino ability-to-elect or Latino influence district could be added to L.A. County. We conclude that with some reconfiguration of proposed districts, such a district could be added to L.A. County without diluting the influence of Latino voters in other districts.

In this report, Latino candidates of choice are defined as Latino candidates who are preferred by a majority of Latino voters.¹ While not presented here, we find evidence of racially polarized voting between Latino voters and non-Hispanic white voters in parts of Los Angeles County, Orange County, and other areas of southern California.²

We analyzed five proposed congressional districts with large Latino CVAPs in the south and east L.A. County area: LBNORTH, STH60, CDCOV, SP710, and CDNELA. These districts are listed in Table 1 below. The names of these districts are those given by the California Citizens Redistricting Commission upon the recent release of their draft congressional district maps.

Table 1: Racial and Ethnic Demographics of south and east L.A. County-area districts

Proposed District Name	Latino CVAP	Asian CVAP	Black CVAP	Non-Hispanic white CVAP
CDCOV	53%	32%	3%	12%
CDNELA	57%	18%	7%	16%
STH60	56%	21%	2%	20%
LBNORTH	40%	13%	12%	33%
SP710	63%	10%	11%	14%

¹ We identified Latino candidates of choice in exogenous elections. In the interest of space, this full analysis is not presented here. To identify Latino candidates of choice in exogenous elections, we conducted analyses of racially polarized voting of Latino voters and non-Hispanic white voters in L.A. County and southern California.

² Non-Hispanic whites and Latinos sometimes choose different candidates in southern California, according to RPV analyses conducted. We also find that Latino voters and Black voters; and Asian American and Latino voters in L.A. County sometimes vote in coalition with one another in general elections; though this depends on the specific region/area/districts of southern California.

As Table 1 shows, four of these five districts are Latino CVAP majority districts (CDCOV, CDNELA, STH60, and SP710) and one has Latino CVAP as the plurality group (LBNORTH). LBNORTH is a district with a 40% Latino CVAP, though we will later assess if it has the potential to be a Latino ability-to-elect coalition district as Latino voters are 40% CVAP, Black voters are 12% CVAP, and Asian voters are 13% CVAP. None of these five proposed congressional districts are white majority CVAP. The four Latino-majority districts range from CDCOV with a 53% Latino CVAP to SP710 with a very high 63% Latino CVAP.

Are these five districts able to elect Latino candidates of choice?

Simply looking at the Latino CVAP in a district is not sufficient for determining if a district is likely to elect a Latino candidate of choice. A key metric is whether the district demonstrates an ability to elect a Latino candidate of choice (a Latino candidate of choice is defined as a candidate preferred by a majority of Latino voters). In fact, recent Supreme Court jurisprudence has suggested that arbitrary racial thresholds could trigger racial gerrymandering claims (i.e., *Cooper v. Harris*), and therefore close attention to a district’s ability to elect Latino candidates of choice is one critically important metric for determining if a district is likely to elect a Latino candidate of choice.

Table 2: Can These L.A.-area U.S. House Districts Elect Latino Candidates of Choice?

Proposed District	How often do Latino candidates of choice win elections in the proposed district?	What is the average vote % of Latino candidates of choice in exogenous elections (across all voters in proposed district)?
LBNORTH	67% win rate	58.3%
STH60	83% win rate	57.5%
CDNELA	83% win rate	69.4%
CDCOV	83% win rate	61.7%
SP710	83% win rate	64.4%

In Table 2 above, we examine these five south and east L.A. area districts to assess how likely they are to elect Latino candidates of choice. The first column displays the name of the proposed congressional district in the Commission’s draft maps. The second column shows the percentage frequency that Latino candidates of choice in exogenous elections win in the district. The third column displays the mean vote percentage that Latino candidates of choice receive in general elections in these

five districts.³ These latter two metrics provide information on how likely the districts are to elect Latino candidates of choice.

As Table 2 reveals, the Latino CVAP majority districts have a very high propensity of electing Latino candidates of choice. In STH60, CDNELA, CDCOV, and SP710, there is a very high probability that a Latino candidate of choice will be elected in these districts. Of the five districts, these four districts have the highest Latino CVAP. Further, in three of these districts, the average vote share received by Latino candidates of choice in exogenous elections ranges from 61.7% to 69.4%. These are very high margins of victory and Latino candidates of choice will be elected in these districts.

In fact, these districts are so high performing for Latino candidates of choice that these districts could be attacked on voting rights grounds for overpacking Latino voters into four Latino CVAP-majority districts when five districts could have instead been drawn in this region to elect Latino candidates of choice. If geographically feasible, the Commission may want to slightly unpack some of these districts to provide greater Latino voting strength to surrounding district(s). It could be possible to marginally unpack these districts to simultaneously protect the ability to elect Latino candidates and preserve Latino CVAP majorities in those districts; and in doing so also create one more L.A. County-based Latino ability-to-elect district. This seems potentially feasible particularly in these three districts with very high Latino CVAPs and ability to elect rates (CDNELA, CDCOV, and SP710).

It is important to remember that voting rights and the protection of voters of color is a higher priority than preserving county boundaries or other lower-order criteria. Further, it is also acceptable for Commissioners to value providing influence to voters of color in its districting plans, so long as it is not the sole criterion used, even beyond the minimal requirements for voting rights guidance provided to the Commission by its voting rights staff. Thus, it may be important that some of these very high Latino districts in L.A. County expand somewhat into neighboring counties such as Orange County or Riverside County. Crossing into Orange County will make some of these districts less overpacked but also will still allow for very high levels of Latino ability to elect and Latino CVAP majorities. For instance, district SP710 is 63% Latino CVAP. Such a district is likely overpacked beyond what is required to definitively allow for the election of a Latino candidate of choice given the data shown in the third column of Table 2. Similarly, STH60 and CDNELA are 56% and 57% Latino CVAP respectively. If these districts were between 52% and 54% Latino CVAP, for instance, they would still be very likely to elect Latino candidates of choice. The Commission may want to consider the optimal allocation of Latino CVAP in L.A. County so as to create one additional very-high Latino CVAP-majority or plurality districts in this area while retaining these four Latino-CVAP-majority districts.

The LBNORTH district is distinct from the other districts in that it has a lower propensity to elect Latino candidates of choice (as shown in Table 2 above). As a result, we will focus more specifically on this LBNORTH district below.

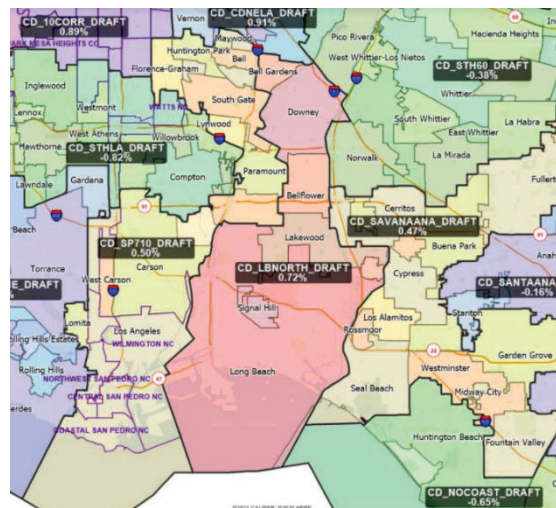
³ Given California has a top two primary, the analyses of the ability for Latino candidates of choice to win includes election with same-party candidates running against each other when Latino candidates compete against non-Latino candidates as well as different-party candidates competing against each other. Peer-reviewed academic research has shown that the salience of racial and ethnic identity can be very high to voters in top-two elections when candidates of the same party compete; see Sara Sadhwani et al., 2018, "Candidate Ethnicity and Latino Voting in Co-Partisan Elections," *California Journal of Politics and Policy*.

Is the LBNORTH proposed district a

Latino-ability-to-elect district or a Latino influence district? The Commission's LBNORTH proposed district is 40% Latino, 12% Black, 13% Asian, and 33% non-Hispanic white. This district was displayed on the Commission's website and is reproduced and displayed on the right.

This potential congressional district includes parts or all of Long Beach, Hawaiian Gardens, Lakewood, Bellflower, Downey, and Bell Gardens.

Is this district a Latino-ability-to-elect district? In other words, can this district provide a regular opportunity for Latino candidates of choice to win in U.S. House elections? Given the district is currently 40% Latino CVAP and only 33% non-Hispanic white, it may have some positive probability of electing Latino candidates of choice but it deserves stricter scrutiny given its relatively low Latino CVAP.



As Table 2 above revealed, *LBNORTH* has the lowest propensity of electing Latino candidates of choice of all districts in the table. *LBNORTH* elects Latino candidates of choice sometimes, in only 67% of exogenous elections analyzed. On average, Latino candidates of choice win in this district more often than they do not, but the district could possibly be redrawn to improve the likelihood that Latino candidates of choice will win in the district. The Commission may want to consider ways in which this district could increase its probability of electing Latino candidates of choice.

How could the Commission enhance LBNORTH's ability to elect Latino candidates of choice?

Based on our close analysis of the data, the Commission has at least two options to increase the ability to elect Latino candidates of choice in the LBNORTH area:

- 1. The Commission can increase the Latino CVAP in LBNORTH in order to make it go above its current 40% Latino CVAP.**

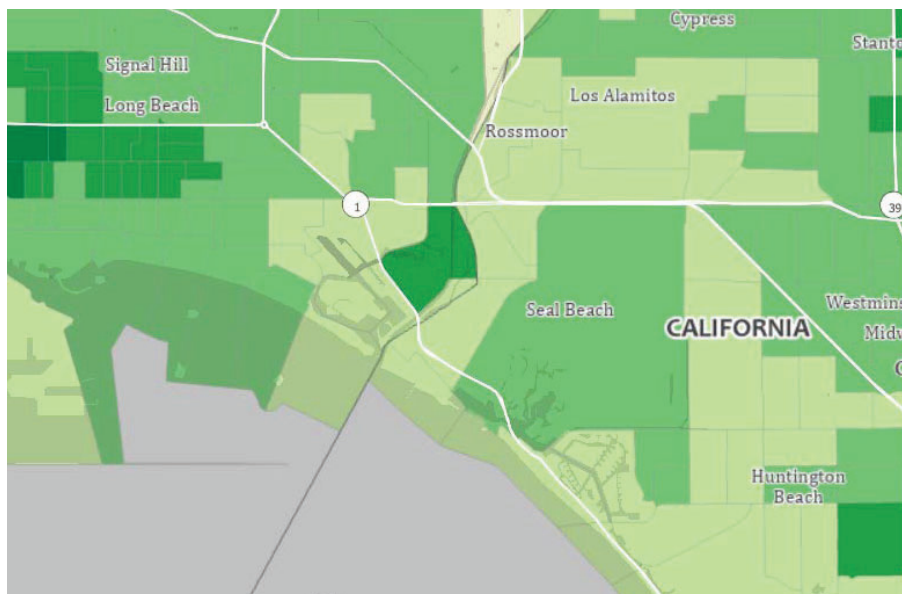
The district may not need to be Latino CVAP majority, but an increase in its Latino CVAP will give it a much higher likelihood of electing a Latino candidate of choice. There are several ways such a district could be drawn. This could involve including more of the neighboring Latino areas to the north of LBNORTH into the LBNORTH district, or including other neighboring areas that have significant Latino VAPs currently not in LBNORTH. The Gateway cities, a heavily Latino ward of Long Beach not currently in LBNORTH, and other nearby geographies, including some nearby census tracts in Orange County, have sizable Latino populations. By revising the LBNORTH district in such a way, it would likely increase its probability of electing Latino candidates of choice beyond the 67% level identified earlier.

- 2. A bold move to increase Latino voting power would be for the Commission to create a new GATEWAYCITIES district in L.A. County by removing Downey from LBNORTH and combining Downey with several other highly Latino cities in the Gateway region of Los Angeles County and possibly extending into Orange County. With this option, the Commission would then extend the LBNORTH district somewhat southeast to maintain LBNORTH as a Latino influence district. This addition of a GATEWAYCITIES district would provide one more additional Latino ability-to-elect district that does not currently exist in L.A. County in the proposed map, and would still allow for a reconfigured LBNORTH district that is based in the Long Beach area and that would provide Latino influence, but that would now extend outward in its southern portion of the district instead of north into the Gateway cities.**

The Commission could create a new GATEWAYCITIES district centered around Downey, Bell Gardens, and include high-Latino Gateway city areas in neighboring districts without significantly altering the ability of neighboring districts to elect Latino candidates of choice. In creating a GATEWAYCITIES district in this area of L.A. County, the Commission could seek to add this additional Latino-ability-to-elect district while slightly reducing the Latino CVAP in the neighboring four Latino-CVAP-majority districts. However, it is critically important for voting rights to maintain these surrounding districts as Latino ability-to-elect districts with Latino CVAP majorities. By creating a new GATEWAYCITIES Latino-ability-to-elect district centered on Downey and other Gateway cities – instead of placing Downey in LBNORTH – it may be possible to have five – instead of four – Latino CVAP-majority ability-to-elect districts in L.A. County (or possibly five very high Latino majority/plurality CVAP ability-to-elect districts in L.A. County).

The LBNORTH district could be reconfigured so that it is a Latino influence district. Such a revised LBNORTH district would include Long Beach and extend into Seal Beach, Rossmoor, and possibly other northeastern Orange County communities to be a Latino influence district. This revised LBNORTH district would still likely be a Latino influence district as it would have a very high percentage of Latino CVAP, Black CVAP, and Asian CVAP. Based on RPV analyses not displayed, this area of Long Beach and neighboring Orange County has previously shown a willingness of Latino and Black voters, in particular, to vote in coalition with one another for Latino congressional candidates of choice.

Extend LBNORTH into Seal Beach and northern Orange County. To build in an additional Latino influence district that would include parts of Long Beach, we would recommend that the LBNORTH district be extended southward to include Seal Beach and possibly down to areas of Huntington Beach with sizable Latino populations. The map below is a visualization of census tracts based on the 2020 census. The darker green indicates higher Latino populations and the lighter green indicates fewer Latino residents. As shown in the map, Seal Beach includes several census tracts with sizable Latino populations. For instance, census tract 995.02 in Seal Beach is 34.2% Latino. In addition, census tract 994.02 in Orange County is 68.5% Latino. These concentrations of Latino voters in the Seal Beach/Orange County coastal area are important as they have often faced racial polarization in voting. Placing them in a Long Beach-based district would enhance their voting power in the face of racially polarized voting.



In order to retain the Latino influence district that has already been created by the Commission with LBNORTH, but also to add a new GATEWAYCITIES district in L.A. County to enhance Latino voting rights to the north of LBNORTH, the Commission could extend LBNORTH into these areas with higher Latino populations in Seal Beach and other areas of Orange County in order to offset for population declines cause by removing some or part of Downey at proposed district LBNORTH's north to create a new GATEWAYCITIES district.

To create a new GATEWAYCITIES district to enhance Latino voting influence, the Commission would need to meld together two white-majority districts elsewhere so as to cause an aggregate increase in the number of districts providing voting power for voters of color across the region and the state. This second option of creating a new GATEWAYCITIES district would require the Commission to meld an existing proposed district into another district in another part of the state so that there are 52 congressional districts. Such a melding of districts should not merge together other minority-ability-to-elect or minority influence districts. Instead, the addition of a GATEWAYCITIES district should instead lead the Commission to find a geographic area where two proposed districts likely to elect white candidates of choice would be merged together. Such a move would enhance voting rights in the aggregate in the state for Latino voters and voters of color. The melding together of two proposed districts that are likely to elect white candidates of choice in another part of the state to accommodate the addition of a new Latino-ability-to-elect GATEWAYCITIES district and a revised LBNORTH district would enhance Latino voting power in California's new map by adding one additional Latino district.

About the Authors

Dr. Christian Grose is Professor of Political Science and Public Policy at the University of Southern California. He is the Academic Director of the USC Schwarzenegger Institute for State and Global

Policy. He received his Ph.D. from the University of Rochester and his B.A. from Duke University. He is the author of more than 40 articles and chapters about American politics; legislative politics; race and ethnicity; Latino politics; Black politics; voting rights; and statistical methodology. These articles have been published in peer-reviewed journals such as the *American Political Science Review*, the *American Journal of Political Science*, and the *Journal of Politics*. His award-winning book *Congress in Black and White*, analyzes the role of race and ethnicity in the redistricting process. His research has been funded by the Russell Sage Foundation, the Leonardo DiCaprio Foundation, the MIT Election Data Science Center, and others. Grose directs USC's Fair Maps and Political Reform Lab, which produces nonpartisan research about redistricting, the top-two primary, and independent commissions. He has worked as an expert witness and consultant on numerous voting rights cases, and has extensive experience analyzing racially polarized voting and minority ability-to-elect districts. He has experience working with bipartisan and nonpartisan groups such as commissions.

Raquel Centeno is a Ph.D. student at the University of Southern California in the Political Science and International Relations Ph.D. program.

Appendix B

Deposition of Anthony Fairfax



In the Matter Of:

DAVID TANGIPA et al.

vs

GAVIN NEWSOM

TONY FAIRFAX

December 09, 2025

CERTIFIED COPY

DAVID TANGIPA et al. vs GAVIN NEWSOM
Tony Fairfax on 12/09/2025

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9 On behalf of Defendants/Intervenor LULAC:

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* * * * *

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C O N T E N T S

EXAMINATION BY:	PAGE
Counsel for Plaintiffs	4
Counsel for Plaintiff/Intervenor USA	99
DEPOSITION EXHIBITS:	
No. 1 - Report	10

* * * * *

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1 P R O C E E D I N G S

2 Whereupon,

3 TONY FAIRFAX

4 was called as a witness and, having been first
5 duly sworn, was examined and testified as follows:

6 EXAMINATION BY COUNSEL FOR PLAINTIFFS

7 BY MR. MEUSER:

8 Q Mr. Fairfax?

9 A Yes.

10 Q Could you please state your full name
11 and spell it for the record?

12 A Anthony Edward Fairfax, A-N-T-H-O-N-Y
13 E-D-W-A-R-D F-A-I-R-F-A-X.

14 MR. MEUSER: Okay. And before we start
15 asking you questions, I'm going to ask for the
16 record that everybody identify themselves. We're
17 going to start with the people in the room and
18 then we'll ask the people who on remote to go
19 ahead and make their appearances. My name is Mark
20 Meuser on behalf of the Dhillon Law Group and I
21 represent the Plaintiffs.

22 MS. GIESEKE: Greta Gieseke on behalf of

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1 Plaintiff/Intervenor United States.

2 MR. AULISI: Domenic Aulisi with Dhillon
3 Law Group on behalf of the Plaintiffs.

4 MR. FREEDMAN: John Freedman from Arnold
5 & Porter on behalf of Defendant/Intervenor LULAC
6 and the Witness.

7 MS. GOLD: Sofia Fernandez Gold on
8 behalf of Plaintiff/Intervenor LULAC.

9 MR. FREEDMAN: Defendant/Intervenor.

10 MS. GOLD: Defendant/Intervenor. Thank
11 you. Pardon me.

12 MS. SINHA: Sanha Sinha on behalf of
13 Defendant/Intervenor LULAC.

14 MR. MEUSER: And then online, who do we
15 have today?

16 MR. WOODS: Deputy Attorney General
17 Clint Woods on behalf of the state Defendants.

18 MR. GOODMAN: Jacob Kovacs Goodman, also
19 for LULAC.

20 MR. KIRN: Deputy Attorney General
21 Harold Kirn on behalf of state Defendants.

22 MR. MEUSER: Is that it? Okay. I'm not

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1 seeing who's on there.

2 MR. FREEDMAN: Oh, yeah. No, it's just
3 the three. Right.

4 MR. MEUSER: Okay.

5 BY MR. MEUSER:

6 Q Mr. Fairfax, what's the most appropriate
7 way to address you today?

8 A You can address me any way you want.
9 Tony is fine.

10 Q What's your preferred?

11 A Tony.

12 Q Okay, Tony, I'll do my best. So, thank
13 you for coming in here today. And I would like to
14 ask you when was the last time you've had your
15 deposition taken?

16 A Sometime, I believe, last year, I
17 believe.

18 Q Approximately how many depositions have
19 you had taken in your lifetime?

20 A Maybe something like 12, 13 times.

21 Q Do you need the typical deposition
22 admonitions or you feel comfortable moving forward

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1 without the admonitions?

2 A I feel comfortable.

3 Q Okay. You are under oath. Do you

4 understand that?

5 A Yes.

6 Q Okay. Let's start with some -- just
7 some brief background questions. Whatever got you
8 into the map making process for redistricting?

9 A It happened accidentally. I had worked
10 for a couple of companies as an electrical
11 engineer. One, Teledyne Inc., a division, a
12 manufacturing division in Hampton. And then I
13 worked for a government consulting firm, EER
14 Systems. I then met up with someone who wanted to
15 start a computer training business, so I went with
16 them and another silent partner and started a
17 computer training business. We had to close that
18 down. We hit the beginnings of the 1990
19 recession.

20 I then began consulting. So I started
21 to seek out consulting contracts, and my best, I
22 guess, talents was in computers. So I landed a

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1 job at Norfolk State University or a contract,
2 first setting up their computer lab and then
3 running the lab there at the School of Education.
4 But then someone came to me while I was at Norfolk
5 State and said you would be perfect for this job,
6 this project, and it was a redistricting project
7 in the Political Science Department. And so I
8 went over there, they interviewed, and they hired
9 me on the spot. And so this redistricting
10 research project sort of changed the direction of
11 my life. So 30 some years later, I'm still in it.

12 **Q Awesome. Well, thank you for that**
13 **little background. What is your educational**
14 **experience that you have used to get to where**
15 **you're at today?**

16 **A** I have a bachelor's of science degree in
17 electrical engineering from Virginia Tech and a
18 master's of geospatial information science and
19 technology from NC State.

20 **Q And after entering the field of**
21 **redistricting, did you take any specialized**
22 **classes to further your education?**

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1 A My master's was actually, I don't want
2 to say recent, but in 2012. So I've got my
3 master's in geospatial information science and
4 technology in 2012. Completed in 2016, I believe.

5 MR. MEUSER: Now you have before you
6 right now a paper copy of your report. And for
7 those who are attending online, the client -- or
8 not client, Tony has -- he basically has document
9 111-1. It's not marked as that, but he has the
10 clean copy before it was filed with the ECF
11 system. He has before him just the report itself,
12 but Counsel has all the appendixes. If we need to
13 go to the appendixes, he has a paper copy.

14 THE WITNESS: Can I interject something?

15 MR. MEUSER: Sure.

16 THE WITNESS: In order for the document
17 to seem a little more professional, you probably
18 want to say, Mr. Fairfax instead of Tony, I guess.

19 MR. MEUSER: Look, I'm more than happy
20 to call you --

21 THE WITNESS: Just it reads a little
22 more professional.

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1 MR. MEUSER: That's why I asked at the
2 beginning how you wanted to be called, so.

3 THE WITNESS: Completely. I didn't
4 realize it until I heard it. Yeah.

5 MR. MEUSER: I was like, okay, if he
6 wants me to call Tony, I'll call him Tony, so.

7 THE WITNESS: Right, exactly.

8 MR. MEUSER: So for those following
9 along online, we are working from document 111-1,
10 which will be Exhibit 1, given to the court
11 reporter at the end of the deposition.

12 (Deposition Exhibit No. 1 was
13 marked for identification.)

14 MR. MEUSER: Any objections?

15 MR. FREEDMAN: No.

16 BY MR. MEUSER:

17 Q Okay. Hearing none, Mr. Fairfax, you
18 have before you your report. Is that correct?

19 A Yes.

20 Q Okay. Let's quickly go through what you
21 looked at in preparing this report. I believe you
22 lay that all out in Section 3. Is that correct?

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1 A I believe so. Let me go to Section 3
2 just to make sure.

3 Q Yes.

4 A This looks like the software data and
5 the technical process. I'm not sure it includes
6 every aspect that --

7 Q Right after E, it says that you reviewed
8 the Plaintiff's complaints --

9 A Yes, yes.

10 Q -- Intervener's complaints, motion for
11 preliminary injunction, and the expert report of
12 Sean Trende?

13 A Yes.

14 Q Did you look at the expert report of Tom
15 Brenell?

16 A No.

17 Q Other than -- and I'll give you a second
18 here, please look, read through Section 3 real
19 quick and let me know if there is any other
20 document or database that you reviewed that is not
21 contained in Section 3.

22 A Previously, I had reviewed the

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1 California criteria, so I'd already established
2 that the congressional district -- criteria for
3 the developing district. So there's that aspect
4 that I didn't need to review for this.

5 Q When was that that you reviewed the
6 California criteria for doing congressional
7 districts?

8 A Prior to the engagement of this
9 litigation.

10 Q Do you know how much farther -- how much
11 prior it was?

12 A Maybe around August, September. It was
13 for a completely different effort.

14 Q So while the debate was going on about
15 whether Prop 50 would be passed, you were working
16 on another project that caused you to go look at
17 the criteria for how congressional districts are
18 drawn in California?

19 A Absolutely, yes.

20 Q Now, when you're saying "criteria," were
21 you referring to something that the Redistricting
22 Commission put out, something that was in the

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1 California Constitution? Something -- what are
2 you using when you say the word "criteria"?

3 A Yes.

4 MR. FREEDMAN: Object to form. Go
5 ahead.

6 THE WITNESS: Yes, I'm looking at
7 California has a Voting Rights Act. It also has
8 the criteria that's established for congressional
9 districts and how you develop them.

10 BY MR. MEUSER:

11 Q Again, I'm going to ask, what do you
12 mean by "criteria"?

13 A The development of a redistricting plan
14 usually includes guidelines on how to develop the
15 districts.

16 Q Okay.

17 A That's what I'm referring to.

18 Q Who published this guideline that you
19 were looking at?

20 A There is a Voting Rights Act that passed
21 the legislation -- legislature -- legislators that
22 establishes how you draw congressional and state

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1 legislative districts.

2 Q So you said that you reviewed the
3 California Voting Rights Act?

4 A That includes the guidance on developing
5 congressional district plans.

6 Q Okay. Did you ever look at the
7 California Constitution?

8 A Yes, that's part of that. Yes.

9 Q Okay.

10 A I mean the Constitution, when they
11 passed the Voting Rights Act, that became part of
12 it. Yes.

13 Q Okay. Did you look at any other
14 statutes other than the California Voting Rights
15 Act and the California Constitution?

16 MR. FREEDMAN: Object to form. Go
17 ahead.

18 THE WITNESS: Not that I recall.

19 BY MR. MEUSER:

20 Q And who was this project for?

21 A The NAACP.

22 Q And what was the purpose of the project?

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1 A To look and analyze in advance the
2 congressional districts that could be developed in
3 a process, a mid-decade process like this, that
4 occurred.

5 Q When you did this project, are you aware
6 if the legislature had passed AB 604 at that time?

7 A No, no, this is prior to that time and
8 that was the purpose of it.

9 Q Okay. And so if I represent to you that
10 the legislature dealt with AB 604 between August
11 17th and August 20th, how much earlier than that
12 date do you suppose that you were doing this
13 research for the NAACP?

14 A It was around the same time. I don't
15 know. I mean, certainly it hadn't been approved
16 yet, but I don't -- I can't state specifically
17 when that occurred, but it was before -- prior to
18 the approval of the plan.

19 Q Okay. And did you create a report
20 associated with your research?

21 A I don't know such as a report or just
22 articulating in a presentation my findings.

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1 Q And how much time did you spend
2 preparing this presentation?

3 A The analysis and presentation, maybe --
4 and I can't recall specifically, but -- and I will
5 say maybe 15, 20 hours or something like that.

6 Excuse me.

7 Q Did any part of that analysis, research
8 and analysis, make it into your report here today?

9 A No. No.

10 Q What is your hourly rate, your typical
11 hourly rate?

12 A It depends. My typical one, usually for
13 nonprofits like USE, \$180 an hour, sometimes for
14 city, and I'm converting over, to probably \$200 an
15 hour for everyone else.

16 Q And what are you charging for this
17 particular case?

18 A 180.

19 Q Okay. And how many hours?

20 MR. FREEDMAN: I think your compensation
21 is disclosed in your report. You might want to
22 refresh your recollection.

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1 THE WITNESS: Oh, I might have charged
2 200 on this.

3 MR. FREEDMAN: Found on page 5.

4 THE WITNESS: Two hundred, yes.

5 MR. MEUSER: Thank you very much.

6 THE WITNESS: Yes.

7 MR. FREEDMAN: Sorry. I just want to
8 make sure the record's clear.

9 MR. MEUSER: Absolutely. I have no
10 problem with those corrections, so.

11 MR. FREEDMAN: Otherwise I have to come
12 back later and ask for my discount.

13 BY MR. MEUSER:

14 Q And how many hours did you spend
15 preparing for this report?

16 A I have to go back and check my notes,
17 but probably somewhere between 40, 45.

18 Q Hours?

19 A Hours.

20 Q Are you prepared to be in Los Angeles
21 next week to testify?

22 A If necessary, yes.

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1 Q What do you mean by "if necessary"?

2 A If I'm called upon to do so.

3 Q Okay. Is there any research or analysis
4 that you intend to do between now and next week
5 when you would be called to testify?

6 A Not unless I'm asked to do so.

7 Q Is there any research that you wish you
8 could have done in preparing this report?

9 A Not that I can think of. No, not that I
10 can think of.

11 Q So, again, in Section 3, we've talked
12 about this little bit of research that you did
13 prior to the passage of AB 604. Is there any
14 other data or -- is there any other data that you
15 looked at that's not specified in Section 3?

16 A No, not that I can recall or see.

17 Q Is there any other documents that you
18 may have looked at that are not contained in
19 exhibit -- in list item 3?

20 A No, not that I could think of.

21 Q In your Summary of Opinions section,
22 which is Section 4A, I'm just looking at your

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1 first opinion here real quick -- or first summary
2 of opinion. Let's -- can you just read that real
3 quick?

4 A A?

5 Q Yeah.

6 A Starting with A. "Dr. Trende's analysis
7 only includes race and partisanship. He does not
8 analyze and consider the other factors that could
9 guide the district configuration, such as
10 traditional redistricting criteria."

11 Q Okay. Do you know who the mapmaker was
12 for AB 604/Prop 50?

13 A No.

14 Q Did you have any conversations with any
15 state legislature who had input into the drawing
16 of the maps?

17 A No.

18 Q Did you have any conversations with any
19 congressmen who may have had inputs with the
20 mapmaker in drawing the maps?

21 A No.

22 Q So you do not know what other factors

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1 the mapmaker used to guide district
2 configurations, correct?

3 A I don't know. You're right. I could
4 surmise certain things.

5 Q And you do not know what factors any
6 California legislature asked the map maker to use
7 in -- to guide the district configurations?

8 A Correct. Once again, I can surmise, but
9 I don't know.

10 Q And you do not have -- you did not have
11 any conversations with any congressmen who may
12 have spoke with the mapmaker about factors the
13 mapmaker was supposed to analyze in drawing the
14 districts?

15 A That is correct.

16 Q So you would agree with me that your
17 analysis is a pro hoc analysis. Is that correct?

18 MR. FREEDMAN: Object to form.

19 THE WITNESS: I don't know if I would
20 classify that as that. I would say that it is an
21 analysis based upon my experience developing
22 probably a thousand different redistricting plans

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1 and coming up with opinions and conclusions on the
2 -- Dr. Trende's report.

3 BY MR. MEUSER:

4 Q Have you reviewed any transcripts
5 regarding the passage of Prop 50?

6 A No, not that I can recall.

7 Q I believe you were sent one transcript
8 from Counsel. Do you know what that one
9 transcript was? It was about -- I think it was
10 around 200 pages.

11 A At this moment, I can't recall.

12 Q I'm going to represent to you that
13 yesterday we received from your counsel production
14 of the documents that they gave you. In that
15 particular set of documents that were given to us,
16 starting at Fairfax Bates stamped 00759, is a
17 document called "In Re California Assembly Floor
18 Session, Tape Transcripts of Audio Recording
19 August 21, 2025." I'm going to represent that
20 tat's a document that was given to us by your
21 counsel. Do you recall looking at that document?

22 A I don't recall at this particular

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1 moment, but I could have.

2 Q Do you believe looking at that
3 transcript had any bearing upon your analysis?

4 A At this moment, no.

5 Q Looking at Section 5, on page 8, you
6 state that your goal was not to perform a
7 comprehensive racial gerrymander analysis. My
8 first question to you is, how often have you done
9 a comprehensive racial gerrymander analysis?

10 MR. FREEDMAN: Object to form.

11 THE WITNESS: In litigation, twice, I
12 know. That was in a comp case and a Jefferson
13 County case.

14 Q When were those cases?

15 A One was -- actually both, I think, were
16 resolved this year, but they were a couple of
17 years ago.

18 Q And what is involved when you do a
19 comprehensive racial gerrymander analysis?

20 A What I do is I obtain the proper data
21 set that's involved. Usually that's the P.L. 94
22 data set. There may be ACS data set, American

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1 Community Survey data set that I may actually
2 include. I look at population shifts of total
3 population and racial population. I create some
4 visualization through mostly thematic maps. Let's
5 say I create tables of the population that
6 shifted, sometimes I create bar charts that
7 visually show different population groups and how
8 they shifted back and forth. And then I run
9 criteria, traditional criteria reports that allow
10 me to look at the criteria to explain whether the
11 shape or configuration could be caused by
12 traditional redistricting criteria. And then I
13 draw my opinions and conclusions and put in a
14 report.

15 Q So I understand you said that you rely
16 upon the Census data and then the ACS data.

17 A Yes.

18 Q And then you started talking about, you
19 know, traditional redistricting criteria. And I
20 wasn't quite sure what data set you're using or
21 how you define traditional redistricting criteria.

22 MR. FREEDMAN: Object to form.

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1 THE WITNESS: Usually I will use the
2 five major traditional redistricting criteria,
3 which is equal population, contiguity,
4 compactness, minimizing political subdivision
5 splits, and respect for communities of interest.
6 So I look at each one of those and also there are
7 other aspects, of course, that I may look at. For
8 example, in unique circumstances, there may be
9 some golf course or something like that that is
10 included in. Someone desired to be included if I
11 had that information.

12 **Q So what's your definition of communities**
13 **of interest?**

14 A It's a shared interest that's
15 geographically defined. And so practically almost
16 anything can be a community of interest really.
17 It could be education, could be income, could be
18 poverty, could be health, could be economic. And
19 so the idea is that this group of individuals or
20 voters lie inside have that commonality amongst
21 them. And the design is to minimize and respect
22 those. And so you minimize the splitting of those

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1 communities of interest.

2 **Q And how do you ascertain communities of**
3 **interest if you do not live in that community?**

4 A One of the geographic areas that I use,
5 it's a non-biased way, our Census designated
6 places, or CDPs. And although these are
7 statistical areas that are created by the Census,
8 they are usually locally defined. So these are
9 areas that the community has designated with a
10 particular name. And they're almost very similar
11 to cities and towns. For example, one around
12 here, Bethesda, Maryland is a CDP. Most people
13 wouldn't realize that. They think it's a city or
14 a town. And so that's a community on itself. And
15 so respecting that just makes sense in the context
16 of communities of interest.

17 **Q So when you are doing a racial**
18 **gerrymander analysis are you using any software**
19 **for that analysis?**

20 A Yes, I use Maptitude for Redistricting,
21 which is arguably the leading redistricting
22 software out there. I do occasionally use ArcGIS

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1 Pro for producing the maps, many maps sometimes.

2 Q Ever use Dave's Redistricting App?

3 A I have as a sort of an ancillary aspect,
4 but, for the most part, Dave's Redistricting is
5 sort of a burgeoning software that it's now being
6 used in litigation whereas Maptitude is the de
7 facto software to use in litigation.

8 Q Okay. Why did you believe you did not
9 need to do a comprehensive racial gerrymander
10 analysis on this case?

11 A I wasn't asked to do so.

12 Q You were asked to try to figure out if
13 politics with the -- strike that. What was your
14 assignment in this case?

15 A I was asked to review and respond to Dr.
16 Trende's expert report on AB 604 plan. And then I
17 also was asked to look at and review the AB 604
18 plan regarding racial gerrymandering.

19 Q Okay. So you were looking at whether
20 there was a racial gerrymander?

21 A No, no. You're talking about the AB 604
22 plan?

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1 Q Yes.

2 A Generally speaking, it wasn't to do a
3 comprehensive analysis.

4 Q So what's the difference between a
5 comprehensive analysis and just a regular racial
6 gerrymandering analysis?

7 A I was looking at overall criteria and
8 making observation from the criteria of whether I
9 see any racial gerrymandering patterns.

10 Q And what was the criteria you were
11 looking at?

12 A Those criteria that I made mentioned
13 before, which is equal population contiguity,
14 compactness, minimizing political subdivision
15 splits in respect for communities of interest.

16 Q If you turn to page 9, the first full
17 paragraph, you state that you have analyzed plans
18 to determine whether they exhibit the hallmarks of
19 a racial gerrymander. What is, in your mind, the
20 hallmark of a racial gerrymander?

21 A It would be a pattern. It's not one
22 aspect. It's a pattern where race predominates

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1 over the other criteria.

2 Q Explain.

3 A Explain how it could do that?

4 Q Yeah.

5 A It could do that in a variety of ways.

6 Q Well, you're saying you looked at the
7 hallmarks of racial gerrymander. I'm trying to
8 get the specifics of what you would be looking at
9 when you analyze a plan for the hallmarks of a
10 racial gerrymander.

11 MR. FREEDMAN: Object to form.

12 THE WITNESS: It varies from plan to
13 plan. And you're looking at anything that would
14 show that race predominates over other criteria,
15 over other -- over the criteria.

16 BY MR. MEUSER:

17 Q And the other plans that you analyzed,
18 what were the hallmarks of a racial gerrymander
19 that you found?

20 MR. FREEDMAN: Object to form.

21 THE WITNESS: Well, in some cases they
22 were the splitting of geographic areas along

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1 racial lines. There were the non-compactness of
2 the districts, and it appears that race may play a
3 role in the non-compactness of it. Anything that
4 directs race to be a predominant aspect over the
5 other criteria.

6 BY MR. MEUSER:

7 Q How many times have you analyzed plans
8 to determine whether they exhibit the hallmarks of
9 a racial gerrymander?

10 A Many times outside of litigation. As a
11 matter of fact, one of the first projects at
12 Norfolk State University was to look at the North
13 Carolina 12th Congressional District and the Shaw
14 case. And the Legal Defense Fund, the Legal
15 Defense and Educational Fund, turned to us, and I
16 was the map drawer at that time, analyzing plans,
17 to look at that particular district and determine
18 whether there's any rationale for configuration
19 other than race. So that sort of began my
20 race-predominant analysis. This was 30 some years
21 ago.

22 Q How many times have you analyzed plans

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1 as an expert witness?

2 A For racial gerrymandering?

3 Q Yes.

4 A Certainly, the two cases that I think I
5 mentioned, the Cobb case and the Jefferson case.
6 Also worked with the Alabama and Legislative Black
7 Caucus case where I worked on the ADC, the Alabama
8 Democratic Caucus. That's a lowercase D, not an
9 uppercase D, and provided maps that visually
10 showed the racial gerrymandering aspect of that
11 plan. And I think that may be all. There was a
12 litigation where I showed how to correct a racial
13 gerrymandering plan.

14 Q So just the three times?

15 A That's what I can recall right now.
16 Yes.

17 Q So in the next three paragraphs, you
18 kind of lay out what I believe you call the
19 central elements for analyzing whether a map
20 contains racial gerrymander. And the first thing
21 is, "Population changes that are usually defined
22 and analyzed." What do you mean by that objective

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1 form?

2 MR. FREEDMAN: Object to form.

3 THE WITNESS: That means that the
4 movement of population, and specifically
5 population groups, is one of the hallmarks, you
6 could say, of identifying racial gerrymandering,
7 meaning that can this movement of population be
8 explained by something other than race?

9 BY MR. MEUSER:

10 Q So in this particular case, the 2021
11 Commission maps and the 2025 Prop 50 map, they're
12 using the same 2020 Census data, correct?

13 A Correct.

14 Q So when you're looking at population
15 changes, you're not looking at -- that would not
16 be applicable in this case, is that correct, or am
17 I missing something here?

18 A I think you may be missing something.
19 Yes. The shifting of population from -- and when
20 I say "population," I mean the areas that have
21 changed.

22 Q Okay.

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1 A So the areas that have changed from the
2 2021 to the 2025, that gives you an indication of
3 racial gerrymandering or can give you an
4 indication, let's say.

5 Q So you're not talking about the movement
6 of people from one Census to another. You're
7 talking about the movement of the district lines?

8 A Correct. It's the movement of the
9 district lines and the populations moving from one
10 district to another.

11 Q Okay. I just wanted to make sure I was
12 clear with here. So then the next paragraph,
13 which seems to be the second factor that you
14 mentioned, is the alleged plan is compared to the
15 most recently legally approved plan. How do you
16 distinguish that from the population changes that
17 we just talked about?

18 MR. FREEDMAN: Object to form.

19 THE WITNESS: That's the same thing.
20 The last legally approved plan is where you
21 measure from.

22 BY MR. MEUSER:

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1 Q Okay. Then the next paragraph, you have
2 the additional factors of -- well, let me see
3 here. I guess it's second sentence. "Finally, in
4 most cases, the complete analysis comes in the
5 form of thematic maps and population statistics
6 that numerically describe the racially
7 gerrymandered plan." Did I read that correctly?

8 A Yes.

9 Q Is that what you are attempting to do
10 with your maps below in this report?

11 MR. FREEDMAN: Object to form.

12 THE WITNESS: No, what I'm attempting to
13 do is to respond to the allegations that Dr.
14 Trende put in his report. And so they're used for
15 that purpose.

16 BY MR. MEUSER:

17 Q Turning to page 10, the last sentence of
18 the paragraph that bled over from 8. You say,
19 "When analyzing the Latino population percentages,
20 I use the Hispanic CVAP, HCVAP," and it's a
21 footnote 9. And my question to you is, where do
22 you get Hispanic CVAP?

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1 A From the American Community Survey.

2 Q What year of the of the American
3 Community Survey did you use in preparing your
4 report?

5 A The 2023 five-year.

6 Q And why did you use the 2023 five-year?

7 A It's the latest version of ACS and could
8 have been used in this particular 2025 plan or
9 most likely used, let's say.

10 Q In reviewing Sean Trende's report, do
11 you know where he got his Hispanic CVAP numbers?

12 A It's a little unclear of where he
13 received data. His report didn't have a lot of
14 mentioning of data sets. I believe he used the
15 2023, but I -- it didn't have a lot of data
16 specific on, from the maps that he produced,
17 sources.

18 Q And I believe you did a complete
19 analysis of all 52 congressional districts where
20 you looked at the HCVAP number for all of the 52
21 congressional districts that are part of Prop 50,
22 is that correct?

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1 MR. FREEDMAN: Object to form.

2 THE WITNESS: Yeah, I printed -- yes, I
3 printed a report for the entire state of
4 congressional districts and HCVAP was one of those
5 that I printed.

6 BY MR. MEUSER:

7 Q Did you ever compare that number with
8 the official legislative analysis where they broke
9 out the HCVAP for each of the districts?

10 MR. FREEDMAN: Object to form.

11 THE WITNESS: I compared the total, as I
12 have in my report, of the number of HCVAP majority
13 Latino districts and HVAP Latino districts. And I
14 glanced, though, of course, at the percentages of
15 the -- of each of the districts trying to glean
16 something from it, but I didn't notice anything
17 particular.

18 Q So you didn't compare, let's say, 55.9
19 percent in this district, but the assembly said
20 55.8. Or you didn't see if the data was --

21 MR. FREEDMAN: Object to form.

22 THE WITNESS: No.

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1 BY MR. MEUSER:

2 Q Okay. Do you know which -- strike that.

3 Do you know which Hispanic CVAP numbers the
4 mapmaker was using when drawing his maps?

5 A I do not.

6 Q How long have you used Maptitude?

7 A Probably for 20 years. Prior to that it
8 was named something else, I believe, but then I
9 used that version.

10 Q And you --

11 A Probably 20 years.

12 Q Sorry, didn't mean to interrupt you.

13 When you use Maptitude, you have to tell it which
14 data to use, is that correct?

15 A I guess I don't know if I would phrase
16 it that way, tell it which data to use. What you
17 do is it comes with a prepackaged P.L. 94171
18 Census data by state and you can utilize a state
19 in the package itself. So you essentially access
20 that, even maybe import it (inaudible), and create
21 your districting plans.

22 Q Do the ACS data come with Maptitude or

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1 is that something you have to upload?

2 A Something separate. There is a -- as I
3 included in my report, at ACS, at the track level,
4 it goes down to track level, that I use for the
5 one of the maps and analysis that I looked at.
6 But it's not the latest 2023 version that they
7 include. That's not the purpose.

8 Q Looking at Section 6, bottom of page 10,
9 the very first sentence, you talk about both HVAP
10 and HCVAP. What is the significance of both of
11 HVAP and HCVAP in your mind?

12 MR. FREEDMAN: Object to form.

13 THE WITNESS: HVAP comes from the 2020
14 Census, the Decennial Census, voting age
15 population. The HCVAP is obtained from the
16 American Community Survey, in this particular case
17 a five-year survey. And so one actually includes,
18 theoretically, all populations above 18. The CVAP
19 includes only citizens above 18.

20 BY MR. MEUSER:

21 Q And that's represented in Table 1 where
22 you apparently looked at the HVAP for all 52

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1 congressional districts and then you looked at the
2 CVAP -- the HCVAP for all 52 districts. Is that
3 correct?

4 A That's correct.

5 Q And this was something that you printed
6 off of Maptitude?

7 A This table is something I put together
8 using the Maptitude reports.

9 Q Thank you for that clarification. Now,
10 reading the source, I see that you say that you
11 used the Census 2020 data and the 2023 five-year
12 ACS of the 2021 and 2025 plans, DRA composite
13 elections. Can you please explain to me what the
14 DRA Composite elections are?

15 A It came from Dave's redistricting and
16 they allow you to download precincts, what they
17 call precincts, but they're actually block groups
18 for California, and then process it. And that's
19 what I did. It ran through what's called a
20 disaggregation process. But the composite
21 election is made up of multiple elections and they
22 integrate it into a single sort of performance

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1 percentage.

2 Q Do you know what races and what years
3 were compiled in your DRA composite elections?

4 MR. FREEDMAN: Object to form.

5 THE WITNESS: I cannot recite them now,
6 but they're included on the website and I looked
7 at it. They extend probably from 2016 or '18 to
8 2022 elections made up of Senate, presidential,
9 gubernatorial elections.

10 BY MR. MEUSER:

11 Q Is there anywhere in your appendix where
12 you list out the individual races that are used in
13 the DRA composite elections?

14 A No, but you can turn to their website
15 and find it.

16 Q So this was a option that you had. You
17 could just click a button that said "DRA Composite
18 Elections"?

19 A No, you go to, for example, the
20 California statewide of congressional districts
21 and you can export, they -- what they say
22 precincts, and download them. That's what I did.

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1 Q I don't think that was quite the
2 question I was asking. So let me -- that's
3 probably on me. I'm trying to figure out the DRA
4 composite elections were a series of elections
5 that DRA basically put together. And it created a
6 formula that when you took the maps and put it in,
7 you could see what the DRA composite was. What
8 I'm trying to figure out is which elections DRA
9 was using and what's the best way for me to figure
10 out exactly which elections you were looking at?

11 MR. FREEDMAN: Object to form.

12 THE WITNESS: And what I mentioned
13 before is those elections are on the website, DRA
14 website. If you go to their About Data, they list
15 for every state elections that they use. And so
16 that can be obtained by going through the DRA
17 website, I looked at it. I can't recall
18 specifically what they are at this particular
19 moment, but I looked at it on their website.

20 BY MR. MEUSER:

21 Q In Table 1, you talk about the number of
22 majority HVAP districts statewide. You have 18.

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1 What page of your appendix do I look at to count
2 those 18 HVAP districts?

3 A I don't know the page number, but you
4 look at the population summary reports. I print
5 out the population summary reports for the total
6 and for the H for the VAP as well as the CVAP.
7 And so you would go to those reports and see which
8 ones are above 50 percent, which ones are above 50
9 percent for HCVAP.

10 Q So you don't have like a single table in
11 your Appendix that just has all 52 races side by
12 side. It's literally here's District 1, here's
13 District 2, here's District 3, here's District 4
14 as consecutive pages?

15 A I have reports for both the 2021 plan
16 and the 2025 plan. And they are population
17 reports for the frequencies, the numbers, as well
18 as the percentages for each of those plans. So
19 you would go to the 2021 population summary
20 reports for VAP, and then you would see the column
21 that says HVAP and it has a percentage. And then
22 those that are above 50 percent would be counted.

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1 And then the same thing, there is another report
2 for citizen voting age population for 2021, and
3 there's percentages. And once again, you can
4 count above 50 percent for those. And the same
5 thing with the 2025 plan.

6 Q So this is a part of manually counting.
7 There's no computer that just printed this number
8 for you?

9 A Correct. That's correct.

10 Q I want to shift to page 12. And looking
11 at the paragraph that starts with, "Dr. Trende
12 states in his report on page 6, as you can see,
13 the entire area is heavily Hispanic, but there is
14 a Hispanic population that is left out of the
15 district. I concur with his statement." Do you
16 see that?

17 A Yes.

18 Q So regarding Trende's statement on page
19 6, you agree with what Trende said there?

20 MR. FREEDMAN: Object to form.

21 THE WITNESS: Yes, in the context that
22 the district CD13 is leaving out areas, majority

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1 Latino areas that are not included in CD13.

2 BY MR. MEUSER:

3 Q And what part of CD13 is Trende
4 referring to on page 6?

5 A He is referring to areas in Madera.

6 Q Next paragraph, you say, "The 13-color
7 thematic map Dr. Trende uses has too many colors
8 that blend together to be effective or
9 comprehensible." How many color thematic map
10 would -- do you think is appropriate?

11 A I don't know if I could pick or would
12 pick a particular number, but 13 is a little
13 overwhelming. So certainly 13 is overwhelming,
14 but I don't know if I would pick an ideal number.
15 But 13 is too high.

16 Q And how many did you use in your report?

17 A I use five ranges.

18 Q And is that depicted in figure 1 on the
19 next page?

20 A Yes.

21 Q So please explain to me the different
22 colors and the ranges and what they mean on this

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1 particular map.

2 A Yes. The blue color is HCVAP from 0 to
3 20 percent, the somewhat cyan, if you will, or
4 kind of greenish blue is 20 to 40 percent, the
5 green is 40 to 50 percent, the yellow is 50 to 80
6 percent, and then the 80 -- the red is 80 to 100
7 percent.

8 Q Now, out of curiosity, why didn't you
9 just use 20 percent, 20 percent, 20 percent, 20
10 percent? Why did you for green only use 40 to 50
11 percent, a 10 percent margin, but for the yellow
12 you used a 30 percent margin of 50 to 80?

13 A Because you want to see where majority
14 HCVAPs are added.

15 Q Well, then for your greenish blue, why
16 did you do a 20-point swing there and not a
17 30-point swing like you did for yellow?

18 A Could you repeat that?

19 Q You agree that the blue is a 20 percent
20 differential, right?

21 A Yes.

22 Q And you agree that the bluish green is a

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1 20 percent, correct?

2 A Yes.

3 Q Twenty to 40.

4 A Yes.

5 Q And you agree that the green is a 10

6 percent, which is 40 to 50, correct?

7 A Yes.

8 Q And then the yellow is a 30 percent, 50

9 to 80 percent, correct?

10 A Yes.

11 Q And then you go back to a 20 percent of

12 red, 80 to 100 percent, correct?

13 A Correct.

14 Q So since you're trying to distinguish

15 between the 50s, why didn't you have like 6

16 districts, so there's 3 colors below 50 and 3

17 colors above 50?

18 A Because the important range, in my

19 opinion, is the above 50, the 50 to somewhat

20 significantly high. And then, of course, you have

21 the significantly high with the red. So those are

22 the two ranges that you're looking for. The 40

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1 and 50 is a good idea because it provides you the
2 areas that are somewhat around 50 percent.

3 Q Okay. And this particular map does not
4 show population density, is that correct?

5 A That's correct.

6 Q At any part of your analysis, did you
7 look at population density?

8 A When you say "population density," you
9 don't mean, for example, population statistics
10 that I would have in the back of the report.
11 You're meaning specifically for a particular area?

12 Q I'm talking about figure 1 right here.
13 You know, it's hard to tell, you know, it could be
14 a red section that has 3 people in it or it could
15 be a red section that has 100,000 people.

16 A Right.

17 Q So I'm just saying, did -- you never did
18 figure 1 with a population density?

19 A No, that's correct, and neither did Dr.
20 Trende. And of course, remember, I'm responding
21 to his report.

22 Q I understand. I'm just -- my job is to

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1 make sure I understand what you're -- what you
2 relied on and what you didn't rely on.

3 A Gotcha.

4 Q Can you please move to figure 2? And I
5 see that you have two colors on this one and some
6 lines. So let's start with the colors. What does
7 red mean and what does blue mean?

8 A Nothing more than demarcation of the
9 Census places. This is what -- excuse me.
10 Maptitude color codes each of the geographic
11 areas, so no two adjacent areas have the same
12 color.

13 Q And then the lines that we are looking
14 at here appear to be congressional district lines,
15 is that correct, for the 2025 AB 604 map?

16 A Correct.

17 Q So the lines that we are looking at here
18 shows that Parksdale was split. Is that correct?

19 A That is correct.

20 Q And it shows that Madera was split.
21 Correct?

22 A That is correct.

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1 Q And according to this image that you
2 have here, that was called figure 2, those are the
3 only two images area split on this figure?

4 A Correct.

5 Q Figure 3 is just a copy of Trende's map.
6 Is that correct?

7 A That is correct.

8 Q That's not your -- it's not your work?

9 A That is correct.

10 Q Okay. Let's move to figure 4. We got a
11 few colors here and we have a few lines here. So
12 let's start off with what are we looking at?

13 A This is the Modesto area. And so the
14 black lines represent the 2025 plan, the orangish
15 lines represent the 2021 plan, and the backdrop is
16 color coded of HCVAP.

17 Q And you use the exact same colors and
18 formulas that you used in Figure 1. Is that
19 correct?

20 A Correct.

21 Q So yellow is above 50 percent and red is
22 above 80 percent?

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1 A Correct.

2 Q And there is no population density
3 calculated in Figure 4?

4 A Correct, like Dr. Trende.

5 Q Let's move to figure 5. Please explain
6 what we are looking at here.

7 A This is using the same color coding for
8 Census places. There is a green one in there
9 because another color was needed because adjacent
10 to both red and blue. That's the backdrop. And
11 once again, the black is the 2025 for the AB 604
12 plan. And then the orange is -- color is a 2021
13 plan.

14 Q Seems to me like there's a lot more
15 splitting of cities on this line than the -- than
16 the figure we just looked at.

17 MR. FREEDMAN: Object to form.

18 THE WITNESS: When you say "a lot,"
19 there are, I think, three in this particular area,
20 I believe. I'm trying to recall correctly.

21 BY MR. MEUSER:

22 Q You would agree that Modesto is split --

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1 A Yes, sir.

2 Q -- by the AB 604?

3 A Correct.

4 Q And Empire is split by AB 604?

5 A Correct.

6 Q It does not appear like -- well, Turlock
7 was split. Correct? At the bottom.

8 A Oh, yes. Yes. It was previously split.

9 Q It was previously split and it stayed
10 split?

11 A Yes.

12 Q Modesto was previously split and it
13 stayed split?

14 A Correct.

15 Q Empire was not previously split, but
16 it's split now?

17 A Yes. Modesto was previously not split
18 and it's not split now.

19 Q It looks like at the very bottom keys
20 that there's a slight splitting.

21 MR. FREEDMAN: Object to form.

22 THE WITNESS: There may be. I'd have to

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1 check the appendices to see.

2 BY MR. MEUSER:

3 Q You'd have to blow it up a little bit
4 more?

5 A Well, in the back in the appendices you
6 can see whether it was split if it's in one of the
7 reports.

8 Q Okay. Let's look at figure 6. And what
9 are we looking at here?

10 A This is, once again, the 2025 boundaries
11 are in black and the 2021 boundaries in the orange
12 type color and the backdrop are landmark areas.

13 Q They appear to be parks?

14 A Mostly parks, yes.

15 Q And what was the significance of this
16 particular figure that you figured -- that you
17 decided to insert it into your report?

18 A I was looking at what would be a
19 race-neutral way of configuring the boundaries.
20 This potentially could have been a race-neutral
21 way that Dr. Trende would have looked at. They
22 might have decided to take this boundary of 2025

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1 and follow a road that goes by many parks, in
2 essence to justify the boundary area, the boundary
3 configuration.

4 Q I want to go to page 20. And the
5 paragraph that's starts with the word "First,"
6 about midway through the page.

7 A Yes.

8 Q I'm going to go ahead -- go ahead and
9 read that first sentence.

10 A "First, a straightforward way" -- excuse
11 me. "First, a straightforward answer to Dr.
12 Trende's question about leaving Democrats out of
13 CD13 is that the legislature did not seek to
14 lower Democratic performance in CD9, the adjacent
15 district. Additional possible explanations that
16 Dr. Trende does not consider are discussed
17 below."

18 Q Well, let's focus on that first sentence
19 real quick here. Do you know what the Democrat
20 performance of CD9 was for the 2021 Commission
21 maps?

22 A Off the top of my head, I believe it was

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1 around 60, but I'd have to look at that in the --
2 in my appendices.

3 Q Would you like to look at that in your
4 appendices?

5 A Yes. There we go. It's a C.

6 Q And does -- is there a page number? I'm
7 just trying to figure out how I'm going to find it
8 over here.

9 MR. FREEDMAN: This isn't Bates labeled,
10 but it's Appendix C.

11 MR. MEUSER: Yeah, Appendix C is like a
12 very long appendix, so.

13 THE WITNESS: It's on I think 220, page
14 220.

15 MR. FREEDMAN: Counsel, it's (inaudible)
16 there.

17 THE WITNESS: Using the composite it's
18 60.91.

19 BY MR. MEUSER:

20 Q 60.91 using the composite and that's
21 Dave's Redistricting App?

22 A Yes.

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1 MR. FREEDMAN: And just to be clear,
2 which CD are you referring to?

3 THE WITNESS: Nine, CD9.

4 BY MR. MEUSER:

5 Q And that's the 2021 maps?

6 A Oh, I'm sorry. You're exactly right. I
7 was in the 2025. It was 53.88.

8 MR. FREEDMAN: And just so the records
9 clear, what page are you referring to?

10 THE WITNESS: I'm referring to page 143.

11 MR. FREEDMAN: Okay.

12 BY MR. MEUSER:

13 Q So it was 53.8 according to Dave's

14 Redistricting App as a composite for CD9.

15 Correct?

16 A Correct.

17 Q Under the 2021 map?

18 A Correct, for the 2021 plan.

19 Q And it was increased to 60?

20 A 60.91 under the 2025 plan.

21 Q So if I'm doing math right, it was

22 increased 6.3 percent on the Dave's Redistricting

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1 App competitive score?

2 A Yes.

3 Q So going back to your sentence here in
4 your report on page 20, "The legislature did not
5 seek to lower Democrat performance in CD9," that
6 would be incorrect?

7 A No, no. They didn't want to -- when I
8 say "lower" it, meaning they didn't want to bring
9 it lower than the 60.91.

10 Q But they've already increased it 6
11 percent. Correct?

12 A Correct. I'm referring to what it stood
13 at 2025. So there is a point that they --
14 potentially, I don't know this, but there's a
15 point potentially they could have had a target,
16 they didn't want to lower below that target, if
17 you will, percentage-wise, not racial target, but
18 performance target.

19 Q So you believe that -- strike that.
20 Well, let's move to figure 8. Go ahead and
21 explain this one to me.

22 A This provides the backdrop of the Census

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1 places, once again, in the colors of red, blue,
2 and green. The black lines represent the 2025
3 plan and the orange lines represent the 2021 plan.
4 Also, the Census tracts are included as well.

5 Q Those are the lighter lines?

6 A Yes.

7 Q Okay. So is it fair to say that the
8 black line cuts through the city of August?

9 A Yes, but it does so, in my opinion,
10 because it's following the Census tract.

11 Q But I can't see that because I can't see
12 the light blue or the light gray line compared to
13 the black line. Is that correct?

14 A That's correct. But that's what I
15 observed.

16 Q And you would agree with me that the
17 black line does cut through the city Stockton
18 picking various Census blocks, correct?

19 A Yes, or Census tracts that it follows
20 mostly. But I -- yes.

21 Q And it does cut through the city of
22 French Camp. Is that correct?

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1 A Yes, I believe that's a CDP, but, yes,
2 it goes and follows the highway, I-5.

3 Q And figure 9 is just a reprint of Dr.
4 Trende's?

5 A That is correct.

6 Q Let's look at figure 10 real quick. We
7 got a different table of colors here, so if you
8 could explain to me what your percentages were and
9 what you were trying to show here.

10 MR. FREEDMAN: Object to form.

11 THE WITNESS: This shows the percentage
12 of persons above the age of 25 that have a high
13 school degree or better. Once again, the black
14 lines represent the 2025 plan. This, in essence,
15 shows the -- that percentage in five quintiles.
16 Quintile meaning that you break up the number of
17 areas into five equally, if you can, parts. And
18 so this shows that the lower two quintiles make up
19 that CD13 for the 2025 plan. And for the 2021
20 plan, it did the same.

21 BY MR. MEUSER:

22 Q So each of the five colors that you're

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1 **doing are an equal number of population?**

2 A Correct. Essentially, the tracts in the
3 state, the Census tracts in the state are sorted
4 from high to low in regards to the percentage of
5 high school degrees or greater. And you group
6 them into five equal parts, if you can. The
7 number you can see down in parentheses for each of
8 them, 1815, 1815, that's the number of Census
9 tracts that are grouped in each of those
10 quintiles. The last one, that happens
11 occasionally because there's an odd number and so
12 they have to add on to one of them. But you see
13 that in parentheses by the legend that 815, that
14 represents the number of Census tracts in the
15 state and the sorting from those equal ranges, if
16 you will.

17 MR. FREEDMAN: Sorry, did you mean 1815
18 or 8?

19 THE WITNESS: 1815, yes. Did I say 815?

20 BY MR. MEUSER:

21 Q So "18-15," is there 1,815 Census tracts
22 in the state of California?

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1 A No.

2 Q Or 1,815 Census tracts in this image?

3 A 1,815 in each of those ranges, except
4 for the red, the one in the red, the highest one.

5 Q Yes. Well, I'm going to go back. Is
6 the 1,815 how many Census tracts in the state of
7 California or how many Census tracts are in this
8 image?

9 A What it is, is the -- when you divide
10 into a quintile, you take the number of features
11 divided by, in this case, five, because it's a
12 quintile, and you sort it into five equal ranges,
13 if you can. And so you have the blue, in the
14 blue, from 72 or below. There are 1,815 Census
15 tracts that are included in that range. In the
16 cyan, if you will, from 72 to 84.1, there are
17 1,815 Census tracts in that range. In the green,
18 same thing, 1,815 Census tracts in that. I
19 believe that might be a 16. My eyes are getting a
20 little worse, but I believe that says 1,816. And
21 so what the system attempts to do is to create
22 equal ranges for each of the ranges.

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1 Q I understand that.

2 A Equal number of features for equal
3 ranges.

4 Q I'm going to restate my question again

5 --

6 A Yeah.

7 Q -- because I think I understand what
8 you're saying, but I don't think you're answering
9 the question I'm asking. So it's, again, on me.
10 I understand that 72 percent and below is colored
11 blue. Correct?

12 A Correct.

13 Q And it has a number of 1,815 Census
14 tracts.

15 A Correct.

16 Q Is that 1,815 Census tracts in the
17 entire state of California or is it 1,815 Census
18 tracts that are depicted in this map, this image
19 right here at figure 10?

20 A No, it's for the entire state.

21 Q Okay.

22 A There are 1,815 Census tracts in the

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1 entire state that match that blue 72 percent or
2 below.

3 Q That's what I was trying to figure out.

4 A Okay.

5 Q Let's go ahead and look at figure 11.

6 And what are we looking at here?

7 A This is a zoomed-down map of the
8 Stockton area and it shows you the same backdrop
9 is in those five quintiles that I previously
10 looked at and talked about. Same black outline
11 for the 2025 plan and orange for the 2021 plan.
12 But it's just a zoomed-in version of the Stockton
13 area.

14 Q Did you do a zoomed-in version of the
15 areas that were removed from the 2021
16 Congressional District 13?

17 MR. FREEDMAN: Object to form.

18 THE WITNESS: Did I -- you mean --

19 MR. MEUSER: Let me rephrase.

20 THE WITNESS: Rephrase that, please.

21 BY MR. MEUSER:

22 Q You would agree with me that figure 11

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1 is a zoomed-in image of figure 10, is that
2 correct?

3 A Correct.

4 Q And this is a zoomed-in image of the
5 areas that were added to Congressional District 13
6 by the Proposition 50 maps. Is that correct?

7 MR. FREEDMAN: Object to form.

8 THE WITNESS: That is correct.

9 BY MR. MEUSER:

10 Q Did you do a comparable zoomed-in image
11 of the districts that were removed from the 2021
12 congressional map?

13 MR. FREEDMAN: Object to form.

14 THE WITNESS: No. This map focuses on
15 Dr. Trende's allegation of what he calls the plume
16 or the extension into Stockton. So this is to
17 show a rationale other than race for that
18 configuration.

19 BY MR. MEUSER:

20 Q Please read the paragraph immediately
21 following figure 11.

22 A "It is important to note that I'm not

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1 concluding that the legislature used socioeconomic
2 data to guide them to develop an extension into
3 Stockton. It is presented as an example because
4 it appears that Dr. Trende did not consider
5 factors beyond race and partisanship, such as
6 socioeconomic COI, communities of interest, data
7 which could have served as a rationale for the
8 2025 plan configuration."

9 Q I know this gets kind of old, but we're
10 going to just have to go ahead and ask it. You
11 never talked to the mapmaker of whether he
12 considered socioeconomic data?

13 A That is correct.

14 Q And you never looked at the -- you never
15 talked to any legislature, asked California
16 legislature whether they considered socioeconomic
17 data?

18 A That is correct.

19 Q And you never talked to any congressman
20 who may have spoke with the mapmaker whether they
21 asked him to consider any socioeconomic data?

22 A That is correct.

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1 Q Let's move to Section 8. And in Section
2 8, you -- this is where you did a statewide
3 traditional redistricting criteria analysis. And
4 I believe we talked about this very briefly
5 earlier today. Correct?

6 A Correct.

7 Q And this is where you kind of stepped
8 away from Sean Trende's report and did a little
9 bit analysis on your own?

10 A That's correct. And it looks, of
11 course, at CD13 as well.

12 Q And your ultimate conclusion is that.
13 "The 2025 plan does not suggest that race was a
14 predominant factor in configuration or that
15 diminished -- adhered to the traditional
16 redistricting criteria." Did I read that right?

17 A Yes.

18 Q And that is your conclusion after
19 analyzing the entire state map?

20 A Correct.

21 Q How much time did you spend analyzing
22 the entire state map to reach this conclusion?

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1 A That's very difficult for me to recall.

2 Q Looking at these pages in Section 8, you
3 can see what you did, correct?

4 A Yes.

5 Q Can you give me your best estimate of
6 how much time you spent based upon what you say in
7 the report you did, how long it took you to reach
8 this conclusion?

9 A I would say it was probably done in a
10 day's worth of time.

11 Q And let's focus on Section F, the
12 communities of interest. And we talked about
13 communities of interest earlier, correct?

14 A Yes.

15 Q And you're predominantly using the
16 Census --

17 A Designated places.

18 Q And so, when you're -- when you're
19 reaching the conclusion that it respects community
20 of interest, what you're focusing in on is the
21 fact that the 2025 plan shows that only 31 CDP
22 splits were in the 2021, while 48 were in the 2025

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1 plan. Am I reading that correctly?

2 A 31, yes. And 48, yes.

3 Q So, there are more splits of community
4 of interest in the 2025 plan than 2021 plan.

5 MR. FREEDMAN: Object to form.

6 THE WITNESS: Yes. I believe that's due
7 to them following Census tracts more in the 2025
8 plan than in the 2021 plan. But that's what I
9 observed.

10 BY MR. MEUSER:

11 Q What does CDP stand for again?

12 A Census designated place.

13 Q And if I'm reading this right, you're
14 saying 31 Census designated place splits were in
15 the 2021 plan, is that correct?

16 A Correct.

17 Q And you're saying that there are 48
18 Census designated places split in the 2025 plan?

19 A Correct.

20 Q So, there are 17 more splits in the 2025
21 plan than there are in the 2021 plan?

22 A Correct.

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1 Q Which is almost 50 percent more, is that
2 correct?

3 MR. FREEDMAN: Object to form.

4 THE WITNESS: Correct. But my, again,
5 my observation was they followed Census tracts
6 more in the 2025 plan, and they also followed
7 highways, major highways in the 2025 plan as well.

8 BY MR. MEUSER:

9 Q Did you calculate how many Census tracts
10 were split in the 2021 plan versus the 2025 plan?

11 A No, I didn't.

12 Q So, you only analyzed, for community of
13 interest, you only analyzed the Census designated
14 places splits?

15 A That's correct.

16 Q And there's almost 50 percent more
17 splits?

18 MR. FREEDMAN: Object to form.

19 THE WITNESS: Yes, but it's still
20 acceptable.

21 BY MR. MEUSER:

22 Q Paragraph C in this section, where

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1 you're talking about continuity.

2 A Is that -- that's going back?

3 Q 27. Yeah, page 27.

4 A Okay. Got it.

5 Q I think we all agree that the island of
6 Catalina is never going to be contiguous with the
7 City of Los Angeles.

8 A That's right.

9 Q And both the 2120 [sic] plan and the
10 2025 plan have this island of Catalina as not
11 connected?

12 A Yeah, you're not going to connect it.

13 Q And you're not going to connect the
14 island of Alcatraz?

15 A Right.

16 Q So, other than the islands, do either of
17 the plans have any continuity issues?

18 A No. No. Contiguity (phonetic)? No.

19 Q Okay. When you do a, I'm sorry, I
20 butchered the word, when you're doing a continuity
21 exam, are you looking at roads where somebody may
22 have to drive out of the district to get into the

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1 district?

2 A No.

3 Q So, you do not consider that at all when
4 you're doing your continuity exam?

5 A No. That's travel contiguity. No.

6 Q So, you're only looking at a district
7 that would be split by a body of water?

8 A There would be islands, land islands,
9 essentially. Could be water islands as well.
10 Islands in the water. Areas that are not adjacent
11 to the district.

12 Q Okay. And in compactness, I just want
13 to make sure I understand it. Is it you're using
14 two different compactness scores that you're
15 looking at here, correct?

16 A Correct.

17 Q Is the lower the number, the better or
18 worse?

19 A The higher the number, the better.

20 Q The higher the number?

21 A Mm-hmm.

22 Q So the closer to one, the better the

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1 score?

2 A That's correct.

3 Q So, per your review of just

4 Congressional District 13, why don't you go ahead

5 and tell me the two tests that you used and how

6 the numbers changed?

7 A So CD13 in the 2021 plan had Reock score

8 of 0.38, while the 2025 was more compact at 0.45.

9 And the 2021 plan's Polsby-Popper score is 0.23.

10 And then the 2023 plan is 0.02 percent less

11 compact at 0.21.

12 Q So one it goes up, and one it goes down?

13 A That's correct.

14 Q Now, this is in a section where you're

15 talking about the entire state. Is that correct?

16 A Well --

17 Q This is part of your analysis of the

18 entire statewide traditional redistricting

19 criteria analysis, correct?

20 MR. FREEDMAN: Object to form.

21 THE WITNESS: Sorry. That's why I

22 labeled the Section "CD13/Statewide Traditional

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1 Redistricting Criteria." I wanted to make sure
2 that it includes both the CD13 and the statewide.

3 BY MR. MEUSER:

4 Q Did you run either of these two
5 compactness cores on every single congressional
6 district in California?

7 A Yes, that's included in the back of the
8 appendices.

9 Q Okay. And can you point to me what page
10 on your appendices this particular analysis
11 compactness is done on every single congressional
12 district?

13 A So, starting on page 91 is the 2021
14 adopted plan for all of the districts. And
15 starting on page 166 is the AB 604 plan.

16 Q And did you sum the totals and average
17 them out to figure out if the compactness score
18 went up or down between the 2021 and the 2025
19 plans?

20 A That's where I use the mean.

21 Q Okay.

22 A So, the mean is what I mentioned in the

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1 report.

2 Q Okay. And let's go ahead, and what does
3 your report say the mean us?

4 A And so, the Reock score for the 2021
5 plan, the mean is 0.36, while the 2025 plan is
6 0.35. Polsby-Popper score for 2021 is 0.21, and
7 for the -- for the 2021 plan and the 2025 plan is
8 0.19.

9 Q So they both went down slightly?

10 A Yeah, I would label it just like the
11 others, similarly compact.

12 Q Okay. Page 30, Figure 12, do you know
13 where you got this?

14 A Yes.

15 Q Where?

16 A The system allows you to identify the
17 noncontiguous areas. And so, for each of these
18 noncontiguous areas, each of the noncontiguous
19 areas, I zoomed down and selected those areas in
20 the map and then produced a map.

21 Q Why do you say California CD Trende plan
22 A's noncontiguous Census blocks?

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1 A Because that's the one I picked out. I
2 didn't pick out the plan B or C. I picked that as
3 an example. They may differ slightly. I don't
4 think they do, but they may differ slightly from
5 -- actually, they do because I think there are 11
6 in plan A and I think there may be 13 in plan C.
7 Now, I have to refer to my document, but this is
8 just an example of plan A's noncontiguous areas.

9 Q Now, if I'm understanding it right, Sean
10 **Trende only did Congressional District 13, is that**
11 **correct?**

12 A No, he did the entire plan. He
13 submitted an entire plan in his GeoJSON file.

14 Q Okay, so you're -- when you take the
15 whole plan, not just look at the individual
16 district. Is that what you're talking about?

17 A Yes, his plan. I'm referring to the
18 plan on this, comparing his plan to the 2021 plan
19 and 2025 plans.

20 Q Okay. And you ran all this in
21 **Maptitude, correct?**

22 A Correct.

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1 Q Have you ever had an issue with the data
2 in Maptitude not completely jiving with the data
3 in Dave's Redistricting app?

4 A If you use Census blocks, which is what
5 I use when I transfer or transmit a plan, it
6 matches up correctly.

7 Q Okay.

8 A If you use some other -- he used JSON,
9 like I said, they may not conform to Census
10 geography correctly.

11 Q And you understand that he was using
12 Dave's Redistricting app?

13 A He didn't state that other than on one
14 map, I believe.

15 Q All right.

16 A So, I don't know exactly what he was
17 using. He mentioned it in one of the maps that he
18 used.

19 Q I'm going to go to page 32. And on page
20 32, you're talking about, I believe, you're
21 talking about Dr. Trende's A, B, and C plans
22 regarding the compactness score, is that correct?

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1 A You're referring to the upper main
2 paragraph on 32?

3 Q Yes.

4 A Where it says plan A?

5 Q Yes.

6 A Yes.

7 Q And so, you look at plan A's compactness
8 score, correct?

9 A Correct.

10 Q And then you look at plan B's
11 compactness score?

12 A Correct.

13 Q And then you look at plan C's
14 compactness score?

15 A Correct.

16 Q And so, you have no problem with Sean
17 Trende's three proposed maps as to their
18 compactness score, is that correct?

19 A That is correct. Of course, with the
20 caveat that I mentioned that because of the
21 unassigned areas and the noncontiguous areas, you
22 can't necessarily trust the results. You'd have

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1 to correct those, and I'd have to really run the
2 reports again.

3 Q And let's look at 33, where you're
4 analyzing the majority Latino districts. And you
5 understand that Sean Trende, in designing the
6 three districts he was trying to draw three
7 districts that had a lower HCVAP. Would you agree
8 with that statement?

9 MR. FREEDMAN: Object to form.

10 THE WITNESS: I don't know that.

11 BY MR. MEUSER:

12 Q You would agree with me that Sean
13 Trende, in his three demonstration maps, was
14 trying to show how you could draw districts that
15 had more Democrats but less Hispanics. Is that a
16 fair assessment?

17 MR. FREEDMAN: Object to form.

18 THE WITNESS: I'm not sure if he stated
19 that was what he was trying to do in his report,
20 that he was trying to draw Hispanic VAP and
21 Hispanic CVAP at lower percentages.

22 BY MR. MEUSER:

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1 Q Would you agree with me that all three
2 of Trende's demonstrations maps demonstrate a
3 lower HCVAP than the 2025 Prop 50 maps?

4 MR. FREEDMAN: Object to form.

5 THE WITNESS: They do have a lower
6 HCVAP. Yes.

7 BY MR. MEUSER:

8 Q And in two of the maps, B and C, they
9 actually drop the HCVAP below 50 percent?

10 MR. FREEDMAN: Object to form.

11 THE WITNESS: From what I recall, yes.

12 BY MR. MEUSER:

13 Q Would you like to look at page 33 to
14 reflect your recollection?

15 A Yes. 49.51 and 48.72. Yes.

16 Q Looking at Table 2. I'm seeing five
17 plans, is that correct on the first column?

18 A That is correct.

19 Q In all five of the plans, and we'll go
20 through them, Trende A, Trende B, Trende C, and
21 you understand that those are the three
22 demonstration maps produced by Trende that you are

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1 analyzing, correct?

2 A Correct.

3 Q And then you have the 2021 plan, which
4 was the commission map. Correct?

5 A Correct.

6 Q And the 2025 plan, which is a Prop 50
7 map?

8 A Correct.

9 Q In all five plans, they show a majority
10 HVAP. Is that correct?

11 A That is correct.

12 Q In three of the five plans, it shows an
13 HCVAP of 16, correct?

14 A Yes, that is correct.

15 Q And only in Trende B and C does that
16 drop to 15 HCVAP?

17 A That is correct.

18 Q And then column, the fourth and the
19 fifth columns are basically the percentage numbers
20 that you pulled from your appendices, I'm
21 assuming?

22 A Yes.

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1 Q Okay. So, let's move to H, the partisan
2 performance. In your analysis, you broke out the
3 2020 presidential election, correct?

4 A Correct.

5 Q And you broke out the 2024 presidential
6 election, correct?

7 A Correct.

8 Q And then you used Dave's Redistricting
9 app composite elections, correct?

10 A Correct.

11 Q And I believe you told me earlier that
12 for Dave's Redistricting composite elections, that
13 did not include the 2024 presidential elections?

14 A That is correct.

15 Q Do you know if it included the 2020
16 election, presidential elections?

17 A It's on the website. I can't recall if
18 it did have the 2020 election, presidential
19 election, at this moment.

20 Q Okay. And so, for the purposes of H --
21 strike that. Start over. You understand that
22 Sean Trende, when he was doing his competitive

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1 elections, he was only looking at three races. Is
2 that correct?

3 A Correct.

4 Q He did not do any composite election,
5 correct?

6 A Correct.

7 Q He only looked at two races in 2024?

8 A Yes.

9 Q A Senate race and a presidential race,
10 correct?

11 A That is correct.

12 Q And he only looked at one race in 2022.
13 Is that correct?

14 A That is correct. Although let me
15 caveat. I believe he used the Dave's composite
16 for his maps. Separate from this. But his maps,
17 I believe, he used the Dave's Redistricting
18 composite elections.

19 Q So, Table 3 is kind of broken up across
20 two pages, correct?

21 A Yes.

22 Q Okay. So this is going to take a little

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1 bit of math here.

2 A Yeah.

3 Q But looking at the 2020 presidential
4 election, the District 13, as proposed by Prop 50,
5 has a competitive score, just looking at the 2020
6 presidential election, of a 56.74. Is that
7 correct?

8 A Which election are you looking at?

9 Q 2020 presidential election.

10 A And what plan?

11 Q 2025.

12 A Yes, 56.74.

13 Q And so, we need to compare Trende's A
14 map, B map, and C map to that, correct?

15 A If you want to do that, yes.

16 Q And so, his A map performs better than
17 CD13, is that correct?

18 A Correct. Slightly better, yes.

19 Q And his, if you look at the 2024
20 presidential election, which is the most recent
21 election. Is that correct?

22 A Correct.

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1 Q So, looking at the most recent election,
2 his A map performs better than the Prop 50 map,
3 correct?

4 A Correct. Slightly, yes.

5 Q And if you look at his B map, that
6 performs better than the Prop 50 map, correct?

7 A Very slightly.

8 Q And his C map actually performs better
9 than the 2025 Prop 50 map?

10 A Yes. Once again, slightly.

11 Q But all three maps do have a lower
12 HCVAP, correct?

13 A Correct and yes.

14 Q And if we look at the most recent
15 election, just looking at the most recent
16 election, all three of Trende's maps perform
17 better than what the Prop 50 map showed?

18 MR. FREEDMAN: Object to form.

19 THE WITNESS: Yes, slightly.

20 BY MR. MEUSER:

21 Q Let's turn to Figure 13. Is this an
22 exhibit you created?

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1 A Yes, it is.

2 Q And can you please tell me what we're
3 looking at here?

4 A This is a backdrop of the Dave's
5 Redistricting composite for Democratic percentage.
6 And also shows the black boundaries for the 2025,
7 the orange boundaries for the 2021, and then block
8 groups associated. So, the block group level
9 reflects the Dave's Redistricting Democratic
10 percentage.

11 Q And I know you're tired of me asking
12 this question, but there is no density view on
13 this particular figure?

14 A No. It -- no.

15 Q And so, the districts in red are 80 to
16 100 percent voting for or 80 to 100 percent
17 Democrat -- Democrat -- I'm sorry.

18 A Composite?

19 Q Yes, sorry.

20 A That's all right.

21 Q So, the areas of reds are the highest
22 Democrat composite number according to Dave's

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1 **Redistricting app?**

2 A That's correct.

3 Q **And there is no blue on this map, is**
4 **that correct?**

5 A No. No.

6 Q **And you did this only for the map A, is**
7 **that correct?**

8 MR. FREEDMAN: Object to form.

9 THE WITNESS: No. You mean --

10 BY MR. MEUSER:

11 Q **This particular image is only as to map**
12 **A?**

13 A Yes. There are other figures that show
14 B and C, yes. But this is just looking at map A
15 in comparison to the 2025 and 2021 plan.

16 Q **And Figure 14 is the same thing, but**
17 **with Sean Trende's map B?**

18 A Correct.

19 Q **As the blue line?**

20 A Correct.

21 Q **And Figure 15 is the same thing, but**
22 **it's only as to map C, correct?**

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1 A Correct.

2 Q And again, you are using three colors to
3 represent below 50 percent and only two colors to
4 represent above 50 percent, is that correct?

5 A That is correct.

6 Q And since the yellow can be a 30-point
7 swing, it's really hard to tell if something's
8 just 50 to 60 percent versus 70 to 80 percent, is
9 that correct?

10 MR. FREEDMAN: Object to form.

11 THE WITNESS: That is correct. It's
12 above 50 percent and below 80 percent.

13 BY MR. MEUSER:

14 Q And you would agree that there's a
15 significant difference between a district that's
16 51 percent versus a district that is 78 percent?

17 MR. FREEDMAN: Object to form.

18 THE WITNESS: Yes. But once again, as
19 I'm looking at it, you're looking at whether these
20 districts add the block groups that are greater
21 than 50 percent. And then, sometimes it's good to
22 look at ones that are significantly greater.

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1 BY MR. MEUSER:

2 Q And I understand why you use that when
3 we were looking at HVAP, but it's a little bit
4 different when you're looking at partisan
5 composite scores, isn't it? That, you know,
6 because politicians, some like 55 percent, some
7 like 60 percent, you know, when you have a range
8 that goes from 50 to 80 percent, it seems like
9 you're really losing something in the imagery. Or
10 am I missing something here?

11 MR. FREEDMAN: Object to form.

12 THE WITNESS: You may be missing
13 something. I think you're looking at whether
14 these districts are adding on Democratic
15 performing areas and block groups. In this
16 particular case, you can see the red ones are the
17 ones that are really significantly high. And
18 then, of course, the yellow ones are ones that
19 would ensure that you're greater than 50 percent.

20 BY MR. MEUSER:

21 Q But, for example, let's look at the nose
22 of the plume on Figure 15. You see the nose?

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1 A Figure 15?

2 Q Yes, Figure 15.

3 A Yes.

4 Q That there's a block track there,
5 correct?

6 A Can you be a little more specific? And
7 where are you referring to?

8 Q If you -- if I see a person's, a cartoon
9 figure's head, you know, at the top of that plume
10 with a long nose pointing east and a kind of a
11 flat top hair.

12 A Oh, you're talking about where the
13 August --

14 Q Yeah.

15 A Okay. Yeah. All right.

16 Q We see a yellow section here of what I
17 call the nose or the August area, correct?

18 A I don't see that, but I will --

19 Q Yeah.

20 A -- take your word for it's there.

21 Q You're talking about the August 1,
22 though, and it's yellow, correct?

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1 A And it's yellow, yes.

2 Q But looking at this map, I can't tell if
3 that's a 51 percent or a 79 percent competitive
4 score there?

5 A Correct.

6 Q And I can't see if there's one person
7 living in that district or if there's a hundred
8 thousand people living in that Census tract?

9 A Correct, similar to Dr. Trende's.

10 MR. MEUSER: Okay. We've been going for
11 about an hour and 15 minutes, an hour and 30
12 minutes.

13 MR. FREEDMAN: A little longer.

14 MR. MEUSER: But I tend to like to give
15 my court reporters a break around this time. Is
16 that -- is everybody good with that?

17 THE WITNESS: That's great.

18 MR. FREEDMAN: That sounds good.

19 MR. MEUSER: Would everybody like a
20 10-15-minute break?

21 MR. FREEDMAN: 10 is fine.

22 (Recess)

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1 MR. MEUSER: Ready to go back on the
2 record?

3 THE WITNESS: Yes.

4 MR. MEUSER: And you understand you're
5 still under oath?

6 THE WITNESS: Yes. Okay.

7 BY MR. MEUSER:

8 Q Let's go to the conclusion section of
9 your report, which I believe is on page 39 and
10 page 40. As I count, there are six conclusions
11 here. Is that correct?

12 A Six, yes, sections of the conclusion.

13 Q And you do not have any other
14 conclusions that are not contained in this
15 section?

16 MR. FREEDMAN: Object to form.

17 THE WITNESS: No, not at this particular
18 moment. I can't recall any.

19 BY MR. MEUSER:

20 Q And before we go into your conclusions,
21 as you said earlier, there's nothing -- no other
22 research that you are planning on doing between

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1 **now and your trial testimony?**

2 A That I am planning, yes, unless I'm
3 asked.

4 **Q Okay. Let's go through these six**
5 **opinions, conclusions that you have. Please**
6 **explain to me your first opinion.**

7 A What I'm referring to is Dr. Trende is
8 alluding to the inclusion of majority HCVAP block
9 groups in CD13. And what I'm saying, in essence,
10 is that just the inclusion of majority CVAP block
11 groups alone doesn't prove race predominance.

12 **Q And your second opinion?**

13 A He, Dr. Trende, doesn't compare the 2025
14 plan with the last legally approved plan, the 2021
15 plan. And so, in order to determine the movements
16 of or the configuration associated with race
17 predominance, you should look at what the
18 difference between the last plan and the plan that
19 is alleged Latino percentages. I'm also looking
20 at the increase in Democratic performance. It is
21 much higher at almost 4 percent than the HCVAP at
22 only 0.0 percent. Of course, I'm using the DRA

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1 composite. And so, the difference is clearly not
2 in the Latino HCVAP. It must be in something else
3 outside of the HCVAP, which means a particular
4 another racial group is increasing that Democratic
5 performance.

6 Q So, looking at this second opinion that
7 you have, the 2021 to the 2025 plan, based upon
8 the 2023 American Community Survey, it increases
9 the HCVAP by 0.07, is that correct?

10 A Correct.

11 Q And based upon Dave's Redistricting app
12 composite score, it increases the Democratic
13 performance by nearly 4 percentage points?

14 A Correct.

15 Q And I believe you testified earlier
16 today that when you compare the 2025 plan to all
17 three of Sean Trende's report, all three of them
18 decreased the HCVAP, is that correct?

19 A Correct.

20 Q But you're saying he did not compare his
21 decreased HCVAP with the 2021 plan, is that
22 correct?

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1 A That is correct. He did not.

2 Q Okay. And we were looking at Table 3 on
3 page 34 and 35, where we were talking about Sean
4 Trende's plan compared to the 2025 plan, correct?

5 A Yes, we talked about that.

6 Q And you -- you, for your conclusions,
7 were only looking at Dave's Redistricting app
8 composition score, is that correct?

9 A I only mentioned that. That's correct.
10 It's a good composite group of elections.

11 Q Okay. Let's go ahead and move to your
12 third opinion.

13 A The third is he didn't conduct any
14 analysis on traditional redistricting criteria.
15 And so, he didn't use or analyze whether the
16 criteria could be the cause of the configuration
17 and not race.

18 Q And your fourth opinion?

19 A The fourth opinion talks and discusses
20 the three areas, and that race doesn't seem to
21 dominate in the creation of those areas. They
22 include majority and non-majority HCVAP block

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1 groups. Sometimes they're sporadically added to
2 the differences between the 2021 and the 2025
3 plan. They seem to align with the Democratic
4 precincts that he presents in his map and his
5 plan, or his report as well. The changes in the
6 three areas seem to adhere to traditional
7 redistricting standards.

8 **Q Your fifth opinion?**

9 A Yeah. And I was going to say --

10 **Q Oh.**

11 A And he, you know, doesn't analyze the
12 socioeconomic commonalities which could have
13 guided the planned development.

14 **Q And as we discussed earlier, you have no**
15 **idea whether any of these socioeconomic data was**
16 **considered by the mapmaker legislature or the**
17 **Democrat congressman?**

18 A That is correct. I'm only saying that
19 that he didn't include it in his report.

20 **Q Okay. Now your fifth opinion?**

21 A That the criteria's of equal population
22 and contiguity they don't comply. His plans don't

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1 comply with equal population and contiguity. And
2 that the plans perform worse on equal population
3 contiguity and minimizing political subtle
4 division splits. And they don't show an
5 appreciable increase in partisan performance when
6 compared to the 2025 plans.

7 Q And we've already discussed all the
8 reasoning, and we went through your tables and
9 figures as to that fifth opinion that you've just
10 made.

11 MR. FREEDMAN: Object to form.

12 THE WITNESS: Yes, we discussed that.

13 BY MR. MEUSER:

14 Q Okay. And your sixth opinion?

15 A So, when considering all of the factors,
16 when you look at compactness and municipal
17 boundaries, partisan features, socioeconomic
18 commonalities, CD13 and CD9 could have been
19 created without race playing that dominant role.
20 And so, again, Dr. Trende's analysis, that I, in
21 my conclusion, is that it doesn't support his
22 conclusion that race was a predominant --

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1 predominant primary influence in developing the
2 2025 plan.

3 Q So, I got a few follow-up questions
4 here.

5 A Sure.

6 Q You don't have any opinions about the
7 data that Sean used, that he used the wrong data
8 groups in creating his reports?

9 A I don't know, and I'm not sure of the
10 data that he used because he didn't state that. I
11 made some assumptions that he used Dave's
12 Redistricting for many of his maps, but I don't
13 know that.

14 Q And when you looked at Dave's
15 Redistricting maps, you weren't seeing different
16 numbers that did not comport with Sean's report,
17 is that correct?

18 A He didn't have numbers insofar as his
19 maps. He had just thematic maps. He didn't
20 report any numbers insofar as that. He reported
21 numbers in the plan A, B, and C that he had
22 insofar as the Democratic performance. And he

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1 used, you know, several distinct elections. The
2 only one that I could compare and look at was the
3 presidential 2024 election. And it's -- they were
4 close. They weren't identical for what I had, but
5 they were close.

6 Q And when you looked at his replication
7 data, did you see any errors in his replication
8 data that we have not discussed today?

9 A You're talking about outside the eco
10 population, the unassigned areas, and the
11 noncontiguous areas?

12 Q Yes.

13 A Yeah. Outside of those, I didn't see
14 anything else.

15 Q Okay. Have you had the opportunity
16 today to share all the opinions that you have made
17 in this case?

18 MR. FREEDMAN: Object to form.

19 THE WITNESS: I believe so. I believe
20 so.

21 BY MR. MEUSER:

22 Q Would you like a minute to think, to

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1 make sure that you've given me every opinion that
2 you -- that you have create -- that you have
3 developed in this case?

4 MR. FREEDMAN: Object to form.

5 THE WITNESS: I think I've included
6 everything in the report. I can't recall right
7 now anything outside of the report that I would
8 include in my comments, but anything that I've
9 made a statement on, I would of course adhere to
10 the report.

11 BY MR. MEUSER:

12 Q And in between now and next week, when
13 you may have to give testimony, is there any other
14 research that you want to do?

15 A You put it that I want to do?

16 Q Yes.

17 A I can't recall any research that I would
18 want to do. Again, if I'm called upon, I will
19 provide that research.

20 Q Is there any individual that you would
21 like to talk to get more information?

22 A From the point of view of addressing Dr.

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1 Trende's report, there's no one that I -- the
2 report stands on its own.

3 Q Okay. Now, you limited yourself there,
4 and your report's not limited to just Dr. Trende's
5 report because you analyze the entire report
6 briefly. So, is there anybody that you would want
7 to talk to as to that portion of your report?

8 A Not that I can think of right at this
9 particular moment. Yeah. I'm, you know, the
10 purpose, as I said, was not to do a racially
11 gerrymandered analysis, and I think what I did was
12 appropriate and adequate.

13 Q Is there any publication that you want
14 to review prior to your deposition to prepare for
15 your deposition?

16 MR. FREEDMAN: Object to form.

17 THE WITNESS: Prepare for this
18 deposition?

19 BY MR. MEUSER:

20 Q I'll rephrase. Is there any publication
21 that you would like to review prior to your
22 appearing for trial testimony in Los Angeles next

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1 week?

2 A Not that I can recall at this particular
3 moment. No.

4 MR. MEUSER: Your witness.

5 EXAMINATION BY COUNSEL FOR DEFENDANTS/

6 INTERVENOR USA

7 BY MS. GIESEKE:

8 Q Hi, Mr. Fairfax. As I previously
9 stated, my name is Greta Gieseke, and I represent
10 the Plaintiff/Intervenor of the United States in
11 this matter. So, thank you again for your time
12 today. Just to lay some foundation agreements,
13 can we agree that when I, if I refer to the
14 Proposition 50 map or Prop 50 map, that that's the
15 same map that I think you refer to as the AB 604
16 plan?

17 A Correct.

18 Q We're talking about the same thing?

19 A Yes.

20 Q Okay. I just want to make sure we're on
21 the same page. And I think you already said that,
22 as part of your research, you did not communicate

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1 with any member of the California legislature. Is
2 that correct?

3 A That's correct.

4 Q Did you communicate with any member of
5 member staff?

6 A No.

7 Q What about did you attend any
8 legislative hearing?

9 A No.

10 Q And you said that you did not read the
11 transcript of any hearing, correct?

12 MR. FREEDMAN: Object to form.

13 THE WITNESS: I cannot recall. If it
14 was sent to me, I probably did glance through it,
15 but I can't recall the contents --

16 BY MS. GIESEKE:

17 Q Okay.

18 A -- at this particular moment.

19 Q And did you review any legislators'
20 social media posts?

21 A No.

22 Q Did you review any press releases?

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1 A No. No.

2 Q What about any campaign materials?

3 A No.

4 Q Did you analyze the motives of any
5 legislator who voted for Proposition 50?

6 A No.

7 Q So, if called to testify at trial, could
8 you express an opinion on the motives of any
9 legislator who are in enacting Proposition 50?

10 A No.

11 Q And could you express an opinion on the
12 motives of the legislator as a whole?

13 A No.

14 Q Do you know Paul Mitchell?

15 A No.

16 Q So, if you are to call to testify at
17 trial, you could not express an opinion on the
18 motives of Paul Mitchell regarding in connection
19 with this map and drawing the map?

20 A No.

21 Q Okay.

22 A Not at all.

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1 Q As part of your research, did you
2 communicate with any California voters about his
3 or her decision to vote for Proposition 50?

4 A No.

5 Q Did you communicate with -- actually,
6 scratch that. Does your report draw any
7 conclusions about why a California voter may have
8 voted for Proposition 50?

9 A No.

10 Q So if called to testify at trial, you're
11 not going to testify about any opinions regarding
12 the motives of any voter to vote for Proposition
13 50?

14 A No, I'm not.

15 Q And then, as you're aware, this lawsuit
16 alleges that California impermissibly considered
17 the race of voters when adopting preference
18 Proposition 50. So once again, I want to make
19 sure we're just on the same page about
20 terminology. If I mention political power, can
21 you agree that that's referring to the ability of
22 a group to elect their preferred candidate?

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1 MR. FREEDMAN: Object to form.

2 THE WITNESS: Can you rephrase that?

3 And then how would you use it in the context of
4 political power?

5 BY MS. GIESEKE:

6 Q So, if we're talking about the political
7 power of Hispanic voters, increasing the political
8 power of Hispanic voters, can you agree that you
9 understand I mean that to mean Hispanic voters as
10 a group, their ability to elect a candidate of
11 choice?

12 A If you define it that way, I can
13 understand what you're saying.

14 Q Can we also agree that for purposes of
15 the deposition, we're using Hispanic and Latino
16 interchangeably?

17 A Yes.

18 Q Do you consider Latinos a racial group?

19 A The Census includes them as an
20 ethnicity, but generally speaking, when you talk
21 about racial gerrymandering, they include Latino
22 population in that terminology.

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1 Q Okay, thank you for clarifying that.

2 So, when did you analyze -- scratch that. Did you
3 analyze whether the California legislature
4 intended for the Proposition 50 map to increase
5 the political voting power of Latinos?

6 A No. No.

7 Q So, if called to testify at trial, you
8 can't express an opinion on whether the map was
9 intended to increase Latino voting power?

10 A No, I can't do that.

11 Q Likewise, you, if called to testify at
12 trial, you could not express an opinion on whether
13 the voters intended for the map to increase Latino
14 voting power?

15 A The voters? No.

16 Q In voting for the map?

17 A Right. No.

18 Q Could you please flip to page 161 of
19 your report?

20 A It's in the appendices?

21 Q Yes. Actually, before we even get to
22 that or while you flip to it, you said that you

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1 primarily use Maptitude for this litigation,
2 correct?

3 A Correct.

4 Q And that there's a subs -- there's data
5 that isn't directly in that but is generally used
6 with Maptitude. Is that my understanding? The
7 data sets?

8 A The data set, that caliper, the company
9 will provide the PL 94171 Census data. And
10 external to that would be the American Community
11 Survey data that you would get from another
12 source. I obtained it from the redistricting data
13 hub.

14 Q So, if you had used Dave's Redistricting
15 instead, would that have had the same data source
16 or the same data set or a different data set?

17 A It would have the same data source, but
18 they might have processed it differently. The
19 Dave's Redistricting adds the mixed race, which,
20 in this case, if it's Black or White, they add the
21 mixed race in their racial numbers. Meaning Black
22 and White, Black and Asian is added to the black

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1 population. So, when it -- it would possibly be
2 different than mine because I did not do that.

3 **Q Is Dave's Redistricting a generally**
4 **accepted software for -- or application -- for**
5 **redistricting litigation?**

6 MR. FREEDMAN: Object to form.

7 THE WITNESS: Dave's Redistricting is a
8 great package for communities and organizations to
9 develop redistricting plan. It is not generally
10 used. It is not generally used in litigation.
11 It's becoming a little more so, but it's not the
12 package that you turn to use in litigation.
13 Maptitude, as I said, used for redistricting, is
14 sort of the gold standard that people use in
15 litigation.

16 BY MS. GIESEKE:

17 **Q Because these software's could result in**
18 **different numbers, would you agree that it's**
19 **possible for there to be a range of accurate**
20 **numbers or --**

21 MR. FREEDMAN: Object to form.

22 THE WITNESS: It is possible for there

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1 to be different numbers. For race, as I just
2 mentioned, possible that there's different numbers
3 for even compactness depending upon because of the
4 way Dave's may calculate the compactness ratios.
5 So, you may see different numbers in the two plans
6 or two plans that you're comparing.

7 BY MS. GIESEKE:

8 Q Maybe a better way to say it would be
9 it's possible for people using different
10 applications to receive different outputs, and not
11 by the product of an error?

12 A It depends on the extent. So, it may be
13 an error. But it also may be the slight way in
14 the processes performed in Dave's Redistricting
15 versus the other package, like Maptitude.

16 Q Okay. Let's flip to page 161 now of
17 your report.

18 MR. MEUSER: Do you mean in the
19 appendix?

20 BY MS. GIESEKE:

21 Q Yes. Thank you. Let me know when
22 you're there.

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1 A Oh, I'm there.

2 Q You're there. Okay. Can you tell us
3 what we're looking at here?

4 A This is the, I call it the AB 604 plan,
5 the 2025 plan, and this shows the CVAP for the
6 three major race ethnicity groups, Hispanic,
7 White, and Black.

8 Q And can you tell us again what that
9 percent CVAP HSP-23 refers to?

10 A That's the CVAP for the Hispanic or
11 Latino population using the 2023 5-year ACS.

12 Q So, when we discuss whether a district
13 is majority Hispanic, is that a number we would be
14 looking at?

15 A Correct.

16 Q Do you know how many majority Hispanic
17 districts there are in the -- in this map based on
18 that CVAP number?

19 A It should be 16.

20 Q Do you want to count or if you -- that's
21 my understanding that it's also 16.

22 A Yes.

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1 Q And can you look at those numbers in
2 that CVAP HSP-23 column and tell me how many of
3 the ones that are over 50 percent are in a range
4 from 50, 50 to 55.01 percent? You can have a
5 minute to count. We're looking at a range from
6 about 50, 50 to 55. I think there's one that's
7 actually 55.01.

8 A I have 11. I may go back and check,
9 sometimes I may --

10 Q And I know it goes on to the second page
11 also.

12 A Yeah. 12, I believe.

13 Q Okay. I'm counting 14.

14 A That between 50 and 55?

15 Q Yes, correct. 55.01, I think, is the
16 highest one I was including in that.

17 A Oh, I didn't include that.

18 Q Okay.

19 A Let me try it again. 14.

20 Q 14?

21 A 14, including a 55.01.

22 Q And the -- and out of those, I think

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1 that the lowest number closest to 50 is actually
2 51.76 percent, is that what you also saw there,
3 number 52?

4 A 51.76 appears to be the closest one to
5 50.

6 Q Okay. And then out of all of those, the
7 greatest was the 55.01, as we just discussed?

8 A Correct.

9 Q So, I think if my math is correct,
10 that's about a 3.5 percent difference between
11 51.76 and percent?

12 A Roughly.

13 Q Roughly. Three and a quarter?

14 A Yeah.

15 Q So, do you agree that 14 out of these 16
16 majority Hispanic districts are within less than a
17 3.5 percent range?

18 MR. FREEDMAN: Object to form.

19 THE WITNESS: From 51.7 to 55.01 would
20 be about 3.25.

21 BY MS. GIESEKE:

22 Q So, 14 of the 16 majority Hispanic

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1 districts based on this set are in that close

2 range?

3 MR. FREEDMAN: Object to form.

4 THE WITNESS: You're saying it's close,

5 but --

6 BY MS. GIESEKE:

7 Q I'll say in that -- in that three --

8 A Yes.

9 Q -- roughly, 3.25 percent range.

10 A Yes.

11 Q Okay. In your opinion, would that be a

12 coincidence --

13 MR. FREEDMAN: Object to form.

14 BY MS. GIESEKE:

15 Q -- for the 14 of those 16 range or 14 of

16 16 districts to be in that small of a range?

17 A No. No. When you say, would it be a
18 coincidence or could it be -- could the district
19 be configured such? Yeah, the district could be
20 configured such that it falls in that range.

21 Yeah.

22 Q It could have been configured so that

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1 these districts had Hispanic CVAP in specific
2 ranges?

3 MR. FREEDMAN: Object to form.

4 THE WITNESS: You're saying -- I think
5 you're asking, is it coincidental that you have 51
6 to in that narrow range? And I'm saying there is
7 a possibility for that to occur, yes.

8 BY MS. GIESEKE:

9 Q In your experience, is it likely that
10 it's a coincidence that 14 of the 16 districts
11 have CVAPs within a roughly 3.25 percent range
12 objective?

13 MR. FREEDMAN: Object to form.

14 THE WITNESS: I wouldn't say
15 coincidence. I would say that there are many
16 times that that's where the configuration falls.
17 And so, it's not necessarily that it's some
18 oddity. It's the configuration of the territory,
19 wherever the -- whatever the jurisdiction is.
20 This particular case is in California. So, it's
21 where the configuration of the territory falls.
22 So, I wouldn't say that it's a coincidence. It

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1 could be just how the configuration of the
2 population spreads over the state.

3 BY MS. GIESEKE:

4 Q If in the previous map the spread was
5 not so narrow within that 3.25 range, would your
6 -- would you be more likely to think that this was
7 not a coincidence, that it is now in the new map?

8 MR. FREEDMAN: Object to form.

9 THE WITNESS: Well, it depends on what
10 the modifications to the new map was. Meaning
11 that if the new modifications was to increase
12 Democratic performance, that may in turn spread
13 that Latino population to a lower or lesser
14 extent. So, there are implications or the
15 modifications of the motives, rather of what they
16 were trying to achieve may cause that to occur.

17 MS. GIESEKE: No further questions. Do
18 you have any?

19 MR. FREEDMAN: No questions.

20 MR. MEUSER: We don't have anything.

21 Online? Anybody have questions online?

22 MR. FREEDMAN: Yeah, the State and DCCC

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1 is now on.

2 MR. MEUSER: Okay. Anybody have
3 questions?

4 MR. WOODS: Nothing from the State.
5 Thank you.

6 MR. MEUSER: D triple C? Going once.
7 Going twice. Okay. Let's go ahead and order
8 transcripts on the record. I would like a rough
9 same-day and expedited 24-hours.

10 MS. GIESEKE: Same for the United
11 States.

12 MR. WOODS: Same for the State.

13 MR. FREEDMAN: Okay. And we'll get the
14 same for LULAC. And D triple S is now signed off,
15 so.

16 MR. MEUSER: Okay.

17 (Whereupon, at 12:37 p.m., the
18 deposition of TONY FAIRFAX was
19 adjourned.)

20 * * * * *

21

22

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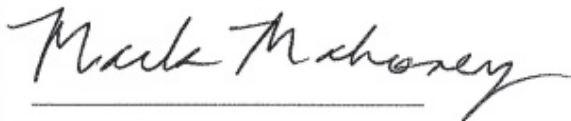
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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

I, Mark Mahoney, notary public in and for the Commonwealth of Virginia, do hereby certify that the forgoing PROCEEDING was duly recorded and thereafter reduced to print under my direction; that the witnesses were sworn to tell the truth under penalty of perjury; that said transcript is a true record of the testimony given by witnesses; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was called; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Dated: December 9, 2025.



Notary Public, in and for the Commonwealth of Virginia
My Commission Expires: August 31, 2029
Notary Public Number 122985

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