

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, <i>et al.</i>,	)	Case No. 1:21-CV-03091
)	
Plaintiffs,	)	Circuit Judge Michael B. Brennan
v.	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
CHARLES SCHOLZ, <i>et al.</i> ,)	
	)	Three-Judge Court
Defendants,	)	Pursuant to 28 U.S.C. § 2284(a)
)	
)	
)	

JULIE CONTRERAS, <i>et al.</i>,	)	Case No. 1:21-CV-03139
)	
Plaintiffs,	)	Circuit Judge Michael B. Brennan
v.	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
)	
ILLINOIS STATE BOARD OF	)	Three-Judge Court
ELECTIONS, <i>et al.</i>,	)	Pursuant to 28 U.S.C. § 2284(a)
)	
Defendants,)	
)	
)	
)	

EAST ST. LOUIS BRANCH	)	Case No. 1:21-CV-05512
NAACP, <i>et al.</i> ,)	
	)	Circuit Judge Michael B. Brennan
Plaintiffs,	)	Chief District Judge Jon E. DeGuilio
v.	)	District Judge Robert M. Dow, Jr.
)	
	)	Three-Judge Court
ILLINOIS STATE BOARD OF	)	Pursuant to 28 U.S.C. § 2284(a)
ELECTIONS, <i>et al.</i> ,)	
)	
Defendants,)	
)	

**DEFENDANTS' RESPONSE TO PLAINTIFFS' STATEMENTS AND
PROPOSED REMEDIAL REDISTRICTING PLANS**

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Defendants Don Harmon, in his official capacity as President of the Illinois Senate, the Office of the President of the Illinois Senate, Emanuel “Chris” Welch, in his official capacity as Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives (collectively, “Defendants”) hereby submit this response to the Plaintiffs’ proposed remedial maps.¹

I. INTRODUCTION

On September 4, 2021, SB 927 (referred to as “the September Redistricting Plan” or “September Plan”) became law and amended Public Act 102-10 (the “June Redistricting Plan” or “June Plan”) to incorporate the United States Census Bureau’s decennial Census data that was released in August. The Supreme Court has repeatedly stressed that redistricting is “primarily the duty and responsibility of the State.” *See, e.g., Perry v. Perez*, 565 U.S. 388, 392 (2012); *Branch v. Smith*, 538 U.S. 254, 261 (2003); *Chapman v. Meier*, 420 U.S. 1, 27 (1975). The state’s legislative plan—even in the remedial phase of redistricting cases—is “the governing law unless it, too, is challenged and found to violate the Constitution.

Given the competing interests involved, the legislative redistricting process inevitably disappoints some constituencies. It is therefore no surprise that three groups of plaintiffs have challenged the law. Indeed, it is hard to imagine a map that

¹ Due to overlap in Defendants’ responses to the three Plaintiffs’ submissions, Defendants are submitting a single responsive submission. To streamline record citations to the three actions, Defendants use the following shorthand: McConchie Dkt., Contreras Dkt., and NAACP Dkt.

would make everyone happy – but universal happiness is neither the goal nor the law of the redistricting process.

Recognizing the heavy burden they face in challenging the law, Plaintiffs resort to incendiary, but unsupported, allegations that those who voted for the September Plan did so with the objective of diluting minority voting power and engaging in unconstitutional racial gerrymandering. These allegations ignore that every single minority member of the Illinois General Assembly voted for this Plan, including Defendant Emanuel “Chris” Welch, the first African American to serve as Speaker of the Illinois House of Representatives.

Plaintiffs point to no evidence supporting such a serious charge. A decade ago, a three-judge panel of this Court found insufficient evidence to establish racial bloc voting existed to prove a Voting Rights Act challenge to the 2011 Illinois Congressional Map. *Committee for a Fair & Balanced Map v. Illinois State Board of Elections*, 835 F. Supp. 2d 563, 588 (N.D. Ill. 2011). In the decade since, the trend away from racial bloc voting in Illinois has continued. In the last ten years, minority candidates were consistently able to win elections in districts that are majority minority, but importantly, also in “crossover districts” that have less than 50% minority voting age population, and influence districts as well. As Defendants’ expert, Dr. Allan Lichtman, explains in his attached report (Ex. 1, “Lichtman Report”), Plaintiffs’ experts seek to obscure this fact by providing analyses that selectively pick elections, dismiss certain results, and over emphasize elections with candidates that had obvious problems which had nothing to do with race. Dr. Lichtman’s report

explains Plaintiffs' experts' errors and provides his own analysis: racial bloc voting does not exist in a manner that can establish a violation of the Voting Rights Act.

Furthermore, Plaintiffs' analyses of the "totality of the circumstances" all but ignore the existence of the 21st Century. Tellingly, Plaintiffs focus on events that predate the passage of the Voting Right Act or its 1982 Amendments. The events they cite that post-date those Congressional enactments are closer in time to those legislative enactments than they are to the present day. Defendants concede that Illinois—as all states—struggled with racial equality in voting in the past. But events from 50 years ago are insufficient to establish relief under the Voting Rights Act claim. *See generally Shelby County v. Holder*, 570 U.S. 529 (2013). Today, Illinois, led by its General Assembly, has passed some of the most comprehensive laws aimed at eradicating racial injustice and expanding voter access, and much of that work has contributed to the elimination of racial bloc voting in Illinois. Plaintiffs therefore cannot establish a Voting Rights Act violation. And the same is true with Plaintiffs claims under the Federal Constitution, which require proof of a discriminatory intent. Plaintiffs provide none.

Finally, even if the Court were to reach an analysis of the proposed "remedial" maps submitted by Plaintiffs, they should be rejected. Plaintiffs collectively challenge 13 House districts and two Senate districts, but propose much broader changes that would impact 32 House districts and 20 Senate districts—changes that are driven by undisclosed political motives. Ironically, Plaintiffs criticize the General Assembly's process in drawing the September Plan for not being transparent enough,

yet Plaintiffs ask the Court to implement their extensive proposals—drawn without any public input or scrutiny, much less through the legislative process.

In no event should the Court adopt Plaintiffs’ anti-democratic redistricting proposals. Instead, if changes to the redistricting plan drawn by the General Assembly must be made, this Court should follow the Supreme Court’s direction that “[r]edistricting is primarily the duty and responsibility of the State,” *Perry*, 565 U.S. at 392 (internal quotation omitted), and remand to the General Assembly to make changes, consistent with the direction provided from the Court and the well-established policy of deference to the elected legislature.

That, however, will be unnecessary, as Plaintiffs have failed to meet their threshold burden of establishing a statutory or constitutional violation as to any of the challenged districts. This Court should affirm the September Plan.

II. FACTUAL BACKGROUND

A. The 2021 Legislative Redistricting Process

The Illinois General Assembly consists of a Senate, elected from 59 Legislative Districts (also known as “Senate Districts” or “SD”), and a House of Representatives, elected from 118 Representative Districts (also known as “House Districts” or “HD”). *See* Ill. Const., art. IV, § 1. Each Senate district consists of two nested House districts. *Id.* The General Assembly is directed to use its legislative power to redistrict itself in the year following the decennial Census. *Id.* art. I, § 3. A redistricting plan must pass both chambers in the form of a bill, like all legislation, and must become effective by June 30th. *Id.* If a plan is not enacted and effective by June 30th, the Illinois Constitution triggers the creation of a Legislative Redistricting Commission. *Id.*

The Illinois General Assembly faced unprecedented circumstances in navigating the 2021 legislative redistricting process. Due in part to the global COVID-19 pandemic, the U.S. Census Bureau significantly delayed the release of 2020 Census data, known as P.L. 94-171 data. Federal law (13 U.S.C § 141(c)) requires this data to be delivered to the states by April 1 in the year after the decennial census, but the U.S. Census Bureau did not deliver the data to Illinois until August 12, 2021. *See* U.S. CENSUS BUREAU, *Decennial Census P.L. 94-171 Redistricting Data*, CENSUS.GOV (Aug. 12, 2021), <https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html>.

Despite delays and uncertainty about the timing of the Census data's release, the General Assembly began taking steps to comply with the June 30th constitutional deadline. Both chambers established redistricting committees, comprised of Democratic and Republicans members from across the state. The redistricting committees were chaired by Latino members, Senator Omar Aquino and Representative Elizabeth Hernandez, and Black members, Senator Elgie Sims Jr. and Representative Curtis Tarver II. The committees were tasked with gathering information and accepting recommendations from the public, communities of interest, and members. *See Redistricting – Members 102nd General Assembly, Senate Committees*, ILGA.GOV, <https://www.ilga.gov/senate/committees/members.asp?CommitteeID=2742> (last visited Nov. 22, 2021); *Redistricting – Members 102nd General Assembly, House Committees*, ILGA.GOV

<https://www.ilga.gov/house/committees/members.asp?CommitteeID=2800&GA=102>
(last visited Nov. 22, 2021).

Between March 2021 and late May 2021, the legislature held more than 50 public hearings that offered opportunities for individuals, groups, and members of the General Assembly to provide their recommendations for changes to the districts.

See *Hearings*, ILSENATEREDISTRICTING.COM, <https://www.ilsenateredistricting.com/hearings> (last visited Nov. 22, 2021); *Illinois Redistricting: Public Hearings*, ILHOUSEDEMS.COM, <https://ilhousedems.com/redistricting/public-hearings/> (last visited Nov. 22, 2021).

The volume of hearings far exceeded the requirements of the Illinois Redistricting Transparency and Public Participation Act. See 10 ILCS 125/10-5 (“[E]ach committee or joint committee must conduct at least 4 public hearings.”). The hearings were structured by geographical regions of the State, and each included a slide show presentation with an overview of the redistricting process, explanation of redistricting criteria, and instructions for the public or members as to how to provide testimony or submit draft maps. Ex. 2 (“Maxson Decl.”), at ¶ 5. Nearly all hearings were held virtually or in person with virtual accessibility available for members and the public. *Id.* at 6. Hearings were broadcast live on the General Assembly’s website (*Illinois General Assembly*, ILGA.GOV, <https://www.ilga.gov> (last visited Nov. 22, 2021)), and many were available on the video service website (*BlueRoomStream HD Video Streaming*, BLUEROOM STREAM, <https://blueroomstream.com/> (last visited Nov. 22, 2021)), which continues to make those hearings accessible to the public. Any

person wishing to provide testimony was given an opportunity, and presenters could share their screens to provide for more interactive feedback in real time. Maxson Decl., at ¶ 7. Anyone unable to attend or watch the hearings could review the transcripts that were made available on the General Assembly's official website. *Id.* at 4, 6.

The General Assembly made the public aware of the hearings via its website, in press releases, through members' legislative emails and newsletters, and via public outreach. *Id.* at 6. House and Senate Democratic staff emailed or telephoned hundreds of community groups, community leaders, not-for-profit organizations, and anyone else identified as having an interest. *Id.* at 8. If an individual or representative of a group could not attend one or more hearings, they could contact any committee member or submit testimony through the general email address for the Committee. *Id.* at 7. Documents submitted for the Committee's consideration were available to the public on the General Assembly website and redistricting websites created by each chamber. *See Illinois Redistricting*, ILHOUSEDEMS.COM, <https://ilhousedems.com/redistricting> (last visited Nov. 22, 2021); *Illinois Senate Redistricting Committee*, ILSENATEREDISTRICTING.COM, <https://www.ilsenateredistricting.com> (last visited Nov. 22, 2021). The redistricting websites included hearing notices, hearings transcripts, access to 2011 redistricting maps and data, and a mapmaking portal that provided the public and members with an opportunity to draw and submit their own proposed maps. Maxson Decl. at ¶ 4.

On May 28, 2021, both chambers of the General Assembly passed HB 2777, the General Assembly Redistricting Act of 2021, with supermajority votes in each chamber, including votes in favor from every Asian American, Black, and Latino member. It was signed into law and became effective on June 4, 2021, as Public Act 102-10 (the “June Redistricting Plan” or “June Plan”). The June Redistricting Plan used estimated population data from the most recent available public source, the U.S. Census Bureau’s American Community Survey. At the time of passage, the Illinois Senate passed Senate Resolution 326 (“SR 326”) and the Illinois House passed House Resolution 359 (“HR 359”). *See Illinois General Assembly*, ILGA.GOV, <https://www.ilga.gov/legislation/102/SR/PDF/10200SR0326enr.pdf>; *Illinois General Assembly*, ILGA.GOV, <https://www.ilga.gov/legislation/102/HR/PDF/10200HR0359lv.pdf>. These resolutions, as well as the Public Act itself, explain in detail how the Senate and House districts were drawn and some of the considerations and decisions made by the General Assembly during the legislative process.

In June, two sets of Plaintiffs filed lawsuits challenging the June Plan: first, the Republican Legislative Leaders of the Illinois Senate and Illinois House of Representatives, as well as the Republican Caucuses of both chambers (collectively, “the *McConchie* Plaintiffs”); and second, Julie Contreras, Irvin Fuentes, Abraham Martinez, and Irene Padilla (collectively, “the *Contreras* Plaintiffs”). Both alleged the June Plan was malapportioned, although they sought different relief. *See McConchie* Dkt. 1 at 33-37; *see also Contreras* Dkt. 1 at 10-12. The *McConchie* Plaintiffs sought

the creation of a Redistricting Commission as provided by the Illinois Constitution of 1970, and the *Contreras* Plaintiffs sought for the court to order the legislature to redraw the map. *See* McConchie Dkt. 1 at 38; *Contreras* Dkt. 1 at 12. The cases were consolidated before a three-judge panel convened under 28 U.S.C. § 2284(a). McConchie Dkt. 30, Minute Order (June 25, 2021) at 1.

On August 12, 2021, the Census Bureau released the 2020 Census data. An analysis of the General Assembly Redistricting Act of 2021 revealed the maximum population deviation for the Senate districts and the House districts could be improved as compared to the official Census data. Maxson Decl., at ¶ 10. The President of the Senate and the Speaker of the House issued a joint proclamation convening a special session for the purpose of considering amendments to the June Plan to ensure compliance with the Equal Protection Clause of the U.S. Constitution.

As the Court urged, the Defendants sought recommendations for changes to the June Redistricting Plan from the *Contreras* and *McConchie* Plaintiffs. *See* McConchie Dkt. 88, Minute Entry (Aug. 23, 2021) at 1. The Redistricting Committees also invited input and recommendations from the Plaintiffs, as well as other individuals and groups, including those that eventually filed a third lawsuit and are now the *NAACP* Plaintiffs. *See* Yandell Decl., Exs. E and F; Maxson Decl., at ¶ 11. In response, named Plaintiff Julie Contreras and a representative of the Mexican American Legal Defense and Educational Fund (“MALDEF”) provided testimony at a hearing on August 27, 2021, but did not offer any recommendations for changes to

the map.² Plaintiff United Congress of Community and Religious Organizations (“UCCRO”) also testified and submitted recommendations,³ though none of their proposals included the Metro East district they now challenge. None of the other Plaintiffs offered changes or their own proposals.

On August 31, 2021, nearly three weeks after the release of the Census data and after more hearings, the General Assembly reconvened and passed Senate Bill 927, which amended the June Plan. All Plaintiffs agree that SB 927 cured any previously alleged malapportionment issues in the June Plan, and therefore complies with the one-person, one-vote requirement of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *See* Ill. Public Act 102-0663; *see also* Ex. 3 (“Yandell Decl.”), Ex. A (Hr’g Tr. (Sept. 1, 2021)), at 9:22-25. SB 927 was signed into law and became effective on September 24, 2021.

As before, both chambers adopted resolutions that explained in detail how and why the Senate and House districts were drawn. These resolutions, Senate Resolution 3 (“SR 3”) of the First Special Session of the 102nd General Assembly (Contreras Dkt. 135-6) and House Resolution 443 (“HR 443”) (Dkt. 135-7,) incorporated the previously adopted resolutions, but provided additional details

² *See Testimony by Plaintiff Contreras and MALDEF*, ILGA.GOV (AUG. 27, 2021) AT 13-22, <https://ilga.gov/senate/committees/Redistricting/102Redistricting/SRED/20210827/Transcript/Transcript%20for%20Redistricting%20Committee%20-%20Will%20and%20Collar%20Counties%20Hearing%20-%20August%2027,%202021.pdf>

³ *See Testimony by United Congress of Community and Religious Organizations and Community and religious Organizations and Chicago Lawyers’ Committee for Civil Rights*, ILGA.GOV (AUG. 28, 2021), <https://ilga.gov/house/committees/Redistricting/102Redistricting/HRED/2021August/2021-08-28%20UCCRO%20Chicago%20Lawyers'%20Committee%20testimony.pdf>.

related to the September Plan. Collectively, these documents provide an unprecedented amount of information related to the decision-making process for the legislative redistricting plan. Although they do not, and could not feasibly, include every recommendation or the rationale for each decision made while drawing a decennial legislative map, they provide the legislature's priorities and explain the redistricting principles adhered to, including prioritizing population equality, adherence to the core of existing districts, political subdivision boundaries, recognition of relevant communities of interest, balancing political factions, and partisan composition. *See* Dkt. 135-6 (SR 3); Dkt. 135-7 (HR 443).

Because it must consider and attempt to balance myriad competing interests, the legislative redistricting process inevitably disappoints some constituencies. Disagreement with the outcome, however, is not tantamount to being shut out of the process. To the contrary, many considerations and recommendations, including some made by representatives of the *Contreras* Plaintiffs, were included in both the June Plan and the September Plan. For example, representatives of MALDEF recommended creating Latino voting age majority House districts in Elgin and Waukegan. House Redistricting Comm. Tr., (Apr. 7, 2021) at 25:22-26:5; House Redistricting Comm. Tr. (Apr. 12, 2021), at 46:22-47:3; available at <https://ilga.gov/house/committees/Redistricting/102RedistrictingTranscripts/HRED/20210407LC/Wednesday%20April%207%20-%20Lake.pdf> and <https://ilga.gov/house/committees/Redistricting/102RedistrictingTranscripts/HRED/20210412/Monday%20April%2012%20-%20Springfield.pdf>. Those recommendations

were accommodated, and Latino voting age majority districts were created in Elgin (HD 43) and Waukegan (HD 60).

The 2021 redistricting process provided any community group, advocacy organization, member of the public, or member of the General Assembly—including those members who are *McConchie* Plaintiffs—ample opportunities to participate, provide feedback, and submit proposals. Indeed, named Plaintiff Senate Republican Leader McConchie was a member of the Senate Redistricting Committee, and he appointed the Republican members of the Committee. Plaintiff House Republican Leader Durkin was an ex-officio member of the House Redistricting Committee and appointed the Republican members of the Committee. Republican Leader Durkin personally attended several hearings, though transcripts reveal that despite the opportunity to do so, he did not provide any input as to how to draw districts. As Senator Steven Landek testified, before the legislature began drawing what ultimately became the June Plan, he approached Leader McConchie, and other Republican members, to discuss a bipartisan approach to redistricting, but McConchie declined. Leader McConchie informed Senator Landek that he intended instead to be a plaintiff in a lawsuit regarding the map. Yandell Decl., Ex. B (Landek Dep. Tr. (Nov. 4, 2021)), at 97:5-11. This was long before any map had even been drawn. The *McConchie* Plaintiffs spent hundreds of thousands of taxpayer dollars related to redistricting but chose not to submit any recommendations or file their own legislation. See *Mark Maxwell, Records Show House Republicans Outspending Democrats in Early Redistricting Efforts*, *ILLINOIS CAPITAL NEWS* (May 20, 2021, 6:16

PM), <https://www.wcia.com/illinois-capitol-news/records-show-house-republicans-outspending-democrats-in-early-redistricting-efforts>.

B. Procedural Background

This action began on June 9, 2021, when the *McConchie* Plaintiffs filed their initial complaint against Defendants. *McConchie* Dkt. 1. The *Contreras* Plaintiffs initiated their lawsuit the next day. *Contreras* Dkt. 1. Both complaints alleged that the June Plan was constitutionally deficient for being malapportioned, and centered on Defendants' use of American Community Survey ("ACS") data to create the June Plan while the Census data remained unavailable.⁴ Discovery began immediately, and on July 16, 2021, Defendants filed a motion to dismiss in each case. *See McConchie* Dkt. 45; *Contreras* Dkt. 33. Before briefing was completed, however, both sets of Plaintiffs amended their complaints. *See McConchie* Dkt. 51; *Contreras* Dkt. 37. On August 19, 2021, Defendants again filed a motion to dismiss each amended complaint. *See McConchie* Dkt. 80; *Contreras* Dkt. 55. That same day, *McConchie* Plaintiffs filed a motion for summary judgment. *See McConchie* Dkt. 76. *Contreras* Plaintiffs' motion for summary judgment followed the next day. *Contreras* Dkt. 63. Briefing on dispositive motions was completed by September 17, 2021. *See McConchie* Dkt. 108-110; *Contreras* Dkt. 88-90.

After the Census Bureau released the official Census data on August 12, 2021, the General Assembly initiated the process to amend the June Plan. The

⁴ Neither complaint raised Voting Rights Act claims or racially gerrymandering claims, as they do in response to the September Map.

Redistricting Committees of both the House and the Senate held several hearings, which were open to all members and the public, as discussed above. The General Assembly passed the September Plan on August 31, 2021. The Court held a status conference the next day, during which Plaintiffs acknowledged that the September Plan remedied the malapportionment issues that served as a basis for the claims in their complaints. Yandell Decl., Ex. A (Hr'g Tr. (Sept. 1, 2021)) at 9:22-25; 17:19-23. The Court directed that discovery begin on the September Plan and that Plaintiffs file any second amended complaints challenging the September Plan by October 1, 2021. The *McConchie* and *Contreras* Plaintiffs filed second amended complaints on October 1, 2021. McConchie Dkt. 116; Contreras Dkt. 98. The second amended complaints dropped the malapportionment claims previously made regarding the June Map, and brought entirely distinct claims under Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301 (the "VRA"), and for intentional racial gerrymandering in violation of the Equal Protection Clause of the Fourteenth Amendment. *See* McConchie Dkt. 116; Contreras Dkt. 98. These claims were raised for the first time in Plaintiffs' second amended complaints challenging the September Plan, even though Plaintiffs alleged and continue to argue that the June Plan served as a basis for much of the September Plan.

On October 19, 2021, the Court issued its order on the parties' dispositive motions, which concluded that the June Plan was invalid, denied the *McConchie* Plaintiffs' request to form a Redistricting Commission, and ordered that the litigation would then enter a remedial phase. *See generally*, Contreras Dkt. 117 (Mem. Op. &

Order (Oct. 19, 2021)). “[M]indful of the [Supreme] Court’s repeated admonition that ‘reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court,’” *id.* at 37, the Court determined that the September Plan should be considered the starting point for the “remedial phase” of the litigation. *Id.* at 40-43. The Court passed no judgment about the constitutionality of the September Redistricting Plan, which had not been challenged in any of the dispositive motions at issue. *Id.* On that note, the Court invited Plaintiffs, to the extent they believed the September Plan “does not pass muster . . . to submit proposed alternative maps for the Court’s consideration accompanied by a statement explaining (1) the constitutional or statutory defects in the September Redistricting Plan and, (2) how the revision or alternative sure such defects.” *Id.* at 40. The Court ordered any statements from Plaintiffs to be filed by November 8, 2021, and responses by Defendants to be filed by November 18, 2021. *Id.* at 43. Pursuant to the parties’ agreement and Court order, Plaintiffs’ submission were filed on November 10, 2021, Defendants submissions are due November 24, 2021 by 2:00 p.m., and Plaintiffs may file reply statements by December 1, 2021 at 10:00 a.m. *See* Contreras Dkt. 140 (Minute Entry (Nov. 17, 2021)).

The same day that the Court issued its order, the NAACP Plaintiffs initiated a new action bringing similar VRA Section 2 and Equal Protection racial gerrymandering claims related to the September Plan as the existing Plaintiffs. *See* NAACP Dkt. 1 (Complaint) at ¶¶ 67-86. Acknowledging that they were joining the

action at a late stage, the NAACP Plaintiffs agreed to follow the existing case schedule.

III. LEGAL FRAMEWORK

A. The State's Duty to Redistrict and the Remedial Phase.

The Supreme Court has repeatedly stressed that redistricting is “primarily the duty and responsibility of the State.” *See, e.g., Perry*, 565 U.S. at 392; *Branch v. Smith*, 538 U.S. 254, 261 (2003); *Chapman v. Meier*, 420 U.S. 1, 27 (1975). The state’s legislative plan—even in the remedial phase of redistricting cases—is “the governing law unless it, too, is challenged and found to violate the Constitution.” *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978); *see also Upham v. Seamon*, 456 U.S. 37, 43 (1982) (“the District Court [i]s not free . . . to disregard the political program of the [] State Legislature” unless it finds a violation of the Constitution or the VRA). Plaintiffs have the burden to prove that the state’s legislative plan violates the law on a “district specific basis.” *See Comm. for a Fair & Balanced Map v. Illinois Bd. of Elections*, No. 1:11-CV-5065, 2011 WL 5185567, at *4 (N.D. Ill. Nov. 1, 2011) (citing *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986)). To this end, any remedy may “be imposed only in those specific districts where violations have been proven” and must “follow state policies except to the limited extent necessary to remedy the federal violations.” *Clark v. Roemer*, 777 F. Supp. 445, 467 (M.D. La. 1990) (citing *White v. Weiser*, 412 U.S. 783, 795 (1973)).

A state’s redistricting plan must not violate the VRA and must conform to the requirements of the Constitution, *see infra* Part IV.B–C. Within those bounds, there are a number of reasons and goals that can motivate redistricting which, as it well-

established, do not violate any law. For example, “when members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes.” *Shaw v. Reno* (“*Shaw*”), 509 U.S. 630, 646 (1993). And, just as race and geography may align, so may race and politics: “political and racial reasons are capable of yielding similar oddities in a district’s boundaries” because “racial identification is highly correlated with political affiliation.” *Cooper v. Harris*, 137 S. Ct. 1455, 1473 (2017) (citation omitted). A legislature can also permissibly consider political realities when redrawing districts, and “[t]he fact that district boundaries may have been drawn in a way that minimizes the number of contests between present incumbents does not in and of itself establish invidiousness.” *White*, 412 U.S. at 797 (reversing district court’s decision to “broadly brush[] aside state apportionment policy” when the plan at issue had already been passed by the legislature and signed into law by the Governor) (citation omitted). Other forms of partisan gerrymandering also are not punishable under the Constitution. *See Rucho v. Common Cause*, 139 S. Ct. 2484, 2506–07 (2019) (“[P]artisan gerrymandering claims present political questions beyond the reach of the federal courts.”); *see also Luft v. Evers*, 963 F.3d 665, 671 (7th Cir. 2020) (“given the holding of *Rucho* [] legislators are *entitled* to consider politics when changing the rules about voting”).

B. The Voting Rights Act.

First enacted in 1965, Congress amended Section 2 of the VRA in 1982 to its current form.⁵ “Section 2 concerns minority groups’ opportunity to elect representatives of their choice.” *Bartlett v. Strickland*, 556 U.S. 1, 24–25 (2009). A group’s “candidate of choice” need not be a candidate of the same race or ethnicity of the minority group. Instead, a candidate of choice is simply the candidate the majority of the minority group supports. *See Thornburg v. Gingles*, 478 U.S. 30, 68 (1986).

There are several types of districts considered under VRA claim. The first is a majority-minority district. “In majority-minority districts, a minority group composes a numerical, working majority of the voting-age population.” *Bartlett*, 556 U.S. at 13. “At the other end of the spectrum are influence districts, in which a minority group can influence the outcome of an election even if its preferred candidate cannot be

⁵ Section 2 provides:

- (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).
- (b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

52 U. S. C. §10301.

elected.” *Id.* But “§ 2 does not require the creation of influence districts.” *Id.* The third group of districts are referred to as crossover districts. “[A] crossover district is one in which minority voters make up less than a majority of the voting-age population. But in a crossover district, the minority population, at least potentially, is large enough to elect the candidate of its choice with help from voters who are members of the majority and who cross over to support the minority’s preferred candidate.” *Id.*

Plaintiffs carry the burden of proving a Section 2 vote dilution claim, which has two steps. Here, Plaintiffs cannot carry this burden because they did not allege, and have not yet proven any violation of the VRA.⁶ *First*, Plaintiffs must satisfy the three “*Gingles* preconditions,” outlined in *Gingles*, 478 U.S. at 48–51. *Second*, they must meet the “totality of the circumstances” test as provided in Section 2(b) and also further elucidated by *Gingles*, 478 U.S. at 44–45.

1. The *Gingles* preconditions.

In the first step, plaintiffs must prove the three *Gingles* preconditions⁷ by a preponderance of the evidence. The three preliminary *Gingles* preconditions are: (1) the racial group is “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the racial group is “politically cohesive”;

⁶ Plaintiffs’ challenges to the June Plan, which were adjudicated by the Court’s October 19, 2021 Opinion and Order, did not include claims under the VRA or for racial gerrymandering; those claims appear for the first time in Plaintiffs’ second amended complaints (*McConchie*, *Contreras*) and the NAACP Plaintiffs’ initial October 15, 2021 complaint.

⁷ The preconditions are also referred interchangeably as “*Gingles* requirements,” and “*Gingles* prongs.” *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 429, 431 (2006) (“LULAC”)

and (3) the majority “vot[es] sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *LULAC*, 548 U.S. at 425 (quoting *Johnson v. De Grandy*, 512 U.S. 997, 1006-1007 (1994)). “[U]nless each of the three *Gingles* prerequisites is established, ‘there neither has been a wrong nor can be a remedy.’” *Cooper*, 137 S. Ct. at 1472 (quoting *Grove v. Emison*, 507 U.S. 25, 41 (1993)). “[T]he *Gingles* factors cannot be applied mechanically and without regard to the nature of the claim.” *Voinovich v. Quilter*, 507 U.S. 146, 158 (1993).

The first *Gingles* requirement of a “geographically compact majority” and the second *Gingles* requirement of “minority political cohesion” “are needed to establish that the minority has the potential to elect a representative of its own choice in some single-member district.” *Grove*, 507 U.S. at 40. In order to meet the first precondition, a plaintiff must establish that a majority-minority district can be drawn. *Bartlett*, 556 U.S. at 17. The ability to draw a crossover district (*i.e.*, a district wherein the minority candidate could be elected, if aided by voters from the majority group) is not sufficient to meet the first *Gingles* precondition. *Id.* at 13–17. As the Supreme Court has found:

Determining whether a § 2 claim would lie—*i.e.*, determining whether potential districts could function as crossover districts—would place courts in the untenable position of predicting many political variables and tying them to race-based assumptions. The Judiciary would be directed to make predictions or adopt premises that even experienced polling analysts and political experts could not assess with certainty, particularly over the long term.

Id.

Furthermore, the first *Gingles* precondition is not to be read “to define dilution as a failure to maximize in the face of bloc voting,” meaning that the legislature cannot be punished merely for failing to create as many majority-minority districts as possible. *Johnson*, 512 U.S. at 1016. “One may suspect vote dilution from political famine, but one is not entitled to suspect (much less infer) dilution from mere failure to guarantee a political feast.” *Id.* at 1017.

To establish the third *Gingles* requirement of majority “bloc voting”, a plaintiff must show “the *majority* votes as a bloc to defeat minority-preferred candidates.” *Bartlett*, 556 U.S. at 16 (emphasis added). It is not sufficient that the population outside of the plaintiff-minority group vote as a bloc; *i.e.*, it is not sufficient to show that all non-Latinos vote as a bloc, since that group might contain multiple other minorities as well as the majority population. “As the *Gingles* Court explained, ‘in the absence of significant white bloc voting it cannot be said that the ability of minority voters to elect their chosen representatives is inferior to that of white voters.’” *Id.* (quoting *Gingles*, 478 U.S. at 49 n. 15). Section 2 “does not assume the existence of racial bloc voting; plaintiffs must prove it.” *Grove*, 507 U.S. at 42. The *Bartlett* plurality stated, “States can—and in proper cases should—defend against alleged § 2 violations by pointing to crossover voting patterns and to effective crossover districts. *Bartlett*, 556 U.S. at 24. Those can be evidence, for example, of diminished bloc voting under the third *Gingles* factor or of equal political opportunity under the § 2 totality-of-the-circumstances analysis.” *Id.*

2. The totality of the circumstances test.

Even if the three *Gingles* preconditions are met, no Section 2 violation will be found if a plaintiff fails to meet the totality of the circumstances test. *Id.* The “statutory test directs [a court] to consider the ‘totality of the circumstances’ to determine whether members of a racial group have less opportunity than do other members of the electorate.” *LULAC*, 548 U.S. at 425. The Supreme Court has further held that in applying this totality of the circumstances test, courts must consider a list of factors that were included in the Senate Report on the 1982 amendments to the VRA. These factors are:

- (1) “the history of voting-related discrimination in the State or political subdivision;”
- (2) “the extent to which voting in the elections of that State or political subdivision is racially polarized;”
- (3) “the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting;”
- (4) “the exclusion of members of the minority group from candidate slating processes;”
- (5) “the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;”
- (6) “the use of overt or subtle racial appeals in political campaigns;”
- (7) “the extent to which members of the minority group have been elected to public office in the jurisdiction;”
- (8) the extent to which “elected officials are unresponsive to the particularized needs of the members of the minority group;” and

(9) whether “the policy underlying the State’s or political subdivision’s use of the contested practice or structure is tenuous.”

Gingles, 478 U.S. at 44–45; *see also LULAC*, 548 U.S. at 426.

These factors, however, are “neither comprehensive nor exclusive.” *Gingles*, 478 U.S. at 45. As an example, “proportionality is not dispositive in a challenge to single-member districting, [but] it is a relevant fact in the totality of circumstances.” *Johnson*, 512 U.S. at 1000.

C. The Constitution’s prohibition on “racial gerrymanders.”

“The Equal Protection Clause of the Fourteenth Amendment limits racial gerrymanders in legislative districting plans.” *Cooper*, 137 S. Ct. at 1463–64. When a plaintiff brings a racial gerrymandering claim under the equal protection clause, the Court must perform a two-step analysis. *Id.* at 1464.

In the first step, the plaintiff must prove that “race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *Miller v. Johnson*, 515 U. S. 900, 916 (1995); *see also Shaw v. Hunt* (“*Hunt*”), 517 U.S. 899, 905 (1996) (a plaintiff “bears the burden of proving the race-based motive”). That entails demonstrating the legislature subordinated all other factors—such as compactness, respect for political subdivisions, or partisan advantage—to racial considerations. *See Miller*, 515 U.S. at 916. This requires more than a showing that the “legislature [was] conscious of the voters’ races” when making redistricting decisions. *Hunt*, 517 U.S. at 905.

The second step asks the Court to inquire into whether, *if* the first step is satisfied because racial considerations predominated over all others, the design of the

district withstands strict scrutiny. *Cooper*, 137 S. Ct. at 1464. At this step, the burden “shifts to the State to prove that its race-based sorting of voters serves a ‘compelling interest’ and is ‘narrowly tailored’ to that end.” *Id.*

When a State asserts partisanship in explanation of redistricting decision made, the District Court “has a formidable task.” *Id.* at 1473. Indeed, “political and racial reasons are capable of yielding similar oddities in a district’s boundaries. That is because, of course, ‘racial identification is highly correlated with political affiliation.’” *Id.* (quoting *Easley v. Cromartie*, 532 U.S. 234, 243 (2001)). Similarly, “when members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes.” *Shaw*, 509 U.S. at 646.

IV. ARGUMENT

A. Plaintiffs Have Failed to Establish a Voting Rights Violation in the Districts in the Four Geographic Areas Challenged.

The three groups of Plaintiffs collectively challenge twelve House districts and two Senate districts in the September Plan. The challenged districts lay in four geographical regions in Illinois: (1) northwest side of Chicago (HDs 3, 4, 39 and SD 2); (2) southwest side of Chicago (HDs 1, 2, 21, 22, 23, 24, 32, and SD 11); (3) Aurora (HD 50); and (4) Metro East (HD 114).⁸ See McConchie Dkt. 151 at 10; Contreras

⁸ *Contreras* Plaintiffs challenge HDs 3, 4, 21, 24, 39, and HDs 2 and 11. *McConchie* Plaintiffs challenge HDs 1, 2, 3, 4, 21, 22, 23, 24, 32, 39, 50, and 114. Their statement challenges HD 77, but it is not mentioned in the Second Amended Complaint and not included in this list. *NAACP* Plaintiffs challenge HD 114.

Dkt. 139, 15-19; and East St. Louis NAACP Dkt. 44 at 6. Plaintiffs fail to prove the *Gingles* factors as to any region, and thus cannot establish that a remedy is necessary.

1. Plaintiffs cannot establish the *Gingles* preconditions.

Plaintiffs claim that their experts establish the *Gingles* preconditions in the challenged areas. Each *Gingles* factor must be met, and Plaintiffs cannot satisfy either *Gingles* factor 1 (alternatively, “*Gingles* 1”) or *Gingles* factor 3 (alternatively, “*Gingles* 3”). Plaintiffs’ chief stumbling block is that their submissions fail to demonstrate that white bloc voting exists in any of the challenged areas sufficient to usually defeat minority-preferred candidates.

As Dr. Lichtman’s report establishes, Illinois has nearly no racial bloc voting. In fact, for the challenged Chicago area districts, for example, Dr. Lichtman established that the Latino candidate of choice prevailed in 91% of the races analyzed. Lichtman Report, at 35. And in the Metro East Area, the Black candidates of choice were successful in 100% of the races analyzed. *Id.* at 99. Simply put, Plaintiffs have failed to establish all three *Gingles* preconditions, and their VRA claims must be rejected.

a. Chicago Northwest and Southwest Side Districts

Plaintiffs cannot establish, based on the evidence presented, that either the *Gingles* 1 or *Gingles* 3 preconditions are met. As a result, the claims of Latino voter dilution in the challenged districts must fail.

(1) *Plaintiffs have not established Gingles factor 1.*

The *Contreras* and *McConchie* Plaintiffs argue they can establish *Gingles* 1 by creating majority Latino districts, but their own experts’ data contradicts that

conclusion. McConchie Dkt. 151 at 10–12; Contreras Dkt. at 15–19. As Contreras Plaintiffs concede, the Seventh Circuit has not adopted citizen voting age population (CVAP, which is derived from ACS data) as the benchmark on *Gingles* 1. Contreras Dkt. at 15 (citing *Barnett v. City of Chicago*, 141 F.3d 699, 706 (7th Cir. 1998)). Using voting age population (VAP, which is determined by the Census) instead, *all* of the House Districts Plaintiffs challenge are “majority-minority” Latino districts, with the exception of HD 24. See Maxson Decl. Ex. A. Because Section 2 claims are judged by the “majority-minority standard,” Plaintiffs have no viable VRA claim where the existing district is majority-minority. See *Bartlett*, 556 U.S. at 18–20 (upholding the standard). Even the remaining district does not violate the rule because “minorities make up more than 50 percent of the voting age population in the relevant geographic area.” *Id.*

For example, *McConchie* expert Dr. Chen’s report provides a table of the enacted September Plan, which provides demographic data for Black and Latino populations (total population, VAP, and CVAP). McConchie Dkt. 151-2 at 8-9. The table omits any demographic data for Whites or Asians. Despite that, it shows that every challenged district in Dr. Chen’s table is a majority-minority district, with the exception of HD 24 (48.5% Latino VAP). Had Dr. Chen included all the demographic data, his table would also show that HD 24 has 26.9% Asian VAP, which results in HD 24 having a “super” majority-minority VAP of 78.9%. Ex. Maxson Decl., at Ex. A. Thus, all of the challenged districts have a collective majority of minorities, though HD 24 does not have a majority of any one minority group.

Moreover, the Supreme Court has held that *Gingles* 1 cannot be established by proving a *crossover* district could be drawn; instead, a plaintiff must establish a *majority-minority* district could be drawn. *Bartlett*, 556 U.S. at 24. Plaintiffs' challenge to crossover districts like House Districts 24 runs counter to the Supreme Court's finding that "[i]f the lesson of *Gingles* is that society's racial and ethnic cleavages sometimes necessitate majority-minority districts to ensure equal political and electoral opportunity, that should not obscure the fact that there are communities in which minority citizens are able to form coalitions with voters from other racial and ethnic groups, having no need to be a majority within a single district in order to elect candidates of their choice." *Johnson*, 512 U.S. at 1020.

Plaintiffs argue that the CVAP (instead of VAP) should be used as the benchmark for whether a district is "majority-minority." But Plaintiffs cannot cite to any case where the court relied on CVAP when the validity of the data was disputed. And Plaintiffs themselves originally brought this litigation before the Court on the *very basis* that CVAP is unreliable. Still, Plaintiffs use CVAP in *precisely* the way that they criticized Defendants for relying on it in the creation of the June Plan. Dr. Chen's report states: "The ACS 5-Year estimates are released only at the level of Census block groups. I thus disaggregate the ACS 5-Year estimates down to the block level, to estimate the racial and ethnic breakdown of the CVAP in each district. It is common for experts to disaggregate ACS 5-Year block group population estimates in this manner." McConchie Dkt. 151-2 at ¶ 11. Plaintiffs cannot now change their tune and treat CVAP as though it was created with mathematical

precision, simply because it serves their needs. Plaintiffs’ proposed remedial districts are just 0.3% to 1.6% CVAP in excess of 50%—such slim margins cannot satisfy *Gingles* 1 given the level of inaccuracy in the data. This Court should find that Plaintiffs have not established *Gingles* 1 on the basis of data the Court has already found led to an unconstitutional malapportionment. If the ACS data was unreliable for drawing district based on population, it is unreliable to establish CVAP at the same district level.

Even suspending disbelief about CVAP accuracy, Plaintiffs still are confronted with the same issues. All the challenged House Districts on the northwest and southwest sides of Chicago are majority-minority CVAP, with HDs 1, 2, 22, and 23 being majority-Latino CVAP. Maxson Decl., Ex. A. And, the numerosity requirement is not the end of the *Gingles* 1 inquiry as traditional redistricting principles should be considered in determining compactness of the minority group. *LULAC*, 548 U.S. at 433. The *McConchie* and *Contreras* Plans disregard traditional redistricting principles prioritized by the General Assembly to create their revised majority-minority districts. For example, on the northwest side, the *McConchie* Plaintiffs completely alter the direction of the districts, pair four incumbents, including three Latino members, split communities of interest, cut up the cores of districts, and sacrifice a Latino influence district.

(2) *Plaintiffs have not established Gingles factor 3.*

Gingles factor 2 requires a plaintiff to establish the racial group is “politically cohesive”. *LULAC*, 548 U.S. at 425. Defendants accept that *Gingles* 2 has been met by *Contreras* expert, Dr. Grumbach. *Contreras* Dkt. 135-19. But *Contreras* Plaintiffs

use Dr. Grumbach's analysis on racial polarization to argue they have established *Gingles* 3 where "the majority "vot[es] sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate." *LULAC*, 548 U.S. at 425.

Though racial bloc voting almost certainly cannot exist without polarization, polarization does not always result in bloc voting by the majority to defeat the minority candidate of choice. In other words, polarized voting only matters where the result is that the candidate supported by minority voters loses the election. Section 2 "does not assume the existence of racial bloc voting; plaintiffs must prove it." *Grove*, 507 U.S. at 42. Here, Plaintiffs cannot do so because the September Plan contains effective crossover districts. *See Barlett*, 556 U.S. at 24.

As Dr. Lichtman's report establishes, minorities have been very successful in the last decade at electing their candidates of choice in Illinois. In fact, using the legislative races selected by Dr. Grumbach and Dr. Chen, Dr. Lichtman establishes the Latino candidate of choice won 91% of the elections analyzed. Lichtman Report, at 72. As Dr. Lichtman states in his report, "across five elections cycles since the post-2010 redistricting, only two Hispanic preferred candidates have been defeated in all districts with a minimum of 27.9% Hispanic CVAP." *Id.* at 92.

The Supreme Court has said "the ultimate right of § 2 is equality of opportunity, not a guarantee of electoral success for minority-preferred candidates of whatever race." *LULAC*, 548 U.S. at 428 (quoting, *Johnson*, 512 U.S., at 1014 n. 11). "One may suspect vote dilution from political famine, but one is not entitled to suspect (much less infer) dilution from mere failure to guarantee a political feast." *Johnson*,

512 U.S. at 1017. This Court need not determine whether a 91% success rate is a political feast, but it certainly cannot find it is a political famine.

Dr. Lichtman also establishes Plaintiffs' experts' conclusions are unreliable. For example, Dr. Chen reports he considered 26 total endogenous (legislative) and exogenous (other) races in Cook County. McConchie Dkt. 151-2 at ¶ 32. But, in actuality, Dr. Chen conducted his bloc voting analysis by selecting 5 races from 26 he identified based on criteria provided by *Plaintiffs' counsel*. *Id.* ¶ 32. Counsel provided Dr. Chen with four criteria:

- 1) The election was a primary election or a non-partisan municipal election;
- 2) For endogenous (State House or Senate) elections, the district is substantially within the region covered by the Plaintiffs' Remedial Plan;
- 3) Over 50% of Latino voters favored a single candidate; and
- 4) Over 50% of White voters favored a candidate other than the Latino-preferred candidate.

Id. Only five elections met counsel's criteria: the April 2015 Chicago Mayoral election, the 2018 Cook County Assessor Primary, the 2012 HD-39 Primary, the 2014 HD-39 Primary, and the 2018 HD-1 Primary. *Id.* ¶ 36. Dr. Chen ultimately relied on only *one* as a model for his analysis. Each of these elections must be considered in context, especially before drawing any conclusions from such a small sample size.

The 2015 Chicago Mayoral election is an example of a how reality differs from the outcome of elections on paper. That election pitted incumbent Mayor Rahm Emanuel against Jesus "Chuy" Garcia. Lichtman Report, at 172. Garcia was the

Latino candidate of choice and was defeated by Emanuel who was the white candidate of choice. However, Emanuel was backed by 59.5% of non-Latino minorities. *Id.* at 84. The white majority did not defeat the Hispanic candidate of choice in that race, rather the candidate was defeated by a coalition of white and non-Latino minorities. *Id.*

The election that Dr. Chen ultimately focused in on was the 2018 Cook County Assessor Primary. That race saw incumbent Joe Berrios (Latino) face challenger Fritz Kaegi (White). *Id.* at 158. But Dr. Chen conveniently omitted mention of the third challenger in that race, Andrea Raila, whose presence impacted the distribution of votes (she received 20% of total votes). *Id.* Additionally, the Latino candidate, Berrios, had significant political problems, including various scandals and allegations of accepting contributions from people who received tax breaks. Those tax breaks were accused of hurting low-income residents, which led prominent elected officials to speak out against Berrios, including Chuy Garcia (the now Congressman and former mayoral candidate). *Id.* at 159. In fact, the Little Village area with a large Latino population voted for the white candidate, Kaegi, over Berrios. Villenueva Decl., at ¶ 13. As a result of these factors, Berrios significantly underperformed with Latino voters in that election. Lichtman Report, at 158.

Despite the unusual circumstances in the 2018 Assessor primary, Dr. Chen used it as the sole election in his model to determine how the September Plan will perform for Latino candidates of choice. *McConchie* Dkt. 151-2 at 44-45. Dr. Chen estimated that, based on the 2018 Assessor primary, seven of the challenged districts

would not perform for Latino candidates of choice. *Id.* at 47 (Table 10). Dr. Lichtman, however, shows that even using this outlier election, Dr. Chen's analysis failed to account for all voters. Lichtman Report, at 165. Analyzing the model run in the challenged districts in the SB 927 Plan, Dr. Lichtman calculated that Dr. Chen failed to account for 6.3% to 32.7% of the population in those districts. *Id.* These are fatal flaws that render the Chen report unreliable.

As for *Contreras* Plaintiffs' expert, Dr. Grumbach, Dr. Lichtman found that Dr. Grumbach's declaration presents considerable information on Hispanic and non-Hispanic voting choices but does not directly address *Gingles* 3. Lichtman Report, at 38. As Grumbach explains in his declaration, he is assessing exclusively the existence of racially polarized voting in Illinois. *Contreras* Dkt. 135-19 at 1 ("I was retained by Plaintiffs in this action to provide expert testimony assessing whether racially polarized voting between Latinos and non-Latinos exists in Illinois."); *see id.* at 2 (noting he was hired to "quantitatively assess whether racially polarized voting exists in elections in the state of Illinois"). Dr. Lichtman states that "[a]n appropriate analysis of racially polarized voting might indirectly provide insight into *Gingles* Prong 3. However, Dr. Grumbach's approach to racially polarized voting precludes such insight." Lichtman Report, at 39. Dr. Lichtman has two main objections to Dr. Grumbach's analysis:

First, Dr. Grumbach did not examine polarization between Latinos and whites. Instead, he combined whites, Blacks, Asians, and other minorities into the single category of "non-Latino," thereby concealing the choices of whites as a specific group

within this larger category of voters. Lichtman Report, at 39. This also has the effect of making it impossible to differentiate between elections that were swayed by the white vote, as compared to the crossover vote of whites and a non-Latino minority.

Second, Dr. Grumbach adopts a misleading definition of “racially polarized voting” that is unhelpful in evaluating *Gingles* 3. Dr. Grumbach finds that racially polarized voting occurs whenever Hispanics and non-Hispanics differ in their voting choices, no matter the reason (*e.g.*, no matter whether the differences are small or, critically for *Gingles* 3, no matter whether the two groups have the same preferred candidate). Lichtman Report, at 39. As a result, Dr. Grumbach does not present evidence that satisfies *Gingles* 3, because he does not demonstrate significant white bloc voting, such that the Latino-preferred candidates would usually lose an election.⁹ *Id.*

The Supreme Court has said “in the absence of significant white bloc voting it cannot be said that the ability of minority voters to elect their chosen representatives is inferior to that of white voters.” *Johnson*, 512 U.S. at 1016. The three-judge panel in *Committee for a Fair & Balanced Map v. Illinois State Board of Elections* found that plaintiffs failed to establish *Gingles* 3 under evidence very similar to that presented to the this Court. The panel found:

The more significant problem with [plaintiffs’ expert] Dr. Engstrom's analysis is that he didn't examine actual election results to evaluate whether non-Latinos vote as a bloc to usually defeat the Latinos' candidate of choice. As correctly noted by Dr. Lichtman, proof of vote dilution requires two steps. The

⁹ Dr. Lichtman also points to numerous mathematical flaws in Dr. Chen and Dr. Grumbach’s reports. See, *e.g.*, Lichtman Report, at 40-42.

Committee must first show that Latinos and non-Latinos prefer different candidates, and second, that the non-Latino voting bloc is sufficiently strong to usually defeat the Latino candidate of choice. Dr. Engstrom fails to make a showing as to this latter requirement. His report, for example, ignores election results that Dr. Lichtman included in his report where Latino candidates of choice won in 15 out of 16 elections in jurisdictions that were 70 percent or more non-Latino in their voting age population, a success rate of 94 percent. When considering the elections included in Dr. Engstrom's and Dr. Lichtman's reports, Latino candidates of choice prevailed in 24 of 29 elections, a success rate of 83 percent. Dr. Lichtman's findings show that as a "practical," rather than theoretical, matter, Latino candidates have won more often than not in the challenged area.

835 F. Supp. 2d at 588.

The same is true here. To establish the *Gingles* 3 precondition, Plaintiffs had to establish that the non-Latino voting bloc is sufficiently strong to *usually* defeat the Latino candidate of choice. But overwhelmingly, Dr. Lichtman demonstrated that in the races analyzed by Plaintiffs' own experts, Latino candidates of choice won 91% of the time. Plaintiffs have failed to establish *Gingles* 3. And they can't and won't, because white voters routinely and consistently vote to elect minority candidates.

b. Metro East

The *McConchie* and *NAACP* Plaintiffs both challenge House District 114 in the September Plan.

(1) *Plaintiffs Fail to Satisfy Gingles factor 1 for HD 114.*

To satisfy the first *Gingles* condition, Plaintiffs must demonstrate that a minority group is "sufficiently large and geographically compact to constitute a majority of a single-member district." *Gingles*, 478 U.S. at 50. However, it is not enough for Plaintiffs to show that a majority-minority district can be drawn at any

cost. As the Supreme Court has observed, the compactness inquiry under the first *Gingles* condition should take into account traditional redistricting principles. *LULAC*, 548 U.S. at 433; *see also Reed v. Town of Babylon*, 914 F.Supp. 843, 871 (E.D.N.Y.1996).

The NAACP submitted expert Dr. Weichelt’s report that presents *two* maps of proposed HD 114. NAACP Dkt. 44-1. The first map, identified as the “liability plan,” shows a Black VAP exceeding 50% at 51.5%. *Id.* at 19. This is presumably submitted solely to show a district with over 50% Black VAP *could* be drawn—as is required under the first *Gingles* factor—to meet the *Bartlett* requirement (and the Supreme Court standard) of a majority-minority district. *See Bartlett*, 556 U.S. at 18–20. However, in attempting to meet this burden, the “liability” plan suffers from a fatal flaw: it is incomplete. As drawn, the “liability” plan includes a single district with no districts neighboring it. It does not account for any population changes to neighboring districts. It is non-contiguous in violation of the Illinois Constitution and traditional redistricting principles. *See Ill. Const. art. IV, § 3(a); Miller*, 515 U.S. at 916 (identifying compactness and contiguity as traditional redistricting principles). “A district court cannot implement an incomplete plan, containing only a single district, with the rest of the map left blank.” *Negron v. City of Miami Beach, Florida*, 113 F.3d 1563, 1571 (11th Cir. 1997).

But Dr. Weichelt then presents a “remedial plan.” *Id.* at 20. The map for the remedial plan has a Black VAP of only 49.45%, which does not meet the *Bartlett*

requirement that a plaintiff can only meet *Gingles* 1 by establishing a majority-minority district. *Id.* at 21.

Even assuming NAACP Plaintiffs are permitted to meet their *Gingles* burden piecemeal through multiple maps—which there is no basis for in precedent—*NAACP* Plaintiffs’ plans improperly subordinate traditional redistricting principles and the legislative policies underlying the September Plan by pairing the Black female incumbent (who *NAACP* Plaintiffs’ theoretically seek to protect) with a white male incumbent in a district in which less than half the population is in current HD 114. Exhibit 7 (“Greenwood Decl.”) at ¶ 22. While East St. Louis is kept whole in the Plaintiffs’ plans, East St. Louis is paired with larger portions of more populous cities, eliminating it as a base of its own district and harming its influence, while splitting other areas. *Id.*

(2) *Plaintiffs Fail to Satisfy Gingles factor 3 for HD 114.*

The NAACP’s own submission demonstrates that *Gingles* 3 has not been established. The first map, the “liability plan,” shows a Black VAP exceeding 50% at 51.5%. NAACP Dkt. 44-1 at 20. The “remedial plan” has a Black VAP of only 49.45%, which does not meet the *Bartlett* requirement that a plaintiff can only meet *Gingles* 1 by establishing a majority-minority district. *Id.* at 20-21. The answer to why the *NAACP* Plaintiffs would propose a remedial map with less than 50% Black VAP (if they truly believe racial bloc voting exists) is answered by NAACP expert Dr. Laura Collingwood. She analyzed District 114 and stated as follows:

While the Black Democratic candidate — who is preferred by Black voters in the reconstructed district — won the three

elections, the over-time patterns suggest this district has trended from favoring Black Democratic candidates towards a toss-up. Indeed, the 2020 Board of Review election is essentially a coin flip. Given that Blacks have recently declined as a share of the population in the area, it seems reasonable that as Blacks move out, and/or turn out at even lower rates than they do now relative to whites, the likelihood that Blacks' candidate of choice will win will further reduce over time. Given that under the 2011 Plan, the Black candidate preferred by Black voters received between at least 57.1% of the total vote, the SB 927 version of HB 114 significantly reduces the opportunity for Black voters to elect their candidates of choice as the HB 114 has gone from a relatively safe seat to a toss-up.

NAACP Dkt. 44-2 at 18.

By Dr. Collingwood's own admission, HD 114 is at worst "a toss-up." *Id.* Therefore, it must fail *Gingles* 3. The fact that the remedial plan contains an increased Black VAP, but under 50%, demonstrates that the NAACP's case is not about allowing Black voters to elect their candidate of choice, but to ensure a "safe seat." *Id.* That is the not what the Voting Rights Act provides. "[T]he ultimate right of § 2 is equality of opportunity, not a guarantee of electoral success for minority-preferred candidates of whatever race." *LULAC*, 548 U.S. at 428. As a result, the NAACP has not established the *Gingles* 3 precondition. *See Bartlett*, 556 U.S. at 24.

(3) *An effective crossover district is permissible.*

In asking this Court to find that the Voting Rights Act requires a majority-minority district in the Metro East, the Plaintiffs' seek to alter an effective crossover district, which relief was recently rejected by the Supreme Court under very similar circumstances in *Harris v. Cooper*, 137 S. Ct. 1455 (2017). *Harris* concerned North Carolina's redrawing of two congressional districts that, prior to the 2011 redistricting, consistently elected the candidates preferred by Black voters despite

not having a majority Black VAP. In 2011, the State needed to adjust the population of the two districts to comply with the one-person, one-vote principle and added population from heavily black areas, drawing two majority Black VAP districts in the name of Voting Rights Act compliance. *Id.* at 1466. The Supreme Court found that the State engaged in unconstitutional racial gerrymandering as there was no justification for drawing a majority-minority district predominantly on the basis of race. In so finding, the Supreme Court stated:

Here, electoral history provided no evidence that a § 2 plaintiff could demonstrate the third *Gingles* prerequisite—effective white bloc-voting. For most of the twenty years prior to the new plan's adoption, African-Americans had made up less than a majority of District 1's voters; the district's BVAP usually hovered between 46% and 48%. Yet throughout those two decades, as the District Court noted, District 1 was “an extraordinarily safe district for African-American preferred candidates.” In the *closest* election during that period, African-Americans' candidate of choice received 59% of the total vote; in other years, the share of the vote garnered by those candidates rose to as much as 70%. Those victories (indeed, landslides) occurred because the district's white population did *not* “vote [] sufficiently as a bloc” to thwart black voters' preference; rather, a meaningful number of white voters joined a politically cohesive black community to elect that group's favored candidate. In the lingo of voting law, District 1 functioned, election year in and election year out, as a “crossover” district, in which members of the majority help a “large enough” minority to elect its candidate of choice. When voters act in that way, “[i]t is difficult to see how the majority-bloc-voting requirement could be met”—and hence how § 2 liability could be established. So experience gave the State no reason to think that the VRA required it to ramp up District 1's BVAP.

Id. at 1470 (internal citations omitted).

Similarly, in *Abrams v. Johnson*, the Supreme Court held that *Gingles* 3 was not satisfied to compel the drawing of additional majority-minority districts where “the average percentage of whites voting for black candidates across Georgia ranged

from 22% to 38%” and “[b]lack and black-preferred candidates in Georgia ha[d] achieved many electoral victories in local and statewide elections and ha[d] received significant—occasionally overwhelming—support from both black and white voters within the [applicable] district.” 521 U.S. 74, 92 (1997) (internal citation omitted). Notably, the three black incumbents in the challenged districts had won reelection under the challenged plan, including a district with a Black VAP of 33%. *Id.* at 93.

Here, the General Assembly was operating in a similar position with HD 114, which has been an extraordinarily safe district for Black preferred candidates for the last four decades, despite being a majority-white district for at least 20 of those years, including the last 10 years. *NAACP Dkt.* 1 ¶¶ 2, 40, 69 (HD 114 has been “performing as an effective district affording Black voters an equal opportunity to elect their candidates of choice under the 2011 plan”). In fact, even though the 2020 Census showed that Black VAP of the current HD 114 dropped from 42% to 37%, Black candidates soundly won landslide victories with margins between 14% and 19% against white candidates in all three such elections over the last decade, including 2016 where the Black candidate was a new-comer, not the incumbent. *NAACP Dkt.* 1 at ¶¶ 43-47, 51; *NAACP Dkt.* 44 at 8.

As Dr. Lichtman’s report shows, the district has been safe for Black preferred candidates because a significant share of the white population joined with the Black population to support Black voters’ preferences in the area. *Lichtman Report*, at 156. Despite a decrease in Black VAP in HD 114 under SB 927, Dr. Lichtman’s analysis shows the district will continue to be an effective crossover district for African

American preferred candidates for years to come. *Id.* Further, Plaintiffs’ expert reports also confirm that Black candidates of choice win nearly all the elections analyzed in jurisdictions with CVAPs similar to or below the Black CVAP of HD 114. *Id.* As explained by Dr. Lichtman, “*plaintiffs have no reliable basis for claiming that any challenged district fails to provide Hispanic voters an equal opportunity to elect candidates. Moreover, the analysis of the one challenged black district, HD 114, by Dr. Collingwood shows that this district provides black voters more than an equal opportunity to elect candidates of their choice.*” *Id.* As such, Plaintiffs cannot prove the third *Gingles* prong, and the drawing of a majority-minority district was not required under the Voting Rights Act.

Moreover, although current HD 114 has functioned as a crossover district, Section 2 of the VRA does not require that the General Assembly to draw a majority-minority district instead of a crossover district absent a Section 2 violation. *Bartlett*, 556 U.S. at 14–15. Nor does Section 2 require the General Assembly to “greatly increase the chances” of a minority-preferred candidate winning, ensure that minority-preferred candidates win by greater margins, or guarantee that minority-preferred candidates run unopposed. *See De Grandy*, 512 U.S. at 1016-17. Section 2 of the VRA only requires that minority voters be given an *equal opportunity* to elect candidates of their choice. *Bartlett*, 556 U.S. at 25. HD 114, as drawn in the September Redistricting Plan, will continue to do just that.

c. Aurora

Only the *McConchie* Plaintiffs challenge District 50 in Aurora, which they claim is drawn in a way that disadvantages the Latino population. But *McConchie*

Plaintiffs do not establish *Gingles* 1, at least not by their own definition. As discussed above, *McConchie* Plaintiffs argue Latino CVAP is the standard to establish *Gingles* 1. But in their proposed District 50 in Aurora, the CVAP is only 46.8%. *McConchie* Dkt. 151-2. If CVAP is the benchmark (which, to be clear—it should not be), this fails to meet the *Bartlett* 50% threshold.

McConchie Plaintiffs do claim a 62% Latino VAP for their proposed District 50. But even if 50%+ Latino VAP is the benchmark, Plaintiffs have still failed to establish *Gingles* 3. Their experts provide no analysis of racial bloc voting of Aurora whatsoever. *See McConchie* Dkt. 151-2, 151-3. The only evidence related to racial bloc voting by any party is presented by Defendant’s expert, Dr. Lichtman, who clearly demonstrates Latino candidates can be successful in Aurora, even with low Latino populations. Lichtman Report, at 10. For example, as Dr. Lichtman notes, Sen. Karina Villa (Latino) won a Senate seat in the Aurora area SD 25 in 2020 despite the district having a 10.7% Latino CVAP. *Id.* Though it is Plaintiffs’ burden to establish the *Gingles* precondition, the Villa result compared to Plaintiffs’ silence regarding Aurora elections results demonstrates a failure to establish the racial bloc voting precondition.

2. Plaintiffs do not prove the totality of the circumstances demonstrate a dilution of Latino voting strength.

Even if a plaintiff establishes the three *Gingles* preconditions, they still “must demonstrate that, under the totality of the circumstances, the devices result in unequal access to the electoral process.” *Voinovich*, 507 U.S. at 155. In applying this standard, courts must consider a list of factors that were included in the Senate

Report on the 1982 amendments to the Voting Rights Act (the “Senate Factors”). *LULAC*, 548 U.S. at 426.

Dr. Lichtman’s report provides an exhaustive review of the Senate Factors. Lichtman Report, at 100. He starts by noting that Plaintiffs submitted “no report that systematically examines each factor. Rather, information and analyses relevant to individual factors are scattered throughout many different reports. The result is that plaintiffs have not presented proof of how the factors, taken together, impact the totality of circumstances regarding minority voting opportunities in Illinois.” *Id.* at 102-03.

McConchie Plaintiffs’ submission recognizes its lack of a comprehensive analysis of the Senate Factors by arguing the focus should rest primarily on just two factors. *McConchie* Dkt. 151 at 21. But the submission cites no proof from any expert report regarding either of these two factors. The *NAACP* Plaintiffs mention only five of the nine Senate Factors, omitting Factors 3, 4, 6, and 9. Only the *Contreras* Plaintiffs’ submission mentions all nine of the Senate Factors.

Dr. Lichtman has analyzed the nine Senate Factors as applied to Illinois and concludes that “the totality of circumstances on democratic access are highly favorable in Illinois, especially when compared to Republican controlled states.” Lichtman Report, at 152.

Dr. Lichtman analyzed the individual Senate Factors as follows.

- a. The history of voting-related discrimination in the State or political subdivision.

For this factor, Dr. Lichtman cites scholarship from Contreras' expert, Dr. Grumbach. Dr. Grumbach published an article in April 2021 titled "Laboratories of Democratic Backsliding." Lichtman Report, at 104. In the article, Dr. Grumbach created a "State Democracy Index" using "electoral and liberal democratic quality, such as average polling place wait times, same-day and automatic voter registration policies, and felon disenfranchisement" to measure democratic performance. He says that "electoral democracy" as gauged by his index is important "especially for minority populations who have been historically subjugated." *Id.*

After conducting an analysis, Dr. Grumbach found that from 2000 to 2018, "Illinois and Vermont move from the middle of the pack in 2000 to among the top democratic performers in 2018." *Id.* at 133. He found that by 2018 Illinois ranked third best among the states, trailing only Colorado and Washington, two states that use mail-on only elections. *Id.*

Dr. Lichtman cites numerous legislative enactments passed by the General Assembly since 2005 to open access to voting in Illinois. Additional scholarship confirms Dr. Grumbach's findings. Illinois scored 4th highest in the nation for access to registration and voting. Lichtman Report, at 108. These findings strongly favor Illinois on this analysis.

b. The extent to which voting in the elections of that State or political subdivision is racially polarized.

Dr. Lichtman opines that this factor favors Illinois. He notes the Plaintiffs' experts find racial polarization, but do not dig further to find that white bloc voting actually works to defeat minority candidates of choice. Lichtman Report, at 122 ("the

assessment of numerical differences in minority and white voting patterns is the beginning not the end of a racially polarized voting analysis that illuminates minority electoral opportunities in Illinois.”) In fact, he finds that in Illinois results show that minorities overwhelmingly support Democratic candidate for the legislature, but that a majority of white voters backed Democratic candidates with considerable consistency as well: 56.8% for State Senate in 2020, 56.3% for State House in 2020, 53.9% for State Senate in 2018, and 53.4% for State House in 2018. Lichtman Report, at 125-6. As discussed in the *Gingles* 3 analysis above, white voters in Illinois do not vote to bloc minority candidates of choice in a manner sufficient to violate Section 2.

- c. The extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting.

Dr. Lichtman finds this factor is not relevant to Illinois. “The state does not have unusually large election districts, majority vote requirements, or prohibitions against bullet voting. None apply to state legislative elections in Illinois. None of the expert reports submitted by plaintiffs analyze Senate Factor 3.” Lichtman Report, at 132-33.

- d. The exclusion of members of the minority group from candidate slating processes.

This factor, too, favors Illinois—at least as far the Democratic Party is concerned. Minorities are well represented in high elected office. As an example, of

the eight statewide elected officials,¹⁰ five are minorities (Senator Duckworth (Asian), Lt. Governor Stratton (Black), Attorney General Raoul (Black), Secretary White (Black), and Comptroller Mendoza (Latina)). The Speaker of the House is Black. In addition, Chicago Mayor Lightfoot and Treasurer Conyears-Ervin are Black, and City Clerk Vallencia is Latina. Currently 33 members of the 50 person Chicago City Council (66%) are Black or Latino. In Cook County, County Board President Preckwinkle, State's Attorney Fox, and County Clerk Yarbrough are Black. Circuit Court Clerk Martinez is Latina. Nine of 17 County Board Commissioners (53%) are Black or Latino. Clearly minorities are not being excluded from the slating process in the Democratic party with this type of minority representation in elected office. See Lichtman Report, at 133-35.

- e. The extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process.

On this factor Dr. Lichtman does not contest (nor do Defendants) that there is economic disparity between Blacks, Latinos, and whites. But that is true of almost anywhere in the United States. If that were all this factor was concerned with then it would apply uniformly to all 50 states. Instead, Plaintiffs have failed to provide evidence of something Illinois specific that establishes this factor. Lichtman Report, at 135-40.

¹⁰ This includes the state's two United States Senators and six state executive officers (Governor, Lt. Governor, Attorney General, Secretary of State, Comptroller, and Treasurer).

- f. The use of overt or subtle racial appeals in political campaigns.

Dr. Lichtman and Plaintiffs' experts have found some evidence of this factor, but all such appeal in political campaigns were made by Republican candidates. Lichtman Report, at 141-43. Such appeals should not be held against the Democratic Defendants and their colleagues who voted for the September Plan.

- g. The extent to which members of the minority group have been elected to public office in the jurisdiction.

This factor is largely covered by the discussion of factor 4 (whether minority members are excluded from slating processes) and favors Illinois.

- h. The extent to which "elected officials are unresponsive to the particularized needs of the members of the minority group."

This factor was not analyzed by any of Plaintiffs' experts, but Dr. Lichtman notes that Illinois is a national leader in voter access; it was one of the first states to expand Medicaid to extend coverage to an additional 600,000 residents, including low-income residents; Illinois has enacted laws to expand the availability of affordable housing; and enacted laws to help and protect immigrant residents. Lichtman Report, at 150-52.

- i. Whether the policy underlying the State's or political subdivision's use of the contested practice or structure is tenuous.

Dr. Lichtman finds the September Plan is not tenuous. He says "Soon after the federal government issued official U.S. Census population counts, the General Assembly amended earlier legislation to conform with the constitutional requirements for the apportionment of state legislative districts. There is no dispute

among experts that SB 927 created districts that are well within the deviations required for state legislative plans.” Lichtman Report, at 153.

Dr. Lichtman’s exhaustive analysis of the Senate Factors demonstrate that they favor Illinois. Even if this Court were to find the *Gingles* preconditions were met, Plaintiffs have failed to meet the second step. The Plaintiffs’ VRA Section 2 claims should be denied.

B. Plaintiffs Have Failed to Establish an Unconstitutional Racial Gerrymander in Senate District 11 and House Districts 21 and 114.

Plaintiffs’ burden on a racial gerrymandering claim is a steep one: they must prove that race was the predominant factor, above all other factors, in drawing the district in question. *Cooper*, 137 S. Ct. at 1464. In other words, Plaintiffs must prove that the legislature subordinated legitimate redistricting considerations, including “compactness, respect for political subdivisions, partisan advantage” among others to “racial considerations.” *Id.* at 1464-65. It is not enough for Plaintiffs to show that a legislature was “conscious” of voters’ race when making decisions. *Hunt*, 517 U.S. at 905. A racial gerrymandering claim similarly cannot be proved based on inferences or through the absence of evidence to the contrary. Rather, Plaintiffs must present “evidence of intent” that “disentangle[s]” any racial motivations from partisan or other legitimate motivation’s to prove that race was the predominant factor motivating the composition of each challenged district. *Cooper*, 137 S. Ct. at 1473 (citing *Hunt v. Cromartie*, 526 U.S. 541, 546 (1999)).

No Plaintiff group has seriously attempted to meet the well-established burden on their racial gerrymandering claims.

McConchie. The *McConchie* Plaintiffs abandon their racial gerrymandering claim entirely, as it is not mentioned in their statement. *See generally McConchie*, Dkt. 151.

NAACP. The NAACP Plaintiffs do not provide a single piece of direct evidence of racial intent by Defendants or anyone else in the General Assembly in drawing their challenged districts. *See* NAACP Dkt. 44 at 10-22, 24-30. Instead, *NAACP* Plaintiffs attempt to cobble together circumstantial evidence that race was the predominant factor in the September Plan’s drawing of HD 114. Plaintiffs’ examples, however, do little more than highlight that *partisanship* predominated the legislature’s drawing of HD 114. For instance, *NAACP* Plaintiffs highlight that “Senator Crowe . . . specifically told a staffer working on redistricting to make her district ‘more Democrat’” and that a “House staffer testified that he redrew the lines in Metro East ‘to enhance the Democratic performance of the 112th district.’” NAACP Dkt. 44 at 10. The plain language of this evidence demonstrates that the legislature considered partisan and political factors, and says nothing about race.

Plaintiffs’ accusation that Defendants “failed to maintain communities of interest,” *id.* at 24, similarly does nothing to advance Plaintiffs’ task of affirmatively proving racial intent. Indeed, even if Plaintiffs’ sharpest allegations were true—for instance that changes to HD 114 were “accomplished with the express understanding it would adversely impact HD 114,” *id.* at 13, or that “Defendants deliberately ignored

evidence of racially polarized voting in the Metro east area,” *id.* at 18-19—they would not get Plaintiffs where they need to be. Such allegations cannot prove that race, rather than partisanship, communities of interest, or other permissible redistricting goals, predominated the decisions on how HD 114 was drawn. This political priority is further confirmed by the current Representative of HD 114, Representative LaToya Greenwood, an African American female. As Representative Greenwood makes clear in her testimony, her intent was to maintain the Metro East region as a Democratic stronghold that continues to be influential in Springfield by maximizing Democratic performance between the districts. Greenwood Decl. at ¶¶ 16-18.

With absolutely nothing to rely on in the record, Plaintiffs ask the Court to find that the September Plan’s population changes as compared to 2011 are everything they need to prove racial gerrymandering.¹¹ *See* NAACP Dkt. 44 at 26 (“These race-based population movements are apparent just from the numbers.”); *id.* at 27 (arguing that the population shifts to HDs 112, 113, and 114 show that “the predominance of race in the scheme is readily obvious”). NAACP Plaintiffs argue that population shifts between HDs 112, 113, and 114 must have been made to decrease Black population in HD 114 and make HD 112 a “safe seat for a white Democratic incumbent.” *Id.* at 27.

¹¹ The September Plan’s changes decreased Democratic, Black population in HD 114—a district that has reliably elected a Black Democrat for decades, while increasing Democratic, Black population in nearby HD 112—a district that has become increasingly vulnerable to Republican control. *See id.* at 14-15 (describing the population changes and claimed VAP and CVAP changes).

First, these arguments ignore that both HD 114 and its neighbor, HD 113, were underpopulated as compared to the official 2020 Census data. Greenwood Decl. at ¶ 13. Plaintiffs do not dispute these population deviations required the legislature to make adjustments to these districts, or that this reason is non-racially motivated. *See* NAACP Dkt. 44 at 1, 2. *Second*, Plaintiffs omit that these districts, and those impacted by changes to these districts (HDs 111 and 112) were drawn to ensure their anchor cities remained in the districts: HD 111 contains all of Alton, HD 112 contains all of Edwardsville, HD 113 contains nearly all of Bellville, and HD 114 contain nearly all of East St. Louis. *See infra* Part V.D; *see also* Greenwood Decl. at ¶ 17; Contreras Dkt. 135-7 (August 2021 House Resolution 443) at 104-05 (explaining that HD 114 makes whole several townships and school districts that were previously split with another representative district, follows township lines, and keeps Scott Air Force Base entirely in the district). Maintaining a district’s “core” from the outgoing plan and keeping together cities or townships that share community concerns and identities, are legitimate redistricting considerations. These factors were important to the incumbent members of Metro East. *See* Greenwood Decl., at ¶ 17.

NAACP Plaintiffs do not even attempt to prove how race impacted, much less predominated, in these decisions.

Third and critically, NAACP Plaintiffs do not even attempt to meet their burden to “disentangle” any political motivations for these population changes from their alleged racial motivations. *Cooper*, 137 S. Ct. at 1473. Instead, Plaintiffs concede facts that make *partisanship* the most “readily obvious” explanation for the

changes. Specifically, Plaintiffs admit both that (i) the challenged district, HD 114, has been reliably electing a Democratic, Black candidate for decades, *see* NAACP, Dkt. 44 at 8, and (ii) HD 112, which gained Democratic, Black population was, under the 2011 Plan, “a highly competitive district in which candidates from both the Democratic and Republican Parties won between 2012 and 2020.” *Id.* at 12; *see also* Greenwood Decl. ¶ 14. The “holistic analysis” Plaintiffs encourage therefore supports that Defendants’ desire to further strengthen the Democratic base, regardless of what race comprises that population, was a primary motivating factor for changes to HD 114.

Even if it were a toss-up, which is not established on this record, the Supreme Court requires Plaintiffs to prove more than a toss-up between the two motivations because “racial identification is highly correlated with political affiliation.” *Cooper*, 137 S. Ct. at 1473. Requiring Plaintiffs to provide affirmative evidence of a racial intent is necessary to protect legislatures from attack anytime they permissibly draw districts along party lines that happen to coincide with racial communities. In light of this requirement, the Supreme Court has recognized that racial gerrymander claims face an even steeper uphill battle when the Defendants assert, as here, a legitimate partisanship defense. *Id.*; *see infra* Part V.D. NAACP Plaintiffs simply have not met this challenge.

Tellingly, Plaintiffs try to shift the burden to disprove racial intent to Defendants, though they do not, and could not, cite a case for that proposition. *See* NAACP Dkt. 44 at 29 (“Defendants cannot offer evidence that changes the conclusion

that the domino effect of moving Black voters into HD 112 and moving Black voters out of HD 114 unconstitutionally sorted those voters based on their race.”). It is well established in Supreme Court precedent that Plaintiffs have the burden to prove race was the predominant factor, and only then does the burden shift to Defendants to establish a compelling reason for the challenged districts. *Cooper*, 137 S. Ct. at 1464-65 (citing cases). Even so, the fact discovery record provides no evidence of a racial motive, and only affirms that legitimate redistricting principles drove changes to HD 114. *See, e.g.*, Greenwood Decl. at ¶¶ 16-32; Contreras Dkt. 135-7 (HR 443) at 104-05 (explaining that HD 114 “makes whole” several townships that were “previously split with another representative district”; its southern border now aligns with several townships lines; makes whole two previously split school districts; and keeps Scott Air Force Base entirely in the district); Yandell Decl. Ex. D (Maxson Dep.) at 204:5-11 (testifying that HD 112 incumbent Rep. Stuart asked for population shifts that would “keep[] the Edwardsville base of that district together” and otherwise “enhance the Democratic performance”); *id.* at 204:22-205:3 (testifying that HD 113 incumbent Rep. Hoffman expressed goals to “maintain the Belleville center of his district” and to be “politically in a position where he and Rep. Stuart would be at about an equal Democratic performance”); *id.* at 221:4-7 (Q: So are you telling me that you’re not aware of the racial demographics of the area in the southern and eastern parts of Metro East? A: “It’s not something that we were giving primary consideration to.”); Greenwood Decl., at ¶ 17 (“Race was not a factor in determining the Democratic performance of the districts.”).

Contreras. The *Contreras* Plaintiffs’ racial gerrymandering claim is limited to HD 21 and SD 11, where they complain that Defendants drew the September Plan “to protect those districts’ two non-Latino white incumbents.” *Contreras*, Dkt. 135 at 43.

Like the *NAACP* Plaintiffs, the *Contreras* Plaintiffs seek to turn the well-established burden for a racial gerrymandering claim on its head. *See id.* at 43 (“Defendants can offer no non-racial criteria that explain the configurations of these two districts in SB 927.”); *see also id.* at 50 (arguing that a deponent failed to provide “a limiting rationale” for population shifts between districts); *id.* at 51 (discussing evidence of non-racial reasons Defendants did not provide). But as discussed above, there can be no question that the burden is on Plaintiffs to prove that race was the “predominant” or “controlling” factor; only if and when they have proved such racial intent does the burden shift to Defendants to show changes were made in furtherance of a compelling state interest.¹² *Cooper*, 137 S.Ct. at 1463-64.

Contreras Plaintiffs do not provide any direct evidence that race was a factor in drawing the September Plan, much less the predominant factor—despite issuing multiple rounds of written discovery and document requests, and leading four fact witness depositions. They therefore seek to rely on circumstantial evidence to meet their burden. While *Contreras* Plaintiffs complain about several aspects of the 2021

¹² The fact that this action is in a remedial phase does not alleviate Plaintiffs of this burden, especially because Plaintiffs did not bring racial gerrymandering (or VRA) claims regarding the June Plan, which means the Court has yet to adjudicated these claims. Plaintiffs cannot skirt this well-established burden by holding claims in the merit phase and asserting them for the first time in the remedial phase.

redistricting process, none of their proffered evidence demonstrates that race predominated any decision, and is nonetheless insufficient under Supreme Court precedent to establish the same.

First, much of *Contreras* Plaintiffs’ arguments center on the fact that changes to HD 21 and SD 11 appear to have been made to protect the white incumbents in those districts. Of course, those districts’ incumbents are also Democrats. Swapping out the political label (Democrat) for the racial label (white) does not a racial gerrymandering claim make. As the Supreme Court has explained, “the fact that, as it happens, ... many of the voters being fought over [by the neighboring Democratic incumbents] were [members of the challenged minority], would not, in and of itself, convert a political gerrymander into a racial gerrymander, no matter how conscious redistricters were of the correlation between race and party affiliation.” *Bush v. Vera*, 517 U.S. 952, 967-68 (1996). To the extent *Contreras* Plaintiffs’ claim relies on Defendants’ alleged protection of Democratic incumbents, they have failed to satisfy their burden. *See id.* at 964 (“[A]voiding contests between incumbents [i]s a legitimate state goal.”); *see also White*, 412 U.S. at 797 (similar).

Second, *Contreras* Plaintiffs point to that the fact that the legislature had access to minority CVAP numbers in drafting the June Plan—though deposition testimony made clear CVAP was not considered for the September Plan. *Contreras*, Dkt. 135 at 45-47. In a stunning stretch, Plaintiffs argue that the fact that “Defendants *were aware* of the number of districts that were over 50% Latino CVAP . . . indicates that Defendants ‘*mechanically relied upon numerical percentages*’” to

redraw HD 21 and SD 11. *Id.* at 46-47 (citation omitted) (emphasis added). But being “aware” of CVAP numbers—which is all Plaintiffs have established—does not show that Defendants relied on those numbers, including for the specific districts Plaintiffs challenge as would be necessary for Plaintiffs’ claim, or that the racial component of those numbers was the predominant factor in any decision. In recognition that mere awareness of racial composition proves nothing, the Supreme Court has held that a plaintiff’s burden requires more than a showing that the “legislature [was] conscious of the voters’ races” when making redistricting decisions. *Hunt*, 517 U.S. at 905.

Third, *Contreras* Plaintiffs attack the “north-south” shape of the challenged districts as “bizarre,” arguing that a district’s shape “may be persuasive circumstantial evidence that race” predominated. *Contreras*, Dkt. 135 at 50. Evidence of an irregular shape, however, “loses much of its value when the State asserts partisanship as a defense, because a bizarre shape . . . can arise from a ‘political motivation’ as well as a racial one.” *Cooper*, 137 S. Ct. at 1473 (citing *Cromartie*, 526 U.S. at 547 n.3). “And crucially,” the Court continued, “political and racial reasons are capable of yielding similar oddities in a district’s boundaries.” *Id.*

Fourth, the argument that the legislature was unable to accommodate all requests from one Latino advocacy organization, Latino Policy Forum, *id.* at 49, ignores the reality that myriad competing interests will always prevent the

legislature from satisfying all constituencies.¹³ It also says nothing about whether race was, affirmatively, the predominant factor in how those districts *were* drawn.

Finally, like *NAACP* Plaintiffs, *Contreras* Plaintiffs resort to relying on changes to population numbers, arguing, for instance, that a Latino CVAP decrease in SD 11 “indicates that it was drawn with race of the predominant factor.” *Id.* at 48-49; *see also id.* at 47. Such an inferential jump is not justified where, as here, the record is replete with non-racial reasons for the changes Plaintiffs challenge. For instance, the two Resolutions explain that changes to HD 21 and SD 11 were necessitated in part by population shifts in neighboring districts, and were motivated by accommodating the Latino Policy Forum’s suggestions and maintaining communities of interest—including Latino communities, those related to Midway Airport, and those related to the transportation industry. *See Contreras Dkt. 135-7* at 18-19; *Contreras Dkt. 135-6* at 35-36.

Legislative staffers who participated in drawing the September Plan also testified to several of these facts. *See, e.g., Yandell Decl., Ex. D* (Maxson Dep.) at 130:1-4 (discussing a request from Rep. Guerrero-Cuellar to maintain Midway Airport in her district); *Contreras Dkt. 135* at 50-51 (citing staffer deposition testimony that incumbent Senator Villanueva wanted more progressive democrats in her district). Mr. Maxson further testified he never had a conversation about CVAP with the HD 21 incumbent, *Yandell Decl., Ex. D* at 181:10-13, and explicitly stated

¹³ The Latino Policy Forum also requested majority or influence Latino districts in Elgin and Waukegan, which the legislature accommodated in the September Plan. *Maxson Decl., Ex. A* (House Matrices).

that “while the [attorney’s] question implies that there was a decision made to draw the district [based on] Citizen Voting Age Population, that is not a conversation that I ever had,” *id.* at 129:12-20.

The testimony of the incumbent members of HD 21 and SD 11 who *Contreras* Plaintiffs deposed only further establishes that incumbents’ preferences and other non-racial motivating factors drove changes to those districts. For instance, incumbent Latina Senator Celina Villanueva explained the importance of the Little Village neighborhood to her constituents’ community, her “specific recommendations” to the legislature that Little Village be drawn in a single district to the extent possible (which was accommodated by the September Plan), and why keeping Little Village together is essential to “protect the political power of this neighborhood.” Villanueva Declaration ¶¶ 11-12, 17-21; *see also* Yandell Decl., Ex. B (Landek Dep.) at 65:7-8 (explaining that changes that moved portions of the Little Village neighborhood were “to help Senator Villanueva, that’s her home base, she had grown up there, that’s her community”); *see also id.*, Ex. C (Zalewski Dep.) at 121:13-23 (explaining that Rep. Hernandez’s requested more of Cicero shift into her district and his belief that this was because “her husband was the Cicero Township Democratic committeeman” and because she wished to avoid a certain political opponent who lived in neighboring Berwyn, which shifted out of her district in response).

In the face of this record, *Contreras* Plaintiffs’ utterly failed (and did not even attempt) to “disentangle” Defendants’ clear political motivations from any alleged

racial motivations. *Cooper*, 137 S. Ct. at 1473. Their racial gerrymandering claim therefore fails.

C. The September Plan Was Drawn to Satisfy Compelling State Interests.

Because all Plaintiffs fall far short of proving race predominated any redistricting decision, the burden never shifts to Defendants to show a compelling state interest in support of those decisions. However, multiple compelling state interests dictated the September Plan, including establishing equal population, maintaining the core of districts, and preserving or uniting communities of interest. That these interests predominating the legislature's redistricting process is established by S.B. 927, its companion resolutions, and the fact discovery record.

V. PLAINTIFFS' PROPOSED REMEDIAL PLANS DO NOT PROPOSE "REMEDIES"—THEY PROPOSE ILLEGAL RACIAL GERRYMANDERS AND ATTEMPTS TO POLITICALLY GERRYMANDER.

Collectively, Plaintiffs' allege constitutional or statutory defects with thirteen House districts (HDs 1, 2, 3, 4, 21, 22, 23, 24, 32, 39, 50, 77¹⁴, 114) and two Senate districts (SDs 2 and 11). *See McConchie* Dkt. 151 at 3-4; *Contreras* Dkt. 135 at 9-12.; NAACP Dkt. 44 at 6-8.¹⁵ Plaintiffs' remedial plans, by contrast, propose alterations to thirty-two House districts and twenty Senate districts in four regions: northwest Chicago (*McConchie* and *Contreras*), southwest Chicago (*McConchie* and *Contreras*),

¹⁴ *McConchie* Plaintiffs' Second Amended Complaint does not include HD 77, but they include it in their submission as a challenged district.

¹⁵ Support for the changes and ripple effects described in Section VI is provided in the Report of Allan Lichtman, attached hereto as Exhibit 1, and by the Declarations of Jonathon Maxson and Joseph Sadowski, attached hereto as Exhibits 2, 6.

Metro East (*McConchie* and *NAACP*), and Aurora (*McConchie*). See *McConchie* Dkt. 151 at 20-43; *Contreras* Dkt. 135 at 56.; *NAACP* Dkt. 44 at 38. Many of Plaintiffs proposed changes fail to consider the ripple effects on other districts, and therefore could necessitate changes to further districts if adopted. Though some Plaintiffs challenge the same districts in similar ways, none of Plaintiffs' proposed changes overlap. In other words, Plaintiffs have proposed three competing remedial plans, with no proposal for reconciling the differences.

As a threshold matter, there is no requirement that a legislature draw majority-minority districts in order to comply with the VRA; and as Plaintiffs admit, there is also no requirement that majority-minority districts be measured by CVAP versus VAP. See *Contreras* Dkt. 135 at 8-9 (citing cases). Yet, many of the Plaintiffs' changes propose to alter districts that under the September Plan are already majority minority VAP and CVAP. In some instances, Plaintiffs make changes that impact multiple districts to increase the CVAP by merely one or two percentage points without explaining how or why the proposed changes would perform more effectively than the September Plan.

Critically, nearly every boundary change Plaintiffs propose is made using race as the predominant factor, meaning many of Plaintiffs' changes are themselves textbook examples of unconstitutional gerrymandering.

A. Northwest Side of Chicago

The northwest side of Chicago consists of Senate Districts 2 (HDs 3 and 4), Senate District 10 (HDs 19 and 20), and Senate District 20 (HDs 39 and 40). Except HD 20, all of the current districts are represented by Democrats, five of the nine of

whom are Latino (two Senators and three Representatives). In the September Plan, these districts were drawn to equalize population, maintain the district cores, preserve various communities of interest, maximize Democratic voting power, and ensure no incumbents were paired. Dkt. 135-7, HR 443, at 25. The September Plan creates four House districts and two Senate districts that ensure Latinos, as well as other communities of interest, have equal opportunities to elect candidates of their choice.

When analyzing these districts, Dr. Lichtman stated, “Consistent with the actual elections results in HD 3 and 4, applying the standard technique of reconstituted election analysis demonstrates that these districts provide Hispanic voters more than an equal opportunity to elect candidates of their choice.” Lichtman Report, at 172. Further, he concluded that “[m]inorities comprise a higher 65.0% of the CVAP in District 4 because of a substantially higher Black CVAP percentage. These results indicate that minority candidates of choice of the predominant Hispanic citizens of voting age need not depend on white votes or can prevail with minimal white crossover voting.” *Id.* at 173.

1. *Contreras* Plaintiffs’ Remedial Plan

The *Contreras* Plaintiffs allege SD 2 and HDs 3, 4, and 39 violate Section 2 of the Voting Rights Act by diluting Latino voting strength because none of those districts have a majority Latino Citizen Voting Age Population (“CVAP”).

The *Contreras* remedial plan makes several adjustments to the September Plan, all on the basis of race. Indeed, *Contreras* Plaintiffs do not even attempt to articulate another reason for their proposed changes, other than to “cure” the

September Plan's alleged but unproven deficiencies. Overall, the Contreras plan creates one Latino majority CVAP Senate district and three Latino majority CVAP House districts in northwest Chicago by reconfiguring districts in the September Plan which are already majority-minority Latino based on VAP and CVAP, and sufficient to allow Latinos to elect candidates of their choice. Lichtman Report, at 168-96.

**Figure 1: Latino CVAP in the September Plan
and Contreras Plaintiffs' Proposal**

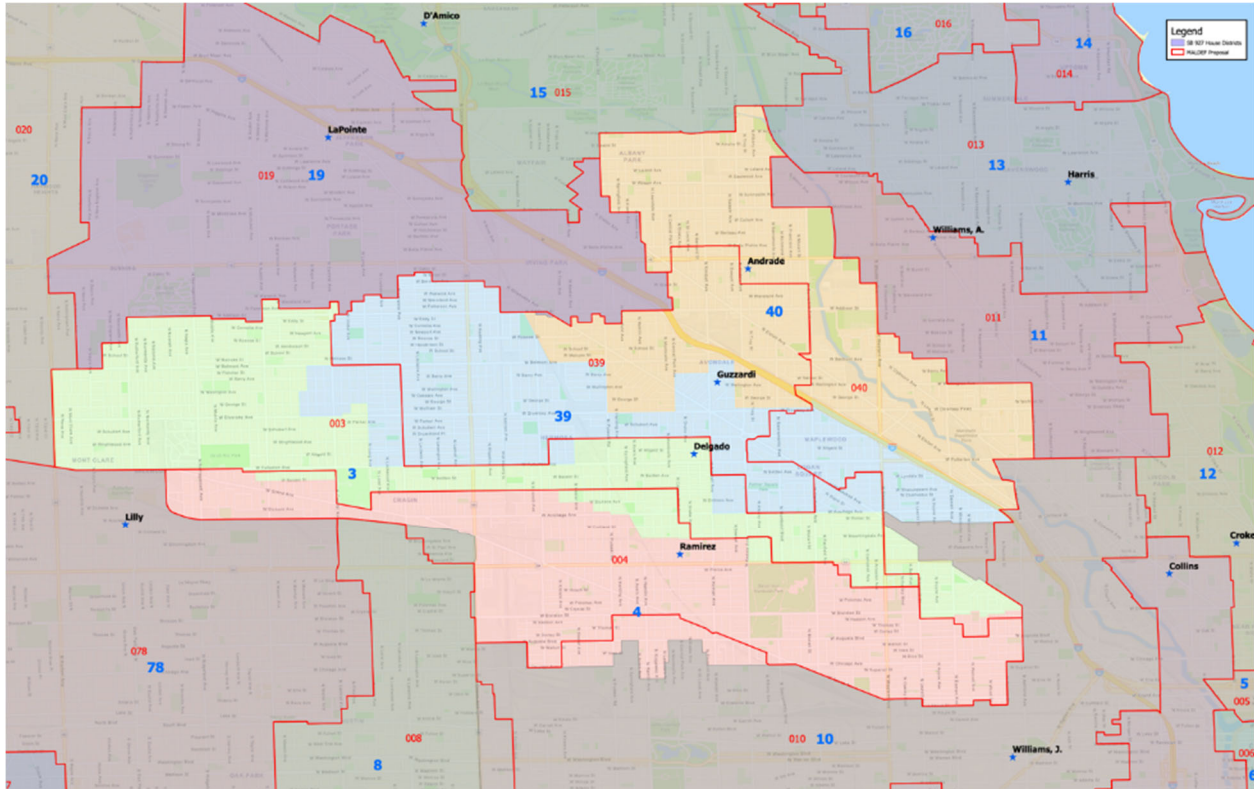
District	September Plan CVAP	<i>Contreras</i> Plan CVAP
HD 3	47.4%	51.5%
HD 4	45.2%	50.1%
HD 39	45.3%	50.5%
SD 2	46.6%	50.8%
SD 20	40.1%	36.01%

The changes are accomplished by eliminating the base of HD 40, a Latino crossover district with a Latino incumbent, and moving its Latino population into neighboring districts. The plan proposes to move Latino populations from HD 40 into HDs 3, 4, and 39, which has the effect of decreasing the Latino CVAP of HD 40 from 34.6% in the September Plan to 22.7%—which is below the threshold for an *influence* district, as defined by MALDEF. Lichtman Report, at 34. The *Contreras* plan also moves precincts with a mix of Latino and Black population from HD 4 to HD 10, white population from HD 10 into HD 40, and Black population from HD 10 into HD 8. These changes are made to increase the white population in HD 40.

The ripple effect is that the *Contreras* plan reduces the Latino influence in SD 20, a majority-minority district that has elected a Latino since 2003. In the September Plan SD 20 has a Latino CVAP of 40.1% and a total minority CVAP of

50.6%. With the proposed changes, the Latino CVAP drops to 36.1% and the total minority CVAP is 46.9%. Maxson Decl., Ex. A; Exhibit 6 (“Sadowski Decl.”), Ex. A.. The *Contreras* Plaintiffs provide no justification for these changes other than race, making the changes unconstitutional racial gerrymanders.

Figure 2: September Plan and *Contreras* Plaintiffs' Proposal¹⁶



2. *McConchie* Plaintiffs' Remedial Plan

The *McConchie* remedial plan challenges HDs 3, 4, 39, and 77¹⁷ as violating Section 2 of the Voting Rights Act. The *McConchie* plan purports to fix a racial

¹⁶ The underlying colors represent the September Plan’s district boundaries, and the red lines represent the *Contreras* Plan’s district boundaries.

¹⁷ *McConchie* Plaintiffs did not challenge HD 77 in their Second Amended Complaint, however it is addressed here given it is in their statement, despite not identifying specific objections to HD 77.

gerrymander on the northwest side by itself racially gerrymandering Latinos in and out of districts and politically gerrymandering throughout the region. Like *Contreras* Plaintiffs, *McConchie* Plaintiffs laud their ability to “create” four majority Latino CVAP districts, but ignore that, under the September Plan, all four districts are majority minority VAP and have Latino CVAPs sufficient to allow them to elect the candidate of their choice.

Figure 3: Latino CVAP in the September Plan and *McConchie* Plaintiffs’ Proposal

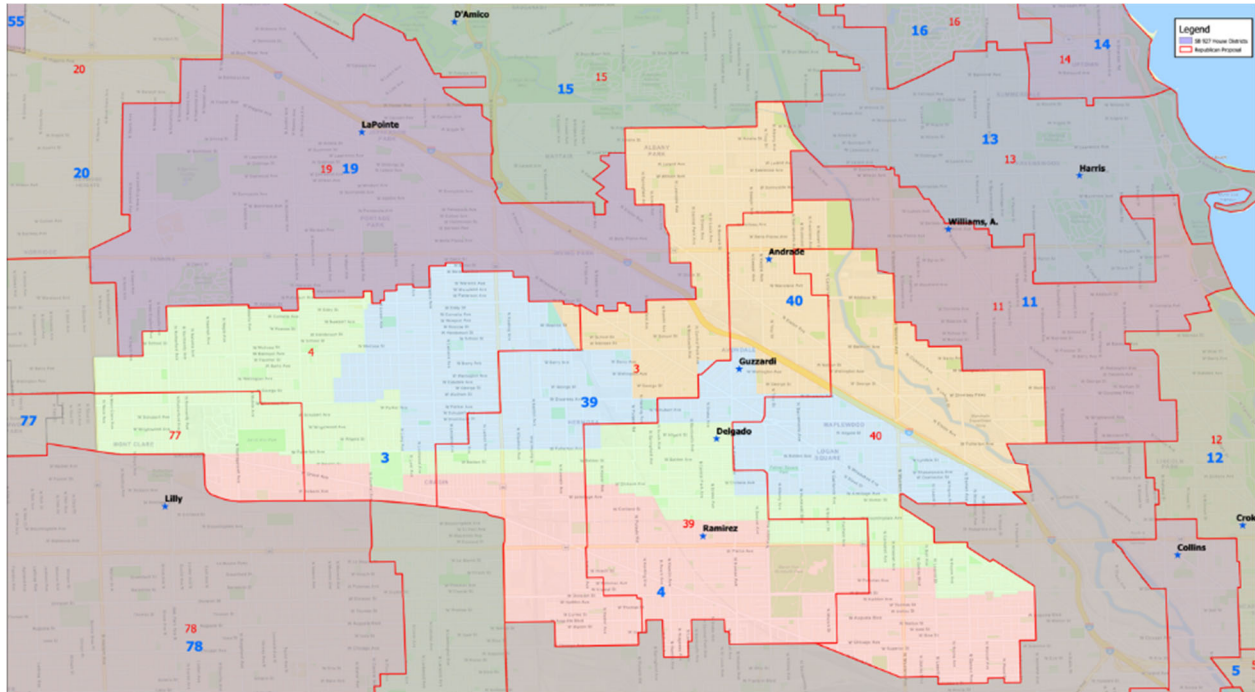
District	September Plan CVAP	<i>McConchie</i> Plan CVAP
HD 3	47.4%	50.8%
HD 4	45.2%	51.6%
HD 39	45.6%	50.3%
HD 77	43.6%	51.4%
SD 2	46.3%	51.0%
SD 20	40.1%	33.0%

The suggested *McConchie* changes are achieved by eviscerating the current Latino-majority districts and creating a ripple effect that spans all the way to a district in DuPage County. The Plan reconfigures the current districts which are arranged in an east to west format, which these districts have followed since at least 2001, to a north to south format. These changes create entirely new districts with no regard for the core of the current districts or communities of interest—or incumbents—that reside therein.

First, the *McConchie* plan would redistribute Latino population from HD 40, currently a Latino cross over district with a Latino incumbent, among HDs 3, 4, and 39 and replaces the HD 40 population with white population. These changes place *four* Democratic incumbents in one House district, including *three* Latino incumbents

(two of which are members of House leadership), and two Democratic Latino incumbent Senators in the same Senate District (including the Chair of the Senate Redistricting Committee).

Figure 4: Comparison of House Districts in the September Plan and McConchie Plan for Northwest Chicago¹⁸

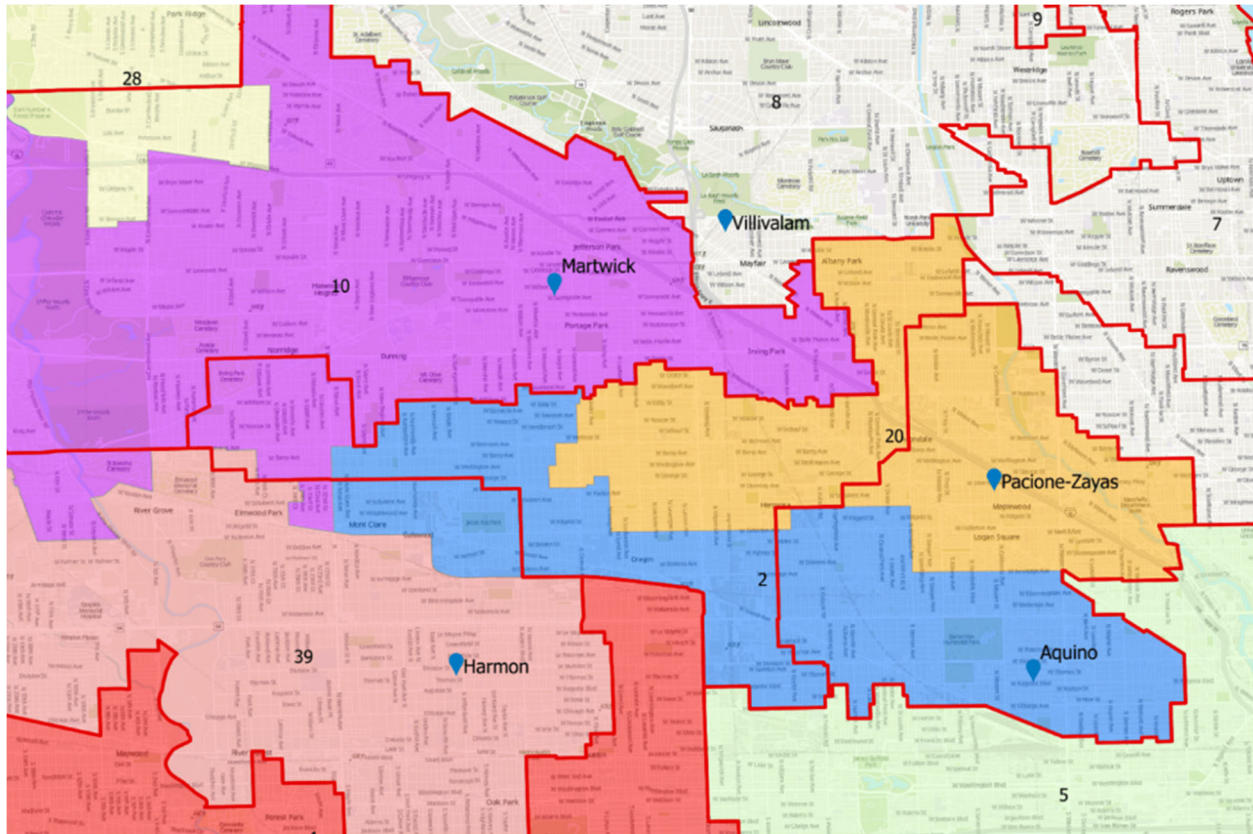


These changes to the House districts impact the corresponding Senate districts. The core of two majority-minority VAP districts that have Latino Senators would be reconfigured, nearly split in half, and the VAP and CVAP altered. Dr. Lichtman said it best: ‘Plaintiffs highlight the importance of electing minorities to state legislative positions. But neither the plaintiffs' briefs nor any expert report

¹⁸ The underlying colors represent the September Plan’s district boundaries, and the red lines represent the *McConchie* plan’s district boundaries.

reveals how the *McConchie* Plaintiffs’ reorganization of northern districts devastates the Hispanic incumbents in the region.” Lichtman Report, at 177.

Figure 5: Comparison of Senate Districts in the September Plan and *McConchie* Plan for Northwest Chicago



Second, by reconfiguring several districts to run north to south, rather than east to west, *McConchie* Plaintiffs bring HD 77, a suburban district, into Chicago. While they claim the result of this change is to increase the Latino CVAP of that district, they omit that the district is already majority-minority VAP in the September Plan (52.73%) and already has a Latino CVAP sufficient to elect a Latino candidate of choice (43.6%). Lichtman Report, at 181. Plus, the proposed changes map out the Democratic incumbent. In other words, the *McConchie* plan would improperly “pack” Latinos into HD 77 to “remedy” a “violation” that does not exist

and importantly, was not alleged in their second amended complaint. *See McConchie* Dkt. 116 at 6-7.

Third, the *McConchie* Plan moves population in and out of neighboring districts to benefit the Republican incumbent in HD 20 and give the Republicans a better opportunity to win HD 48 and HD 56. Specifically, it would move diverse Democratic-friendly precincts in Chicago out of HD 20 and into HD 3, and white Republican precincts out of HD 55 into HD 20. After losing white precincts, HD 55 received more diverse Democratic precincts from HD 56, and HD 56 received more Republican-leaning precincts from HD 77. These changes make HD 56 a swing district favoring Republicans.

In the end, the *McConchie* Plan moves population on the basis of race and illegally packs Latinos into fewer districts, thereby decreasing Latinos' opportunities to elect the candidates of their choice. The plan is a transparent attempt to maximize opportunities for Republicans to pick up seats in the General Assembly.

B. Southwest Side of Chicago

Between 2010 and 2020, the southwest side of Chicago saw population declines, necessitating adjustments in the September Plan to achieve equal population and balance the many communities of interest. Contreras Dkt. 135-7, HR 443, at 15. This required the General Assembly to make many difficult decisions. There are many different political ideologies in southwest Chicago, and the racial and ethnic groups that predominate the area are not homogenous. *See* Ex. 4 (“Villanueva Decl.”), at ¶ 10. This reality was front and center during the redistricting process, especially when making decisions regarding the communities known as Little Village

and Chinatown. Little Village, a neighborhood in the South Lawndale area, is the economic, ethnic, and political base for the Mexican community on the southwest side. *Id.* at 9. In 2011, the General Assembly was asked by several interest groups, including MALDEF, to honor this community of interest and place Little Village in its own single district. *See* Hr’g Tr. of Illinois Senate Redistricting Committee (March 28, 2011) at 63, <https://www.ilga.gov/senate/Committees/Redistricting/Final%20Approved%20Transcript%20for%20Senate%20Redistricting%20Hearing%203.28.11.pdf>; Hr’g Tr. of Illinois Senate Redistricting Committee (April 30, 2011) at 45, <https://www.ilga.gov/senate/Committees/Redistricting/Final%20Revised%20Transcript%20for%20Senate%20Redistricting%20Hearing%204.30.11%20Chicago%20West%20Side.pdf>. That request was not honored, in part to allow for the creation of an Asian American influence district in the adjacent areas of Chinatown. The Chinatown community has been expanding for decades with Chinese American population growing in the neighborhoods of Bridgeport, McKinley Park, Brighton Park, and Archer Heights along and near Archer Avenue which connects the more commercial center of Chinatown with the more residential communities to the southwest. *See* Ex. 5 (“Mah Decl.”), at ¶ 21.

In 2021, the legislature resolved to recognize the importance of both communities of interest by placing Little Village in one Senate district. As explained by Senator Villanueva, she recommended placing Little Village in one district, and this recommendation was motivated by her desire to maintain the political, cultural

and ethnic core of the Little Village community, and to not dilute its ability to elect the candidate of its choice. *See Villanueva Decl.*, at ¶¶ 18, 20. This decision also furthered the General Assembly's goal to maintain the core of 2011 districts as much as possible. *Contreras Dkt. 135-7, HR 443*, at 16. To a similar end, the General Assembly resolved to maintain Chinatown in one district with portions of current 11th Ward and other neighborhoods that share common interests. *See Mah Decl.*, at ¶¶ 15, 17, 19. While the General Assembly considered alternatives, it chose to prioritize maintaining the core of HD 2 created in 2011 (Chinatown) and locate Little Village in one Senate district with the main corridor in one House district. *Contreras Dkt. 135-7, HR 443*, at 21-23. As a result, the Senate districts and the nested House districts retain their political identities. The General Assembly, understanding the different political factions in this area, worked to carefully balance the interest of progressive and moderate factions in separate Senate and House Districts to reduce political infighting among Latino groups. *Villanueva Decl.* at ¶¶ 19-21.

The decisions to maintain Little Village in one Senate District and keep the greater Chinatown community paired with portions of the current 11th Ward were pivotal decisions that impacted all the other southwest Chicago districts. The House of Representatives acknowledged this when adopting HR 443 by a super-majority vote, which was supported by every Asian American, Black, and Latino legislator:

Some participants at public hearings of the House Redistricting Committee suggested changes to the region and the possibility of creating a new majority-Hispanic district. While the General Assembly cannot, and should not, create a district solely for race-based reasons, the request was considered. Any such configuration would have a major impact on neighboring districts

and create a ripple effect throughout the redistricting plan. The most probable proposal submitted to create a new district did so by fracturing Chicago's Little Village neighborhood. That change would have a dramatic effect on the redistricting plan as a whole and require substantial changes to other districts. As a result, other communities of interest would need to be fractured, and many of the redistricting principles used when creating the plan would have to be wholly ignored or altered to the detriment of other principles taken into consideration for the entire redistricting plan. The request to fracture Little Village was taken into consideration, as well as the request to keep Little Village intact, and located in one district, to maximize the voting power and this community of interest. In reviewing the possibilities, it was also clear that in order to achieve population targets, a reconfigured district extending north would cut into multiple districts, including several that provide representation opportunities for African-American communities, and result in the pairing of two or more incumbents. These adjustments would also likely cause disruption to the south, forcing these districts further south and fracturing other communities of interest.

Contreras Dkt. 135-7, HR 443, at 15-16.

Figure 6: Little Village in the September Plan

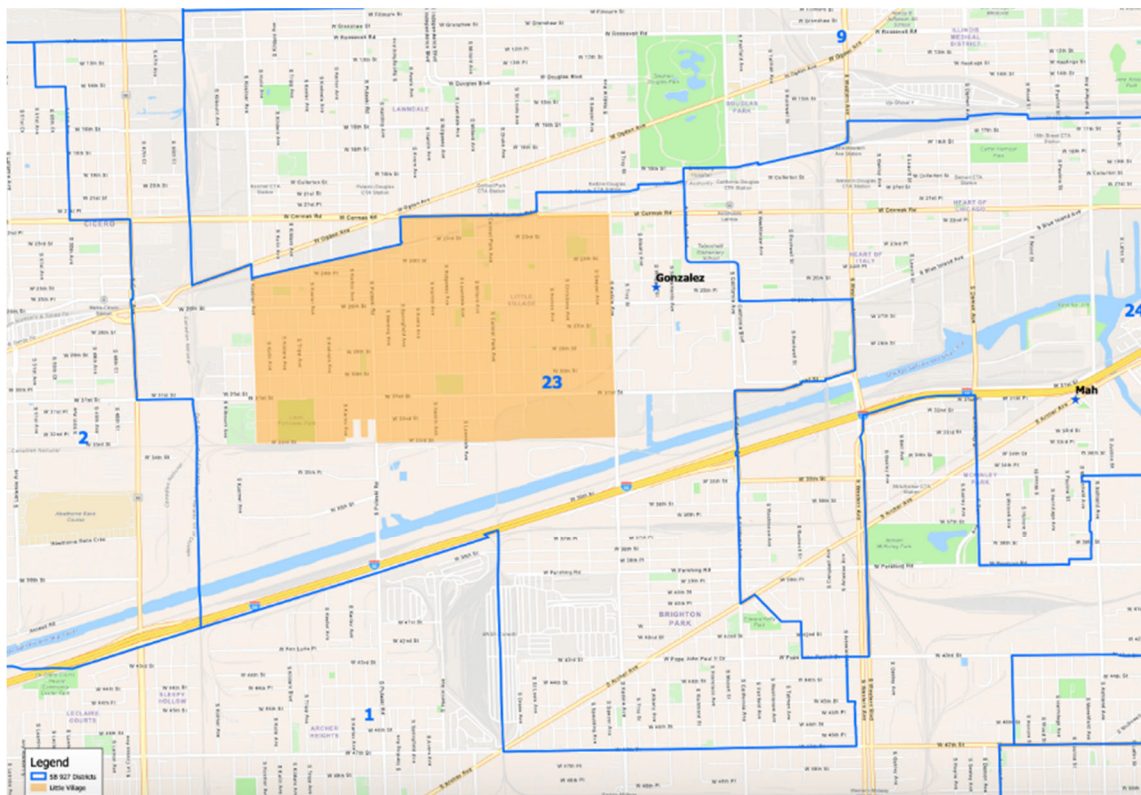
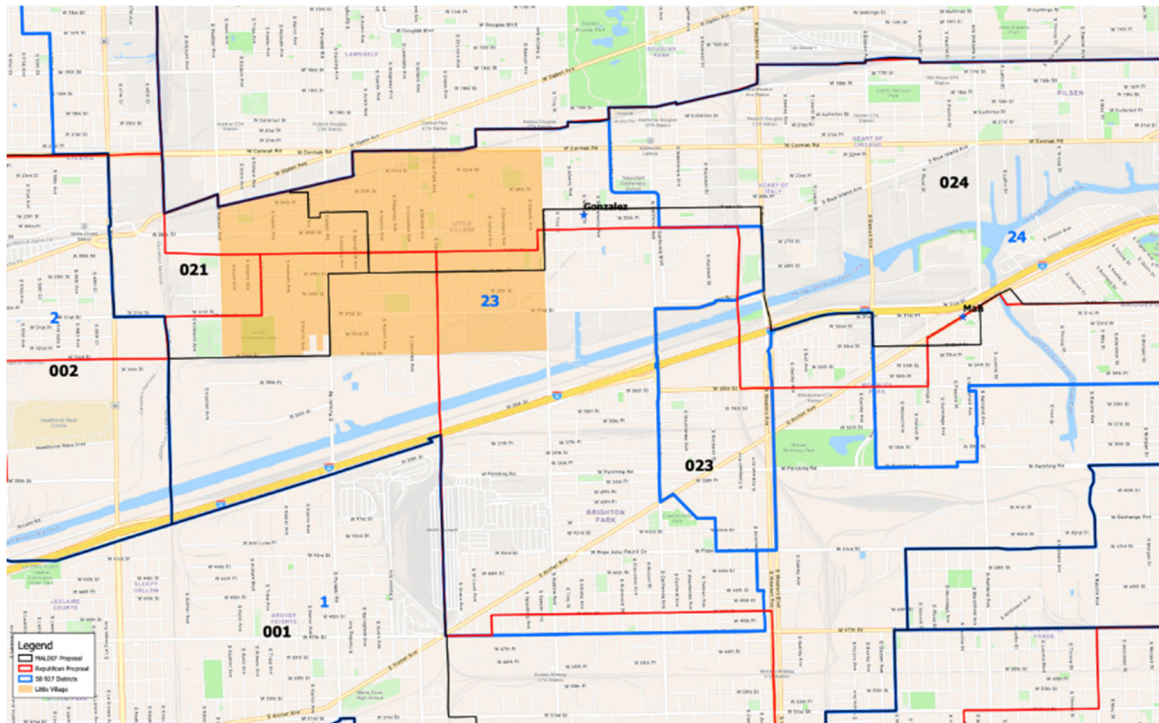
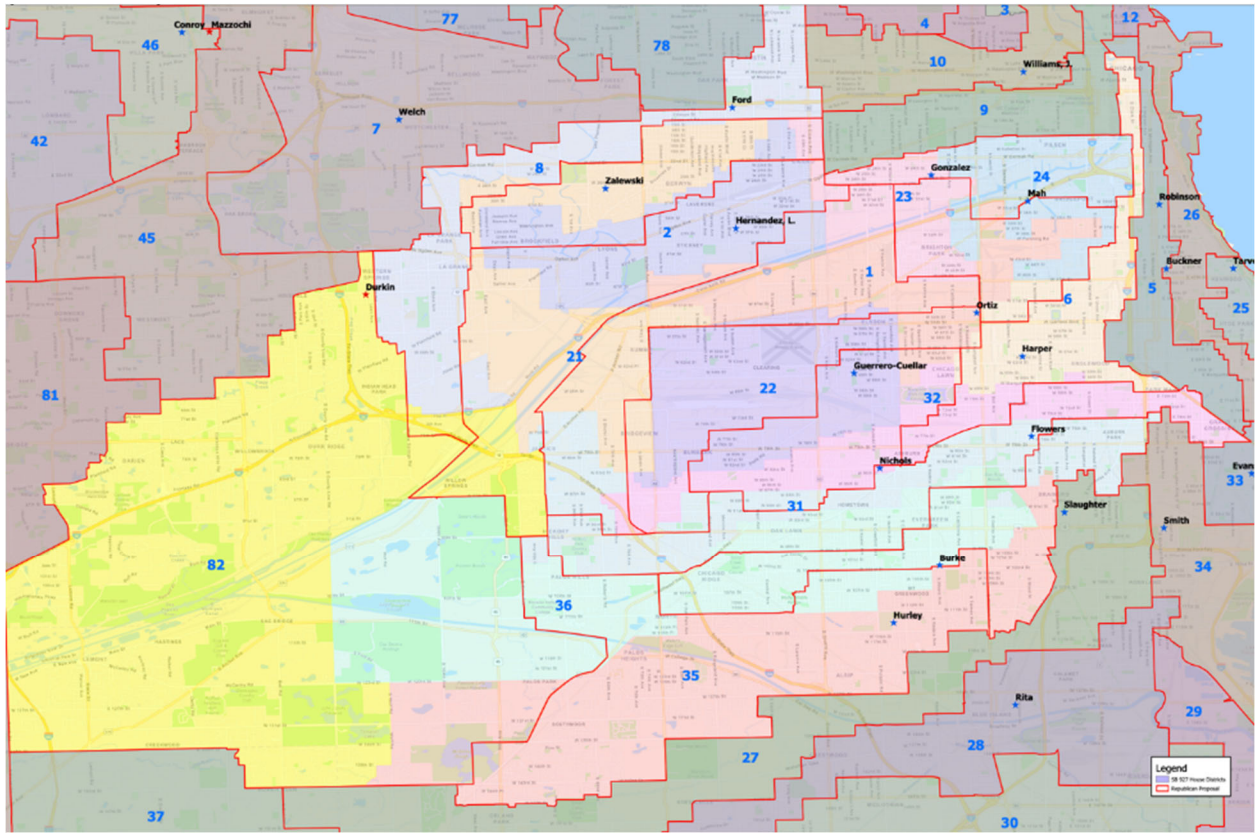


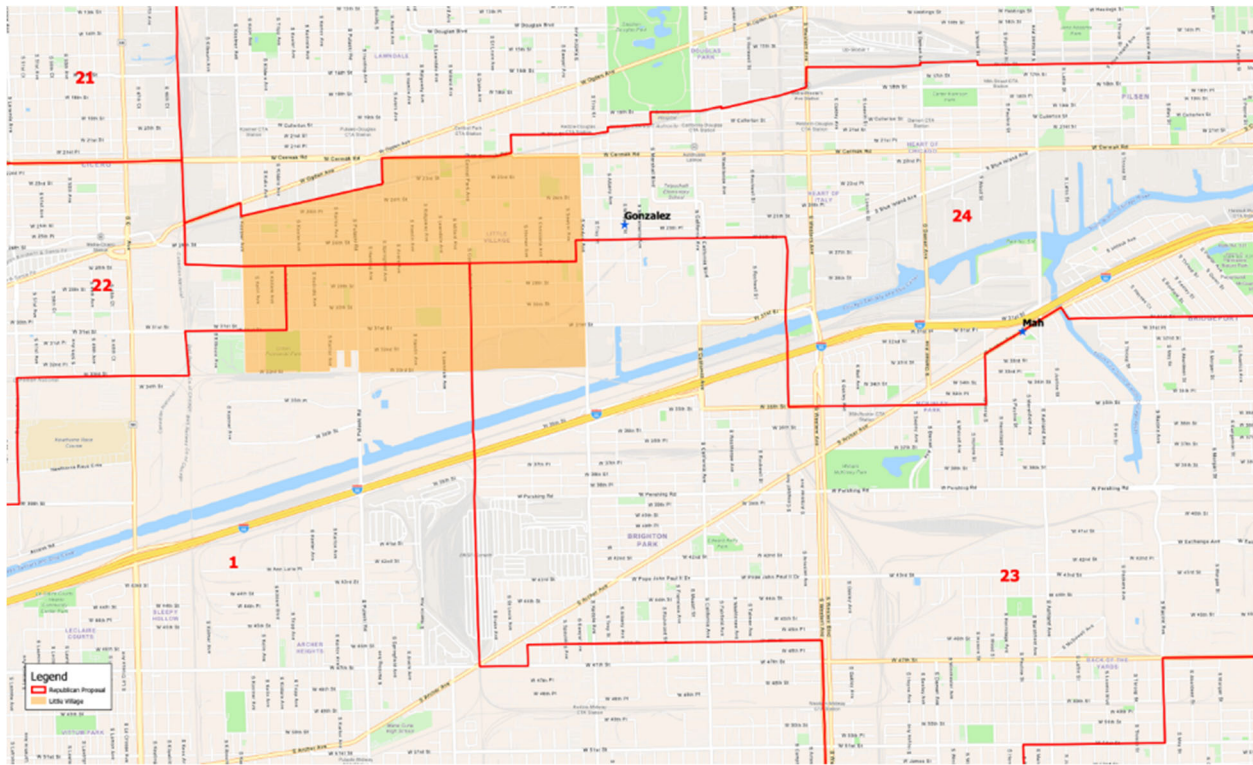
Figure 7: Little Village in Plaintiffs' Proposals

1. *McConchie* Plaintiffs' Remedial Plan

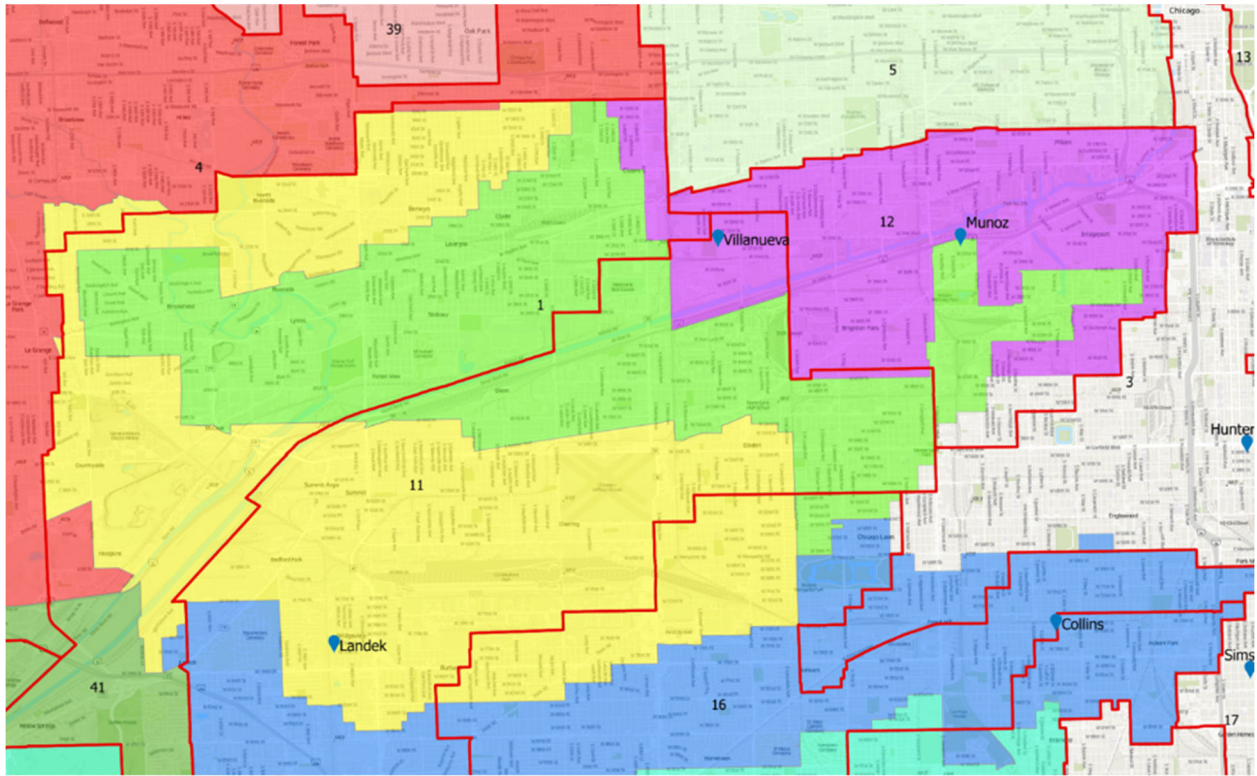
The *McConchie* Plaintiffs allege voter dilution claims in seven House districts on the southwest side of Chicago (HDs 1, 2, 21, 22, 23, 24, 32), and their remedial plan alters twelve districts from the southwest side to DuPage County (HDs 1, 2, 6, 8, 22, 23, 24, 31, 32, 35, 36, 82). The plan swaps populations between districts solely based on race until the domino effect reaches the suburban district of Plaintiff Republican Leader Durkin. The plan gives no deference to the decisions made by the legislature, and blindly dismantles communities of interest.

Figure 8: Southwest Side Changes in *McConchie* Plan

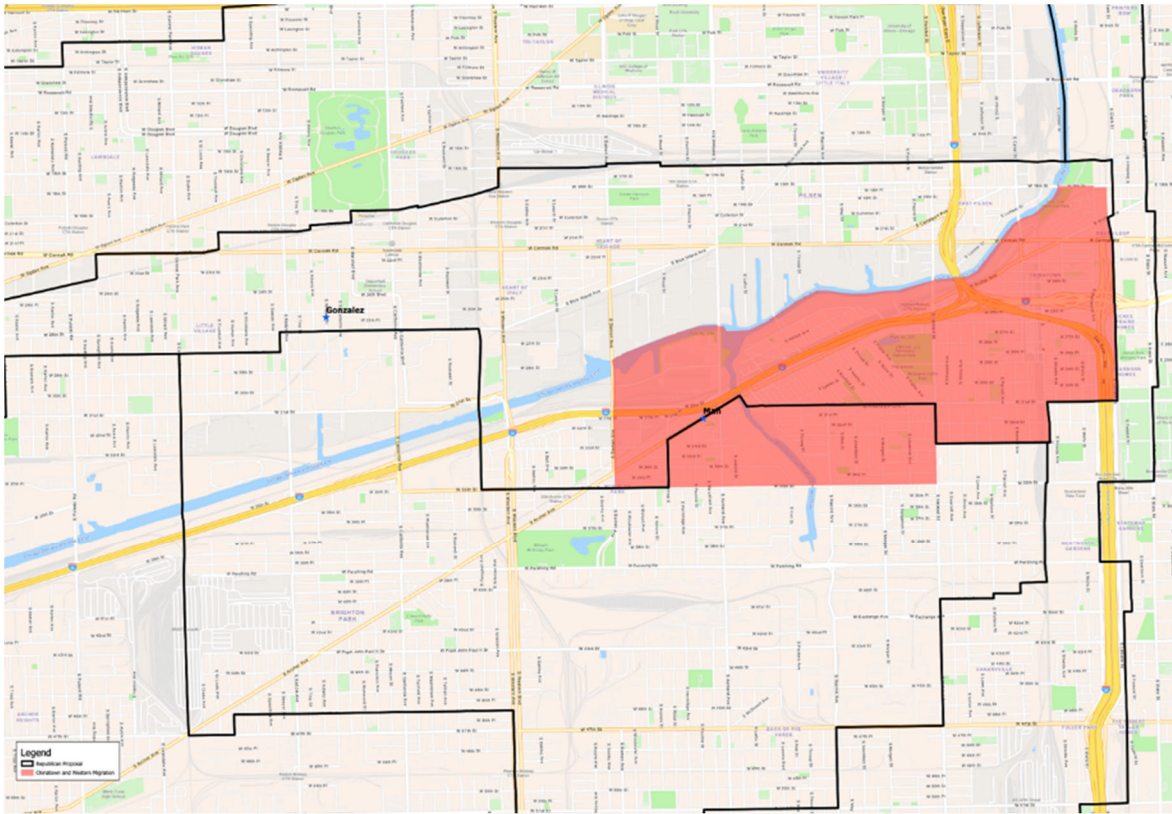
Little Village. The proposal would fracture Little Village into four House districts (HDs 1, 22, 23, and 24) and three Senate districts (SDs 1, 11, and 12). Compare Fig. 6 with Fig 7. This result alone is an unacceptable dismantling of a well-established community of interest, and one for which *McConchie* Plaintiffs provide no legitimate justification. The result is a new seat created out of portions of HDs 1, 2, 21, 22, and 23.

Figure 9: Detail of Little Village in McConchie Plan

The plan would also pair an incumbent Latina Senator from Little Village in the same Senate District as a white incumbent Senator, such that they share a newly created district. Politically, the new district contains a substantial population of the white incumbent's current or former constituencies.

Figure 10: Proposed Incumbent Pairing in *McConchie* Plan

Chinatown. In the September Plan, the General Assembly chose to keep the core of the greater Chinatown community together, continuing to keep the Chinatown neighborhood connected to areas in Bridgeport, McKinley Park, and Brighton Park—all areas that have experienced significant increases in Chinese American population growth. Mah Decl., at ¶¶ 17, 21. The *McConchie* plan splits these two areas, pairing portions of Chinatown with divided portions of the dense populated Little Village—thereby diluting the ability of both communities of interest to elect the candidate of their choice and pitting them against one another. *Id.* at 21. In a further affront to the Chinatown community, the *McConchie* plan would draw the Asian-American incumbent out the district.

Figure 11: Chinatown in *McConchie* Plan

Midway Airport Community of Interest. The General Assembly chose to keep the communities surrounding Midway with the airport in one district, at the request of members and several advocates that provided testimony at public hearings. House Redistricting Comm. Tr., (Apr. 3, 2021) Pgs. 19-21, 33-34, 42-44; available at: <https://ilga.gov/house/committees/Redistricting/102RedistrictingTranscripts/HRED/20210403BC/Saturday%20April%2023%20-%20Berwyn%20Cicero.pdf>; House Redistricting Comm. Tr., (May 25, 2021) Pgs. 178-179; available at: <https://ilga.gov/house/committees/Redistricting/102RedistrictingTranscripts/HRED/20210525SP/Tuesday%20May%2025%20Hearing.pdf>. The *McConchie* plan would dismantle these carefully structured changes, and break these areas into three

separate districts, diluting the ability of those in this community of interest to advocate for shared concerns, such as noise abatement and traffic control.

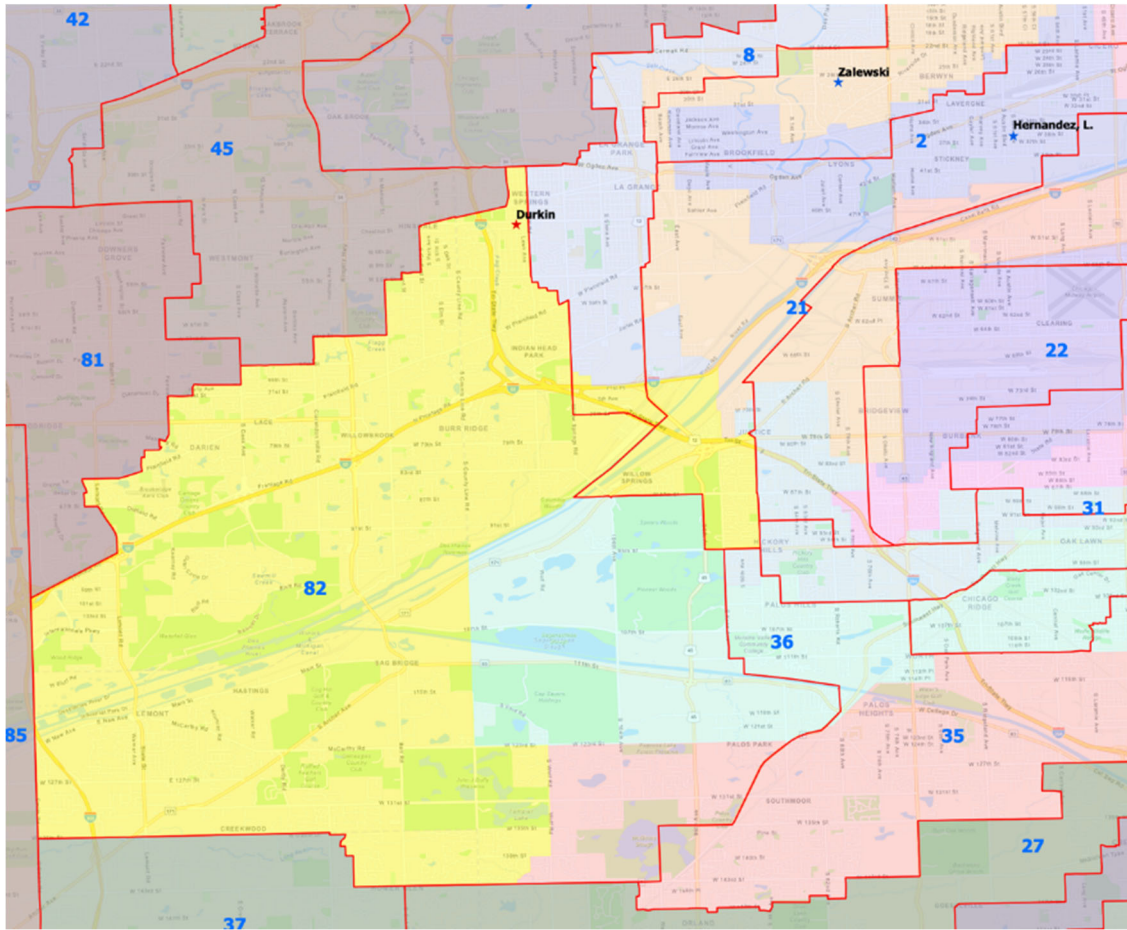
The *McConchie* plan would also impact the minority incumbents representing this area, and in turn alter the constituent services received in these districts. First, the plan would draw the Latina incumbent out of her current HD 22, which represents the Midway area, and into a newly configured HD 32, which the plan created with portions of three current Chicago wards. Second, the plan would draw HD 32's current Black incumbent out of his district and into HD 31, pairing him with another Black incumbent, the House Deputy Majority Leader and the longest serving member of the House.

To achieve these effects, the *McConchie* plan moves areas highly concentrated with Black population in HD 32 into HD 31, and Black population from the eastern portion of HD 32 into HD 36. These changes also directly impact SD 16 by reducing its Black and Latino VAP. The current incumbent for SD 16 is Black female who has served the district since its creation in 2001 and is currently a member of Senate leadership; the *McConchie* plan places her home at the extreme edge of SD 16.

Other Changes. The *McConchie* plan makes additional, unnecessary changes to districts not subject to challenge that result in packing minorities and Democrats in several districts. HDs 35 and 36 both currently represented by Democrats. The plan would swap precincts between the two districts such that HD 35 becomes the most Republican district in Chicago.

The necessary packing of Democrats into HD 36 to achieve this result squishes two communities of interest with conflicting ideologies on policing in Chicago into one district. Specifically, the *McConchie* plan's HD 36 would be home to much of Chicago's 19th Ward, which is well known as an area heavily populated with Chicago police officers from all ethnic groups, and heavily populated Black precincts moved from HD 31. Though the changes result in the creation of a district with Black VAP of 51%, the pairing of these two distinct communities could result in the Black population being represented by someone with very different views on matters such as of criminal justice reform and policing should the Black population not vote entirely as a bloc. Maxson Decl., at ¶ 18.

Plaintiff Republican Leader Durkin's District. Finally, the *McConchie* plan's attempt to proclaim themselves the champions of minority interests are compromised by engaging in a brazen racial gerrymander to create a whiter district for named Plaintiff Republican Leader Jim Durkin. In HD 82, the plan swaps Black and white populations between three districts. White precincts in Proviso Township and Lyons Township are moved into HD 8, a district with a Black incumbent, to reduce the Black VAP of HD 8 from 49.51% to 48.29%. Maxson Decl., Ex. A. Several diverse precincts in Lyons Township are moved from HD 82 into HD 21, and the population loss in HD 82 is replaced by adding white precincts from Palos Township. The changes to Plaintiff Republican Leader Durkin's district are blatant racial gerrymanders that have the result of creating a whiter district, and therefore more politically stable, district for Rep. Durkin.

Figure 12: Changes to HD 83 in *McConchie* Plan

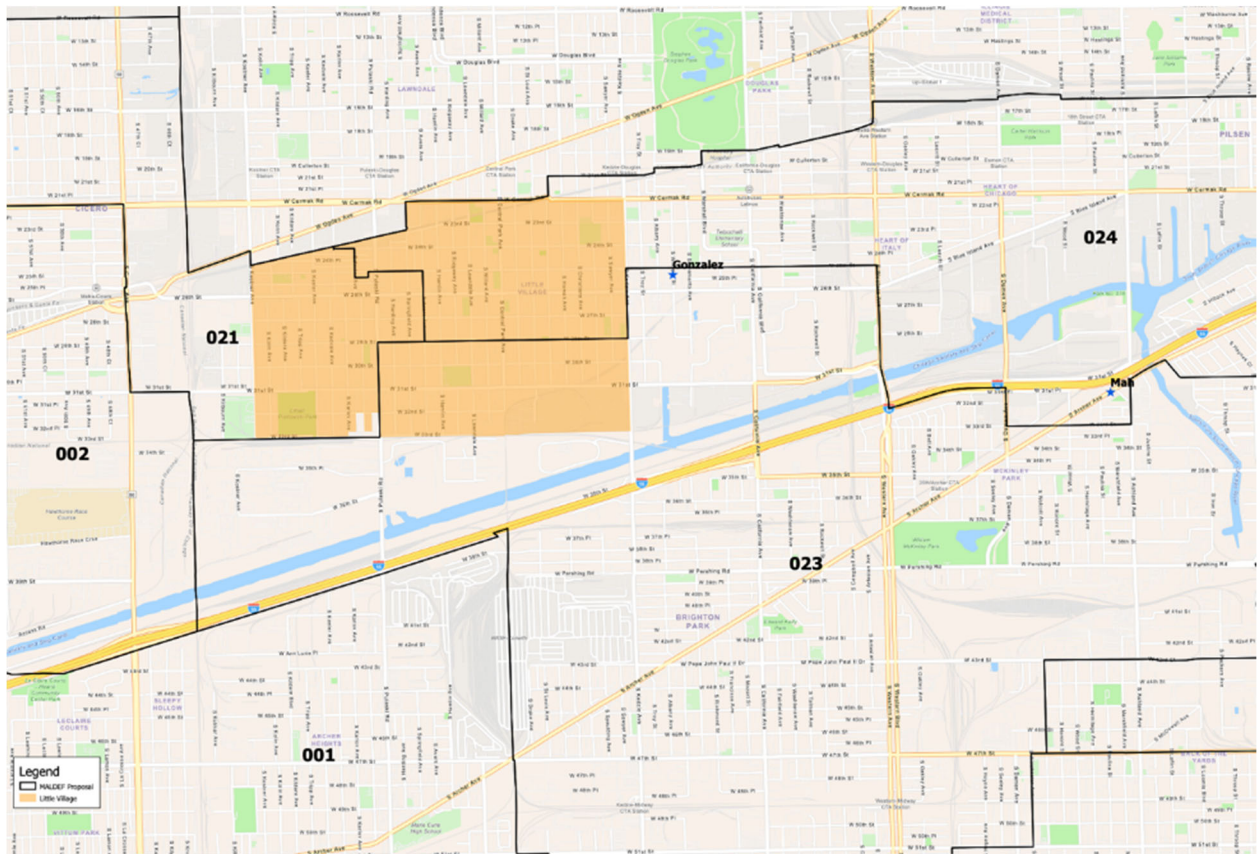
2. *Contreras* Plaintiffs' Remedial Plan

The *Contreras* Plaintiffs allege voter dilution and racial gerrymandering claims for Senate District 11 and HDs 21 and 24 in the south side of Chicago. Their remedial plan redraws five HDs (HD 1, 2, 21, 23, and 24) to create six Latino majority districts (HDs 1, 2, 21, 22, 23, and 24). Similar to the northwest side, these changes are not necessary to provide Latino voters with the opportunity to elect the candidate of their choice: four of these districts have a majority minority VAP in the September Plan (HDs 1, 2, 22, and 23) and the other two are Latino opportunity districts with a Latino CVAP over 40% (HDs 21 and 24).

The Contreras plan's proposed changes appear to be entirely race-based and pay no deference to various communities of interest or priorities set by the General Assembly.

Little Village and Chinatown Communities of Interest. Similar to the McConchie plan, the *Contreras* plan splits Little Village between three House districts (HDs 21, 23, and 24) and two Senate Districts (SDs 11 and 12), and removes a Latino incumbent from the core of his current district. The Plan fractures the political base for progressive Latinos in Little Village and alters the delicate balance between the moderate and conservative factions in the area. Villanueva Decl., at ¶ 27.

The Plan also splits the greater Chinatown community between two House Districts (HDs 23 and 24) while pairing the greater Chinatown community and a portion of Little Village in HD 24, which pits two significant political bases against each other and reduces the Asian American influence in the district. Mah Decl., at ¶ 21. Historically, the 11th Ward which contains much of the greater Chinatown community and the Little Village neighborhood (Wards 12 and 22) often support different candidates, and it's highly unlikely that these communities would coalesce around one candidate of choice. *Id.* This map creates a situation where candidates would be encouraged to cater to their own political bases at the expense of districtwide representation.

Figure 13: Little Village in the *Contreras* Plan

Berwyn and Cicero Townships. Plaintiffs' allege and argue that the September Plan's changes in Latino population between HD 1 and HD 21 cannot be explained by anything but a racial gerrymander. *See, e.g., Contreras Dkt. 98 at ¶ 97.* While sworn deposition and declaration testimony dispel those claims, *see, e.g. Yandell Decl., Ex. C (Zalewski Dep. Tr.) at 56:21-60:1; 70:16-72:23.* Contreras Plaintiffs provide no justification for the population swapping in their other than race. The *Contreras* plan moves Latino population between Berwyn and Cicero and in and out of HD 2 and HD 21, and moves white precincts out of HD 21 and into HD 1—all necessary to achieve a higher Latino CVAP.

C. Aurora

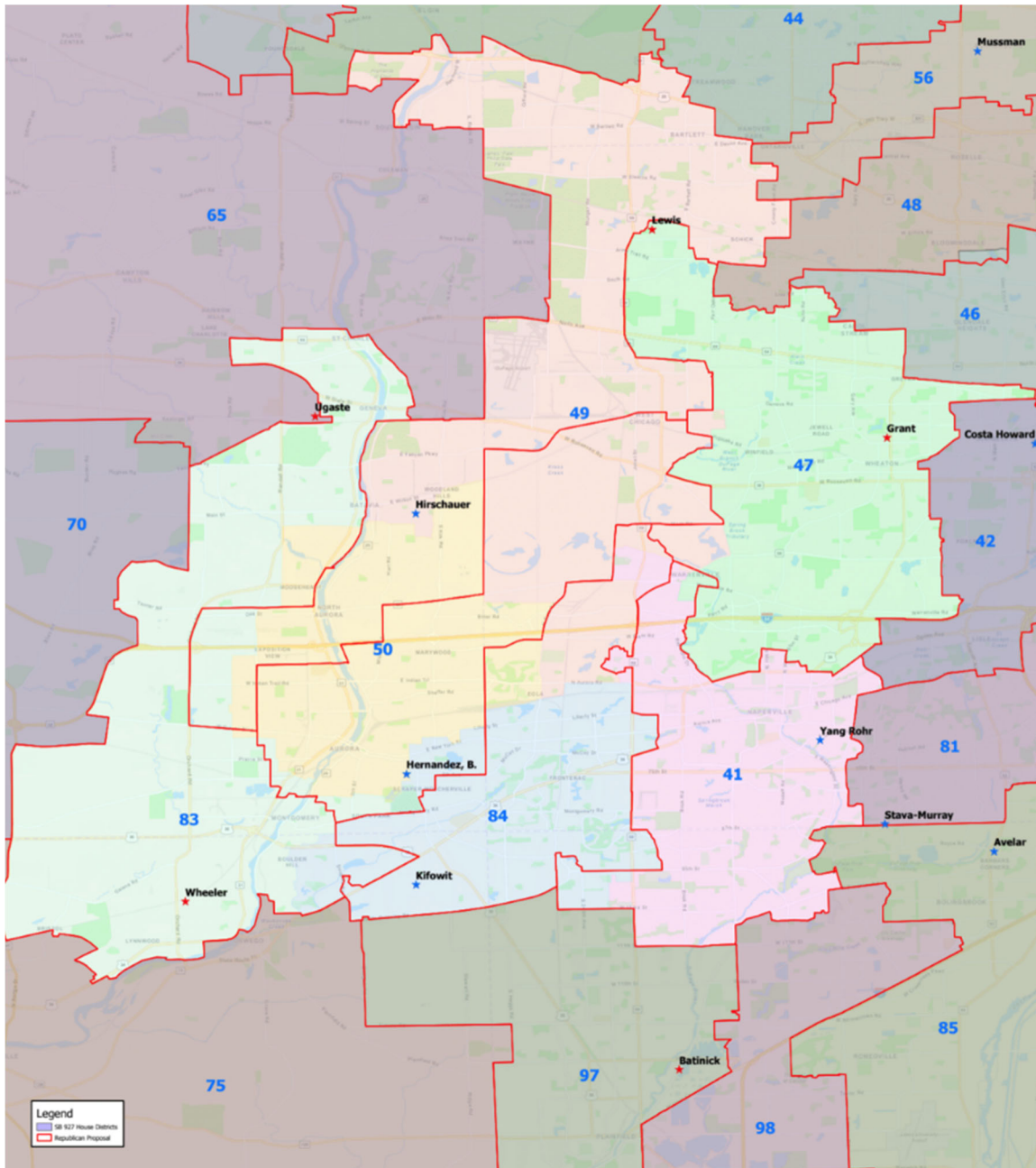
In Aurora, the September Plan made changes to HD 50 (formerly HD 83) to achieve equal population, address requests of the incumbent, and account for changes in neighboring districts. The enacted district retained 73.45% of the core of the 2011 district. HD 50 has a Latina Democratic incumbent, and has elected a Latina for nearly two decades despite being below 50% Latino CVAP during that time—again illustrating the reality that majority minority CVAPs are not necessary for minorities to elect a candidate of their choice.

Only the *McConchie* Plaintiffs propose changes to HD 50, claiming the September Plan dilutes Latino voting strength in violation of VRA Section 2. In the September Plan, HD 50 has a Latino VAP of 48.78% and a Latino CVAP of 36.7%; the *McConchie* plan proposes a Latino VAP of 61.98% and Latino CVAP of 46.7%. Maxson Decl., at Ex. A. In his analysis Dr. Lichtman writes, “All three plaintiffs maintain that districts much achieve this threshold to provide minorities equal opportunities for minorities to elect candidates of their choice. Yet, the *McConchie* plaintiffs propose and defend a remedial plan for HD 50 that is 46.7% Hispanic CVAP.” Lichtman Report, at 193.

These changes, which do not create a majority Latino CVAP in HD 50, require myriad changes to the surrounding districts, *see McConchie Dkt. 151* at 33-34, all with the end goal of increasing Republicans’ chances of unseating incumbents in neighboring districts. Specifically, the *McConchie* plan boosts the Latino majorities of HD 50 by stretching HD 50 throughout unpopulated areas to West Chicago to capture additional Hispanic population from neighboring districts. As a result, (i)

diverse Democratic precincts in Aurora are moved from HD 84 into HD 50; (ii) the removed population in HD 84 is replaced with Republican precincts from HD 41; and (iii) HD 49 is stretched into several Republican precincts to redistribute population. *McConchie* plaintiffs do not provide legitimate justifications for such far-reaching and complex changes—which are designed purely to increase Republican odds in HDs 41 and 84 and SD 42 at the expense of the Latino population, which is “packed” into fewer districts.

**Figure 14: Comparison of September Plan
and McConchie Plan Near Aurora**



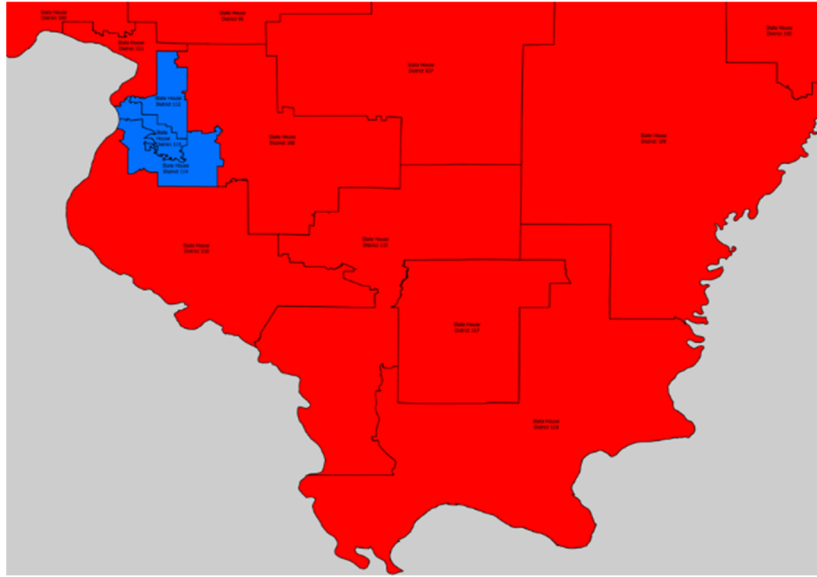
D. Metro East

Metro East, a region of southern Illinois located near St. Louis, Missouri, consists primarily of Senate District 56 (HDs 111 and 112) and Senate District 57 (HDs 113 and 114). Both senators and three of the four representatives are

Democrats. Historically each district has been anchored to one of the larger Metro East cities.

In the September Plan, these districts were drawn to keep those districts tied to its anchor city: HD 111 contains all of Alton, HD 112 contains all of Edwardsville, HD 113 contains all of Bellville except a few precincts located in HD 114, and HD 114 keeps all East St. Louis intact (approximately 25 people are in HD 113). HD 114 retains 63.8% of the core of its current district and unites communities of interest by bringing together six cities previously split among four districts. Adjustments in this area were made to account for equal population and the partisan composition of the districts.

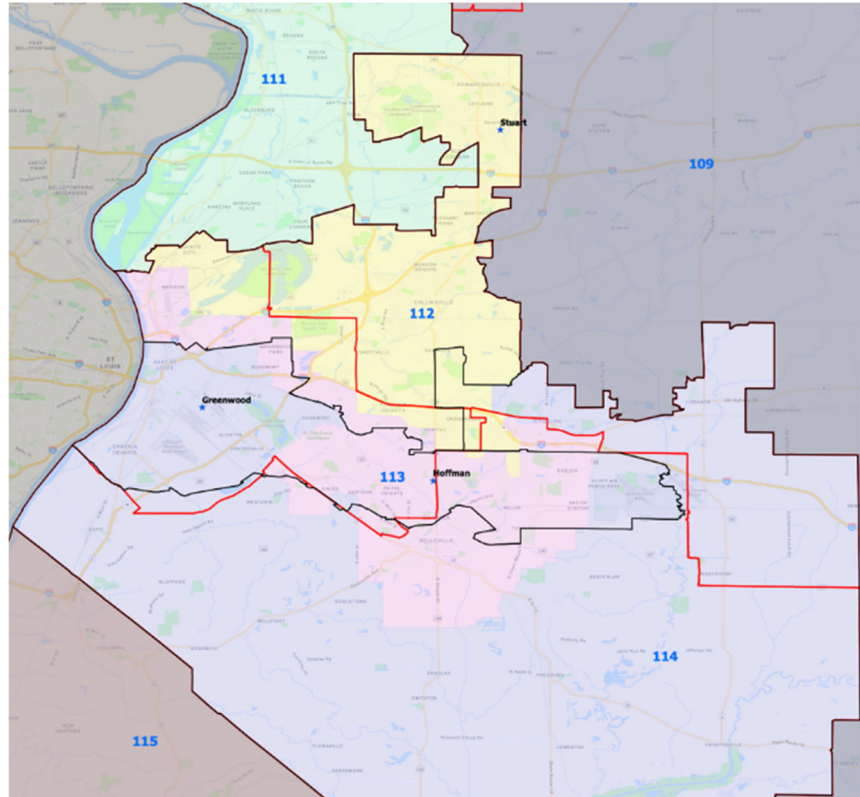
Legislative Defendants do not dispute that partisanship played a central role in drawing these districts. *See* Greenwood Decl., at ¶ 18. As the region has become more politically polarized, the Democrats in the General Assembly prioritized protecting the Democratic members elected in Republican southern Illinois, including the preservation of two districts that have elected Black Democrats for more than 40 years (SD 57 and HD 114). *See* Greenwood Decl., ¶¶ 14 -18.

Figure 15: Metro East Region House of Representatives Districts

The *McConchie* and *NAACP* Plaintiffs claim House District 114 (“HD 114”) dilutes the votes of Black voters in violation of Section 2 of the Voting Rights Act and is unconstitutional purportedly because it was drawn as a result of racial gerrymandering. The *McConchie* Plaintiffs claim the September Plan cracks the Black population into two districts (HDs 113 and 114) rather than creating one Black majority district. The *NAACP* Plaintiffs allege a violation of Section 2 of the Voting Rights Act and a racial gerrymandering scheme that is pure fiction, claiming the legislature strategically moved Black voters to protect white incumbents with no regard for the Black voters in HD 114 and to the detriment of the Black incumbent. NAACP Dkt. 44 at 10. Both Plaintiffs submitted alternative maps that would solely impact the Democratic districts (SD 56 and 57, and HDs 112, 113, and 114), and that present textbook examples of racial gerrymandering by subverting traditional

redistricting principles, including those followed by the General Assembly in the September Plan, to draw primarily based on race.

Figure 16: Comparison of September Plan and Plaintiffs' Plans



1. *NAACP Plaintiffs' Remedial Plan*

The *NAACP* Plaintiffs allege HD 114 “unlawfully diluted the votes of Black voters, and ultimately lessened the election prospects of the only Black state representative elected to the legislature from the entire Metro East area or even Southern Illinois, all in order to bolster the prospects of a white incumbent in nearby HD 112.” *NAACP* Dkt. 44 at 1. Ironically the *NAACP* Plaintiffs propose to rectify this alleged violation by pairing that same Black incumbent with a white male incumbent, who happens to be incredibly well known in the Metro East and the second longest serving member of the House with more than \$1.4 million in his

campaign account. Their liability plan proposes a new district with a population consisting of what appears to be more of the white incumbent's current or former constituents than those of the Black incumbent, and the remedial plan offers some balance between the two but still offers an advantage to the white incumbent. And the proposal further improves expected Democratic performance in HD 112 to the benefit of the white incumbent by moving Black voters into the district – the very conduct that the *NAACP* Plaintiffs alleged comprised racial gerrymandering in the September Plan.

Not to mention, the *NAACP* Plaintiffs asks this Court to find HD 114 violates Section 2 of the Voting Rights Act because the Black VAP of the district is less than 50%, then replace it with a district with a Black VAP of *less than* 50%. *See NAACP*, Dkt. 28 at 40 (noting the HD 114 would be 49.45%). The *NAACP* Plan proposes a “liability” map that uses race as the sole factor to pack Black voters from three district to form one Black majority district (without drawing any neighboring districts to account for population changes), but instead requests the Court adopt a “remedial” map with less than 50% Black VAP that pairs the two-term Black incumbent with a fifteen-term white incumbent and turns one district into a solidly Republican, white district. *See Greenwood Decl.* ¶ 22.

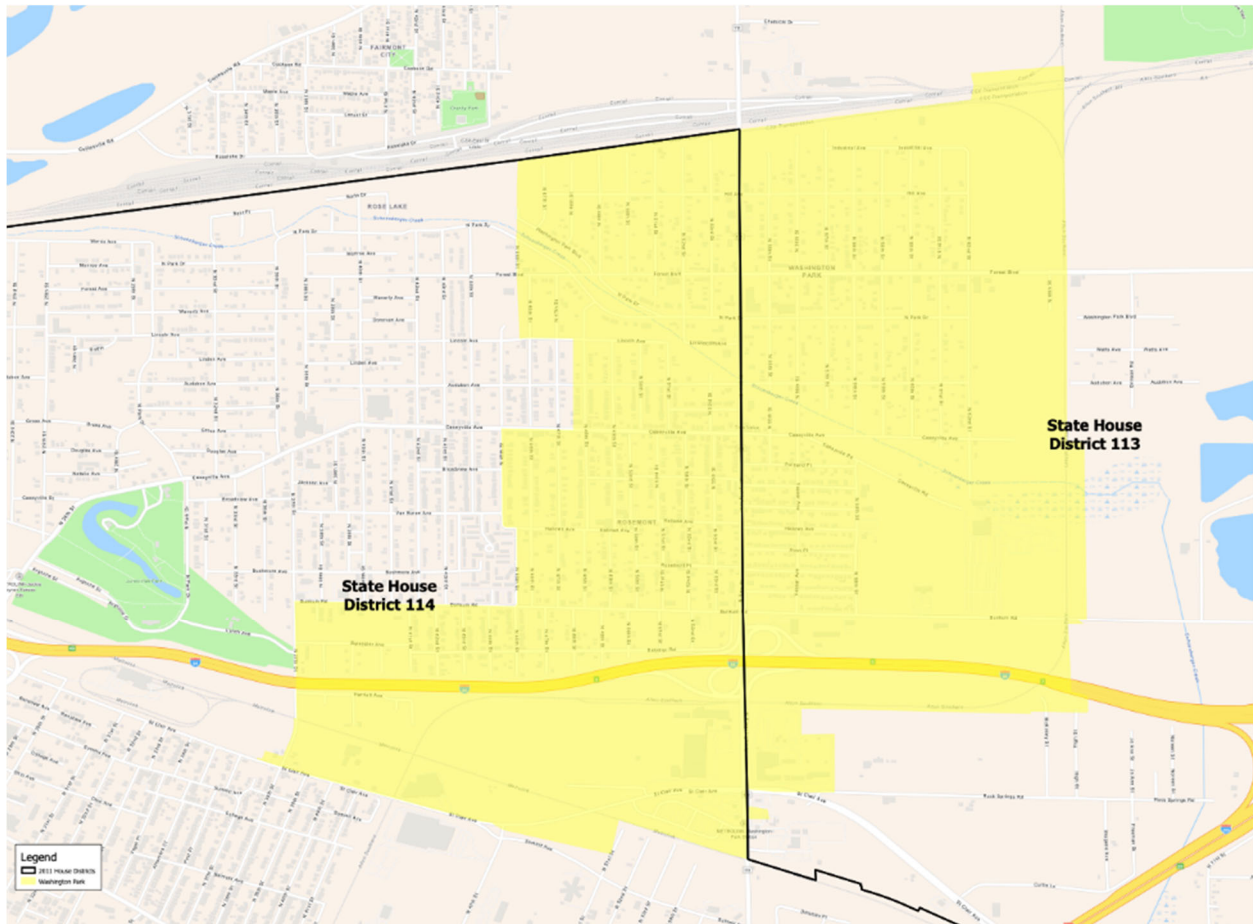
The *NAACP* Plaintiffs fail to meet the *Gingles* factors yet ask this Court to adopt a remedial plan that uses race as the predominant factor to create a new district without a majority Black voting age population. The proposed remedial map (i) pairs two-term Black incumbent LaToya Greenwood with fifteen-term white incumbent

Jay Hoffman in a district with many of Hoffman’s current or former constituents; (ii) pairs East St. Louis with northern parts of Belleville by moving Black precincts into HD 114, which splits the largest city in Metro East rather than keeping it whole as the anchor of HD 113 as it has been for at least three decades; (iv) splits several other communities of interest; and (v) shifts the political composition of the districts to create a safe Republican House seat, reducing the number of Democratic representatives in the area, and jeopardizing Senate District 57, which has a Black incumbent. See Greenwood Decl. ¶¶ 17, 21-22. Interestingly, the changes would increase the Democratic index for the white incumbent in SD 56 and white incumbent in HD 112. *Id.* ¶ 22; Maxson Decl., Ex. A; Sadowski Decl., Ex. A..

The NAACP Plaintiffs attempt to argue that changes related to Washington Park were racially gerrymandered, but the Plaintiffs can point to no evidence of such a racial motivation because one does not exist. Not to mention the solely race-based changes they propose are far from “modest” and go far beyond simply rejoining Washington Park. The Plaintiffs state, “Unlike S.B. 927, this plan fully incorporates Washington Park,” and, “The proposed remedy keeps the community of interest that is at the core of HD 114 together, without the need to make the District majority-Black.” NAACP Dkt. 44 at 32, 40. They claim their proposal “cures the cracking of the Black Metro East community that is a principal source of both the constitutional and statutory violations” by “avoiding the split of Washington Park that occurs in the S.B. 927 Plan’s boundaries for HD 114.” *Id.* at 40.

The Plaintiffs ignore that the community of Washington Park has been split between HDs 113 and 114 for at least two decades. In the 2011 map, the population is nearly split in half. When drawing the 2021 map and trying to achieve equal population, there was an opportunity to place more of the community in one district rather than split it equally across two districts.

Figure 17: Washington Park in current HDs 113 and 114

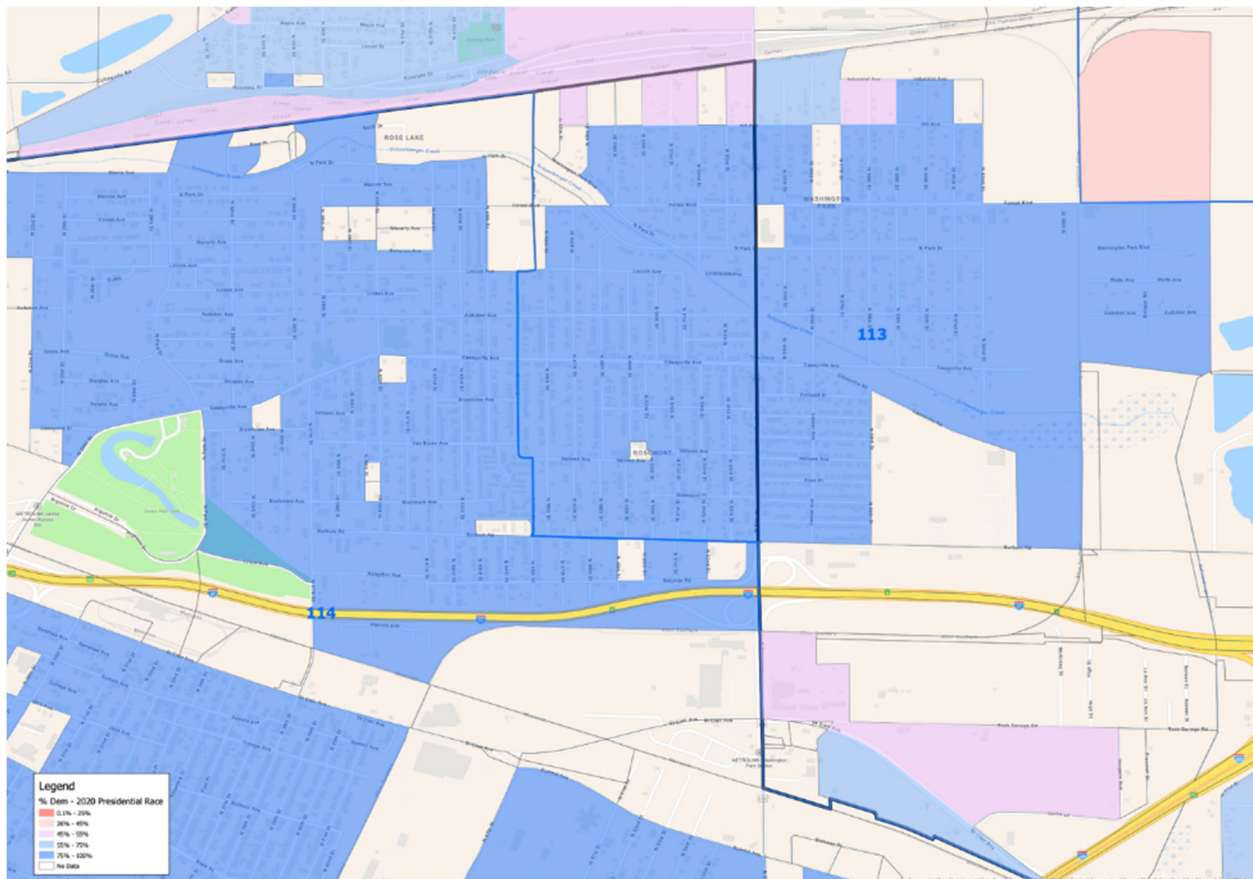


As explained by Mr. Maxson, the changes to Washington Park were made to equalize population and further consolidate the community of interest in one district. See Maxson Decl., at ¶ 14. The population changes were not race-based. The NAACP

Plaintiffs may disagree with the General Assembly's decision to move more of Washington Park to HD 113, but the decision certainly was not racially motivated.

As illustrated in Figure 18 the political composition of Washington Park is strongly Democratic. The population was nearly equally split between HDs 113 and 114 in the 2011 legislative map, and more of the population was moved to HD 113 in the September Plan. The additional population in Washington Park share the same political leaning as the Washington Park residents already in HD 113—it is overwhelmingly likely they are Democrats.

**Figure 18: Political Composition of Washington Park
(with lines of current and September Plan districts)**



Even under their own standards the Plaintiffs’ proposed plan would not satisfy Section 2 of the Voting Rights Act. The drafter of the plan, Dr. Ryan Wiechelt, included this in his expert report: “Though *this plan does not meet the Section 2 requirements*, it is compact, follows one-person one-vote requirements, minimally avoids splitting municipalities, and addresses legislators’ concerns such as including Scott Airforce Base in the district.” NAACP Dkt. 44 (Wiechelt Report) at 5 (emphasis added).

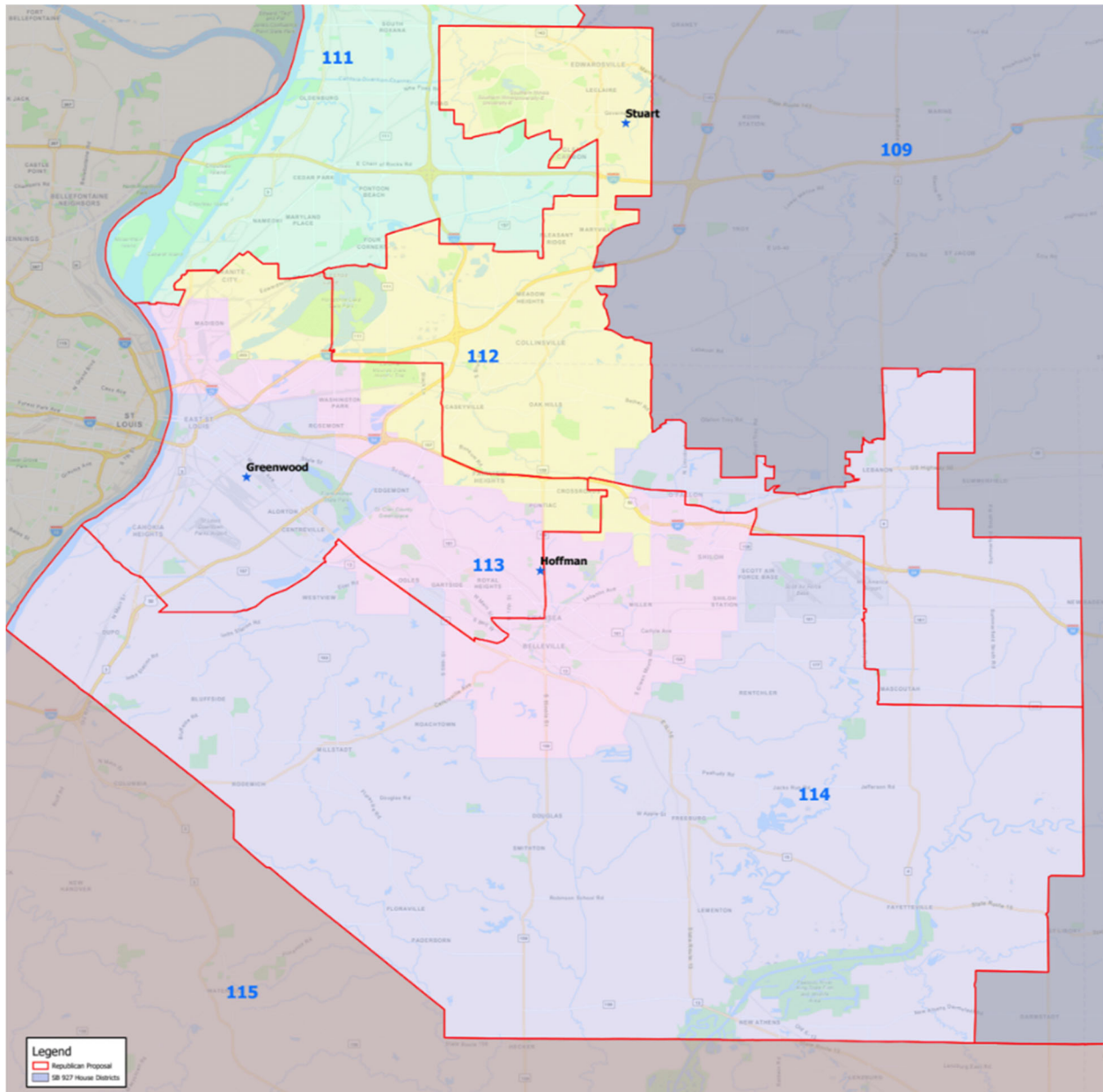
Historically HD 114 has been “an extraordinarily safe district for African-American preferred candidates” for the last four decades. The *NAACP* Plaintiffs acknowledge HD 114 has been “performing as an effective district affording Black voters an equal opportunity to elect their candidates of choice under the 2011 plan.” NAACP Dkt. 1 at ¶¶ 2, 40, 69. Under the September Plan, HD 114 will continue to give Black voters an opportunity to elect their preferred candidate. Lichtman Report, at 198. Yet, the *NAACP* Plaintiffs ask this Court to adopt a remedial plan that needlessly, and unconstitutionally, prioritizes race and limits the ability of Black voters to influence the outcome of elections.

2. *McConchie* Plaintiffs’ Remedial Plan

The *McConchie* Plaintiffs propose redrawing the three Democratic seats in the Metro East to create (i) a Black majority district, (ii) a new safe Republican district, and (iii) a swing district that leans Republican. The new Black majority district is created by packing traditionally Black precincts and the most Democratic precincts from HDs 112, 113, and 114 into a single new district. The proposed Black majority district (i) pairs Democratic incumbents LaToya Greenwood and Jay Hoffman in a

new district with 46.7% of Hoffman's current district and 35.9% of Greenwood's current district; (ii) changes the core of the district to join together East St. Louis, Venice, Brooklyn, Cahokia, Fairmont, Fairview Heights, and the northwestern portion of Belleville; and (iv) shifts the political composition of the districts to make SD 57, which currently has a Black Democratic incumbent, more competitive for Republicans (risking that incumbent's seat) and making it more likely three of the four House districts and at least one of the two Senate districts elect Republicans. Plaintiffs' plan completely disregard traditional redistricting principles such as preserving the cores of prior districts or adhering to pre-existing political subdivisions by creating three entirely new districts and packing Black voters in one district. Under the September Plan, HD 113 has a Black CVAP of 29.56% and HD 114 has a Black CVAP of 33.41%. Under the *McConchie* proposal, HD 113 has a Black CVAP of 13.5% and HD 114 has a Black CVAP of 51.1%. Maxson Decl., Ex. A. The Plaintiffs' solution to alleged unconstitutional cracking is unconstitutional packing using race as the predominant factor used to redraw the district.

**Figure 19: Comparison of September Plan
and McConchie Plan in Metro East**



VI. CONCLUSION

The September Redistricting Plan, Public Act 102-0663, protects minority voting strength and provides Hispanic and Black voters more than an equal opportunity to elect candidates of their choice. The three Plaintiffs have failed to provide evidence to support otherwise and have not demonstrated that the September

Redistricting Plan violates the Voting Rights Act or the U.S. Constitution. The Defendants request that the Court affirm Public Act 102-0663 and adopt the September Plan as the legislative redistricting plan for Illinois.

Should the Court find it necessary to amend the September Plan, the Defendants ask the Court to remand to the General Assembly, conforming with the Supreme Court's direction in *Perry*, 565 U.S. at 392.

Dated: November 24, 2021

Respectfully submitted,

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Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, <i>et al.</i>,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03091
v.)	
	)	Circuit Judge Michael B. Brennan
CHARLES SCHOLZ, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	

JULE CONTRERAS, <i>et al.</i>,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03139
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF	)	Chief District Judge Jon E. DeGuilio
ELECTIONS, <i>et al.</i>,	)	District Judge Robert M. Dow, Jr.
)	
Defendants,	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	
)	

EAST ST. LOUIS BRANCH NAACP, <i>et al.</i>,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-05512
v.)	
	)	Circuit Judge Michael B. Brennan
	)	Chief District Judge Jon E. DeGuilio
ILLINOIS STATE BOARD OF	)	District Judge Robert M. Dow, Jr.
ELECTIONS, <i>et al.</i>,)	
	)	Three-Judge Court
Defendants,	)	Pursuant to 28 U.S.C. § 2284(a)

EXPERT REPORT OF ALLAN J. LICHTMAN

I. STATEMENT OF PURPOSE

In this case, I have been asked by Defendants' counsel to examine issues related to the complaints filed by the MALDEF (Contreras), McConchie, and NAACP plaintiffs regarding the state legislative plans enacted by the Illinois General Assembly on August 31, 2021 (S.B. 927) and signed into law by the Governor J.B. Pritzker in September 2021. I have also been asked to respond to any material presented by plaintiffs, including complaints and reports submitted by plaintiffs' experts. Rather than produce separate reports for each of three plaintiffs, I have produced a single report because there is considerable overlap in the three complaints. I will draw distinctions, where necessary, between the various reports.

I have enclosed an updated CV which fairly and accurately describes my training, education, and experience (Appendix 1). I have also included a table of cases where I have served as an expert witness and consultant since 2015 (Appendix 2). My fee in this matter is \$500 per hour. My fee does not depend upon any opinions issued in this litigation.

I based my analyses and developed opinions in this matter on documentary and statistical information gathered and reviewed in my capacity as an expert in political history, social science, and historical and statistical methodology. My analysis and opinions are also formed by my work as an expert in some 100 voting rights and redistricting cases and my considerable experience in redistricting in Illinois. Both plaintiffs and defendants have retained me during several decades in Illinois. My analyses and opinions are not intended to provide a legal conclusion, but, instead, to provide the court with facts and context for the ultimate legal determinations that it must make.

II. QUALIFICATIONS

This study draws on my experience serving as an expert in voting rights litigation and my expertise in political history, political analysis, and historical and statistical methodology. I am a Distinguished Professor of History at American University in Washington, D.C., where I have been employed for 48 years. Formerly, I served as Chair of the History Department and Associate Dean of the College of Arts and Sciences at American University. I received my BA in History from Brandeis University in 1967 and my Ph.D. in History from Harvard University in 1973, with a specialty in American political history and the mathematical analysis of historical data.

I am the author of numerous scholarly works on quantitative methodology in social science. This scholarship includes articles in such academic journals as *Political Methodology*, *Journal of Interdisciplinary History*, *Proceedings of the National Academy of Sciences of the United States of America*, *Foresight: The International Journal of Applied Forecasting*, *Social Science History*, and *Harvard Data Science Review*. I have also authored articles on quantitative methodology in the *Encyclopedia of Social Measurement*, the *Encyclopedia of Complexity and Systems Science*, and the *Proceedings of the International Symposium on Conceptual Tools For Understanding Nature*. In addition, I have co-authored *Ecological Inference* with Dr. Laura Langbein, a standard text on the quantitative analysis of social science data, including political information.

I have published articles on the application of social science analysis to voting rights issues. This work includes articles in journals such as the *Journal of Law and Politics*, *La Raza Law Journal*, *Evaluation Review*, *Journal of Legal Studies*, and *National Law Journal*. My scholarship also includes the use of quantitative and qualitative methods to conduct

contemporary and historical studies, published in academic journals such as *Proceedings of the National Academy of Sciences*, *American Historical Review*, *International Journal of Forecasting*, *International Journal of Information Systems & Social Change*, and *Journal of Social History*.

Quantitative and historical analyses also ground my books, including, *Prejudice and the Old Politics: The Presidential Election of 1928*, *The Thirteen Keys to the Presidency* (co-authored with Ken DeCell), *The Keys to the White House*, *White Protestant Nation: The Rise of the American Conservative Movement*, and *FDR and the Jews* (co-authored with Richard Breitman). My most recent books are *The Case for Impeachment*, *The Embattled Vote in America: From the Founding to the Present* and *Repeal the Second Amendment: The Case for a Safer America*. *The Embattled Vote in America*, published in September 2018 by Harvard University Press, examines the history and current status of voting rights in America. I have also co-authored with Valerie French a book on historical methodology, *Historians the Living Past*.

White Protestant Nation was one of five finalists for the National Book Critics Circle Award for the best general nonfiction book published in America. *FDR and the Jews* was published under the Belknap Imprint of the Harvard University Press, reserved for works of special significance and lasting impact. This book was an editor's choice book of the New York Times in 2013, the winner of the most prestigious prize in American Jewish Studies, the National Jewish Book Award, and a finalist for the Los Angeles Times Book Prize in history. My book *The Case for Impeachment* was an independent bookstore bestseller. In 2018, I won the Alfred Nelson Marquis Life-Time Achievement Award for the top 5% of persons included in Marquis WHO'S WHO. I have also been identified by rise.global as # 85 among the world's 100 most influential geopolitical experts. I am an elected member of PEN America, which is dedicated to

ensuring “that people everywhere have the freedom to create literature, to convey information and ideas, to express their views, and to access the views, ideas, and literatures of others.”¹

I have worked as a consultant or expert witness for both plaintiffs and defendants, Democrats and Republicans, in some 100 voting and redistricting cases. My work includes cases for the United States Department of Justice and many civil rights organizations, including MALDEF, NAACP, LDF, the League of Women Voters, the Southern Poverty Law Center, and the Lawyers’ Committee for Civil Rights Under Law. I have also worked as a consultant or expert witness numerous times for state and local jurisdictions.

My work also includes several voting rights and redistricting cases in the state of Illinois, for both plaintiffs and defendants. In the 1980s, I was retained by plaintiffs in *Harper v. City of Chicago Heights* and *McNeil v. City of Springfield*. In the 1990s, I was retained by defendants in successful defense of the Hispanic opportunity congressional district in Illinois, *King v. Board of Elections*. In the 2000s I was retained by state defendants in the successful defense of the of 2001 state legislative redistricting plan, *Campuzano v. Illinois State Board of Elections*. In the 2010’s, I was retained by state defendants in their successful defense of the state congressional redistricting plan, *Committee for a Fair and Balanced Map, et al. v. Illinois State Board of Elections*, and the state legislative redistricting plan, *Radogno, et al. v. Illinois State Board of Elections*. I was also retained by defendant Mike Madigan in the successful defense of a challenge to his State House election in 2016, *Jason Gonzales v. Michael J. Madigan*.

The United States Supreme Court has also credited my quantitative methodology. In Texas’s landmark congressional redistricting case, *League of United Latin American Citizens v. Perry*, 548 U.S. 399 (2006), the majority opinion authoritatively cited my statistical work in

¹ PEN America, “About Us,” <https://pen.org/about-us/>.

invalidating Congressional District 23 for violating the Voting Rights Act. Citing my quantitative findings, the court ruled that the district failed to provide adequate opportunities for Hispanics to elect candidates of their choice.

III. DATA AND METHODS

The report draws upon sources standard in historical and social scientific analysis. The sources include scholarly books, articles, and reports; newspaper and other journalistic articles; demographic information; election returns; exit polls and other scientific surveys, court opinions, briefs, and reports, and government documents. Much of the methodology relies on compilations of data on districts and elections, with computation of simple summary statistics such as means or averages. I also rely on standard procedures in my field of history for analyzing documentary material. Unless otherwise indicated, all information on the demography of state legislative districts and precincts, and the racial identity of candidates and incumbents was provided by the staff of the Democratic State House and Senate caucuses. The staff also provided election returns by precinct. All other Illinois election returns were obtained from the website of the Illinois State Board of Elections.²

For the statistical analysis of voting patterns and turnout I rely on ecological regression analysis. This is a standard procedure that I have used many thousands of times to assess racial bloc voting and the effectiveness of legislative districts for minorities. I will describe this method in detail in conjunction with Section 2 of this report on Prong 3 of the three *Gingles* criteria

The report is divided into four distinct sections. Each section will have separately numbered tables and charts to avoid confusion.

² There are some small differences between the demographic district percentages in plaintiffs' complaints and the percentages provided to me. None of these differences are consequential.

**SECTION 1: PLAINTIFFS' MECHANICAL 50% SINGLE-RACE MINORITY
CVAP THRESHOLD**

SECTION 2: *GINGLES* CRITERIA PRONG 3

**SECTION 3: SENATE FACTORS ON THE TOTALITY OF CIRCUMSTANCES
IN ILLINOIS**

SECTION 4: PLAINTIFFS CHALLENGES AND REMEDIES

**SECTION 1: PLAINTIFFS' MECHANICAL 50% SINGLE-RACE MINORITY
CVAP THRESHOLD**

**“...Minority candidates generally cannot be elected in Illinois outside of
districts with a significant portion of minority voters.”**

McConchie Plaintiffs, Brief, 10 November 2021, p. 30

“When *I* use a word,” Humpty Dumpty said in rather a scornful tone, “it means
just what I choose it to mean—neither more nor less.”

Lewis Carroll, *Through the Looking Glass*, 1871

“In theory there is no difference between theory and practice. In practice there is.”

Yogi Berra

I. In Practice, Actual Election Results Refute Plaintiffs Theory

The above-cited claim by the McConchie, buried on page 30 of their submission, frames the case for all three plaintiffs. The McConchie, Contreras, and NAACP plaintiffs rest on this claim as a necessary, although not sufficient, proof of their claims. However, plaintiffs are using words precisely as they choose them to mean. By a significant portion of minority voters, they do not mean all minorities. If so, the case would essentially be over. All but one of their challenged districts is majority-minority, not majority white, in its citizen voting age population (CVAP). Plaintiffs mean only minorities of the same race. By “significant concentration” they precisely

mean districts above their pre-selected threshold of 50%+ single-race minority CVAP, regardless of the district-specific practical circumstances or the effects on other districts. SB 927 districts like new Senate District 11 with a 47.9% Hispanic CVAP and 55.3% minority CVAP fail to make the cut as equal opportunity districts for Hispanics. But remedial districts like McConchie's 50.5% Hispanic CVAP remedial district for State House 3 and Contreras' remedial district for State House District 4 at 50.1% Hispanic CVAP because they cross plaintiffs' magic line. For Asian voters, the demography of Illinois do not allow for the creation of a 50%+ Asian CVAP district. So, plaintiffs undercut Asian electoral opportunities by slashing the Asian CVAP percentages in districts that have elected Asian Americans to the state legislature.

The practice of state legislative elections in Illinois contradicts plaintiffs' demography is destiny theory. Actual election results show that some two dozen minorities have won elections in districts where plaintiffs say they should not expect to win, with under 50%+ single-race minority CVAP, often well below. Table 1 demonstrates that not counting two appointed incumbents, minorities have won 24 elections in districts below 50%+ single-race minority CVAP. These are districts where plaintiffs have said minorities should fall short of victory according to their automatic single-race 50%+ standard. Yet, the 24 minority victories in these districts comprise 46.2% of all 52 minority candidate victories in the latest 2020 election cycle.

Also remarkable in practice, Table 1 shows that seven minority candidates (29.2% of the 24 victories) won elections in districts was less than a 25% CVAP percentage of their race. Such victories are unusual and place Illinois at the forefront of states achieving interracial coalitions. In the words of U.S. Supreme Court Justice David Souter minorities can expand representation

when they “pull, haul, and trade” with members of other groups.³ Such coalition building expands minority representation beyond what can be achieved by segregation into heavily minority districts and undercuts the stereotype that minorities are token voters who can only elect

³ *Johnson v. De Grandy*, 512 U.S. 997 (1994), at 1020.

TABLE 1
MINORITY MEMBERS OF THE STATE LEGISLATURE ELECTED FROM BELOW
50%+ SINGLE-RACE CVAP DISTRICTS

COUNT	CHAMBER	DISTRICT	BLACK CVAP%	INCUMBENT	RACE
BLACK STATE LEGISLATORS, BLACK CVAP %					
1	HD	9	48.0%	Lakesia Collins	BLACK
2	HD	5	47.9%	Lamont J. Robinson, Jr.	BLACK
3	HD	7	47.7%	Emanuel Chris Welch	BLACK
4	SD	5	47.7%	Patricia Van Pelt	BLACK
5	HD	10	47.4%	Jawaharial Williams	BLACK
6	SD	3	46.5%	Mattie Hunter	BLACK
7	HD	6	45.0%	Sonya M. Harper	BLACK
8	HD	114	42.6%	LaToya Greenwood	BLACK
9	HD	78	28.5%	Camille Y. Lilly	BLACK
10	HD	67	26.5%	Maurice A. West, II	BLACK
11	HD	92	25.5%	Jehan Gordon-Booth	BLACK
12	HD	103	16.8%	Carol Ammons	BLACK
HISPANIC STATE LEGISLATORS, HISPANIC CVAP %					
13	SD	2	46.9%	Omar Aquino	HISPANIC
14	SD	20	42.0%	Cristina H. Pacione-Zayas	HISPANIC
15	HD	83	41.8%	Barbara Hernandez	HISPANIC
16	HD	4	37.5%	Delia C. Ramirez	HISPANIC
17	HD	40	35.4%	Jaime M. Andrade, Jr.	HISPANIC
18	SD	22	27.9%	Cristina Castro	HISPANIC
19	HD	44	20.4%	Fred Crespo	HISPANIC
20	HD	85	15.9%	Dagmara Avelar	HISPANIC
21	SD	26	11.7%	Karina Villa	HISPANIC
ASIAN STATE LEGISLATORS, HISPANIC CVAP %					
22	HD	16	25.5%	Denyse Stoneback	ASIAN
22	SD	8	24.1%	Ram Villivalam	ASIAN
23	HD	2	23.8%	Theresa Mah	ASIAN
24	HD	17	15.4%	Jennifer Gong-Gershowitz	ASIAN

minority candidates with their own votes and cannot find common ground with others.

As I explain in the next section on Gingles Prong 3 – whether voting by white majority usually defeats minority preferred candidates – I am not racking up such districts as minority-opportunity districts in favor of the state. Following the prescription of Prong 3 to examine “minority preferred” candidates, I also consider the election of candidates preferred by minorities who are typically white and rarely minorities who are not members of their same race. In its redistricting guide plaintiff MALDEF, in conjunction with the NAACP Legal Defense and Education Fund (LDF), and Asian American Advancing Justice acknowledges that white candidates can be the candidates of choice of minority voters: “It is important to note that the term [candidates of choice] refers to minority voters, not candidates. A white candidate may be the preferred choice of minority voters, and conversely, some minority candidates are not the choice of minority voters.”⁴ By this same logic, a candidate of another race – a Black or Asian candidate could be the preferred candidate of choice of Hispanic voters.

II. Plaintiffs’ Practice Refutes Their Theory

Plaintiffs’ theoretical attachment to single-race 50%+ CVAP districts as the only districts that provides minorities equal opportunity with whites to elect preferred candidates stumbles through plaintiffs’ own decision-making. When the McConchie plaintiffs found that they could not feasibly aggregate enough minorities to form a single-race 50%+ CVAP remedial district, they resorted to practicality and crafted a remedial district that falls well below their avowed threshold.

⁴ MALDEF, LDF, and Asian American Advancing Justice, “Power on the Lines: Making Redistricting Work for Us,” 2021, at 37, https://www.maldef.org/wp-content/uploads/2021/05/FINAL-LDF_04142021_RedistrictingGuide-22e.pdf.

Plaintiffs' claims rest upon their assertion that minority voters have an equal opportunity to elect candidates of their choice in Illinois through single-race 50%+ minority districts. Earlier sections of this report on demographic thresholds and Gingles Prong 3, and the Senate factors have already analyzed and rejected that proposition. However, the McConchie plaintiffs, who have challenged more districts than either the Contreras or NAACP plaintiffs, contradict plaintiffs' rationale through their proposed remedial plan, which includes a district just 46.7% Hispanic *its CVAP*.

As part of their remedial proposal, the McConchie plaintiffs seek to replace House District 50 in the Aurora region with a new remedial district to provide in their view Hispanic voters an equal opportunity to elect candidates of their choice. As presented in the McConchie plaintiffs' matrix, their remedial district for HD 50 has the CVAP percentages represented in Table 2. As noted in Table 2, the Hispanic CVAP percentage in the remedial plan is *not 50%+, but 46.7%*, well below plaintiffs' minimum threshold for a district alleged to provide minority voters an equal opportunity to elect candidates of their choice.

In addition, while the McConchie plaintiffs defend a 46.7% Hispanic CVAP remedial district, the McConchie and Contreras plaintiffs challenge three districts under SB 927, shown in Table 3, with an equal or greater Hispanic CVAP percentage. Two of these districts have Hispanic incumbents. The third has a white candidate, Steven Landek, who, as will be demonstrated in Section 2 on Gingles Prong 3, is the candidate of choice of Hispanic voters.

TABLE 2
CVAP PERCENTAGES FOR MCCONCHIE PLAINTIFFS' REMEDIAL DISTRICT IN AURORA

COUNT	DISTRICT	% BLACK CVAP	% ASIAN CVAP	% HISPANIC CVAP	% OTHER CVAP	% WHITE CVAP	% ALL MINORITY CVAP
1	HD 50	11.1%	1.9%	46.7%	1.5%	38.8%%	61.2%

TABLE 3
DISTRICTS WITH APPROXIMATELY 46.7% OR GREATER SINGLE-RACE CVAP IN S.B. 927 TARGETED BY MCCONCHIE OR MALDEF PLAINTIFFS

DISTRICT	INCUMBENT	RACE	HISPANIC CVAP %
SD 2	OMAR AQUINO	HISPANIC	46.7%
SD 11	STEVEN LANDEK*	WHITE	47.8%
HD 3	EVA DINO DELGADO	HISPANIC	47.4%

III. Authorities, Including the McConchie Plaintiffs' Expert Refute Their Theory

There is ample reason why plaintiffs' generic 50%+ single-race automatic threshold is inappropriate and misleading. Scholars, the U.S. Department of Justice, the U.S. Supreme Court in its guidelines for expert analysis, and civil rights groups, including MALDEF, have long rejected the mechanical reliance on any fixed demographic percentage, such as a 50%+ single race CVAP threshold, for assessing minority opportunity districts. Such a fixed demographic target will likely diminish minority voting opportunities by erroneously evaluating the effectiveness of districts within a jurisdiction. It automatically isolates minorities within substantially segregated districts even when not necessary. It, in effect, sets a ceiling on minority empowerment through confinement to a limited number of districts, throttling their ability to expand their reach by forming coalitions with other groups.⁵

The McConchie plaintiffs' expert Dr. Joey Chen is among the scholars who adamantly reject the single-race minority 50%+ demographic threshold.

In a 2021 article on voting rights in the 2021 *Yale Law Journal*, Chen and his co-author, Harvard Law Professor Nicholas O. Stephanopoulos, wrote that “According to recent Supreme Court cases, opportunity-district status cannot be determined based on ‘an announced racial target’ like a 50% minority population share ... Instead, the core of the inquiry must be whether ‘the minority group’ *in fact* ‘has the potential to elect a representative of its own choice,’ taking into account minority and nonminority voting preferences and turnout.”⁶

Professor Justin Levitt of the Loyola Law School, a nationally recognized authority on voting rights has similarly rejected a one-size-fits-all demographic threshold as “deaf to local

⁵ *Johnson v. De Grandy*, 512 U.S. 997 (1994), at 1020.

⁶ Jowei Chen & Nicholas O. Stephanopoulos, “The Race-Blind Future of Voting Rights,” *Yale L.J.* (2021), 130, at 901-902.

political conditions” and for imposing the stereotype that minorities can elect candidates of their choice only in heavily segregated districts. In a 2016 article in the *Florida State University Law Review*, he criticized “Jurisdictions like Alabama” [that] “have been applying not the Voting Rights Act, but a ham-handed cartoon of the Voting Rights Act—substituting blunt numerical demographic targets for the searching examination of local political conditions that the statute actually demands.”⁷ Professor Levitt elaborated this essential point:

“And yet, there has emerged a troublesome tendency to understand the Voting Rights Act through the lens of a revisionist retrograde stereotype, treating the Act as if it demanded “safe” “Black districts” and “Latino districts” wherever there are substantial minority populations. This approach, particularly notable in the redistricting of this decennial cycle, is as blunt and blunderbuss as the real statute is subtle and tailored. It inheres in the perception that the Act is a blunt mandate to tally and bundle minority voters into districts pegged at talismanic target percentages. That is, it treats the Act as a demographic imperative—a ‘racial entitlement’—deaf to local political conditions.”⁸

Similarly, in a 2021 study mathematician Moon Duchin and law Professor Douglas Spencer reject the idea of defining minority opportunity districts by demography alone. They write, “*Demographics are not voting destiny* and below, following the VRA itself, we will shift the focus to electoral effectiveness rather than raw demographics.” (emphasis added) The authors emphasize that “The proper goal of the VRA is real political power for minority groups, which is a stubbornly local and particular matter, and is therefore hard to capture in a mere count of districts that pass

⁷ Justin Levitt, “Quick and Dirty: The New Misreading of the Voting Rights Act,” Fla. St. U. L. Rev. (2017), 43, p. 573.

⁸ *Id.*, p. 575-576.

any quantitative threshold test.”⁹

Decades before the publication of these articles, J. Gerald Hebert, then the Special Litigation Counsel, Voting Section, Civil Rights Division, United States Department of Justice, and I wrote in our 1993 article, *A General Theory of Vote Dilution*, that “Electoral arrangements are not legal or illegal *per se* ... The test is not achievement of an arbitrary level of minority population, but the realistic potential of minority voters to elect candidates of their choice.”¹⁰

Similarly, in its guidance for assessing violations of Section 5 of the Voting Rights, when it was operative before 2013, the U.S. Department of Justice likewise warned against relying mechanically on numerical population percentages to assess minority opportunity districts. Although Section 5 is no longer operative, the substance of Justice’s guidelines applies to any analysis of minority opportunity districts, not just Section 5 considerations:

“In determining whether the ability to elect exists in the benchmark plan and whether it continues in the proposed plan, the Attorney General does not rely on any predetermined or fixed demographic percentages at any point in the assessment. Rather, in the Department's view, this determination requires a functional analysis of the electoral behavior within the particular jurisdiction or election district. As noted above, census data alone may not provide sufficient indicia of electoral behavior to make the requisite determination ... For example, census population data may not reflect significant differences in group voting behavior. Therefore, election history and voting patterns within the jurisdiction,

⁹ Moon Duchin and Douglas M. Spencer, “Models Race and the Law,” *The Yale Journal Forum* 130 (2021), at 767.

¹⁰ Allan J. Lichtman and J. Gerald Hebert, “A General Theory of Vote Dilution,” *La Raza Law Journal*, 1993, 6(1), at 3, 4.

voter registration and turnout information, and other similar information are very important to an assessment of the actual effect of a redistricting plan.”¹¹

In its updated September 2021 “Guidance under Section 2 of the Voting Rights Act, 52 U.S.C. 10301, for redistricting and methods of electing government bodies,” the U.S. Department of Justice affirms that “Liability depends on the unique factual circumstances of each case and the totality of the circumstances in the particular jurisdiction in question.” It does not suggest any numerical demographic threshold for assessing minority voter opportunities.¹²

In the guidance it provided to expert analysis of minority voter opportunities under the Voting Rights Act, the U.S. Supreme Court noted in the case of *Johnson v. DeGrandy* that “[a]n inflexible [population] rule would run counter to the textual command of § 2, that the presence or absence of a violation be assessed ‘based on the totality of circumstances’” The Court added that “[n]o single statistic provides courts with a shortcut to determine whether a set of single-member districts unlawfully dilutes minority voting strength”¹³ In the 2015 case of *Alabama Legislative Black Caucus v. Alabama*, the U.S. Supreme Court reaffirmed this guidance. In his opinion for the Court, Justice Stephen Breyer applied the logic of Justice David Souter’s dissent in *Georgia v. Ashcroft*, 539 U. S. 461, 480 (2003). Breyer wrote that Souter “made clear that courts should not mechanically rely upon numerical percentages but should take account of all significant circumstances.”¹⁴

¹¹ United States Department of Justice, “Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act; Notice,” *Federal Register*, 9 February 2011, <https://www.federalregister.gov/documents/2011/02/09/2011-2797/guidance-concerning-redistricting-under-section-5-of-the-voting-rights-act-notice>.

¹² U.S. Department of Justice, “Guidance under Section 2 of the Voting Rights Act, 52 U.S.C. 10301, for redistricting and methods of electing government bodies,”¹ September 2021, quote on p. 8, <https://www.justice.gov/opa/press-release/file/1429486/download>.

¹³ *Johnson v. De Grandy*, 512 U.S. 997 (1994), at 1018, 1020, 1021.

¹⁴ *Alabama Legislative Black Caucus v. Alabama*, No. 13-895, 575 U.S. ___, 135 S. Ct. 1257 (2015).

In its 2021 redistricting guide that it published with two other civil rights organizations, the NAACP Legal Defense and Educational Fund, Inc. (LDF) and Asian American Forward Justice,¹⁵ MALDEF acknowledges that the demographic composition of districts alone does not justify creating majority-minority districts, without much additional analysis:

“Majority-minority districts must have statistical and factual support to justify their creation. This means that any advocacy for majority-minority districts must begin upon a foundation of evidence that shows how a majority-minority district is necessary to protect against illegal vote dilution or otherwise to comply with traditional redistricting criteria.”¹⁶ (p. 38)

MALDEF and its partners additionally note that “Advocacy for the creation of majority-minority districts can include” among other factors:

“INFORMATION ON VOTING PATTERNS OF YOUR COMMUNITY. This information typically focuses on the results of past elections, and especially ones in which a candidate of color ran against a white candidate. Overall election results, as well as how individual neighborhoods or precincts voted, are useful.

INFORMATION ON THE VOTING PATTERNS OF THE WHITE COMMUNITY, or the non-minority community. To justify the creation of a majority-minority district, you must show that the white community tends to vote as a bloc against the candidates preferred by the minority community that is seeking a majority-minority district. This information can be gleaned through interviews, or through statistical data.”

Critically, the report also admonishes advocates to examine “INFORMATION ON PAST ELECTION OF MINORITY CANDIDATES in the jurisdiction.”¹⁷ (all emphases in original)

In a 2001 report prepared as part of MALDEF’s submission of a California State Senate redistricting plan, California Institute of Technology historian J. Morgan Kousser did not rely on

¹⁵ LDF was founded in 1940 as a human and civil rights law firm, with Thurgood Marshall as its first director-counsel. Its mission is “to achieve racial justice, equality, and an inclusive society.” (<https://www.naacpldf.org/about-us/history/>). The mission of Asian American Advancing Justice, founded in 1991, is “Fighting for civil rights and empowering Asian Americans to create a more just America for all.” (<https://www.advancingjustice-aajc.org/>).

¹⁶ MALDEF, LDF, and Asian American Advancing Justice, “Power on the Lines: Making Redistricting Work for Us,” 2021, at 38, https://www.maldef.org/wp-content/uploads/2021/05/FINAL-LDF_04142021_RedistrictingGuide-22e.pdf.

¹⁷ *Id.*, at 42.

any demographic threshold for assessing Hispanic opportunity districts. Rather he relied on an analysis of Hispanic registration rates partitioned by party. “The index of Latino influence on election outcomes that will yield the broadest conclusions is the Latino percentage of registered Democrats ... As a redistricting strategy for Latinos, it makes sense to concentrate on winning Democratic nominations.” Kousser further noted that “to ‘pack’ more Latinos into districts that Latinos can already easily win – would not only decrease the opportunity of Latino voters to elect more candidates of their choice, thus contravening Section Two of the Voting Rights Act, but it would also exacerbate the problems that Justice O’Connor decried in *Shaw v. Reno* as the ‘balkanization’ or ‘segregation’ of more voters by ethnicity.”¹⁸

I am not citing Kousser’s work to suggest that his approach to analyzing Hispanic opportunity districts in California through Democratic registration rates is appropriate for Illinois. The point of referencing his MALDEF-sponsored work is instead to demonstrate that examination of demographic percentages alone cannot assess the effectiveness of Hispanic opportunity districts and that the substantial concentration of Hispanics is not optimal for achieving Hispanic empowerment.

A decade later, in its 2011 submission of California redistricting plans, MALDEF acknowledged that Hispanics can elect candidates of their choice in districts below the 50%+ single-race CVAP threshold and can continued to do so even if the Hispanic CVAP percentage is further reduced. For Assembly District 30 in California, MALDEF noted that “The benchmark district featured 46.8% Latino CVAP and 48.2% Latino Registration. The MALDEF plan features a 45.6% Latino CVAP and 44.2% Latino Registration. Even though there is a slight drop

¹⁸ MALDEF and William C. Vasquez Institute, “California Senate Redistricting Plan,” 31 July 2001, file:///C:/Users/lichtman/OneDrive%20-%20american.edu/Documents/IL%20STATE%20DATA/maldef-wcvi_senate_plan.PDF, Appendix D, J. Morgan Kousser, “The Role of Cross-Over Districts in a Fair Redistricting: Lessons from the 1990s,” 28 July 2001, at 6-7, 15.

in percentages, the Latino community's ability to elect a candidate of choice remains at the same effective level.”¹⁹

On behalf of both defendants and plaintiffs, I have testified several times, including in Illinois, against imposing any fixed population standard for assessing minority opportunity districts. I testified that, in practice, mechanical reliance on creating single-race majority districts diminishes minority voter opportunities by limiting their empowerment to a restricted number of concentrated. I testified that applying a more flexible standard responsive to local conditions would expand opportunities for minorities to elect candidates of their choice and influence the political process. I note again that I cite court cases for the substance of the analysis and not to draw any legal conclusions.

In the post-2000 redistricting in New Jersey, the state’s Apportionment Commission on legislative districts, reduced the Black voting age population (VAP) in two districts below 50% Black, while raising the Black VAP in another district from 4% to 35%. The litigation in New Jersey parallels the circumstances of this litigation in Illinois today. Republican plaintiffs from the New Jersey State Legislature joined by minority plaintiffs claimed that minorities could not elect candidates of their choice in less than 50% voting age population districts.

As the expert witness for the Commission, in the case of *Page v. Bartels*,²⁰ I provided analysis that challenged the fixed 50% Black voting age threshold for Black opportunity districts. As here, I cited the success of Black candidates in less than 50% districts and the lack of usual white bloc voting to defeat Black candidates of choice in such districts. I noted that by unpacking 50%+ districts and creating a new 35% district the plan would not diminish but would likely

¹⁹ MALDEF “California Statewide Redistricting Plans,” 26 May 2011, p. 13, https://www.maldef.org/assets/pdf/maldef_final_submission_052611_narrative.pdf.

²⁰ *Page v. Bartels*, 144 F. Supp. 2d 346 (D.N.J. 2001).

increase the election of minorities to the New Jersey State Legislature. The three-judge court let stand the Commission plan with the result that “Ultimately, the Bartels plan led to a record number of minority nominations and elections in the 2001 New Jersey primary.”²¹

A decade later, in North Carolina, Republicans in control of the post-2011 redistricting process imposed a fixed rule of 50%+ Black opportunity districts across the state. As an expert witness for the plaintiffs in this instance, I again testified that this rule needlessly packed Black voters into districts, diminishing political influence and their ability to elect candidates of their choice more broadly. I cited Black electoral success in districts below the 50%+ threshold and the lack of usual white voting sufficient to defeat Black candidates of choice in these districts. In striking down many challenged state legislative districts, the three-judge court cited my testimony. It ruled that “a ‘district effectiveness analysis’ is a district specific evaluation used to determine the minority voting-age population level at which a district ‘become[s] effective in providing [a] realistic opportunity for . . . voters [of that minority group] to elect candidates of their choice.’ Trial Tr. vol. III, 14:1–12 (Lichtman).²² The court further cited my testimony regarding the distinction between racially polarized voting per se and politically significant racially polarized voting that is usually sufficient to defeat the minority candidate of choice.²³

In Florida in 2016, I testified on behalf of defendants, responding to a challenge by U.S. Representative Corrine Brown to redrawn Congressional District 5. Brown contended that the district’s new 45.1% Black voting age population was insufficient to provide Black voters an equal opportunity to elect candidates of their choice. She claimed that the VAP should be raised

²¹ E. Jaynie Leung, “Page v. Bartels: A Total Effects Approach to Evaluating Racial Dilution Claims,” *Minnesota Journal of Law & Inequality*, 2003, 21(1), p. 209. See also, Sam Hirsch, Unpacking Page v. Bartels: A Fresh Redistricting Paradigm Emerges in New Jersey, *Election Law Journal: Rules, Politics, and Policy*, 2004 1(1).

²² *Covington v. North Carolina*, 316 F. R. D. 117 (M.D.N.C. 2016), at

²³ *Id.*, at xxx. The U.S. Supreme Court affirmed the District Court’s ruling for all but two districts. *North Carolina v. Covington*, 583 US ____ 2018.

to more than 50%. After a study of voting patterns in the district, I concluded that the 45.1% Black VAP was more than sufficient to provide Black voters the opportunity to elect candidates of their choice. A three-judge Federal District Court rejected Brown's challenge and let the district stand. In the 2016 elections, the voters of new Congressional District 5 elected African American candidate Al Lawson. No white candidates contested the 2016 Democratic primary in CD 5. In a three-way race among Black candidates, Lawson defeated Brown by 8.6 percentage points. He the prevailed in the general election with a landslide majority of 64.2% against Black Republican Glo Smith. Lawson has since easily prevailed in subsequent elections.²⁴

In Illinois in 2001, Republican plaintiffs challenged the state's redistricting plan for the General Assembly. After the District Court dismissed the claims regarding Hispanic opportunity districts, plaintiffs claimed that the Black percentage of districts was too low and that districts statewide should conform to a "rule of thumb" that in this instance they claimed should be 60% voting age population. The three-judge Federal District Court rejected any fixed target for Black opportunity districts. The court noted, "Dr. Lichtman testified at trial that current voting rights scholarship generally opposes uniform application of the rule of thumb to majority-minority districts because factors such as age, registration rates, and turnout behavior of voters can vary significantly from district to district. Dr. Arrington [plaintiffs' expert] did not dispute this testimony, and also expressly disavowed the use of the rule of thumb."

The court further noted that "VAP figures do not accurately evaluate the electoral strength of a district."²⁵ The Court upheld the state's plan and Black voters succeeded in electing candidates of their choice in districts well below the purported 60% threshold, including House

²⁴ *Brown v. Detzner*, Case No. 4:2015cv00398, U.S. District Court, Northern District of Florida (2016); Florida Department of State, <https://results.elections.myflorida.com/>.

²⁵ *Campuzano v. Illinois State Board of Elections*, 200 F. Supp. 2d 905 (N.D. Ill. 2002), at 911, 912, fn. 10.

District 78 with a 38.9% Black voting age population. Current Black incumbent Camille Lilly first won election in District 78 under the 2001 plan in 2008. Previously, it was held by Black incumbent Deborah L. Graham, elected under the 2001 plan in 2002.

In a 2015 report, “The Color of Representation: Local Government in Illinois,” MALDEF in conjunction with the Chicago Lawyers’ Committee, the Joyce Foundation, and Asian American Forward Justice, summarized criticisms of efforts to expand minority representation solely through single-race, majority-minority districts. For Black citizens the report notes, “as a matter of substantive representation, packing Black voters, who are predominantly Democratic, into single districts can create surrounding districts that are more Republican, resulting in the election of more Republicans to the legislature in total, who may be less likely to support the interests of the Black community.” Second, the report observes “that a preoccupation with creating majority Black districts entrenches the racial segregation of minority voters,” limits their empowerment beyond a restricted number of districts, and fosters the idea that Black representative are tokens, isolated their enclave districts. Third, the report cites “the national organization FairVote,” which “has long argued that one of the main problems with majority-minority districts is that they “require the continuation of some degree of housing segregation that concentrates minority populations within easily drawn boundaries.” In addition, FairVote notes the inherent limitation of minority concentration means that, “many racial minority voters will be unable to elect preferred candidates when not living in majority-minority districts.” These same criticisms would apply to majority Latino districts, which pose the additional problem of a more dispersed minority population.²⁶

²⁶ Chicago Lawyers’ Committee, the Joyce Foundation, MALDEF, and Asian American Forward Justice, “The Color of Representation,” April 2015, pp. 29-30, https://static1.squarespace.com/static/5871061e6b8f5b2a8ede8ff5/t/593034a415cf7d726f5c6cb5/1496331463548/The_Color_of_Representation.pdf.

Professor Levitt emphasizes the detrimental effects of packing minorities into districts according to a fixed population majority reinforces stereotypes about minorities and subverts the purpose of the Voting Rights Act, which is minority empowerment:

It “turns the Act from a refined and sophisticated piece of federal legislation into a cartoon ... In some circumstances, the jurisdictions’ reliance on crude demographic targets over-concentrates real minority political power; in other circumstances, it under-concentrates real minority political power. In still other circumstances, the real political effects are un-clear, because the lure of the demographic assumption means that nobody has bothered to examine the real political effects. But in every circumstance, the notion that it is possible to rely on a few census statistics to guarantee compliance with the obligations of the Voting Rights Act betrays the central statutory insight. By assuming that functional political cleavages can be measured purely by percentage of citizen voting-age population, the troublesome approach imposes racial stereotypes on a statute designed to combat them.”²⁷

Leah Alden, Deputy Director of Litigation for LDF said this year that “The bright line of 50-percent-plus-one [minority share in a district] might be outdated, given the nuances of political realities across the country.” Bobby Scott, the pioneering Black leader who became Virginia’s first Black member of Congress since the 19th century said, “To suggest there is some numerical barrier that you have to achieve is absurd. If the votes are changing, the standard ought to change.”²⁸ After a successful lawsuit, Scott’s 50%+ single-race majority Black district was reduced to create two districts with Black percentage below 50%: Congressional District 3,

²⁷ Ibid., Levitt, “Quick and Dirty,” pp. 575-576.

²⁸ David Wasserman, “Is it Time to Rethink Hyper-Minority Districts?” *The Atlantic*, 20 September 2021, <https://www.theatlantic.com/politics/archive/2021/09/it-time-rethink-hyper-minority-districts/620118/>.

which is 46% single-race Black in its voting age population, and Congressional District 4, which is 39% single-race Black, according to the 2020 Census. Scott won reelection in CD 3 in 2016 and CD 4 elected a second Black representative, Donald McEachin, who won 75% of the Democratic primary vote and 58% of the general election vote. Both incumbents comfortably won reelection in 2018 and 2020.²⁹

In our 1993 article, Hebert and I wrote that “If minorities become more integrated into the mainstream of American life and polarized voting fades, the Voting Rights Act would no longer mandate the concentration of minority populations. The determination will be made jurisdiction by jurisdiction, in response to local conditions.”³⁰ This is what has occurred in twenty-first century Illinois. White bloc voting has diminished to the point where it does not usually defeat minority candidates of choice.

The opposite is true in Illinois, where white bloc voting *almost never* defeats minority candidates of minority voter candidates of choice either statewide or in legislative districts in the broad range of 25%+ to 50%- single-race CVAP. I will elaborate this finding on state legislative elections in the next section on Gingles Prong 3. For now, I note that Illinois is a white-majority state with a 15% Black CVAP, a 11.2% Hispanic CVAP, a 4.5% Asian CVAP and overall, a 31.4% all-minority CVAP.³¹

Since 2008, minority Democratic candidates in Illinois have participated in 17 statewide Democratic primaries and general elections, there is no dispute among experts that minorities are overwhelmingly Democratic in Illinois. By the logic of plaintiffs’ theory, demographic statewide

²⁹ Virginia Department of Elections, “Election Results,” <https://www.elections.virginia.gov/resultsreports/election-results/>.

³⁰ Ibid., Lichtman and Hebert, “A General Theory,” p. 25.

³¹ U.S. Census, American Community Survey, “Citizen Voting Age Population by Race and Ethnicity,” 2015-2019, <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2019.html>. The black and Asian percentages include combinations with whites.

minorities should have been shut out or nearly shut out of these statewide elections. In practice, not theory, Table 4 demonstrates that the minority candidates *prevailed in all 17 elections*, usually against white competitors, although sometimes running opposed in Democratic primaries. With the single exception of a close 2018 Democratic Primary for Attorney General, minority candidates have won contested primary and general elections by wide margins. Thus, *not once in these seventeen contests*, including primary and general elections, over a twelve-year span in a white-dominated CVAP state did white bloc voting defeat a minority candidate. Among statewide Illinois officials, senators, and executive officers, not counting presidents, minorities now comprise 5 of 8 elected officials (62.3%) as demonstrated in Table 5. This record of electoral success for minorities far outpaces other states with comparable levels of minority CVAP statewide. As shown in Table 6 and Chart 1, compared to the 62.5% statewide election rate of minority officials, no similar minority CVAP state surpasses a 16.7% statewide election rate of minorities. Three of the six comparison states have no minority office-holders elected statewide. Combined, the six comparison states have just three office-holders elected statewide, compared to six for Illinois alone. The average difference between Illinois and the comparison states in the share of minority statewide elected officials is 56.8 percentage points.

TABLE 4
MINORITY V. WHITE STATEWIDE ELECTION RESULTS IN ILLINOIS SINCE 2008

ELECTION	MINORITY CANDIDATE	WHITE CANDIDATE(S)	WINNER	SINGLE RACE CVAP% OF MINORITY CAND.
2010 DEM. PRIM. SEC. OF STATE	JESSE WHITE BLACK	UNOPPOSED	WHITE 100%	15.0%
2010 GENERAL SEC. OF STATE	JESSE WHITE BLACK	HISPANIC REPUBLICAN	WHITE 69.9%	15.0%
2014 DEM. PRIM. SEC. OF STATE	JESSE WHITE BLACK	UNOPPOSED	WHITE 100%	15.0%
2014 GENERAL SEC. OF STATE	JESSE WHITE BLACK	MIKE WEBSTER	WHITE 65.7%	15.0%
2016 DEM. PRIM. US SENATE	TAMMY DUCKWORTH ASIAN	NO WHITE, 2 BLACK CANDIDATES	DUCKWORTH 64.4%	4.5%
2016 GENERAL US SENATE	TAMMY DUCKWORTH ASIAN	MARK KIRK	DUCKWORTH 54.9%	4.5%
2018 DEM. PRIM. LT. GOVERNOR	JULIANA STRATTON BLACK	VARIOUS	STRATTON 54.5%	15.0%
2018 GENERAL LT. GOVERNOR	JULIANA STRATTON BLACK	Evelyn Sanguinetti	STRATTON 54.5%	15.0%
2018 DEM. PRIM. ATT. GEN.	KWAME RAOUL BLACK	PAT QUINN + VARIOUS OTHERS	RAOUL 30.2%	15.0%
2018 GENERAL ATT. GEN.	KWAME RAOUL BLACK	ONLY MINOR PARTY	RAOUL 54.7%	15.0%
2018 DEM. PRIM. COMPTROLLER	SUSANA MENDOZA HISPANIC	UNOPPOSED	MENDOZA 100%	11.2%
2018 GENERAL COMPTROLLER	SUSANA MENDOZA HISPANIC	DARLENE SENGER	MENDOZA 59.9%	11.2%
2018 DEM. PRIMARY SEC. OF STATE	JESSE WHITE BLACK	UNOPPOSED	WHITE 100%	15.0%
2018 GENERAL SECRETARY OF STATE	JESSE WHITE BLACK	JASON HELLAND	WHITE 68.3%	15.0%

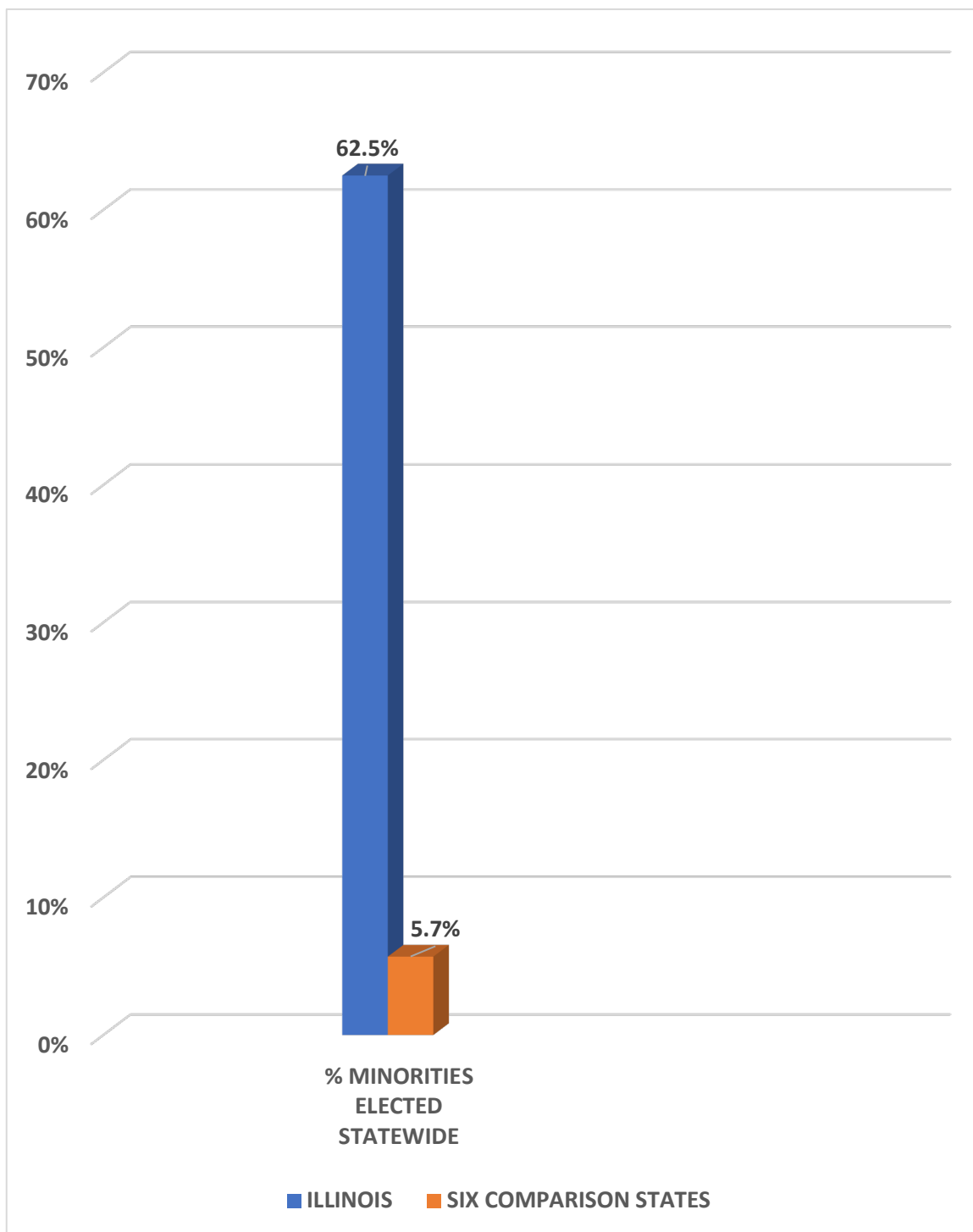
TABLE 5
EIGHT STATEWIDE ELECTED OFFICE-HOLDERS IN ILLINOIS BY RACE

OFFICE	INCUMBENT	RACE
US SENATE	RICHARD DURBIN	WHITE
US SENATE	TAMMY DUCKWORTH	ASIAN
GOVERNOR	J.B. PRITZKER	WHITE
LT. GOVERNOR	JULIANA STRATTON	BLACK
ATTORNEY GENERAL	KWAME RAOUL	BLACK
COMPTROLLER	SUSANA MENDOZA	HISPANIC
SECRETARY OF STATE	JESSE WHITE	BLACK
TREASURER	MIKE FRERICHS	WHITE
SUM: 5 OF 8 OFFICIALS, MINORITY 62.5%		

TABLE 6
STATEWIDE ELECTED OFFICE-HOLDERS IN ILLINOIS COMPARED TO OTHER
STATES WITH COMPARABLE MINORITY CVAP

STATE	MINORITY CVAP	# OF ELECTED STATEWIDE OFFICE- HOLDERS	# OF ELECTED MINORITY OFFICE- HOLDERS	% OF MINORITY OFFICE HOLDERS	DIFFERENCE WITH ILLINOIS
ILLINOIS	31.4%	8	5	62.5%	NA
ALABAMA	30.8%	8	0	0%	-62.5 PERCENTAGE PTS
DELAWARE	30.7%	9	1	11.1%	-51.4 PERCENTAGE PTS
LOUISIANA	34.7%	8	0	0%	-62.5 PERCENTAGE PTS
NORTH CAROLINA	30.4%	12	1	8.3%	-54.2 PERCENTAGE PTS
SOUTH CAROLINA	32.0%	10	0	0%	-62.5 PERCENTAGE PTS
VIRGINIA	32.1%	6	1	16.7%	-45.8 PERCENTAGE PTS
ALL NON- ILLINOIS	31.8%	53	3	5.7%	-56.8 PERCENTAGE PTS
Sources: state websites and Ballotpedia for individual states.					

CHART 1
MINORITY OFFICIALS ELECTED STATEWIDE, ILLINOIS VERSUS COMPARISON STATES



It is also informative to examine the actual election results for the City of Chicago and Cook County, where most of the challenged state legislative districts are located. Per the 2015-2019 American Community Survey results cited above, Chicago is majority-minority in its CVAP, like nearly all the challenged districts, but no racial group comes close to the 50%+ threshold: Black CVAP is 32.8%, and Hispanic CVAP is 20%. Yet, as indicated in Table 7, all three citywide elected officials in Chicago are minorities: The mayor and Treasurer are Black, and the City Clerk is Hispanic. Cook County is about evenly divided between whites and minorities in CVAP, but no individual minority group comes close the plaintiffs' 50%+ single-race CVAP. Blacks comprise 26% of the County's CVAP and Hispanics are 17.7%. Yet, according to Table 7, a majority 4 of 7 countywide elected officials are minorities.

Conclusions

As the redistricting adviser to the Democratic caucus, I reported these and other findings on state legislative elections (see next section on Prong 3 regarding the lack of politically significant white bloc voting to the Illinois State Legislature in 2011 and reiterated it in 2021. They were not operating in the blind in formulating the 2011 or the 2021 redistricting plans.³²

In 2021 I reported to the Joint Redistricting Committee that:

“The real story though in the State of Illinois, as I presented to the court and as I'm going to present to you now, is the fact that there is no longer white/Black (*sic*, bloc) voting that usually defeats the candidate of choice of minority voters, except, you know, in a very few overwhelmingly white districts and white areas that really can't do anything about it.”³³

³² Contrary to some rumors, despite providing general advice I had no role in drafting either the 2011 or 2021 redistricting plans for the Illinois State Legislature or Congress.

³³ Joint Committee Redistricting Hearing, 25 May 2021, Transcription Of Recorded Audio Proceedings Received on May 28, 2021, p. 39.

TABLE 7
EIGHT JURISDICTION-WIDE ELECTED OFFICE-HOLDERS IN CHICAGO AND
COOK COUNTY BY RACE

CHICAGO OFFICES		
OFFICE	INCUMBENT	RACE
MAYOR	LORI LIGHTFOOT	BLACK
TREASURER	ANNA M. VALENCIA	HISPANIC
CITY CLERK	MELISSA CONYEARS-ERVIN	BLACK
COOK COUNTY OFFICES		
OFFICE	INCUMBENT	RACE
STATE'S ATTORNEY	KIMBERLY M. FOXX	BLACK
SHERIFF	THOMAS DART	WHITE
Clerk of the Circuit Court	IRIS MARTINEZ	HISPANIC
ASSESSOR	FRITZ KAEGI	WHITE
TREASURER	MARIA PAPPAS	WHITE
COUNTY BD. PRESIDENT	TONY PRECKWINKLE	BLACK
COUNTY CLERK	KAREN A. YARBROUGH	BLACK

In 2011 I had provided similar testimony, which proved correct with respect to the districts at issue (see above on *Campuzano*). Those districts included House District 78 with a Black CVAP of 38.9%. Plaintiffs incorrectly insisted that this district could not provide Black voters an equal opportunity to elect candidates of their choice. Thus, what plaintiffs call the cracking of minority communities is a recognition that plaintiffs' 50%+ single-race theory is misguided in principle and practice. Rather, minority empowerment can be enhanced by not uncritically aggregating minorities into single-race 50%+ CVAP districts.

SECTION 2: GINGLES CRITERIA PRONG 3

I. Overview

In the foundational 1986 case of *Thornburg v. Gingles*, the U.S. Supreme Court establishes three threshold criteria for experts in assessing whether a district has the effect of diluting the votes of minorities.

First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district....

Second, the minority group must be able to show that it is politically cohesive....

Third, the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed—to usually defeat the minority's preferred candidate.³⁴

This section of my report focuses on Prong 3 of the three Gingles criteria. In any Section 2 case, proof by plaintiffs' experts of Prong 3 is a necessary but not sufficient requisite for proof of a violation of the Voting Rights Act. It is important to note that Prong 3 refers to “the

³⁴ *Thornburg v. Gingles*, 478 U.S. 30 (1986), at 50-51.

minority's preferred candidate," also termed the minority candidate of choice. It does not specify that the minority preferred candidate must be a candidate of the minority's own race. As noted in the previous section, plaintiff MALDEF, the NAACP Legal Defense and Education Fund (LDF), and Asian American Advancing Justice acknowledge that white candidates or candidates of another race can be the candidates of choice of minority voters.

This section of my declaration will deal with multiple reports by plaintiffs' experts that quantitatively examine issues related to Prong 3. It will consider the proof offered by the plaintiffs' experts on voting patterns, Dr. Jacob Grumbach for *Contreras* plaintiffs: Dr. Jowei Chen and Dr. Anthony Fowler for the *McConchie* plaintiffs, and Dr. Loren Collingwood for the *NAACP* plaintiffs. Based on the material presented in the declaration of these experts and additional material of my own, this section of my declaration demonstrates that white bloc voting does not usually, or even more than occasionally, defeat minority candidates of choice in legislative districts with minorities citizen voting age populations (CVAP) ranging as low at the bottom end of an "influence district." I conclude this part of my declaration with a section on minority empowerment under different approaches to redistricting.

MALDEF defines an "influence district," but not an opportunity district, as a district with a single race CVAP percentage of 25% to 30%³⁵. So, a reasonable cutoff for assessing minority opportunity state legislative districts in Illinois would be districts with a single-race CVAP greater than 30%. The lowest single-race CVAP majority in any new state legislative district (SB 927) is 34.6% Hispanic CVAP. The lowest single-race CVAP majority in any analog district of the prior 2011 plan is 35.4% Hispanic in House District 40. However, in the interest of extreme

³⁵ MALDEF, "Amicus Curiae Letter in Support of Petition to Review," *Pico Neighborhood Association v. Santa Monica*, 18 September 2020, <https://www.santamonica.gov/Media/Attorney/Election/20200918.MALDEF%20Amicus%20>.

caution, this declaration will examine the effects of white bloc voting on state legislative districts with a single-race CVAP percentage of 25% or more. Districts below that level are clearly not probative for assessing minority voting opportunities in current or new challenged districts.

In responding to multiple plaintiff declarations this component of my declaration will be divided into several sections. The main sections will focus separately on Hispanic voters and Black voters. The section on Hispanic voting will focus on the declarations of Drs. Grumbach and Chen. The section on Black voting will concentrate on the Chen and Collinswood declarations. A short last section will deal only with the Fowler declaration, which briefly presents an analysis dealing with Black and Hispanic voter opportunities. Each section will delineate the material presented by the separate plaintiff declarations, which also have considerable overlap.

II. Summary of Opinions

- 1) There is no “white majority” in any district challenged by plaintiffs for an insufficient concentration of Hispanics. These are all majority-minority CVAP districts.
- 2) The district-specific information presented by Grumbach and Chen, with some corrections, demonstrates that white bloc does not usually defeat Hispanic candidates of choice in state legislative elections with Hispanic CVAP as low as 25%. Instead, the information proves that white bloc voting *almost never* defeats Hispanic candidates of choice in such districts.
- 3) The actual results of elections demonstrate that in 26 Hispanic v. non-Hispanic elections in 25%+ Hispanic CVAP districts, Hispanic preferred candidates prevailed in 91% of these contests.

- 4) The win rate for Hispanic preferred candidates is 88% when the analysis considers only districts above 25% Hispanic CVAP but below 50% Hispanic CVAP, plaintiffs' talismanic percentage for a district that provides minorities an equal opportunity with whites to elect candidates of their choice.
- 5) Hispanic preferred candidates have been extraordinarily successful at forming interracial coalitions in which they are the preferred candidates of both Hispanic and non-Hispanic voters, including whites.
- 6) Such interracial coalitions expand minority empowerment beyond what is possible by forming heavily concentrated minority districts that depend on the residential segregation that plaintiffs' experts otherwise decry.
- 7) Dr. Chen's additional analysis of Hispanic voter opportunities examines only five elections chosen according to the plaintiffs' counsel's arbitrary and biased criteria provided to him. Plaintiffs' counsel further dictated to Dr. Chen the procedure to analyze this limited sample of elections. In some one-hundred redistricting and voting rights cases, I have never before witnessed a counsel compromising the scientific integrity of an expert with such methodological dictates.
- 8) Dr. Chen's efforts to project likely votes on SB 927 challenged districts and proposed remedial districts rely on a single unrepresentative and biased exogenous election and suffers from several other serious flaws.
- 9) Dr. Chen and Dr. Collingwood's analyses of Black voter opportunities in House District 114 demonstrate that white bloc voting did not usually defeat any Black candidate of choice in this district. It only once defeated Black candidates of choice in the related Senate district or in Saint Clair County.

- 10) The win rate for Black candidates (all are the preferred candidates of Black voters) in seven elections chosen for analysis by Dr. Chen or Dr. Collingwood is 86%.
- 11) Dr. Collingwood's own projection of likely outcomes in HD 114 under SB 927 demonstrates that white bloc voting would not defeat Black candidates in this new district.
- 12) Dr. Fowler's opinion confirms that a 50%+ district is not necessary to provide minority voters even more than an equal opportunity with whites to elect candidates of their choice.
- 13) However, Dr. Fowler's analysis cannot provide probative results for Gingles Prong 3 because it considers only the election of minority candidates, not minority preferred candidates. His theoretical, statewide generic model also fails to accurately represent actual election results.
- 14) Plaintiffs' approach of concentrating minorities into single-race 50% CVAP districts limits not expand minority empowerment and makes plaintiffs' strategy dependent on the racial segregation that their experts have decried.
- 15) In short, this analysis verifies what I testified to at a joint hearing of the Redistricting Committees of the Illinois Senate and Illinois House of Representatives on June 25, 2021. I testified that white bloc voting has diminished in Illinois to the extent that it no longer comes close to defeating minority preferred candidates in state legislative elections with much smaller minority concentrations than 50%+. It is not necessary and ultimately detrimental to segregate minorities into such districts.

III. Analysis of Gingles Prong 3 For Hispanic Voter Opportunities

This section focuses on the Grumbach and Chen declarations and develops an analytic framework for analyzing Gingles Prong 3. As a preliminary matter, I first note that there is no “white majority” in any districts that plaintiffs have challenged for allegedly insufficient concentrations of Hispanics. As shown in Table 1, these are all majority-minority districts.

Dr. Grumbach’s declaration presents considerable information on Hispanic and non-Hispanic voting choices but does not directly address Gingles Prong 3. As he explains in the

TABLE 1
HISPANIC CVAP IN CHALLENGED DISTRICTS UNDER PLAN SB 927

COUNT	DISTRICT	% BLACK CVAP	% ASIAN CVAP	% HISPANIC CVAP	% OTHER CVAP	% NON-HISP. MIN. CVAP	% ALL MINORITY CVAP
1	HD 3	4.9%	3.6%	47.4%	1.4%	9.9%	57.3%
2	HD 4	15.8%	2.4%	45.2%	1.6%	19.8%	65.0%
3	HD 21	7.2%	2.6%	42.7%	0.8%	10.6%	53.3%
4	HD 24 (Prior 2)	3.7%	23.6%	43.7%	1.2%	28.5%	72.2%
5	HD 39	3.1%	4.0%	45.6%	2.0%	9.1%	54.7%
6	HD 40 *	4.8%	9.1%	34.6%	2.2%	16.1%	50.7%
7	SD 2 **	10.4%	3.0%	46.7%	1.4%	14.8%	61.5%
8	SD 11 ** (Prior 12)	5.0%	1.8%	47.8%	0.7%	7.5%	55.3%
* Challenged only by McConchie plaintiffs. ** Challenged only by MALDEF plaintiffs.							

second paragraph of his declaration on page 1, he is assessing exclusively the existence of racially polarized voting in Illinois: “I was retained by Plaintiffs in this action to provide expert testimony assessing whether racially polarized voting between Latinos and non-Latinos exists in Illinois.” He further makes clear in his summary that “The Plaintiffs in *Contreras v. Illinois State Board of Elections* have asked me to quantitatively assess whether racially polarized voting exists in elections in the state of Illinois, with a focus on those racially contested elections that occurred in the prior decade in jurisdictions that overlap with the legislative districts challenged in this litigation.” (page 2)

An appropriate analysis of racially polarized voting might indirectly provide insight into Gingles Prong 3. However, Dr. Grumbach’s approach to racially polarized voting precludes such insight. First, Dr. Grumbach does not examine polarization between Hispanics and Whites. Instead, he universally combines Whites, Blacks, Asians, and other minorities into the single category of “non-Latino.” Thus, the voting choices of Whites remain concealed within this larger category of voters.

Second, Grumbach adopts a misleading definition of racially polarized voting that precludes any insight into Gingles Prong 3. Dr. Grumbach finds that racially polarized voting occurs whenever Hispanics and non-Hispanics differ in their voting choices, even when the differences are small and critically for Prong 3, no matter whether the two groups have the same preferred candidate. As illustrated by the examples in Table 2, Grumbach finds racially polarized voting even when Hispanics and non-Hispanics voted overwhelmingly for the same candidate of choice. I will further consider the issue of racially polarized voting in Illinois

TABLE 2
EXAMPLES OF ELECTIONS ANALYZED BY DR. GRUMBACH WHERE HE FINDS
RACIALLY POLARIZED VOTING

ELECTION & HISPANIC CANDIDATE OF CHOICE	HISPANIC VOTE FOR HISPANIC CANDIDATE OF CHOICE	NON-HISPANIC VOTE FOR HISPANIC CANDIDATE OF CHOICE
CONG. DIST. 4 2018 GENERAL, GARCIA	92.7%	84.6%
COOK CO. STATE'S ATT. 2012 GENERAL, ALVAREZ	84.7%	75.9%
HOUSE DISTRICT 4 2016 DEM PRIM, SOTO	94.9%	70.7%
COOK CO. CIRCUIT CLERK, 2020 GENERAL, MARTINEZ	81.6%	71.0%

when examining Factor 2 of the Senate factors on the totality of the circumstances for minority voters.

Despite these limitations, the information presented in Dr. Grumbach's report, with appropriate corrections, can help analyze Prong 3, especially when combined with corrected information from Dr. Chen's report. Specifically, if Dr. Grumbach's correctly identified Hispanic preferred candidates win elections in state legislative districts, then, by definition they could not have been defeated by white bloc voting. Ultimately the analysis will prove that white bloc voting only defeats minority candidates of choice in the rarest of elections.

In the tables and charts in the main body of his report Grumbach reports, with the odd exception of two congressional elections, he estimates Hispanic and non-Hispanic voting only for Hispanic candidates. It is necessary to dig into the detailed tables in his Appendix to discover the Hispanic candidate of choice, which differs from the Hispanic candidate in several elections.

However, the percentages of Hispanic CVAP in two of his chosen districts are too low for informative analysis of wins or losses for Hispanic preferred candidates or even for reliable measurement of voting patterns. As Dr. Grumbach acknowledges, "we obtain more precise estimates when precincts tend to be more racially homogenous," that is, there should be substantial concentrations of Hispanics and non-Hispanics in different electoral precincts to distinguish their voting patterns. Otherwise, Dr. Grumbach's estimation procedure of ecological inference (EI) or other statistical methods can produce unreliable results. In a 2021 article, mathematician Moon Duchin and her co-author, law professor Douglas M. Spencer agree that "Ecological inference, like ecological regression and all other inference techniques used for this purpose, gives very unreliable estimates for small sub-populations."³⁶

³⁶ Moon Duchin and Douglas M. Spencer, "Models Race and the Law," *The Yale Journal Forum* 130 (2021), at 777.

The two districts in Dr. Grumbach analysis with such small sub-populations of Hispanics are House District 19 with a Hispanic CVAP of 21.7% and Senate District 6 with a Hispanic CVAP of 8%. However small the sub-population, Dr. Grumbach's ecological inference (EI) technique will automatically grind out from its black box estimates of voting behavior, however unreliable. By a black box method, I mean that it includes no reality checks on even impossible results, as illustrated in Table 3 for Dr. Grumbach's results for Hispanic voting in multi-candidate 2018 Democratic primary in House District 19. Mathematically the percentage of Hispanic voters voting for all candidates in an election must add to 100%, not more or less. This constraint is absolute; the percentage of the Hispanic vote for each candidate equals the Hispanic vote for the candidate/the Hispanic vote for all candidates. However, as shown in Table 3, Dr. Grumbach's EI estimates of the percentage of the Hispanic vote for each candidate add to 141.2%, 41.2 percentage points outside the mathematical maximum. Dr. Grumbach reports confidence intervals for each estimate which bound the estimates within a plus or minus probability range. However, these confidence intervals are internal to the EI system. As further illustrated in Table 3 the confidence intervals are not necessarily reliable for the real world. Even implausibly taking the lowest level of the confidence interval for Hispanic voting for each candidate, the result still sums to twenty percentage points above 100%.

After omitting these non-probative districts, I was able to verify nearly all of Dr. Grumbach's EI results within an inconsequential margin of difference, using my independent method of ecological regression. Ecological regression is a standard methodology that I have used thousands of times in my voting rights cases and my scholarship. At the precinct level of analysis, the method compares the precinct-by-precinct vote in an election with the precinct-by-

TABLE 3
DR. GRUMBACH'S EI ESTIMATES OF HISPANIC VOTING FOR CANDIDATES IN
HD 19, 2018 DEMOCRATIC PRIMARY

PERCENT OF THE LATINO VOTE FOR EACH CANDIDATE PER GRUMBACH EI & SUM					
Muehfelder	Duplechin	Lapointe	Bonin	SUM	DIFFERENCE FROM 100%
23.69%	16.2%	50.98%	50.34%	141.2%	+41.2 PERCENTAGE PTS
PERCENT OF THE LATINO VOTE FOR EACH CANDIDATE LOWEST EI CONFIDENCE & SUM					
Muehfelder	Duplechin	Lapointe	Bonin	SUM	DIFFERENCE FROM 100%
19.26%	12.03%	43.05%	45.68%	120.0%	+20 PERCENTAGE PTS

precinct racial groups under study. It derives a prediction equation from this comparison that provides estimates the percentages of each racial group voting for each candidate in the election. The method has been tested numerous times in litigation and was the basis for the U.S. Supreme Court's ruling in *Thornburg v. Gingles*. The U.S. Supreme Court accepted my ecological regression methodology in the landmark Texas redistricting case of *LULAC v. Perry*, 548 U.S. 399 (2006), at 21. See, also,; *Covington v. North Carolina*, 316 F. R. D. 117 (M.D.N.C. 2016), at 137, and in Illinois, *Committee for a Fair and Balanced Map v. Illinois State Board of Elections*, 835 F. Supp. 2d 563 (N.D. Ill. 2011), at 585.

For a full explication of the ecological regression methodology see, Allan J. Lichtman, "Passing the Test: Ecological Regression Analysis in the Los Angeles County Case and Beyond," *Evaluation Review*, 1991 15(6). Ecological regression and ecological inference typically provide results that are inconsequentially different from one another, as is primarily true here. However, unlike ecological inference results, results from ecological regression have an assortment of reality checks: assuring that the estimates add to 100% of the votes cast by each racial groups; assuring that the estimates correctly reproduce the actual election results; examining graphs that plot candidate votes with precinct demography and analyzing precincts with substantial concentrations of one racial group.

The ecological inference EI method is also highly dependent on model choice and assumptions, and unpredictably fails and gives unreliable results. In his recent 2021 study of minority opportunity districts in 20 states, Dr. Chen found that he had to discard ecological

inference results for the state of New Jersey because of unexplained “unreliable ecological-inference estimates.”³⁷ New Jersey is a large and diverse state with a minority CVAP of 37.8%.³⁸

Both the EI point estimates and the confidence intervals depend on the particular model chosen for the analysis and the assumptions impeded within the model. The method can produce unstable results when rerun. Duchin and Spencer found “that a significant driver of instability is the manner of employing ecological inference, or EI, to estimate candidate preference by race. Though EI is a valid family of estimation methods, it should be used with caution because of well-documented limitations in precision and untestable questions of model selection.” In critiquing an effort by Jowei Chen and co-author Stephan Stephanopoulos to identify majority-minority districts they note “that Chen and Stephanopoulos report that 46 seats currently meet their definition of minority opportunity district (MOD for short). But merely by toggling four settings between the authors’ EI setup and alternative settings we commonly find in expert reports—while maintaining their precise definition of MOD and using the same R package they used to run EI—we were able to make the measured number of opportunity districts in the enacted plan itself vary from 34 to 51 seats, as shown in Figure 5. This does not mean that EI should be discarded, but its role in the Article’s definition of MOD is far too central and too hard-edged. A definition that uses richer electoral history would be more robust and ultimately more meaningful than one built by pushing a single election through a black box of statistical inference.”³⁹

³⁷ Jowei Chen & Nicholas O. Stephanopoulos, “The Race-Blind Future of Voting Rights,” *Yale Law Journal*, 130 (2021), at 890, n.145.

³⁸ “Citizen Voting Age Population New Jersey,” <https://data.census.gov/cedsci/table?q=citizen%20voting%20age%20new%20jersey&tid=ACST1Y2019.S2901>.

³⁹ Moon Duchin and Douglas M. Spencer, “Models Race and the Law,” *The Yale Journal Forum* 130 (2021), at 750.

This problem with EI can be verified through examples from the analyses presented by Grumbach and Chen. As shown in Table 4, their use of EI estimates varied widely for Hispanic voting behavior in these examples. We cannot compare results for white voting because Grumbach groups all non-Latinos together, and Chen generates separate estimates for Hispanics, whites, and other minorities. He also only reports his estimates for his purported Hispanic preferred candidate and not for any other candidate in the race.

These divergences between the Chen and Grumbach EI estimates matter. In the multi-candidate HD 40 2014 Democratic primary, Dr. Chen implausibly estimates that Mark Pasieka was the Hispanic candidate of choice of Hispanic voters with 35.5% of the Hispanic vote, despite finishing last overall with 303 votes, equaling 5.2%. However, Grumbach estimates far more plausibly that Jaime M. Andrade, Jr. was the candidate of choice of Hispanic voters with 56.3% of the Hispanic vote. Andrade topped all four other candidates with 50.2% of the total vote. It is impossible to compare the Grumbach and Chen estimates of Hispanic voting for Andrade because Chen only reports results for Pasieka, his purported candidate of choice for Hispanics. However, as indicated in Table 4, it is possible to compare Chen and Grumbach's estimates of the Hispanic vote for Pasieka. As shown the Table, Chen's EI estimate that Hispanics cast 35.5% of their vote for Pasieka is 27.6 percentage points above Grumbach's estimate of a 7.95% Hispanic vote for Pasieka. Grumbach's highest confidence level for the Hispanic vote for Pasieka (10.4%) is still 21.6 percentage points below the lowest confidence level for Chen's results (32%). My independent verification using ecological regression and the accompanying reality checks confirms the common-sense conclusion Grumbach, not Chen, correctly identified

TABLE 4
DIVERGENCES IN EI ESTIMATES OF HISPANIC VOTING BETWEEN EI
ANALYSES OF DR. GRUMBACH AND DR. CHEN

CHEN ESTIMATED CANDIDATE OF CHOICE, HISPANIC VOTERS	CHEN EI ESTIMATE OF HISPANIC VOTE FOR CANDIDATE	GRUMBACH EI ESTIMATE OF HISPANIC VOTE FOR CANDIDATE	DIFFERENCE IN EI ESTIMATES CHEN V. GRUMBACH	ACTUAL % OF TOTAL VOTE FOR CANDIDATE
HD 40 2014 DEM PRIM PASIEKA	35.5%	7.95%	CHEN +27.6 PERCENTAGE PTS	5.2%
COOK CO. 2018 DEM PRIM ASSESSOR BERRIOS	63.2%	53.95%	CHEN + 9.25 PERCENTAGE PTS	33.9%
Sources: Chen Declaration Tables 6, 7; Grumbach Declaration, Tables A1, A4.				

the Hispanic candidate of choice in this primary and that Chen's EI estimates were far off the mark.⁴⁰

For the 2018 primary for Cook County Assessor, Grumbach and Chen correctly identify Joseph Berrios as the candidate of choice for Hispanic voters. However, Chen's estimate of the Hispanic vote for Berrios is 9.25 percentage points higher than Grumbach's estimate. Chen's lowest confidence level for the Hispanic vote for Berrios (62%) is still 6.8 percentage points higher than Grumbach's highest confidence interval (55.2%) for the Hispanic Berrios vote. Notably, Chen uses his EI estimates for the 2018 Cook County Assessor race to assess opportunities for Hispanic candidates of choice in SB 927 and alternative plan districts.

The preceding analysis explains why it is important to independently verify EI estimates at least within a range of non-consequential error. In Figures 1 and 2 in the main body of his declaration (pp. 8-10) Dr. Grumbach provides results of his ecological inference analysis for 19 endogenous elections for state legislative positions in Cook County. However, he reports results only for the Hispanic candidates, the Hispanic preferred candidate cannot be identified from these Figures alone. For example, in the 2012 Democratic primary in Senate District 2 Grumbach reports that Hispanic candidate Montes, Jr. garnered 43% of the Hispanic vote. The more detailed information in his Appendix reveals that white candidate Steven Landek was the preferred candidate of Hispanic voters, with 57% of the Hispanic vote. Grumbach's Appendix

⁴⁰ For my independent verification I rely on the standard double-equation, weighted procedure, which according to Bernard Grofman, the expert witness for prevailing plaintiffs in *Thornburg v. Gingles* I developed independently. (p. 146). The method involves separate equations for each candidate, weighting by CVAP to adjust for differences in precinct population, and use of CVAP as the denominator for candidate percentages to adjust for turnout differentials. In my experience, experts independently using this method produce identical or nearly identical results. In extreme cases, where group voting for or against a candidate is at or close to the mathematical maximum, the method can on occasion produce estimates of greater than 100% or less than 0%. As Professor Grofman further noted, I developed methodology to deal with this issue, but I did not encounter it in any of my verifications or corrections of the work of Drs. Grumbach and Chen. And my results were confirmed by the reality checks explained above. Bernard Grofman, Lisa Handley, and Richard Neimi, *Minority Representation and the Quest for Voting Equality* (Cambridge University Press, 1994), at. 67, 146.

thus provides the information needed to discover his attributions of the Hispanic preferred candidates.

Table 5 reports the results of Dr. Grumbach's analysis of his 19 chosen endogenous state legislative elections from Appendix A, Table A1 (pp. 23-25). I have not deleted the two non-probative elections in districts with minimal Hispanic CVAP percentages or made any corrections or additions. This table presents results as reported by Dr. Grumbach in his Appendix, unchanged -- taken at face value. The only addition to the table is the column showing the actual outcome of each election, that is, whether Grumbach's identified Hispanic candidate of choice wins or loses. Dr. Grumbach does not list wins and losses. He is only concerned with whether Hispanics and non-Hispanics voted differently, not whether any differences are politically consequential.

The compilation of wins and losses for the Hispanic candidate of choice is the bottom line for determining whether white bloc voting could have defeated the Hispanic candidate of choice in the state legislative elections that Dr. Grumbach chose as probative for analysis. As

indicated in Table 5 and Chart 1, when taking Grumbach's results from his Appendix at face value with no changes, Hispanic candidates prevailed in 16 of 19 elections, for a win rate of 84%.

The information from Table 5 as depicted in Chart 2, yields another important statistic, the coalition rate, measured by the percentage of elections in which Hispanics and non-Hispanics have the same candidate of choice.⁴¹ As indicated in Table and Chart, Hispanics and non-Hispanics preferred the same candidates in 14 of 19 elections, for a coalition rate of 74%. This result indicates that Hispanics and non-Hispanics have found common ground in their choice of candidates for state legislative positions in Illinois.

However, Dr. Grumbach's results cannot uncritically be taken at face value. First, it is necessary to delete the two elections in districts with minimal Hispanic CVAP percentages (HD 19 and SD 6). With respect to the 2012 Democratic primary in HD 2 I could not verify that candidate Temoc Morfin was the candidate of choice of Hispanic voters. The differences between his Hispanic vote and that of another Hispanic Edward J. Acevedo, were too close for verification. The exclusion of this election makes little analytic difference.

Table 6 and Charts 3 and 4 present the revised results for the 16 remaining probative informative state legislative elections that Dr. Grumbach analyzed. For all elections, I was able to independently verify Dr. Grumbach's identification of the Hispanic preferred candidates. These revised results only slightly change the critical outcomes. As indicated in the Table and Charts, for the probative endogenous elections analyzed by Dr. Grumbach, the win rate for

⁴¹ No such finding is possible from Dr. Chen's declaration, which reports his EI estimates only for his alleged Hispanic preferred candidate.

TABLE 5
ANALYSIS OF 19 ENDOGENOUS ELECTIONS EXAMINED BY DR. GRUMBACH
UNALTERED RESULTS FROM GRUMBACH REPORT, RESULTS FROM APPENDIX
A, TABLE A.1, PP. 23-25

COUNT	DISTRICT & ELECTION	CAND. OF CHOICE OF HISPANIC VOTERS	% OF HISPANIC VOTE*	CANDIDATE OF CHOICE OF NON-HISP. VOTERS?	HISPANIC CANDIDATE OF CHOICE WINS?*
1	HD 1 2018 DP	ORTIZ	61%	NO	YES
2	HD 2 2012 DP	MORFIN	61%	NO	NO
3	HD 2 2016 DP	ACEVEDO	66%	NO	NO
4	HD 2 2020 DP	MAH	61%	YES	YES
5	HD 4 2016 DP	SOTO	95%	YES	YES
6	HD 4 2018 DP	RAMIREZ	67%	YES	YES
7	HD 19 2020 DP	LAPOINTE	51%	YES	YES
8	HD 22 2012 DP	MADIGAN	82%	YES	YES
9	HD 22 2016 DP	MADIGAN	64%	YES	YES
10	HD 24 2016 GEN	HERNANDEZ	98%	YES	YES
11	HD 39 2012 DP	T. BERRIOS	65%	NO	YES
12	HD 39 2014 DP	T. BERRIOS	75%	NO	NO
13	HD 40 2014 DP	ANDRADE	56%	YES	YES
14	HD 40 2016 DP	ANDRADE	71%	YES	YES
15	HD 40 2020 DP	ANDRADE	33%	YES	YES
16	SD 6 2014 GEN	CULLERTON	79%	YES	YES
17	SD 11 2020 GEN	VILLANEUVA	97%	YES	YES
18	SD 12 2012 DP	LANDEK	57%	YES	YES
19	SD 20 2018 DP	MARTINEZ	73%	YES	YES
SUM: 16 WINS 3 LOSSES FOR HISPANIC PREFERRED CANDIDATES WIN RATE = 84%					
SUM: 14 OF 19 ELECTIONS WITH SAME PREFERRED CANDIDATE FOR HISPANICS AND NON-HISPANICS, COALITION RATE = 74%					
* Results from the website of the Illinois State Board of Elections, https://elections.il.gov/electionoperations/ElectionResults.aspx .					

CHART 1
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN 19 STATE
LEGISLATIVE ELECTIONS ANALYZED BY DR. GRUMBACH, FROM TABLE 3

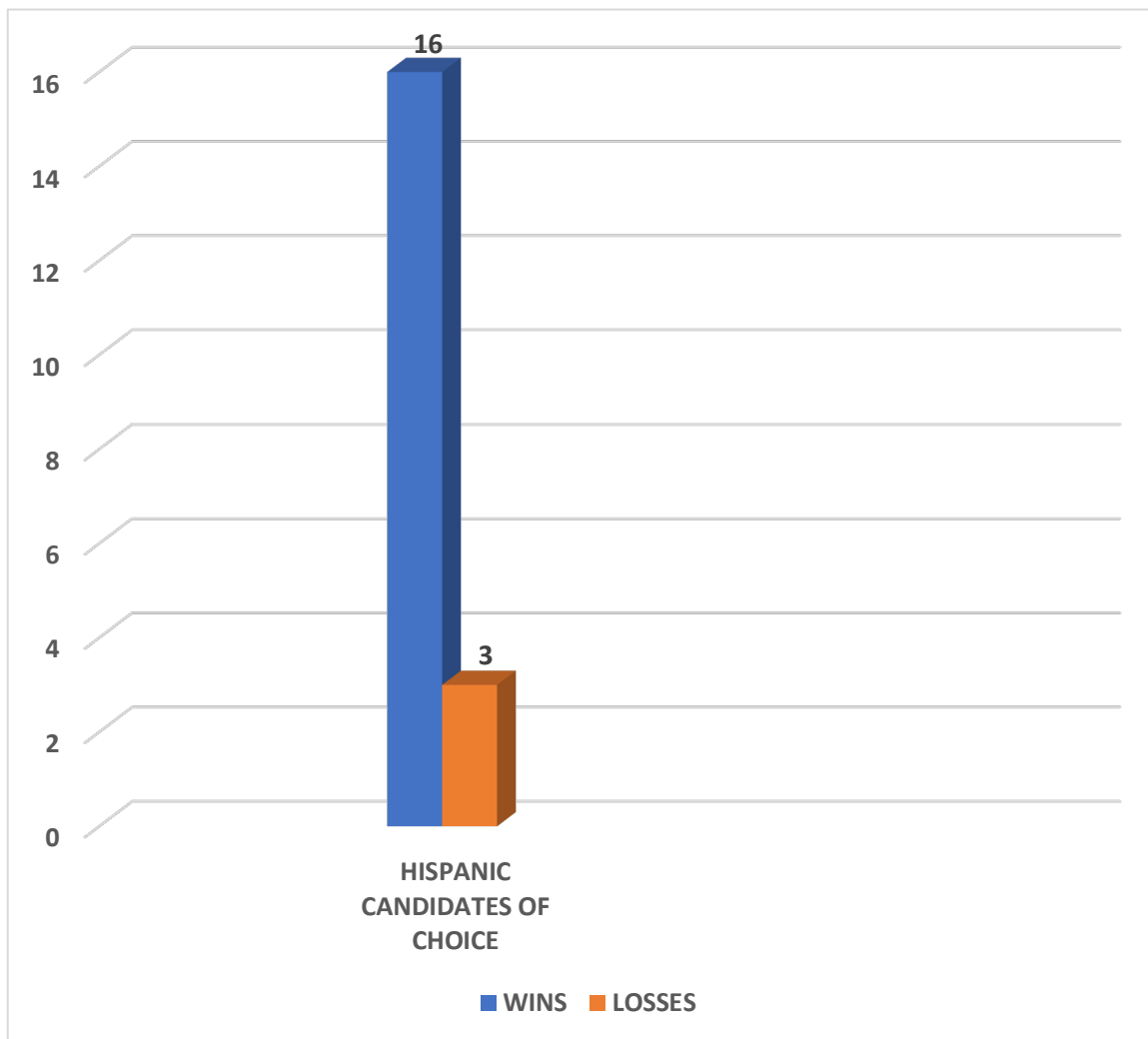
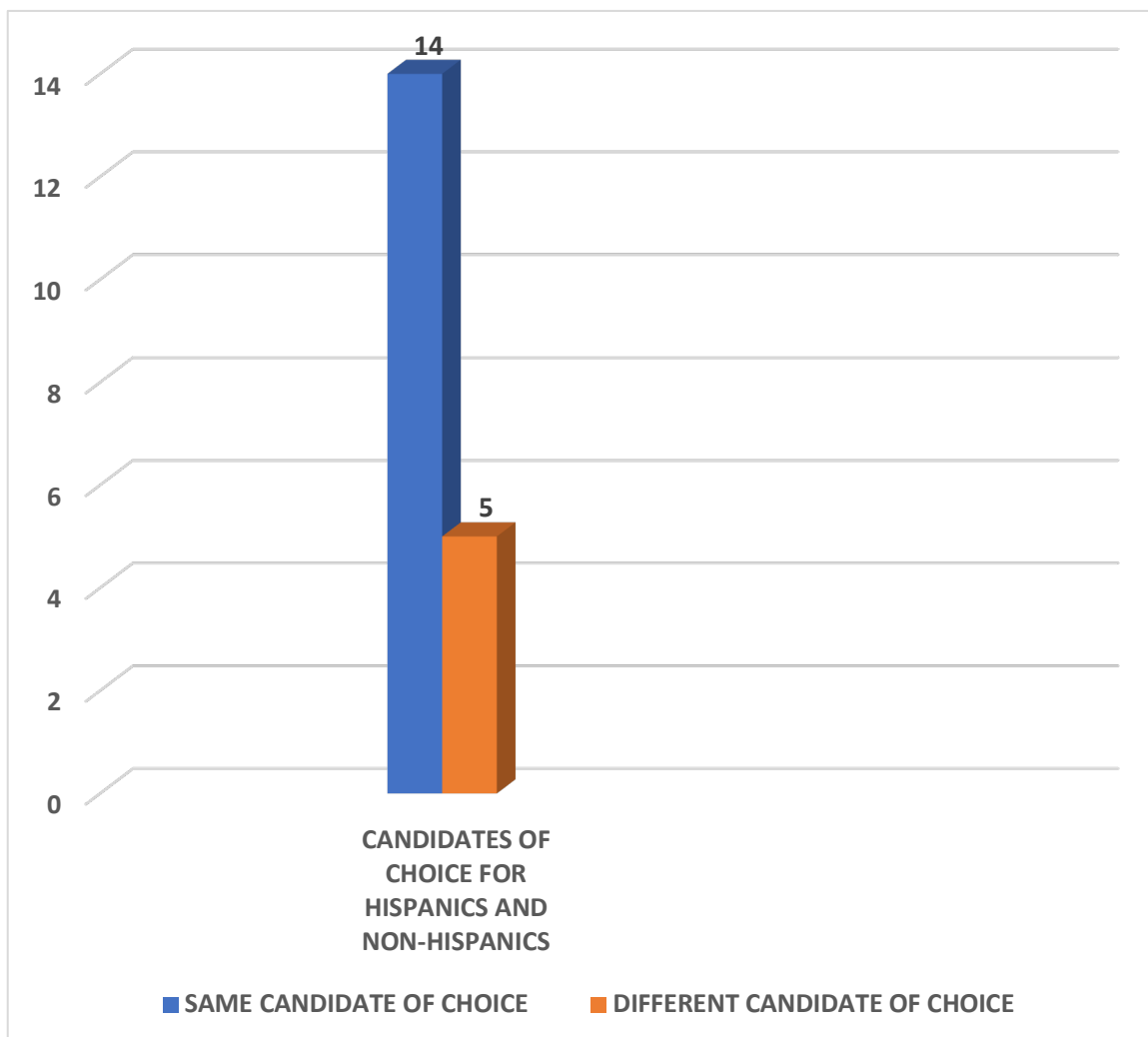


CHART 2
HISPANIC AND NON-HISPANIC COALITIONS IN 19 STATE LEGISLATIVE
ELECTIONS ANALYZED BY DR. GRUMBACH, FROM TABLE 3



Hispanic candidates of choice rises from 84% to 88%. The coalition rate increases from 74% to 75%.⁴²

The only change I made in the Hispanic voter estimates in Table 6 was to correct an error in Grumbach's EI estimate of the Hispanic vote for Hispanic candidate of choice Jaime M. Andrade, Jr. in the two-candidate election 2020 Democratic Primary in House District 40. Andrade prevailed with 65% of the vote. Yet Grumbach's EI procedure produced only an estimated 32.9% of the Hispanic vote for Andrade and 18.34% for his lone opponent. These two percentages add to only 51.2%, 48.8 percentage points short of the mathematically required 100%. Through ecological regression and the checks available in the procedure that Grumbach correctly identified Andrade as the Hispanic preferred candidate, but with 72 percent of the Hispanic vote. The correction is indicated on Table 6 and does not affect win rates or coalition rates.

Dr. Grumbach also analyzes exogenous elections for positions other than state legislature, although he does not isolate white voting. However, any counting of assessment of wins and losses for Hispanic candidates of choice in these exogenous elections is unavailing for assessing Hispanic voter opportunities in challenged districts. Most are analyzed for Cook

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TABLE 6
REVISED COMPILATION OF 16 ENDOGENOUS ELECTIONS EXAMINED BY DR.
GRUMBACH

COUNT	DISTRICT & ELECTION	CAND. OF CHOICE OF HISPANIC VOTERS	% OF HISPANIC VOTE*	CANDIDATE OF CHOICE OF NON-HISP. VOTERS?	HISPANIC CANDIDATE OF CHOICE WINS?*
1	HD 1 2018 DP	ORTIZ	61%	NO	YES
2	HD 2 2016 DP	ACEVEDO	66%	NO	NO
3	HD 2 2020 DP	MAH	61%	YES	YES
4	HD 4 2016 DP	SOTO	95%	YES	YES
5	HD 4 2018 DP	RAMIREZ	67%	YES	YES
6	HD 22 2012 DP	MADIGAN	82%	YES	YES
7	HD 22 2016 DP	MADIGAN	64%	YES	YES
8	HD 24 2016 GEN	HERNANDEZ	98%	YES	YES
9	HD 39 2012 DP	BERRIOS	65%	NO	YES
10	HD 39 2014 DP	BERRIOS	75%	NO	NO
11	HD 40 2014 DP	ANDRADE	56%	YES	YES
12	HD 40 2016 DP	ANDRADE	71%	YES	YES
13	HD 40 2020 DP	ANDRADE	72%*	YES	YES
14	SD 11 2020 GEN	VILLANEUVA	97%	YES	YES
15	SD 12 2012 DP	LANDEK	57%	YES	YES
16	SD 20 2018 DP	MARTINEZ	73%	YES	YES
SUM: 14 WINS, 2 LOSSES FOR HISPANIC PREFERRED CANDIDATES, 3 LOSSES WIN RATE = 88%					
SUM: 12 OF 16 ELECTIONS WITH SAME PREFERRED CANDIDATE FOR HISPANICS AND NON-HISPANICS, COALITION RATE = 75%					
* Corrected percentage.					

CHART 3
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN REVISED 16
STATE LEGISLATIVE ELECTIONS ANALYZED BY DR. GRUMBACH, FROM
TABLE 6

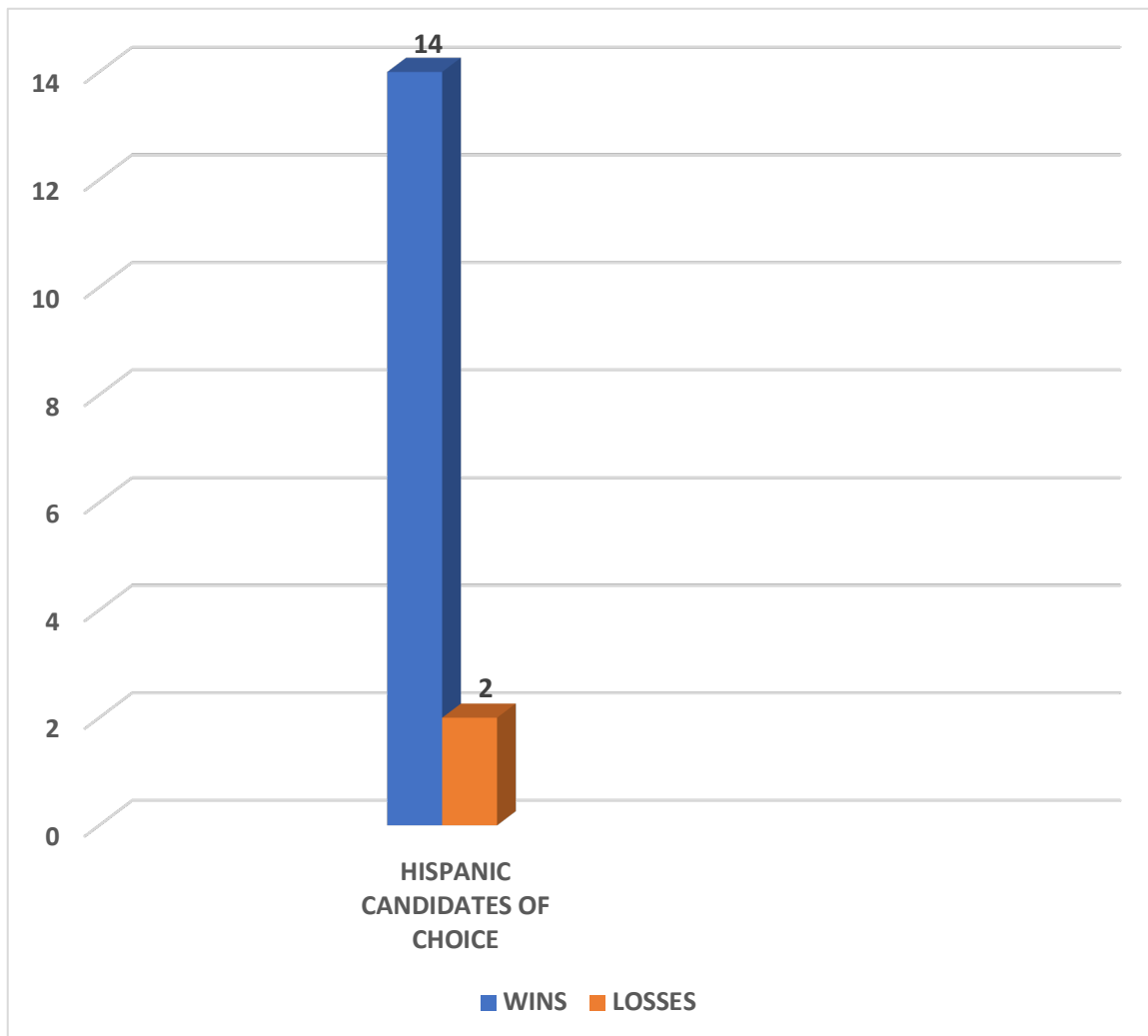
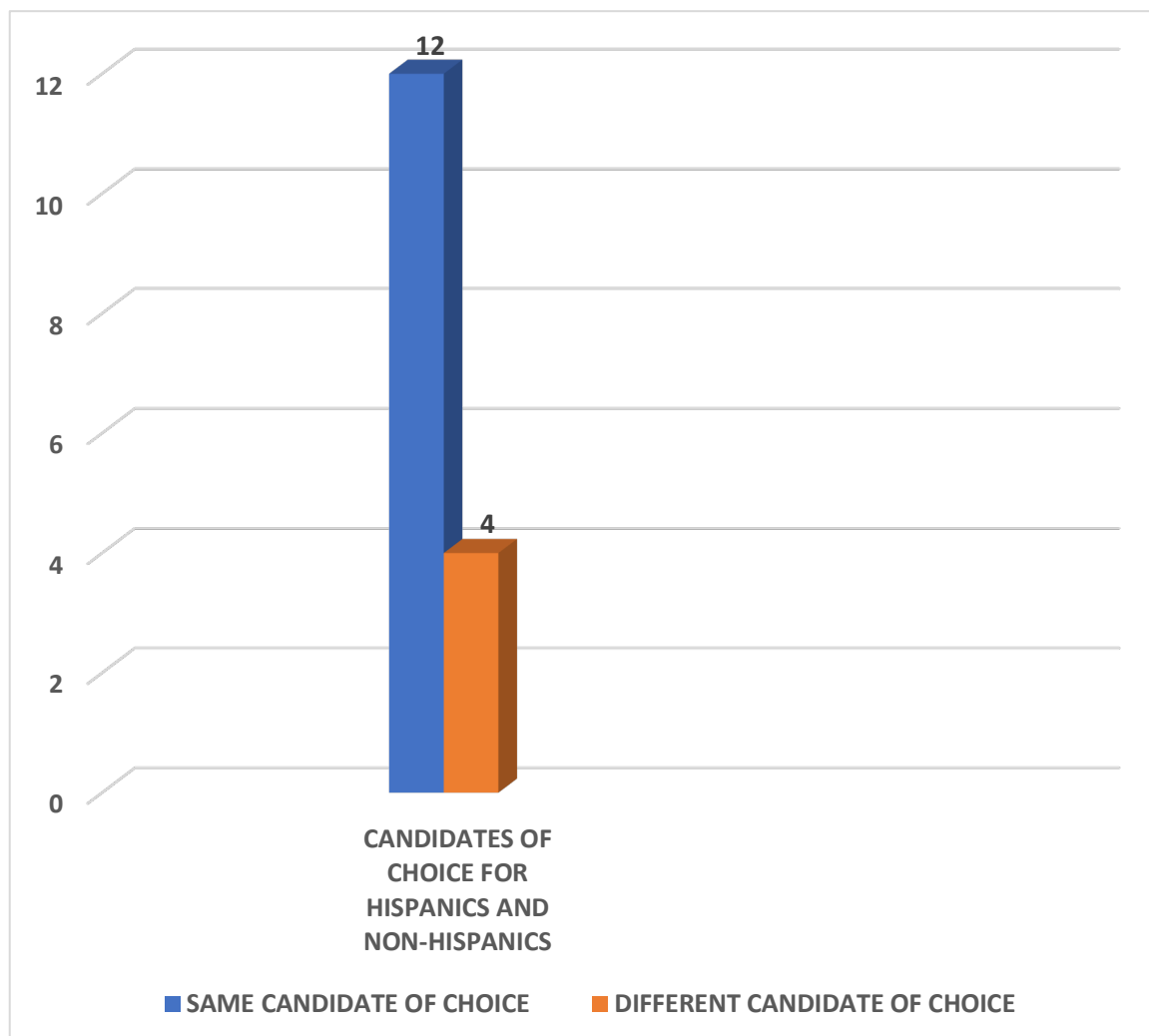


CHART 4
HISPANIC AND NON-HISPANIC COALITIONS IN REVISED 16 STATE
LEGISLATIVE ELECTIONS ANALYZED BY DR. GRUMBACH, FROM TABLE 6

a



County, where the Hispanic CVAP for Cook County is 17.7% or for the city of Chicago where it is 20.7%.⁴³

Beyond these low Hispanic CVAP percentages, the distribution of non-Hispanic whites, Hispanics, and non-Hispanic minorities in Cook County and Chicago differs markedly from any challenged districts in Table 1 or any current districts. Chart 5 displays the CVAP percentages for non-Hispanic whites, non-Hispanic minorities, and Hispanics in Cook County. As shown in Chart 5, the non-Hispanic white CVAP percentage in Cook County is nearly triple the Hispanic CVAP, and white CVAP percentage is almost double the Black CVAP percentage. Chart 6 displays this data for Chicago. No challenged district, as indicated in Table 1, even approximates these racial group percentages.

Dr. Chen's declaration provides additional information, with significant cautions and corrections. Like Dr. Grumbach, Dr. Chen chose a set of endogenous state legislative elections that he deemed probative for analysis. However, as shown in Table 7, there is a wide divergence between the endogenous elections considered probative by the two experts. There were eight endogenous elections that Dr. Grumbach but not Dr. Chen, analyzed and ten elections that Dr. Chen but not Dr. Grumbach studied. I will reconcile these discrepancies below, creating a combined database of probative endogenous state legislative elections.

⁴³ U.S. Census, American Community Survey, "Citizen Voting Age Population, 2015 to 2019," <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2019.html>. I also note in passing that the Hispanic candidates of choice won a majority of the exogenous elections that Dr. Grumbach chose to analyze or advanced to the runoff in the Chicago general mayoral election of 2015.

CHART 5
RACIAL GROUPS IN COOK COUNTY BY CVAP

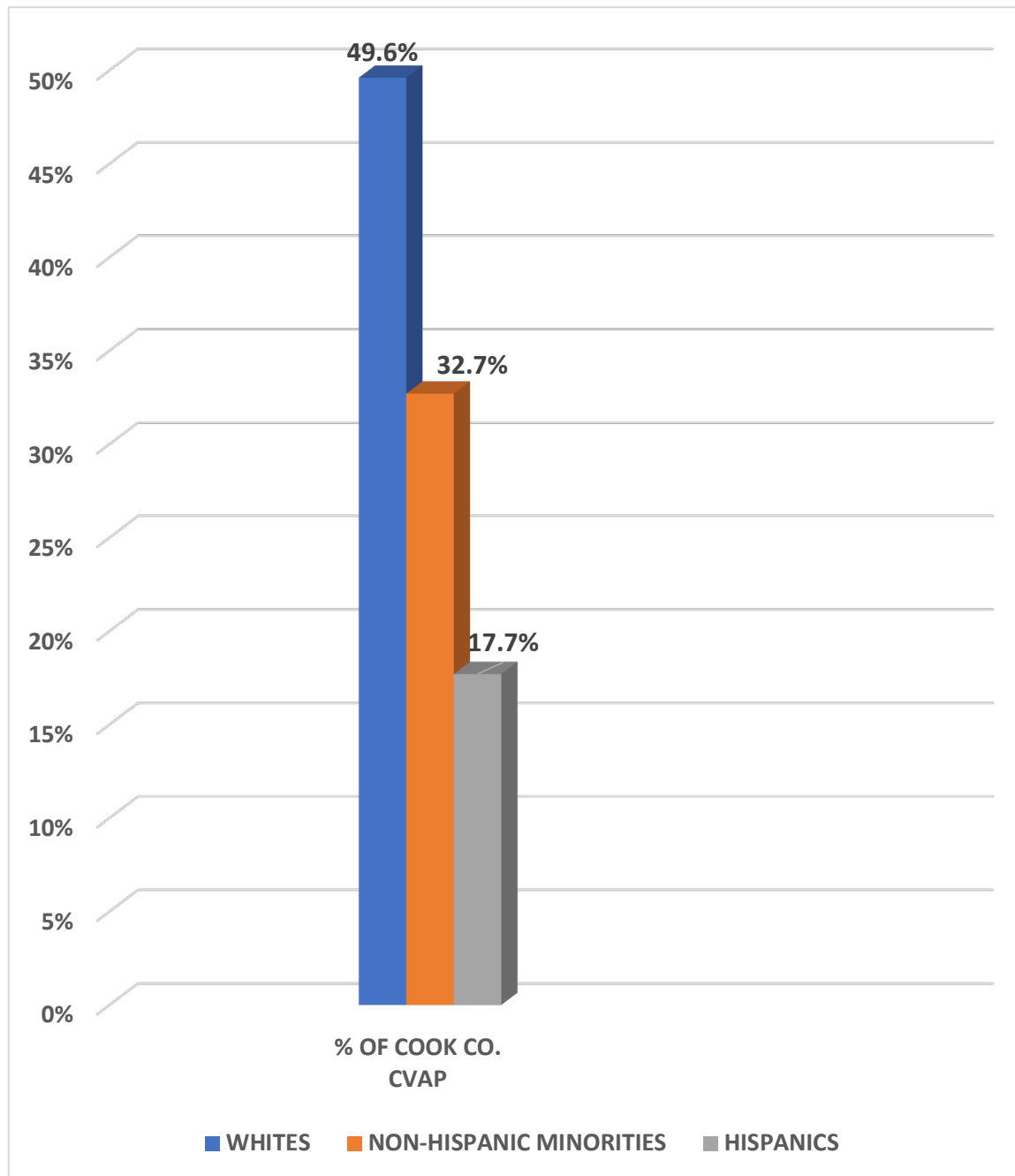


CHART 6
RACIAL GROUPS IN CHICAGO BY CVAP

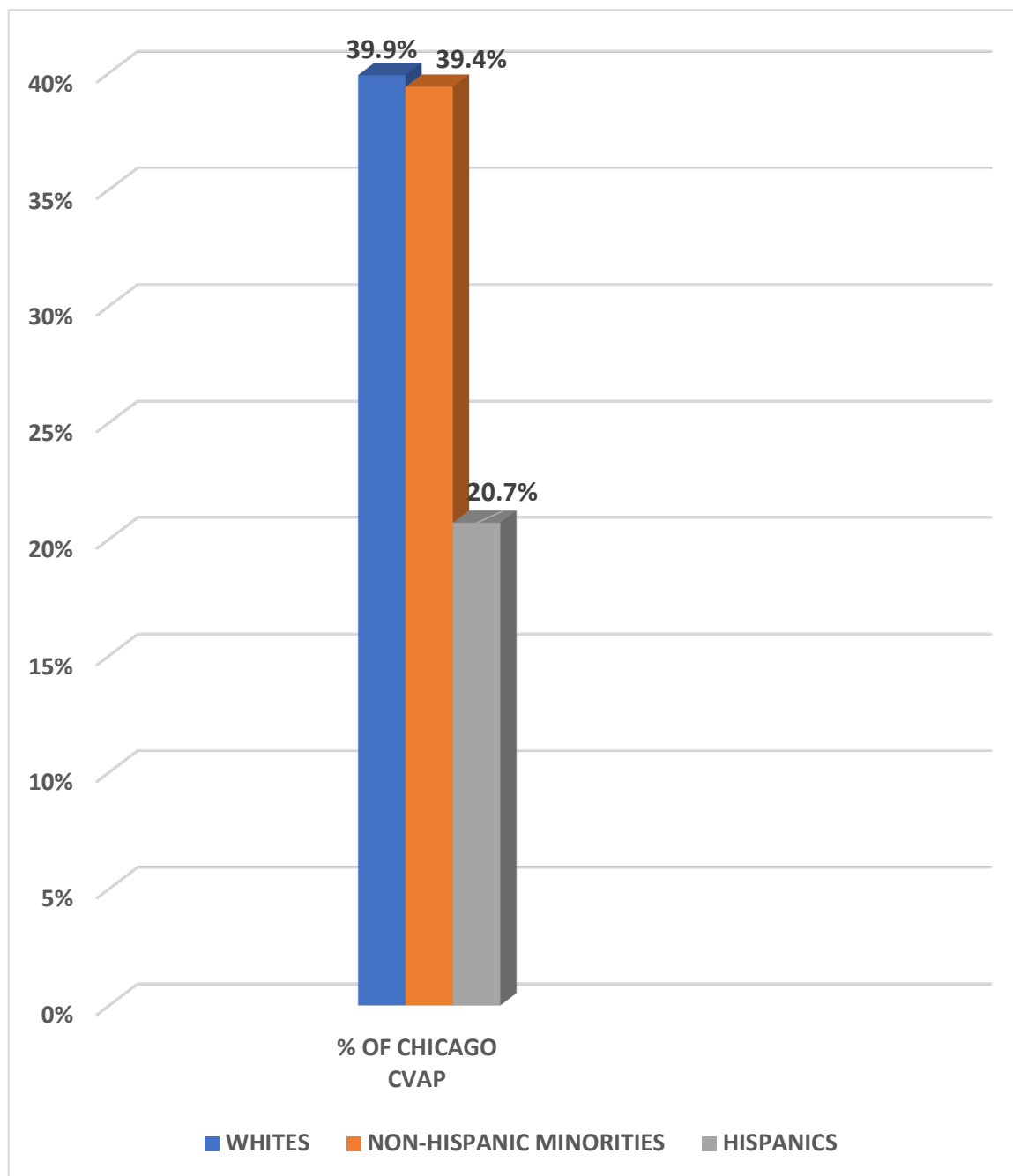


TABLE 7
DIFFERENCES BETWEEN DR. GRUMBACH AND DR. CHEN IN ENDOGENOUS
STAT LEGISLATIVE ELECTIONS CHOSEN FOR ANALYSIS FOR HISPANIC
VOTING PATTERNS IN COOK COUNTY

COUNT	ENDOGENOUS ELECTIONS ANALYZED BY GRUMBACH AND NOT BY CHEN	ENDOGENOUS ELECTIONS ANALYZED BY CHEN AND NOT BY GRUMBACH
1	House District 2 2012 Dem Prim	House District 5 2016 Dem Prim
2	House District 2 2020 Dem Prim	House District 5 2018 Dem Prim
3	House District 4 2016 Dem Prim	House District 10 2016 General
4	House District 19 2020 Dem Prim	House District 35 2012 General
5	House District 22 2012 Dem Prim	House District 40 2012 General
6	House District 40 2020 Dem Prim	House District 10 2020 Dem Primary
7	Senate District 6 2014 General	Senate District 22 2016 General
8	Senate District 12 2012 Dem Prim	Senate District 5 2016 Dem Prim
9		Senate District 22 2016 Dem Primary
10		House District 77 2014 Dem Prim

For strictly informational, not analytic purposes, Table 8 reports Dr. Chen's results for the 23 endogenous elections he analyzed in his declaration. The results are taken at face value, with no corrections or deletions. The information presented in Table 8 demonstrates that Hispanic candidates of choice prevailed in 14 of the 23 elections for a win rate of 61%. Hispanic and whites had the same candidate of choice in 12 of 23 elections, for a coalition rate of 52%. However, these face-value result fail to even approximate an accurate win or coalition rate for Hispanic candidates of choice in Hispanic v. non-Hispanic elections in probative state legislative districts. Instead, the results are marred by serious errors of omission, commission, and calculation.

For errors of omission, Dr. Chen fails to analyze five probative Hispanic v. non-Hispanic elections that Dr. Grumbach studied:

- * House District 2 2020 Democratic Primary:
- * House District 4 2016 Democratic Primary:
- * House District 22 2012 Democratic Primary:
- * House District 40 2020 Democratic Primary
- * Senate District 12 2012 Democratic Primary

While omitting these five probative state legislative elections, Dr. Chen includes

TABLE 8
ANALYSIS OF 23 ENDOGENOUS ELECTIONS EXAMINED BY DR. CHEN, CHEN
DECLARATION, TABLE 6

COUNT	DISTRICT & ELECTION	CANDIDATE. OF CHOICE OF HISPANIC VOTERS PER CHEN	CANDIDATE OF CHOICE OF WHITE VOTERS? ⁴⁴	HISPANIC CANDIDATE OF CHOICE WINS?
ENDOGENOUS ELECTIONS				
1	2012 HD 35 GENERAL	FERNANDEZ	NO	NO
2	2012 HDS 40 GENERAL	JOHNSON	NO	NO
3	HD 39 2012 DEM PRIM	BERRIOS	NO	YES
4	HD 40 2014 DEM PRIM	PASIEKA	NO	NO
5	HD 39 2014 DEM PRIM	BERRIOS	NO	NO
6	HD 77 2016 DEM PRIM	WILLIS	YES	YES
7	HD 10 2016 GENERAL	CONYEARS	YES	YES
8	HD 24 2016 GENERAL	HERNANDEZ	YES	YES
9	SD 22 2016 GENERAL	CASTRO	YES	YES
10	HD 2 2016 PRIMARY	ACEVEDO	YES	NO
11	SD 22 2016 PRIMARY	CASTRO	YES	YES
12	HD 22 2016 DEM PRIMARY	MADIGAN	YES	YES
13	HD 5 2016 DEM PRIMARY	STRATTON	YES	YES
14	SD 5 2016 DEM PRIMARY	VAN PELT	YES	YES
15	HD 1 2018 DEM PRIMARY	ORTIZ	NO	YES
16	HD 4 2018 DEM PRIM	RAMIREZ	NO	YES
17	HD 5 2018 DEM PRIMARY	SAYEED	NO	NO
18	SD 20 2018 DEM PRIM	MARTINEZ	YES	YES
19	SD 25 2018 DEM PRIMARY	MILES	NO	NO
20	SD 1 2020 GENERAL	VILLANEUVA	YES	YES
21	HD 10 2020 DEM PRIMARY	ZUCCARO	NO	NO
22	SD 2 2020 DEM PRIMARY	CASTRO	YES	YES
23	SD 40 2020 DEM PRIMARY	WILCOX	NO	NO
SUM: 14 WINS 9 LOSSES FOR HISPANIC PREFERRED CANDIDATES WIN RATE = 61%				
SUM: 12 OF 23 ELECTIONS WITH SAME PREFERRED CANDIDATE FOR HISPANICS AND WHITES, COALITION RATE = 52%				

⁴⁴ Dr. Grumbach combines all non-Hispanic voters, including whites, blacks, Asians, and other minorities into a single category of non-Hispanic voters. He does not separately analyze white voting. Dr. Chen does not provide an analysis of combined non-Hispanic voters but does separately examine white voting. However, the evidence points to little divergence between these measures. Where Grumbach and Chen examined the same elections, they Hispanic preferred candidate for white or combined minority voters is the same. The one exception is the 2016 Democratic primary in House District 2. Hispanic preferred candidate Acevedo won both the Hispanic and white vote, but narrowly lost to Asian candidate Mah because of an overwhelming vote against him by non-Hispanic, non-white minorities, mostly Asian, in this district which has a 23.8% Asian CVAP

Among his twenty-three exogenous elections, seven are non-probative elections with Hispanic CVAP percentages that are too low for an informative assessment of wins and losses for Hispanic candidates of choice, or reliable estimation. Several of these districts also predictably include no Hispanic candidates:

- 1) 2012 General Election, House District 35 7.07% Hispanic CVAP
- 2) 2016 General Election, House District 10 11.4% Hispanic CVAP
- 3) 2020 Democratic Primary, House District 10, 11.4% Hispanic CVAP
- 4) 2016 Democratic Primary, Senate District 5 10.2% Hispanic CVAP
- 5) 2016 Democratic Primary, House District 5 4.4% Hispanic CVAP
- 6) 2018 Democratic Primary, Senate District 25 10.7% Hispanic CVAP
- 7) 2020 Democratic Primary, Senate District 40 7.8% Hispanic CVAP

The Hispanic CVAP percentages in these districts range narrowly from just 4.4% to 11.4%.

Among these puzzling choices, House District 5 is a Black opportunity district with a 47.9% Black CVAP and only a 4.4% Hispanic CVAP. No Hispanic candidate competed in either of the two elections analyzed by Dr. Chen for this district. Black candidate Juliana Stratton (now Lt. Governor) won the 2016 Democratic primary in House District 5 with 68% of the vote and Black candidate Lamont J. Robinson, Jr., the current incumbent, won the four-candidate 2018 Democratic primary in House District 5 by 13.5 percentage points. Similarly, Senate District 5 is a Black opportunity district with a 47.7 percent black CVAP percentage and only a 10.0% Hispanic CVAP. No Hispanic candidates competed in the Senate District 5 2016 primary, which was won by Black candidate, and current incumbent Patricia Van Belt with win 67.9% of the vote.

Further, Dr. Chen misidentifies the 2018 Democratic primary involving candidate Anne Marie Miles, his identified candidate of choice, in Senate District 25. That primary actually took place in *House District 25*. HD 25 is yet another Black opportunity district, with a Black CVAP percentage of 53.1% and a Hispanic CVAP percentage of only 20%. No Hispanic candidates competed in the 2018 primary in House District 25, in which current Black incumbent Curtis J. Tarver II prevailed.

Dr. Chen's analysis of endogenous state legislative elections also includes two consequential calculation errors. Dr. Chen errs in identifying Pasioka as the Hispanic candidate of choice in the 2014 Democratic primary in House District 40. Pasioka garnered just 303 votes in this primary or 5.2%, in a district that is 35.4% Hispanic CVAP. Dr. Grumbach's results, which, as noted above, I was able to verify independently, show that Andrade, who garnered 50.2% of the vote in a five-candidate contest, was the candidate of choice of Hispanic voters.

Another error occurs in Dr. Chen's identification of the Hispanic preferred candidate in the 2012 General Election in House District 40. Chen identifies Hispanic Republican challenger Antoinette "Toni" Puccio-Johnson as the Hispanic candidate of choice rather than white Democrat Deborah Mell. His reported results show that Johnson garnered 72% of the Hispanic vote and also won 51.4% of the non-Hispanic minority vote, thus sweeping the non-white vote in the district. He finds that she garnered just 18.8% of the white vote.

These results are implausible on their face because we know that Hispanics, Blacks, and Asians are overwhelmingly Democratic in Illinois general elections. If Republican candidate Johnson had indeed dominated the minority, it would have been big news, noted by observers on the ground. No such news emerged from the commentary on this election.

Mell won the 2012 HD 35 general election, dominating 81.6% of the vote compared to 18.4% for Johnson. Mathematically, it is impossible for Johnson at 18.4% to have won 72.4% of the Hispanic vote, 51.4% of the non-Hispanic minority vote, and 18.8% of the white vote, no matter the weight for any of these racial group results. Chen's results are mathematically impossible, even at the lowest end of his internal EI confidence intervals. The low end of his confidence intervals for the Johnson vote are 33.8% for Hispanic voters, 18.6% for white voters and 20.6% for other minority voters. All three measures are above the actual vote of 18.4% for Johnson in the district. For Dr. Chen's estimates of the highest confidence for Johnson, her level of 97.8% for Hispanics exceeds her actual vote by 79.0 percentage points. The highest confidence level for other minorities of 75.2%, exceeds her actual vote by 56.4 percentage points. The highest confidence level for whites exceeds her actual vote by just 0.5 percentage points. It is also notable that his confidence interval for the Hispanic vote for Johnson is 64 percentage points wide, ranging from 33.8% to 97.8%.

My independent analysis of the 2012 general election in House District 40, using ecological regression and its reality checks, reaches the plausible finding that Mell, not Johnson, was the candidate of choice of Hispanic voters with 95% of the Hispanic vote. She was also the candidate of choice of white voters, winning 75% of the white vote. The percentage of other minorities in the district is too small for reliable measurement. However, the analysis shows that Mell won more than 90% of the overall minority vote. Unlike those of Dr. Chen, these estimates reproduce the actual 81.6% vote for Mell in this election.⁴⁵

⁴⁵ For a reality check we can examine the actual votes for Mell and Johnson in the six most concentrated minority precincts in House District 40. These precincts had an average minority percentage of 69.3% and cast a robust 2,368 votes. Mell won 1,960 votes compared to just 408 for Johnson, for a disparity of 82.8% to 17.2%. These results confirm that it was Mell not Johnson who won most minority votes.

Table 9 and Charts 7 and 8 depict the Hispanic preferred candidates for Dr. Chen's endogenous elections, with the omissions and corrections indicated above. As indicated in Table 9 and Chart 7, the results show that Hispanic preferred candidates won 13 of 15 state legislative elections, for a win rate of 87%, virtually identical to the win rate from the analysis of Dr. Grumbach's corrected analysis of endogenous state legislative elections. As further indicated in Table 9 and Chart 8, the results show that Hispanics and whites shared the same candidate of choice in 11 of 15 state legislative elections, again virtually identical to the finding above for a coalition rate of 73%.

However, Dr. Grumbach has analyzed probative state legislative elections that Dr. Chen did not, and, in turn, Dr. Chen has analyzed probative state legislative elections that Dr. Grumbach did not. Table 10 provides a comprehensive corrected database of probative state legislative elections analyzed by either of the two plaintiffs' experts to adjust for these discrepancies. That is, it merges Table 6 and Table 9, while eliminating overlaps.

This comprehensive database of 23 probative state legislative elections is more than sufficient for concluding whether white bloc voting usually defeats Hispanic preferred candidates. The decisive test is whether the Hispanic candidate of choice wins the primary or general election in the district. If so, then white bloc voting could not have been sufficient to defeat the Hispanic candidate of choice.

TABLE 9
ANALYSIS OF ENDOGENOUS ELECTIONS EXAMINED BY DR. CHEN, CHEN
DECLARATION, TABLE 6, CORRECTED

COUNT	DISTRICT & ELECTION	CANDIDATE. OF CHOICE OF HISPANIC VOTERS	CANDIDATE OF CHOICE OF WHITE VOTERS?	HISPANIC CANDIDATE OF CHOICE WINS?
ENDOGENOUS ELECTIONS				
1	2012 HDS 40 GENERAL	MELL	YES	YES
2	HD 39 2012 DEM PRIM	BERRIOS	NO	YES
3	HD 40 2014 DEM PRIM	ANDRADE	YES	YES
4	HD 39 2014 DEM PRIM	BERRIOS	NO	NO
5	HD 77 2016 DEM PRIM	WILLIS	YES	YES
6	HD 24 2016 GENERAL	HERNANDEZ	YES	YES
7	SD 22 2016 GENERAL	CASTRO	YES	YES
8	HD 2 2016 PRIMARY	ACEVEDO	YES	NO
9	SD 22 2016 PRIMARY	CASTRO	YES	YES
10	HD 22 2016 DEM PRIMARY	MADIGAN	YES	YES
11	HD 1 2018 DEM PRIMARY	ORTIZ	NO	YES
12	HD 4 2018 DEM PRIM	RAMIREZ	NO	YES
13	SD 20 2018 DEM PRIM	MARTINEZ	YES	YES
14	SD 11 2020 GENERAL	VILLANEUVA	YES	YES
15	SD 22 2020 DEM PRIMARY	CASTRO	YES	YES
SUM: 13 WINS, 2 LOSSES FOR HISPANIC PREFERRED CANDIDATES, 3 LOSSES WIN RATE = 87%				
SUM: 11 OF 15 ELECTIONS WITH SAME PREFERRED CANDIDATE FOR HISPANICS AND NON-HISPANICS, COALITION RATE = 73%				

CHART 7
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN REVISED 15
STATE LEGISLATIVE ELECTIONS ANALYZED BY DR. CHEN, FROM TABLE 10

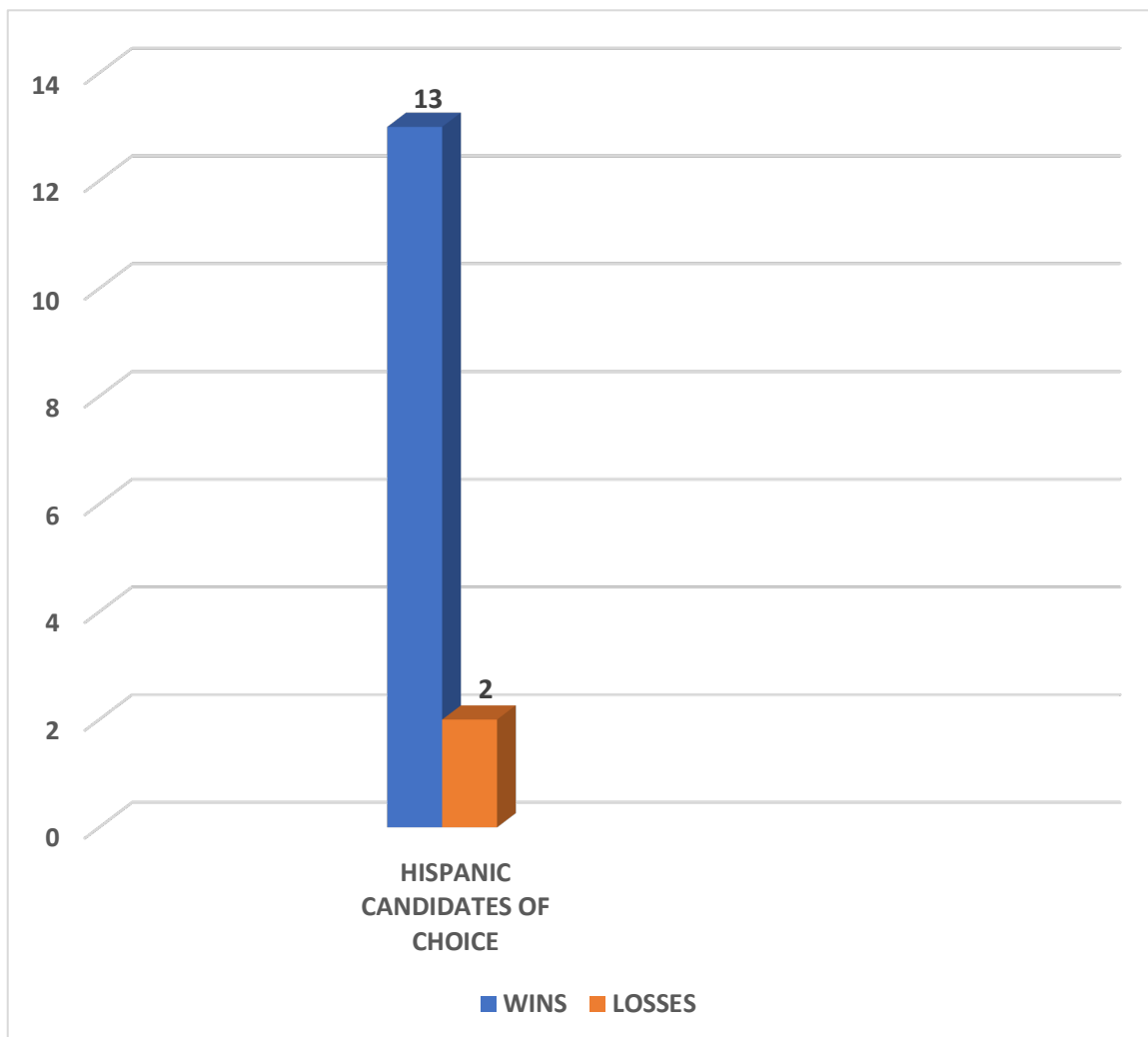
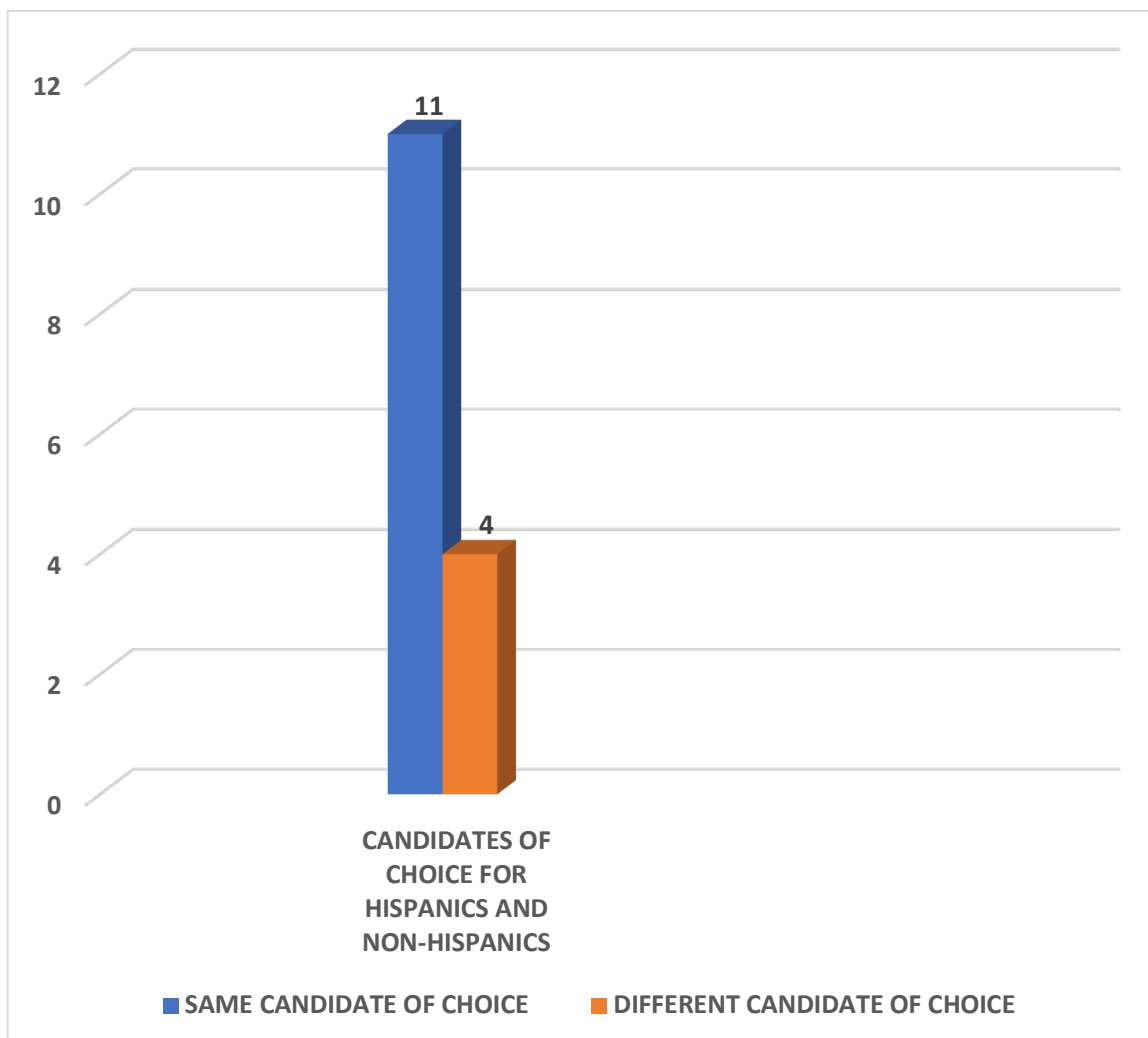


CHART 8
HISPANIC AND NON-HISPANIC COALITIONS IN REVISED 15 STATE
LEGISLATIVE ELECTIONS ANALYZED BY DR. CHEN, FROM TABLE 10



As demonstrated in Table 10 and Chart 9, white bloc voting defeated the Hispanic candidate of choice in only 2 of 23 probative state legislative elections analyzed by either Dr. Grumbach or Dr. Chen. Instead, Hispanic candidates of choice prevailed in 21 of the 23 elections for a win rate of 91%. *Thus, across five elections cycles since the post-2010 redistricting, only two Hispanic preferred candidates have been defeated by white bloc voting in all districts with a minimum of 27.9% Hispanic CVAP.*

Both of these losses came in untypical elections. In 2014, white candidate Will Guzzardi defeated Hispanic preferred candidate Maria Antonia Berrios (also known as “Toni” Berrios in the House District 39 Democratic primary. However, Berrios had won the 2012 primary against Guzzardi, so District 39 split evenly in electing the Hispanic preferred candidate. Moreover, Guzzardi’s 2014 victory was unrelated to the fact that at 48.6% Hispanic CVAP, HD 39 fell just short of plaintiffs’ 50%+ threshold. Guzzardi defeated Berrios in 2014 by a landslide margin of 20.8 percentage points. He won 60.4% of the vote, compared to just 39.6% for Berrios. Given the magnitude of his landslide, Guzzardi would have easily prevailed even if the district was 65% Hispanic CVAP. No candidate challenged Guzzardi again in a HD 39 Democratic primary after 2014. Under the *McConchie* plaintiffs’ proposed plan, the Hispanic CVAP in HD 39 would rise by just 1.6 percentage points to 50.2%. Under the *Contreras* plaintiffs proposed plan, the Hispanic CVAP would increase by just 1.9 percentage points to 50.5%⁴⁶

In the 2016 Democratic primary in House District 2, the Hispanic preferred candidate Alex Acevedo narrowly lost by 2.5 percentage points to an Asian candidate, Theresa Mah. He did not lose because of white bloc voting, but as indicated in Table A1 of the Grumbach report from overwhelming opposition by non-Latinos in his heavily Asian district, with a 23.8% Asian

⁴⁶ From Plan Matrix submitted by *McConchie* plaintiffs and Plan Matrix submitted by *Contreras* plaintiffs.

TABLE 10
CORRECTED ANALYSIS OF ENDOGENOUS ELECTIONS WITH HISPANIC v. NON-
HISPANIC CANDIDATES ANALYZED BY DR. GRUMBACH OR DR. CHEN

COUNT	ELECTIONS EXAMINED BY GRUMBACH OR CHEN	CANDIDATE. OF CHOICE OF HISPANIC VOTERS	CANDIDATE OF CHOICE OF WHITE OR NON- HISP. VOTERS?	HISPANIC CANDIDATE OF CHOICE WINS?
ELECTIONS ANALYZED BY GRUMBACH OR CHEN				
1	HD 22 2012 DEM PRIM	MADIGAN	YES	YES
2	HD 39 2012 DEM PRIM	T. BERRIOS	NO	YES
3	HD 40 2012 GENERAL	MELL	YES	YES
4	SD 12 2020 DEM PRIMARY	LANDEK	YES	YES
5	HD 4 2016 DEM PRIM	SOTO	YES	YES
6	HD 40 2014 DEM PRIM	ANDRADE	YES	YES
7	HD 39 2014 DEM PRIM	T. BERRIOS	NO	NO
8	HD 40 2016 DEM PRIM	ANDRADE	YES	YES
9	HD 40 2020 DEM PRIM	ANDRADE	YES	YES
10	HD 77 2016 DEM PRIM	WILLIS	YES	YES
11	HD 24 2016 GENERAL	HERNANDEZ	YES	YES
12	SD 22 2016 GENERAL	CASTRO	YES	YES
13	HD 2 2016 PRIMARY	ACEVEDO	YES	NO
14	SD 22 2016 PRIMARY	CASTRO	YES	YES
15	HD 22 2016 DEM PRIMARY	MADIGAN	YES	YES
16	HD 77 2016 DEM PRIMARY	WILLIS	YES	YES
17	HD 1 2018 DEM PRIMARY	ORTIZ	NO	YES
18	HD 4 2018 DEM PRIM	RAMIREZ	NO	YES
19	SD 20 2018 DEM PRIM	MARTINEZ	YES	YES
20	HD 2 2020 DEM PRIM	MAH	YES	YES
21	HD 40 2020 DEM PRIM	ANDRADE	YES	YES
22	SD 11 2020 GENERAL	VILLANEUVA	YES	YES
SUM: 20 WINS, 2 LOSSES FOR HISPANIC PREFERRED CANDIDATES, 3 LOSSES WIN RATE = 91%				
SUM: 19 OF 22 ELECTIONS WITH SAME PREFERRED CANDIDATE FOR HISPANICS AND NON-HISPANICS, OR WHITES COALITION RATE = 83%				

CHART 9
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN ELECTIONS
ANALYZED BY EITHER DR. GRUMBACH OR DR. CHEN, FROM TABLE 11

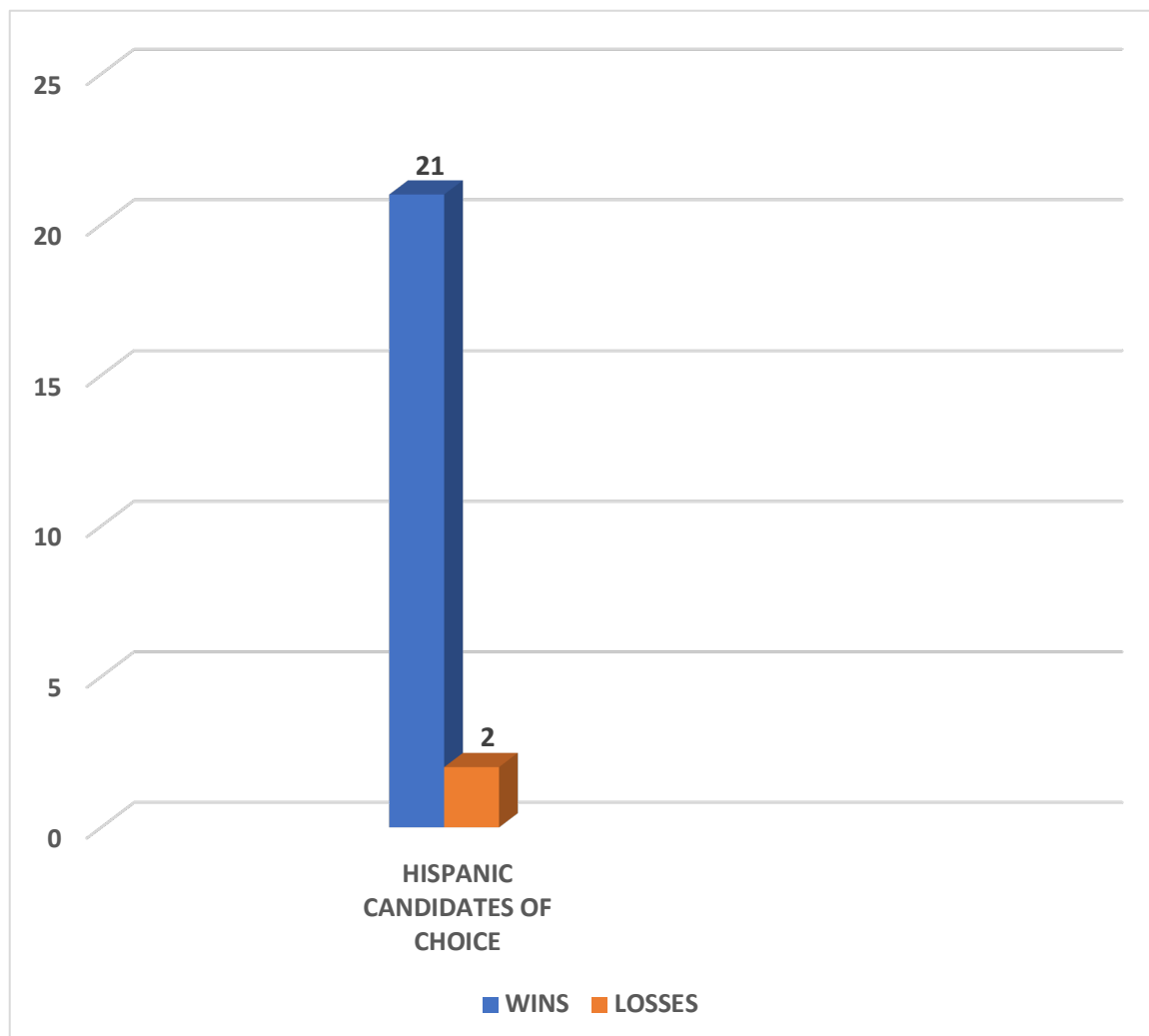
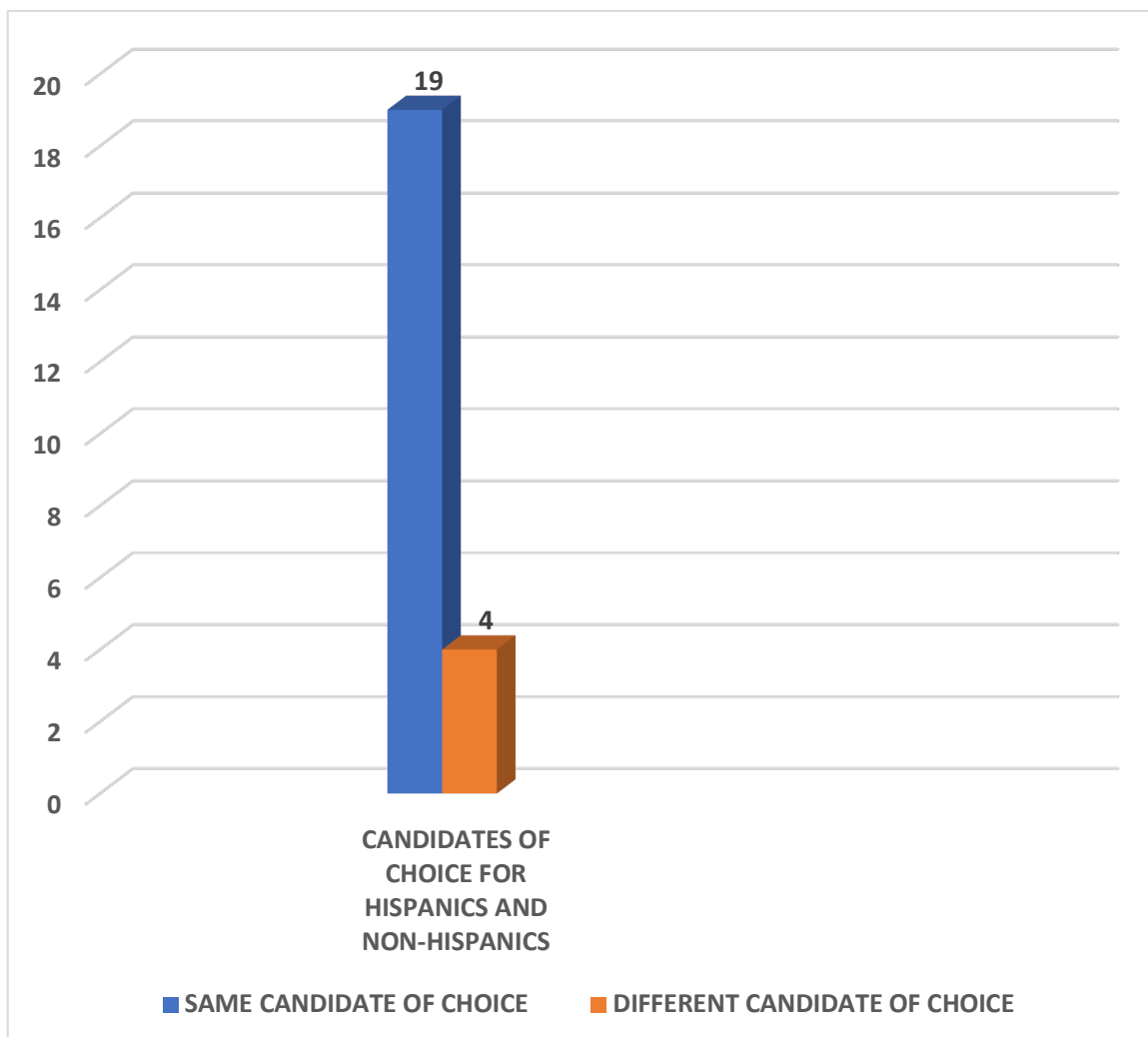


CHART 10
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN ELECTIONS
ANALYZED BY EITHER DR. GRUMBACH OR DR. CHEN, FROM TABLE 11



CVAP. In the 2020 Democratic primary in HD 2, Mah again competed against a Hispanic and white candidate. According to the results in Grumbach Table A1, she was the candidate of choice of Hispanic voters by a wide margin of 35 percentage points over the Hispanic candidate.

The data in Table 10 and Chart 10 also examines the extent to which Hispanics and non-Hispanics or whites together opted for the same candidate of choice in these 23 probative state legislative elections. As shown in Table 11 and Chart 8, Hispanic voters and non-Hispanic or white voters opted for the same candidate in 19 of 23 elections, for a coalition rate of 83%.

Table 11 provides a final refinement of the probative endogenous state legislative elections analysis by eliminating from the analysis of all districts with a Hispanic CVAP percentage above 50%. Using actual election results in state legislative contests, this analysis tests the proposition that lies at the heart of the case for both plaintiffs with Hispanic voting claims: that a 50%+ Hispanic CVAP single-race majority is necessary to provide Hispanics an equal opportunity to elect candidates of their choice to state legislative positions. The district with the highest Hispanic CVAP percentage is House District 39 at 48.6%, and the district with the lowest Hispanic CVAP percentage is Senate District 22 at 27.9%.

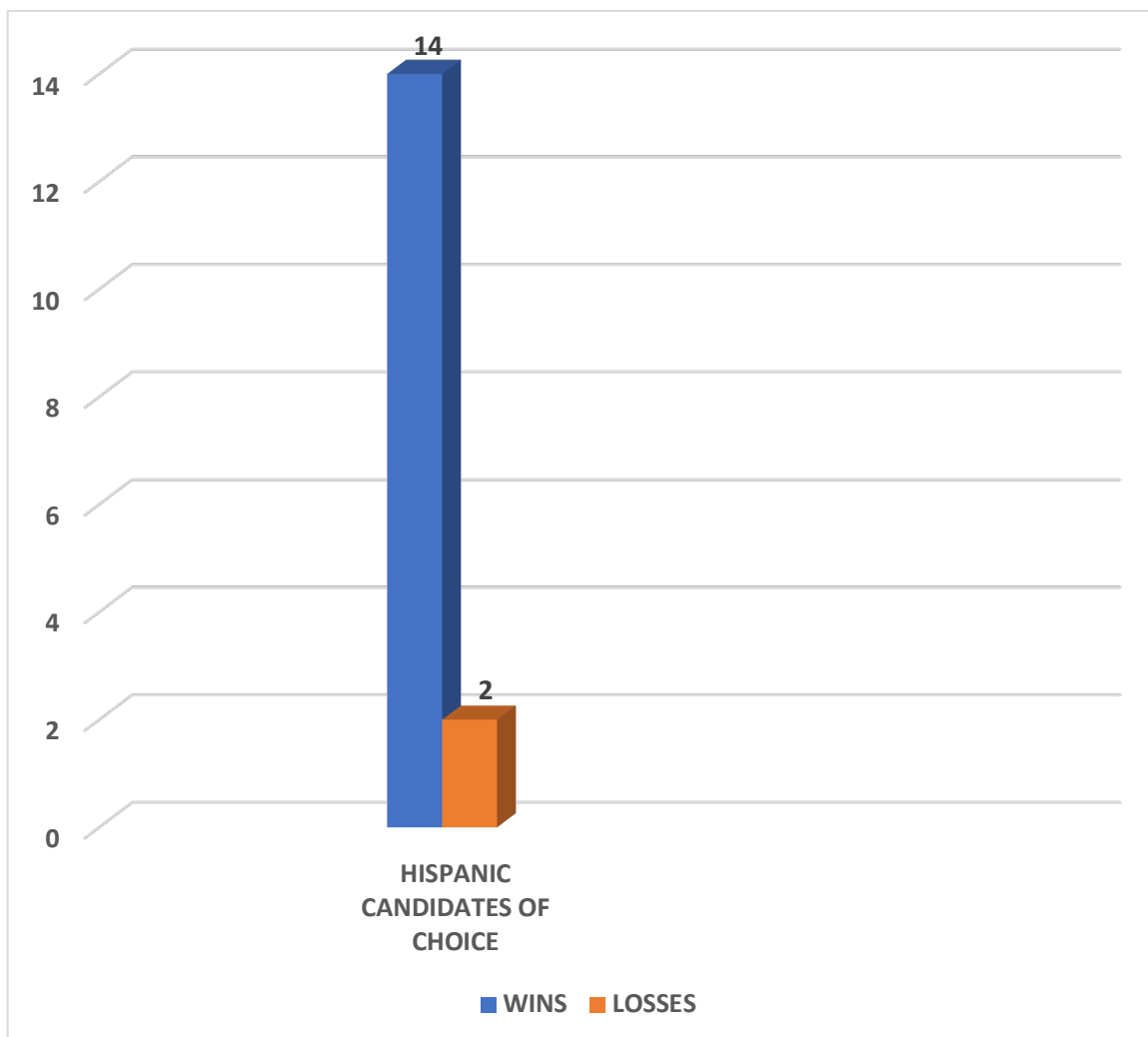
The actual election results reported in Table 11 and Chart 11 provide compelling evidence that a 50%+ Hispanic CVAP district is not necessary to provide Hispanics an equal opportunity to elect candidates of their choice. White bloc voting does not usually defeat Hispanic preferred candidates of choice in districts ranging from 27.9% to 48.6% Hispanic CVAP, but in fact almost never does so. Hispanic candidates of choice win 14 of 16 elections in these districts for a win rate of 88%.

Dr. Grumbach attempts to explain away the near universal victory rate of Hispanic candidates (he does not deal with non-Hispanic candidates of choice of Hispanic voters) by

TABLE 11
CORRECTED ANALYSIS OF ENDOGENOUS ELECTIONS WITH HISPANIC v. NON-
HISPANIC CANDIDATES ANALYZED BY DR. GRUMBACH OR DR. CHEN, STATE
LEGISLATIVE DISTRICTS FROM 27.9 TO 48.6% HISPANIC CVAP

COUNT	ELECTIONS EXAMINED BY GRUMBACH OR CHEN	CANDIDATE OF CHOICE OF HISPANIC VOTERS	CANDIDATE OF CHOICE OF WHITE OR NON-HISPANIC VOTERS?	HISPANIC CANDIDATE OF CHOICE WINS?
ELECTIONS ANALYZED BY GRUMBACH OR CHEN				
1	HD 39 2012 DEM PRIM	T. BERRIOS	NO	YES
2	HD 40 2012 GENERAL	MELL	YES	YES
3	HD 4 2016 DEM PRIM	SOTO	YES	YES
4	HD 40 2014 DEM PRIM	ANDRADE	YES	YES
5	HD 39 2014 DEM PRIM	T. BERRIOS	NO	NO
6	HD 40 2016 DEM PRIM	ANDRADE	YES	YES
7	HD 40 2020 DEM PRIM	ANDRADE	YES	YES
8	HD 77 2016 DEM PRIM	WILLIS	YES	YES
9	SD 22 2016 GENERAL	CASTRO	YES	YES
10	HD 2 2016 PRIMARY	ACEVEDO	YES	NO
11	SD 22 2016 PRIMARY	CASTRO	YES	YES
12	HD 77 2016 DEM PRIMARY	WILLIS	YES	YES
13	HD 4 2018 DEM PRIM	RAMIREZ	NO	YES
14	SD 20 2018 DEM PRIM	MARTINEZ	YES	YES
15	HD 2 2020 DEM PRIM	MAH	YES	YES
16	HD 40 2020 DEM PRIM	ANDRADE	YES	YES
SUM: 14 WINS, 2 LOSSES FOR HISPANIC PREFERRED CANDIDATES WIN RATE = 88%				
SUM: 13 OF 16 ELECTIONS WITH SAME PREFERRED CANDIDATE FOR HISPANICS AND NON-HISPANICS, OR WHITES COALITION RATE = 81%				

CHART 11
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN ELECTIONS IN
DISTRICTS FROM 27.9 TO 48.6% HISPANIC CVAP, FROM TABLE 12



noting that many were incumbents.⁴⁷ This attempt to discount incumbents even taken at face value cannot prove Prong 3 that white bloc voting almost usually defeats Hispanic candidates of choice. As indicated in Table 11, for elections analyzed by either Grumbach or Chen in 25%+ Hispanic CVAP districts across all post-2010 election cycles, one of only two losses by Hispanic candidates of choice involved a losing incumbent, Maria Antonia “Toni” Berrios in the 2014 primary in House District 39. So, if we were to discount elections with incumbents, that would leave Alex Acevedo as the sole losing Hispanic preferred candidate. Acevedo did not lose to Asian candidate Mah in the 2016 primary in House District 2 because of white bloc voting, but because of an overwhelming vote for Mah by non-Hispanic minorities in this district, with a greater than 20% Asian CVAP.

Neither Grumbach nor any other plaintiffs’ experts present proof about the magnitude of any incumbency advantage in Illinois. But incumbency cannot account for the wide margin of victory achieved by most Hispanic preferred candidates. Moreover, incumbency is no lock for victory in Illinois. For example, In addition, to Toni Berrios’ defeat, Asian candidate Denyse Wang Stoneback defeated incumbent Yehiel Kalish in the 2018 Democratic primary in House District 16. Hispanic candidate Aaron Ortiz defeated incumbent Daniel J. Burke in the 2018 Democratic primary in House District 1, Fred Kaegi defeated incumbent Joseph Berrios in the 2018 primary for Cook County Assessor. Asian candidate Tammy Duckworth defeated incumbent Mark Kirk in the 2016 general election for U.S. Senate. Bruce Rauner defeated incumbent Pat Quinn in the 2014 general election for governor. Then, J.B. Pritzker defeated Rauner in the 2018 general election.

⁴⁷ Dr. Fowler also attempts to discount appointed incumbencies for different reasons related to minority representation. I will examine his claims in the context of Senate Factor 4 in that section of my report.

None of these losses by incumbents was especially close, with most of the incumbents losing by more than 10 percentage points. Toni Berrios lost by 20.8 percentage points, Kalish by 20.9 points, Burke by 6.2 percentage points, Joseph Berrios by 11.7 points, Kirk by 15.1 points, Quinn by 4 percentage points, and Rauner by 15.7 points. Moreover, despite plaintiffs' effort to discount elections with incumbents, Dr. Chen chooses an incumbent election, the 2018 primary for Cook County Assessor as his sole basis for assessing Hispanic voter prospects in challenged SB 927 districts.

Similarly, the actual election results reported in Table 11 and Chart 12 provide compelling evidence of coalitions between Hispanics and whites or non-Hispanics. As shown in Table 11 and Chart 12, Hispanics and non-Hispanics or whites have the same candidate of choice in 13 of 16 elections, for a coalition rate of 81%. The formation of interracial coalitions is a positive development for Hispanics in Illinois. It expands the range of their political empowerment beyond what can be achieved through heavily concentrated Hispanic districts. As I noted in my testimony at the May 25th joint hearing of the Redistricting Committee, through gaining support from non-Hispanic voters, some Hispanic members of the state legislature have won elections in some districts with Hispanic percentages below even the influence district range. As demonstrated in Table 12, three Hispanics have won state legislative seats in districts with Hispanic CVAP from 10.7% to 20.2%.

CHART 12
WINS AND LOSSES FOR HISPANIC CANDIDATES OF CHOICE IN ELECTIONS
ANALYZED BY EITHER DR. GRUMBACH OR DR. CHEN, FROM TABLE 11

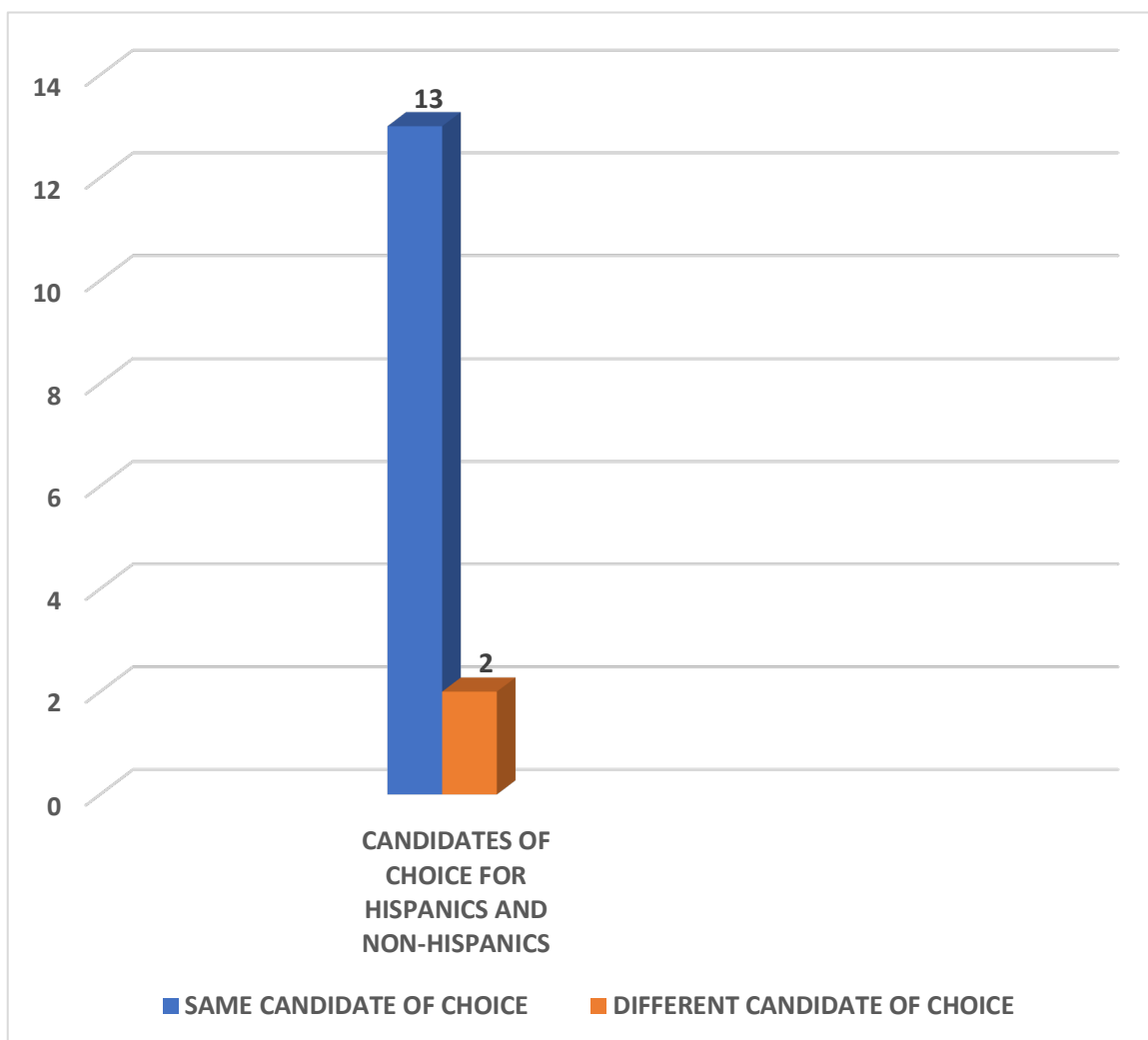


TABLE 12
HISPANIC STATE LEGISLATIVE INCUMBENTS IN LOW HISPANIC CVAP
DISTRICTS

DISTRICT	HISPANIC CVAP %	INCUMBENT	RACE
SD 25	10.7%	KARINA VILLA	HISPANIC
HD 85	15.9%	DAGMAR AVELAR	HISPANIC
HD 44	20.2%	FRED CRESPO	HISPANIC

IV. Dr. Chen's Assessment of Hispanic Voter Opportunities

Dr. Chen briefly attempts to draw conclusions about Hispanic voting opportunities in state legislative districts by examining actual election results. However, Dr. Chen does not base his analysis on the twenty-three endogenous statewide elections analyzed in his declaration. Instead, he unnecessarily relies only on five selected elections, too small a sample from which to draw reliable conclusions, especially as compared to the 23 elections analyzed above in my combined database. Dr. Chen does not rely on any scientific rationale for drastically reducing the elections available for analysis or the selection criteria used. Rather, he uncritically follows instructions from plaintiffs' counsel. Dr. Chen writes, "For each set of election results in Cook County listed in Table 5, *plaintiffs' counsel* asked me to identify those elections satisfying all four of the following criteria:" (p. 33, emphasis added).

The criteria provided to Chen by plaintiffs' counsel are as follows:

- 1) The election was a primary election or a non-partisan municipal election;
- 2) For endogenous (State House or Senate) elections, the district is substantially within the region covered by the Plaintiffs' Remedial Plan;
- 3) Over 50% of Latino voters favored a single candidate; and
- 4) Over 50% of White voters favored a candidate other than the Latino-preferred candidate.

These are arbitrary, biased criteria designed to sharply reduce the elections to be analyzed and give a predetermined answer. The requirements do not distinguish between probative endogenous state legislative elections and exogenous elections held in jurisdictions with low and unrepresentative Hispanic concentration. They do not set any threshold for the Hispanic concentration in state legislative districts. Criteria 3 and 4 eliminate all elections in which a majority or plurality of Hispanics and white or non-Hispanic voters preferred the same candidate. As indicated in Table 10, nineteen state legislative elections exhibit such coalitions between

Hispanics and whites or non-Hispanics, but plaintiffs' counsels' criteria automatically eliminates these nineteen elections.

Such biased criteria predictably yield limited and unrepresentative results, demonstrating what is known as confirmation bias in social science. As explained by Raymond S. Nickerson in his article in the *Review of General Psychology*, confirmation bias occurs when “one selectively gathers, or gives undue weight to, evidence that supports one's position while neglecting to gather, or discounting, evidence that would tell against it.” He further elaborates that, “People may treat evidence in a biased way when they are motivated by the desire to defend beliefs that they wish to maintain.”⁴⁸

The five elections selected according to counsel's criteria are as follows:

The April 2015 Chicago Mayoral election,
the 2018 Cook County Assessor Primary,
the 2012 HD-39 Primary,
the 2014 HD-39 Primary,
the 2018 HD-1 Primary.

Rather than probative endogenous state legislative elections, two of the five elections are exogenous elections. This result is not surprising from the biased criteria, given that there are so few state legislative elections in which Hispanic preferred candidates lost elections. In a further demonstration of confirmation bias, plaintiffs' counsel chose the criteria and then dictated to Dr. Chen how he should analyze the sample of five elections. Dr. Chen writes, “Among the set of elections satisfying all four of these criteria, plaintiffs' counsel asked me to count the number of elections in which the Latino-preferred candidate was defeated.” This methodology produces misleading results, because as explained above wins or losses of Hispanic candidates of choice in

⁴⁸ Raymond S. Nickerson, “Confirmation Bias: A Ubiquitous Phenomenon in Many Guises,” *Review of General Psychology*, 2 (1998), 175-176.

Cook County or Chicago with low Hispanic percentages and a fundamentally different distribution of racial group CVAP have no bearing on Hispanic electoral opportunities in challenged districts. In the three probative state legislative districts in his five-election sample, Hispanic candidates of choice, who were also Hispanic, won two of the elections: the 2012 HD 39 primary and the 2018 HD 1 primary.

The only state legislative election in which a Hispanic candidate of choice lost in the sample was the 2012 HD-39 primary. Dr. Chen fails to provide context for the loss by Hispanic candidate Berrios. The unique circumstance of this loss is explained above. Although the results are not relevant to assessing Hispanic voter opportunity in challenged state legislative districts, Dr. Chen also fails to provide context for the 2015 Chicago mayor runoff. Winning candidate Emanuel was not only backed by white voters, but by 59.5% of non-Hispanic minorities in Chicago according to Dr. Chen's Table 6, p. 40. So that although the candidate of choice of Hispanics lost in Chicago, the candidate of choice of other minorities won in Chicago. He also fails to provide context for the 2018 Cook County Assessor election, analyzed in depth below.

Plaintiffs' counsel relies on its restricted and biased criteria. Broader and more even-handed criteria would have resulted in a substantial win rate for Hispanic candidates and Hispanic candidates. For state legislative districts with at least a 25% Hispanic CVAP, there was only one endogenous election other than the 2014 HD 39 primary, analyzed by Dr. Chen or Dr. Grumbach, in which a Hispanic candidate or a Hispanic preferred candidate lost. This result compares to more than twenty elections in which such candidates prevailed. Moreover, in the only other exogenous election that Dr. Chen analyzed, the 2016 Special General election for Illinois Comptroller General, the Hispanic candidate prevailed.

Yet other problems follow from Dr. Chen's application of counsel's criteria. The criteria do not fit the data in Dr. Chen's Tables 6 and 7. These tables only report the vote for the candidate that Dr. Chen identifies as the candidate of choice of Hispanic voters and no other candidate. Yet the criteria call for assessing whether another candidate won a majority of the white vote. That is not possible, however, for seven multi-candidate primaries that are included in Chen's Table 6 for endogenous elections and Table 7 for exogenous elections. These multicandidate primaries encompass the 2018 Democratic primary for County Assessor, which made the cut to the five elections. Dr. Chen later used this election as his sole basis for assessing Hispanic voter opportunities in SB 927 districts and plaintiffs' alternative districts. Only in two-person candidate primary or non-partisan elections, it is possible to reverse engineer Dr. Chen's results and assess whether the opposing candidate won "over 50% of the white vote

I have never before encountered the situation described above in my work on some one-hundred redistricting and voting rights cases across the nation. That is, a counsel compromising the scientific integrity of an expert by dictating criteria for excluding probative elections and then dictating the procedure for analyzing the elections. Such instructions on methodology are distinct from the usual requests from attorneys to examine particular topics, for example, the three Gingles Prongs. Such requests do not preempt the independent methodological decisions of the expert.

V. Black Voters in the East St. Louis Region (HD 114), Chen and Collingwood Reports

Both Dr. Chen and Dr. Collingwood present evidence on the assessment of Gingles Prong 3 for the East St. Louis, St. Clair County Black opportunity district HD 114. The findings of both experts demonstrate that white bloc voting has not usually defeated candidates of choice

of Black voters in elections they deemed probative for analysis. Instead, white bloc voting has again almost never defeated Black preferred candidates. The Chen declaration briefly addresses Black voter opportunities. For the three elections that Dr. Chen analyzes, his results show that there was white crossover voting sufficed to elect the Black candidate of choice, which was the Black candidate. These Black candidates, Dr. Chen found, all won by comfortable margins (p. 43):

- * The 2014 General Election in HD 114, Black Candidate Greenwood, 57.2%
- * The 2018 General Election in SD 57, Black Candidate Belt, 59.2%
- * The 2020 General Election in HD 114, Black Candidate Greenwood, 57.1%

Dr. Collingwood examines a broader array of elections. Her results show that with a single exception white crossover voting was sufficient to elect the black candidate of choice, given extreme cohesion that she confirms for Black voters. I reproduced Dr. Collingwood's results for six elections for state legislative and St. Clair County positions probative in Compilation 2 below. I have compiled Dr. Collingwood's findings as presented in Table 1, p. 6, and added the black CVAP for the districts and jurisdictions that she analyzed.

The results reported by Dr. Collingwood in the compilation below show that in 5 of 7 elections that she deemed probative, the Black candidate prevailed. However, her Table contains a consequential error. According to official election results reported by the St. Clair County Clerk, Black candidate Kinnis Williams not white incumbent Jim Wilson, prevailed in the 2020 general election for County Board of Review. The official results list 62,938 votes for Williams and 60,341 votes for Wilson. Williams also appears on the county website as the Board of

COMPILATION 2
FROM TABLE 1, P. 6 OF COLLINGWOOD DECLARATION, ELECTION RESULTS
FOR BLACK V. WHITE ELECTIONS DEEMED PROBATIVE

Table 1: Contests analyzed, candidate race, winner status, and racially polarized voting summary.

YEAR	SEAT	BLACK CAND.	WHITE CAND.	WINNER	RPV	% BLACK CVAP
2014g	StC Board of Review	Moore	Wilson	Wilson	Yes	29.3%
2016g	StC Circuit Clerk	Clay	Cook	Clay	Yes	29.3%
2020g	StC Board of Review	Williams	Wilson	Wilson	Yes	29.3%
2020g	Illinois 114 House	Greenwood	Barnes	Greenwood	Yes	42.6%
2016g	Illinois 114 House	Greenwood	Romanik	Greenwood	Yes	42.6%
2018g	Illinois 57 Senate	Belt	Hildenbrand	Belt	Yes	34.2%
2014g	Illinois 57 Senate	Clayborne	Ruocco	Clayborne	Yes	34.2%

Review elected official.⁴⁹ With this correction, white crossover voting was sufficient to elect the Black candidate in competition with a white candidate in 6 of 7 probative elections, for a win rate of 86%. Five of the seven elections occurred in districts or jurisdictions with a Black CVAP below that of HD 114 under SB 927 (38.0%).

In the final paragraph of her declaration, Dr. Collingwood criticizes me for testifying to the State Legislature that white bloc voting in Illinois does not usually defeat minority candidates of choice in districts with reasonable minority concentrations. Yet, the foregoing demonstrates that this testimony was correct even for the East St. Louis region and HD 114. The win rate for Black candidates is 86% in the seven elections that Dr. Collingwood chose as probative and 100% for the three elections she chose for assessing HD 114 under SB 927.

VI. Theoretical Voter Opportunities, The Fowler Report: McConchie Plaintiffs

The Fowler report deals briefly with Black and Hispanic voter opportunities in state legislative elections, although it focuses primarily on racially polarized voting and the responsiveness of officials chosen by minority candidates to “minority needs.” I will examine these issues in the section of my report dealing with the Senate Factors.

Dr. Fowler does not provide any district-specific analysis, report any calculations for minority and white voting patterns, or provide the results of any elections. Rather, he reports findings for a generic, statewide theoretical model that attempts to relate the minority concentration in districts to the probability of a minority candidate winning the general election. Beyond the lack of district-specificity, Dr. Fowler’s analysis is not probative for assessing

⁴⁹ General Election, Tuesday November 3, 2020, Official Canvass, St. Clair County Illinois, https://www.co.st-clair.il.us/WebDocuments/Departments/CountyClerk/previousResults/St._Clair_General_Election_11-03-2020_Canvass.pdf; St. Clair County, Illinois, Elected Officials, <https://www.co.st-clair.il.us/elected-officials>.

Gingles Prong 3. Like Dr. Grumbach, he focuses exclusively on minority candidates, not the preferred candidates of minority voters, as specified in Prong 3.

Figure 1 on page 17 of Dr. Fowler's declaration plots the Black, Hispanic, and Asian CVAP percentages in a legislative district against his calculated probability of a candidate of the corresponding race winning a general election. The graph depicts only the probability of victory for a candidate of the same race, not the candidate of choice of the minority group at issue. As demonstrated below, candidates of choice in state legislative elections are almost invariably Black candidates for Black voters. That correspondence does not apply to Hispanic voters. As shown above, Hispanic voters often opt for preferred candidates who are not Hispanic.

Dr. Fowler derives his graph, which generically applies statewide, from a statistical model that he describes as follows: "*The curves are kernel-weighted local polynomial regressions (Epanechnikov kernel, bandwidth =.1) showing how the probability that the general election winner is from a minority group relates to the share of the district's CVAP comprised of that group.*" (emphasis in original). Dr. Fowler does not cite any authority for this model or demonstrate where it has worked in the past to predict the results of future elections accurately.

Although the gradations on the graph are too wide to easily compare the percentages in the two axes, Dr. Fowler, states that for "black legislative districts in Illinois, a district that is 40 percent Black is predicted to have a 78 percent chance of electing a Black legislator." (p. 9, emphasis added). Dr. Fowler cites an example to emphasize the more than equal opportunity a 40% Black CVAP districts provides for Black voters to elect a Black candidate: "Therefore, if a region is 20 percent Black and has the population for two districts, a map that places all Black citizens in one district will produce a Black legislator 78 percent of the time," (p.9)⁵⁰ *Thus, the*

⁵⁰ Almost invariably for black voters in Illinois state legislative elections, their candidate of choice is also black.

finding of the Contreras plaintiffs' electoral expert refutes the central claim of all three plaintiffs, that only a single-race 50%+ CVAP state legislative district provides minority voters an equal opportunity to elect candidates of their choice.

The curve for Black districts flattens after the 40% Black CVAP mark, so that the probability of electing a Black legislator in a 40% to 50% Black CVAP district should be somewhere between 78% and 85%. Yet, the actual elections results show that Black candidates do far better than Dr. Fowler's statistical model would predict. As depicted in Table 13, the results show that in the most recent and relevant set of 2020 state legislative elections, Black candidates won 100% of districts with black CVAP percentages ranging from 42.55% to 47.95%. Further, Black candidates won 25 of 26 elections, 96.2%, of all elections in Table 13. The one exception, the election of white candidate Robert Rita did not occur in a below 50%+ black CVAP district. Rita won the election in House District 28, which has 52.83% black CVAP. This result is the opposite of what Dr. Fowler's model would predict. The disconnect between Dr. Fowler's model and the reality of election results in Black districts questions the value of his theoretical approach to assessing minority voter opportunities.

Although Asian voters are not at issue in this litigation, scrutiny of Dr. Fowler's projections for Asian districts is another test of his model. As a redistricting consultant in Illinois, if I based my advice on Dr. Fowler's model, I would have informed the General Assembly that it was futile to draw state legislative districts at the highest possible range for Asians, between 20% to 25% Asian CVAP. His graph indicates that Asian candidates would have little chance of winning in such districts. The Illinois General Assembly drew four such districts in its 2011 state legislative plan. As shown in Table 14, contrary to the expectations of

TABLE 13
**ACTUAL RESULTS OF 2020 GENERAL ELECTIONS IN DISTRICTS WITH 40%+
 BLACK CVAP**

COUNT	CHAMBER	DISTRICT	BLACK CVAP%	GENERAL ELECTION WINNER	RACE
1	SD	33	68.26%	Marcus C. Evans, Jr.	BLACK
2	HD	29	67.16%	Thaddeus Jones	BLACK
3	SD	17	64.51%	Elgie R. Sims, Jr.	BLACK
4	SD	15	61.81%	Napoleon Harris, III	BLACK
5	HD	34	60.81%	Nicholas K. Smith	BLACK
6	HD	27	59.23%	Justin Slaughter	BLACK
7	HD	38	56.45%	Debbie Meyers-Martin	BLACK
8	SD	14	56.04%	Emil Jones, III	BLACK
9	HD	30	56.02%	William Davis	BLACK
10	HD	32	54.88%	Cyril Nichols	BLACK
11	SD	16	54.72%	Jacqueline Y. Collins	BLACK
12	HD	31	54.58%	Mary E. Flowers	BLACK
13	HD	8	54.28%	La Shawn K. Ford	BLACK
14	HD	25	53.31%	Curtis J. Tarver, II	BLACK
15	SD	13	52.87%	Robert Peters	BLACK
16	HD	28	52.72%	Robert Rita	WHITE
17	HD	26	52.47%	Kambium Buckner	BLACK
18	SD	4	50.87%	Kimberly A. Lightford	BLACK
19	HD	9	47.95%	Lakesia Collins	BLACK
20	HD	5	47.86%	Lamont J. Robinson, Jr.	BLACK
21	HD	7	47.71%	Emanuel Chris Welch	BLACK
22	SD	5	47.68%	Patricia Van Pelt	BLACK
23	HD	10	47.40%	Jawaharial Williams	BLACK
24	SD	3	46.52%	Mattie Hunter	BLACK
25	HD	6	44.99%	Sonya M. Harper	BLACK
26	HD	114	42.55%	LaToya Greenwood	BLACK

Dr. Fowler's model, Asian candidates prevailed in 2020 in three of these districts, for a win rate of 75%.

For Latinos, Dr. Fowler states that "a district that is 40 percent Latino is predicted to have a Latino winner 45 percent of the time," which is close to an equal opportunity for a district far below plaintiff's talismanic 50%+ Hispanic CVAP. The curve then moves upward so that for Hispanic CVAP districts in the range of 40% to 50% the probability of electing a Hispanic candidate should be between about 45% and 60%, an equal opportunity.

However, the situation for Hispanics is distinct and points to the dangers of a one-size-fits-all generic model. More critically, unlike Black voters, Hispanic voters often choose preferred candidates who are not Hispanic. For example, white candidate Kathleen Willis won the 2014 Democratic primary in HD 77 (46.4% Hispanic CVAP) with majority support from both Hispanic voters as did Asian candidate Theresa Mah in the 2020 Democratic primary in HD 2 (42.7% CVAP). So did white candidate Steven Landek in the 2012 Democratic primary in SD 2 (54.5% Hispanic CVAP).⁵¹ These victories would count against the probabilities in Fowler's model but should not count against Prong 3. White bloc voting did not defeat any of these Hispanic preferred candidates. As noted earlier, only two candidates of choice of Hispanic voters have lost elections in any of 177 State House or State Senate districts with more than 25% Hispanic CVAP percentages throughout the five election cycles of the post-2010 redistricting.

⁵¹ The Hispanic vote for Mah and Landek is from Grumbach declaration, Table A1 and for Willis from Chen declaration, Table 6.

TABLE 14
ACTUAL RESULTS OF 2020 GENERAL ELECTIONS IN DISTRICTS WITH 20% TO
25% ASIAN CVAP

COUNT	CHAMBER	DISTRICT	BLACK CVAP%	GENERAL ELECTION WINNER	RACE
1	HD	16	25.5%	Denyse Stoneback	ASIAN
2	HD	2	23.8%	Theresa Mah	ASIAN
3	SD	8	23.6%	Ram Villivalam	ASIAN
4	HD	15	20.0%	John D'Amico	WHITE

VII. Minority Political Empowerment

Hispanic candidates, analysis shows, have been extraordinarily successful in forging interracial coalitions that combine majority or plurality support from Hispanic voters with similar backing from white voters and voters of other races. Such interracial coalitions expand minority empowerment beyond the inherently limited creation of heavily segregated minority districts. The coalitions explode the false stereotype that minorities can only elect candidates of their choice through their own votes. As indicated in Table 15, for total population, plaintiffs' proposals create districts that segregate minorities at levels that range from 70.5% to 89.4%. The average is 77.3%.

Ironically, while experts for plaintiffs are decrying residential segregation in Illinois, plaintiffs' approach to minority political empowerment depends upon such segregation. This irony has not been lost on civil rights organizations and other advocates. In a 2015 report, "The Color of Representation: Local Government in Illinois," MALDEF in conjunction with the Chicago Lawyers' Committee, the Joyce Foundation, and Asian American Forward Justice summarized criticisms of minority empowerment through the creation of single-race majority districts. For Black citizens, the report notes, "that a preoccupation with creating majority Black districts entrenches the racial segregation of minority voters," limits their empowerment beyond a restricted number of districts, and fosters the idea that Black representative are tokens, isolated their enclave districts." The same logic would apply to the creation of the entrenched Hispanic districts sought by plaintiffs.⁵²

⁵² Chicago Lawyers' Committee, the Joyce Foundation, MALDEF, and Asian American Forward Justice, "The Color of Representation," April 2015, pp. 29-30, https://static1.squarespace.com/static/5871061e6b8f5b2a8ede8ff5/t/593034a415cf7d726f5c6cb5/1496331463548/The_Color_of_Representation.pdf.

TABLE 15
POPULATION DEMOGRAPHICS OF DISTRICTS IN PLAINTIFFS' ALTERNATIVE PLAN

COUNT	DISTRICT	% BLACK POP	% ASIAN POP	% HISPANIC POP	% OTHER POP	% ALL MINORITY POP
1	HD 3	6.8%	6.3%	63.8%	2.6%	79.5%
2	HD 4	2.5%	3.6%	62.5%	1.9%	70.5%
3	HD 21	5.8%	1.7%	62.9%	1.9%	72.3%
4	HD 22	3.5%	1.3%	64.6%	1.8%	71.2%
5	HD 23	7.8%	10.7%	69.6%	1.3%	89.4%
6	HD 24 (Prior 2)	4.2%	20.6%	61.0%	1.7%	87.5%
7	HD 32	9.7%	1.1%	68.0%	1.3%	80.1%
8	HD 39	9.4%	3.0%	58.6%	1.9%	73.9%
9	HD 77	3.2%	2.4%	63.3%	1.6%	70.5%
10	SD 2	7.1%	3.5%	60.5%	1.5%	72.6%
11	SD 11 (Prior 12)	3.9%	1.7%	70.1%	0.9%	76.6%
Sources: House Districts from Plan Matrix submitted by <i>McConchie</i> plaintiffs and Senate Districts from Plan Matrix submitted by <i>Contreras</i> plaintiffs.						

The report further cites the national organization FairVote,” which “has long argued that one of the main problems with majority-minority districts is that they “require the continuation of some degree of housing segregation that concentrates minority populations within easily drawn boundaries.” In addition, FairVote notes the inherent limitation of minority concentration means that, “many racial minority voters will be unable to elect preferred candidates when not living in majority-minority districts.”⁵³

Professor Justin Levitt notes the detrimental effects of packing minorities into districts according to a fixed population majority reinforces stereotypes about minorities and subverts the purpose of the Voting Rights Act, which is minority empowerment:

It “turns the Act from a refined and sophisticated piece of federal legislation into a cartoon ... By assuming that functional political cleavages can be measured purely by percentage of citizen voting-age population, the troublesome approach imposes racial stereotypes on a statute designed to combat them.”⁵⁴

Leah Alden, Deputy Director of Litigation for LDF, said this year that “The bright line of 50-percent-plus-one [minority share in a district] might be outdated, given the nuances of political realities across the country.” Bobby Scott, the pioneering Black leader who became Virginia’s first Black member of Congress since the 19th century said, “To suggest there is some numerical barrier that you have to achieve is absurd. If the votes are changing, the standard ought to change.”⁵⁵ After a successful lawsuit, Scott’s 50%+ single-race majority Black district was reduced to create two districts with Black percentage below 50%: Congressional District 3,

⁵³ Id.

⁵⁴ Justin Levitt, “Quick and Dirty: The New Misreading of the Voting Rights Act,” *Fla. St. U. L. Rev.* (2017), at 575-576.

⁵⁵ David Wasserman, “Is it Time to Rethink Hyper-Minority Districts?” *The Atlantic*, 20 September 2021, <https://www.theatlantic.com/politics/archive/2021/09/it-time-rethink-hyper-minority-districts/620118/>.

which is 46% single-race Black in its voting age population and Congressional District 4, which is 39% single-race Black, according to the 2020 Census. Scott won reelection in CD 3 in 2016 and CD 4 elected a second Black representative, Donald McEachin, who won 75% of the Democratic primary vote and 58% of the general election vote. Both incumbents comfortably won reelection in 2018 and 2020.⁵⁶

On behalf of both defendants and plaintiffs I have testified several times, including in Illinois, against imposing any fixed population standard for assessing minority opportunity districts. I testified that, in practice, mechanical reliance on creating single-race majority districts diminishes minority voter opportunities by limiting their empowerment to a restricted number of concentrated. I testified that the application of a more flexible standard responsive to local conditions would expand opportunities for minorities to elect candidates of their choice and influence the political process.⁵⁷

VIII. Conclusions

The bottom line is simple. The district-specific analyses of voting patterns presented by plaintiffs' experts themselves – with some obvious corrections - proves that white bloc voting does not usually defeat minority candidates of choice in state legislative districts with Hispanic or Black CVAP percentages at or above the lowest range of a MALDEF defined “influence district.” To the contrary, the analyses prove that white bloc voting almost never defeats

⁵⁶ Virginia Department of Elections, “Election Results,” <https://www.elections.virginia.gov/resultsreports/election-results/>.

⁵⁷ See, for example, *Page v. Bartels*, 144 F. Supp. 2d 346 (D.N.J. 2001); *Covington v. North Carolina*, 316 F. R. D. 117 (M.D.N.C. 2016), U.S. Supreme Court affirmed, *North Carolina v. Covington*, 583 US ____ 2018; *Brown v. Detzner*, Case No. 4:2015cv00398, U.S. District Court, Northern District of Florida (2016); *Campuzano v. Illinois State Board of Elections*, 200 F. Supp. 2d 905 (N.D. Ill. 2002). See also, E. Jaynie Leung, “Page v. Bartels: A Total Effects Approach to Evaluating Racial Dilution Claims,” *Minnesota Journal of Law & Inequality*, 2003, 21(1) and Sam Hirsch, Unpacking Page v. Bartels: A Fresh Redistricting Paradigm Emerges in New Jersey, *Election Law Journal: Rules, Politics, and Policy*, 2004 1(1).

Hispanic or Black candidates of choice in such districts. The win rate for Hispanic candidates of choice in Hispanic v. non-Hispanic contests such districts is 91% and 88% even when districts of 50%+ Hispanic CVAP are excised. For all five election cycles since the 2011 redistricting, and in all districts above 25% Hispanic CVAP, white bloc voting has defeated only two Hispanic preferred candidates. Bot defeats occurred in atypical elections.

For Black voter opportunities, which in this litigation is confined to the region of a single district, the material presented by plaintiffs' experts demonstrates that white bloc voting almost never defeats the preferred candidates of Black voters. The win rate for Black candidates of choice is 86% in the seven elections that plaintiffs' experts deemed most probative. For elections reconstituted on the precincts of new HD 114, the win rate is 100%.

For the full corpus of Hispanic candidacies in state legislative elections with more than 25% Hispanic CVAP concentration, Hispanic candidates of choice have been extraordinarily successful in forging interracial coalitions. Such coalitions must represent the future of empowerment for Hispanics. They expand voter opportunities for minorities beyond what can be achieved by segregating minorities into heavily concentrated districts that perpetuate the restrictive stereotype that minorities can elect candidates of their choice only with minority votes.

One of the great ironies of the submissions by plaintiffs is that their experts decry residential segregation in Illinois. Yet, their approach to minority political empowerment depends on such residential segregation.

SECTION 3: SENATE FACTORS ON THE TOTALITY OF CIRCUMSTANCES IN ILLINOIS

I. Summary of Opinions

- 1) As an indicator generally of the extent to which registration and voting is accessible in Illinois, the Contreras expert Dr. Jacob Grumbach found that according to the Democracy Index that Illinois is at the forefront of the nation in providing access to registration and voting and that restrictions across the nation are attributable to Republican control of government.
- 2) Eight of the Nine Factors do not weigh at all against the totality of circumstances in Illinois.
- 3) To the contrary, these Factors weigh in favor of the state, reflecting Dr. Grumbach summary.
- 4) The state is a national leader in opening access to voting and registration and electing minority public officials.
- 5) Rather than marked racial polarization in voting, there has been an exceptional level of coalition building that has expanded minority representation and political influence.
- 6) There are no unusual rules or laws like anti-single shot prohibitions that impede minority access to the ballot, but to the contrary the state has been a pioneer in opening access.
- 7) Slating is broadly open to minorities and helps account for minority electoral

success in Cook County and Chicago.

- 8) Republicans have engaged in racial appeals in political campaigns in Illinois, but not the Democrats who enacted SB 927.
- 9) Minorities have been elected to public office in Illinois far ahead of national norms. This advancement applies statewide, in Chicago and Cook County, and in state legislative elections.
- 10) The state of Illinois has been highly responsive to particularized minority needs in areas such as voting rights, medical care, education, and immigration, despite frequent Republican opposition.
- 11) Any divide over policies to meet the particularized needs of minorities is between Democrats and Republicans, not among Democrats.
- 12) The obligation to create a redistricting plan for the state legislature is not tenuous.
- 13) Like other states, Illinois does exhibit a socio-economic divide between whites and minorities and lower minority turnout in general elections. But plaintiffs' experts have not tied this finding to policies of the state rather than federal policy and private action and have not properly interpreted the findings.
- 14) On balance the factors not only fail to weigh against the totality of circumstances in Illinois, but strongly support a favorable set of circumstances for minority voters.

II. Overview

This section of my declaration examines factors established by the U.S. Senate Judiciary Committee in 1982 to guide courts in assessing the totality of circumstances

relevant to a Section 2 claim that a challenged law impedes minority voting opportunities.

The Senate Factors are “neither exclusive nor comprehensive,” and “a plaintiff need not prove any particular number or a majority of these factors in order to succeed in a vote dilution claim.”¹ The Senate Factors are:

- **Factor 1:** The extent of any history of official discrimination in the state or political subdivision that touched the right of members of the minority group to register, vote, or otherwise to participate in the democratic process;
- **Factor 2:** The extent to which voting in the elections of the state or political subdivision is racially polarized;
- **Factor 3:** The extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
- **Factor 4:** If there is a candidate slating process, whether the members of the minority group have been denied access to that process;
- **Factor 5:** The extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
- **Factor 6:** Whether political campaigns have been characterized by overt or subtle racial appeals; and
- **Factor 7:** The extent to which members of the minority group have been elected to public office in the jurisdiction.

The Judiciary Committee also noted that the court could consider additional factors such as:

- **Factor 8:** Whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group; and
- **Factor 9:** Whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice, or procedure is tenuous.²

Before examining the analysis of each factor by plaintiffs’ experts, I would note that among more than a dozen reports and declarations that submitted by three sets of plaintiffs there

is no report that systematically examines each factor. Rather, information and analyses relevant to individual factors are scattered throughout many different reports. The result is that plaintiffs have not presented proof of how the factors, taken together, impact the totality of circumstances regarding minority voting opportunities in Illinois. I will endeavor to provide that missing synthesis in this section of my report, pulling together where relevant elements of individual reports and declarations from plaintiffs and adding information and analyses. I have considerable past experience in analyzing the Senate factors.

The submission of the McConchie plaintiffs recognizes the lack of a comprehensive analysis of the Senate Factors by expert analysis. It argues for limiting the focus primarily to just two factors. The submission notes that “Accordingly, the two most predominant Senate Factors, factors 2 and 7, weigh in Plaintiffs’ favor.” It cites *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1022 (8th Cir. 2006) for the proposition that “(totality-of-the-circumstances test satisfied simply through proof of racially polarized voting and absence of elected minorities).” (p. 17)

However, the submission cites no proof from any expert report regarding either of these two factors. Instead, it notes that “In any event, at least two additional factors weigh in Plaintiffs’ favor and compel a finding that the September Map violates Section 2 of the VRA.” It cites information from the report of Dr. Charles Gallagher on these two additional Factors, Factor 1 and Factor 5, but nothing on Factors 2 and 7. The submission is silent on the five other factors, Factor 3, Factor 4, Factor 6, Factor 8 and Factor 9.

In its submission the NAACP plaintiffs mention only five of the nine Senate Factors, omitting Factors 3, 4, 6, and 9. Only the submission of the Contreras plaintiffs mentions all nine of the Senate Factors.

Before examining the individual Senate factors, I will first consider the impact of the scholarly work of the Contreras plaintiffs' expert Dr. Jacob Grumbach. Dr. Grumbach's declaration for this litigation is limited to Factor 2 on polarized voting. However, in his scholarship, Dr. Grumbach does provide the kind of comprehensive, synthetic view of the totality of circumstances regarding voting opportunities in Illinois that is missing in the submitted reports and declaration.

Dr. Grumbach Finds That Illinois is a National Leader on Promoting Democracy

In an April 2021 article, Dr. Grumbach notes that in our decentralized system of government, American states can be "laboratories of democracy," but also "laboratories of authoritarianism." To rate the states along this continuum, Dr. Grumbach developed a "State Democracy Index." He based the index on 61 indicators that illuminate the totality of circumstances in a state regarding equal access to participation in the democratic process. Grumbach writes, "Using 61 indicators of electoral and liberal democratic quality, such as average polling place wait times, same-day and automatic voter registration policies, and felon disenfranchisement, we use Bayesian modeling to estimate a latent measure of democratic performance." Grumbach says that "electoral democracy" as gauged by his index is important "especially for minority populations who have been historically subjugated."⁵⁸

⁵⁸ Jacob Grumbach, "Laboratories of Democratic Backsliding," 5 April 2021, https://uc48d81a82a9da2b95d03c63e2f0.dl.dropboxusercontent.com/cd/0/inline2/Baj0DmMas_qg3NfXqFkMhEuISLIUln9EC5s9nj0p5MsHwoVJkXjZ_h0g8oZTZhmhdp7tJQI59rVdgN_TFZdyxDV1SIOyE7nQpWIOymY7C4E16AlDX8W33ckL44R7syIWhC-T1kovyHmMLtJkK1qPY5gr-WV26LJoHF6H99adqHW7eukqiMbarcsA1FSK4-eNS_QTUP-npYVrHkHbQLPvvHH-htPGnye2BvZ2UYiwzjueYg7DPiFzRZ0MeomzJPFyi4hlYiC7KA3A39AFWcAiDyaKtIC0IYt3LQIG-2f9qhTt8yT06L0B6V1VBLUb19vUBxavLopqjzmlf-zetDZnltgVmerXllsok1_nuI3-EiUHnLwldXLj5G97Zl-VtZGxb0/file#.

He finds that “Analysis of the measure suggests that state governments have been leaders in democratic backsliding in the U.S. in recent years.” Illinois, however, has not been backsliding. To the contrary, initiatives since 2000 have vaulted Illinois to among the top ranked states on Grumbach’s democracy index. He notes that in comparing democratic access in the states from 2000 to 2018 that “Illinois and Vermont move from the middle of the pack in 2000 to among the top democratic performers in 2018.” He finds that for 2018, Illinois ranked third highest among the states, trailing only Colorado and Washington, two states that use mail-on only elections.⁵⁹ (p. 46)

Grumbach finds that one variable dominates all others in determining the level of democracy in the states, Republican control of state government: “Difference-in-differences results suggest a minimal role for all factors except Republican control of state government, which dramatically reduces states' democratic performance during this period [2000 to 2018].” Differences between Republicans and Democrats in providing democratic access, Grumbach found is closely tied to race. He notes that “their preferences with respect to race and partisan identity provide the Republican electoral base with reason to oppose democracy in a diversifying country.” Thus, “The politics of race are therefore still central to this theory of party coalitions.”⁶⁰

Grumbach notes that Republican racial politics at the national level drives the near universality of Republican opposition to democratic access in the states. “In contrast to the localized racial and political economy conflict of the Jim Crow period,” he concludes, “today it is national rather than state or local level racial conflict that is the driver.” He indicates that the

⁵⁹ *Id.*, at 3, 12, 46.

⁶⁰ *Id.*, at 1, 16-17

“current coalitional structure of the national Republican Party shaped in large part by 20th century racial realignment (Schickler 2016) and large political investments by wealthy individuals and firms (Hacker and Pierson 2010; Hertel-Fernandez 2019), makes the party in government especially likely to reduce state democratic performance in any state in which it takes power.”⁶¹

Grumbach adds, “Despite Barack Obama's avoidance of racial discussion and consistent promotion of Black respectability politics (Gillion 2016; Stephens-Dougan 2016), his presidency, rather than signaling the emergence of a post-racial America," was met with a Republican Party that made gains by radicalizing on issues of race and immigration (Parker and Barreto 2014). In the contemporary period, elite racial appeals and frames are facilitated by a sophisticated conservative media ecosystem that consolidates the mass elements of the Republican Party.”⁶² I will return to this issue of a “media ecosystem” when examining Factor 6 on racial appeals.

- **Factor 1:** The extent of any history of official discrimination in the state or political subdivision that touched the right of members of the minority group to register, vote, or otherwise to participate in the democratic process.

Dr. Grumbach’s finding cut to the heart of Factor 1, which applies to the state, not local governments. Plaintiffs’ challenge only officials of the state government, not separate counties or municipalities in Illinois. There are 102 counties and 1,297 municipalities in Illinois. Dr. Grumbach’s scholarship demonstrates that since 2000 and through 2018, initiatives adopted by the Illinois state government have moved it from a middling state on

⁶¹ *Id.*, at 17.

⁶² *Id.*, at 53.

democracy to a leader in providing access to the democratic process. Among others, the following policies adopted by Illinois through 2018 advanced such access in the state:

2005:

- * Authorized early voting in the state.
- * Established paid 2-hour leave for voting by employees.
- * Expanded information on state website.
- * Provided downloadable and printable voter registration forms in at least English and Spanish.⁶³

2014:

- * Authorized election-day voter registration.
- * Extended the hours and time-period for early voting.
- * Established early voting at high traffic locations on campuses of public universities.
- * Extended the grace period for registering or changing registration.
- * Eliminated the identification requirement for early voting.
- * Provided time-off for persons employed by large firms to work as election judges.
- * Expanded the time window for requesting an absentee ballot.⁶⁴

2018:

- * Authorized automatic voter registration at state agencies.⁶⁵

An independent study on access to voting and registration published in *Election Law Journal* in 2020 confirms Dr. Grumbach's finding that these initiatives vaulted Illinois to among the leading states. Based on some thirty indicators the authors developed a cost of voting index (COVI). The

⁶³ House Bill 1968, Public Act 94-0645.

⁶⁴ Public Act 98-0691.

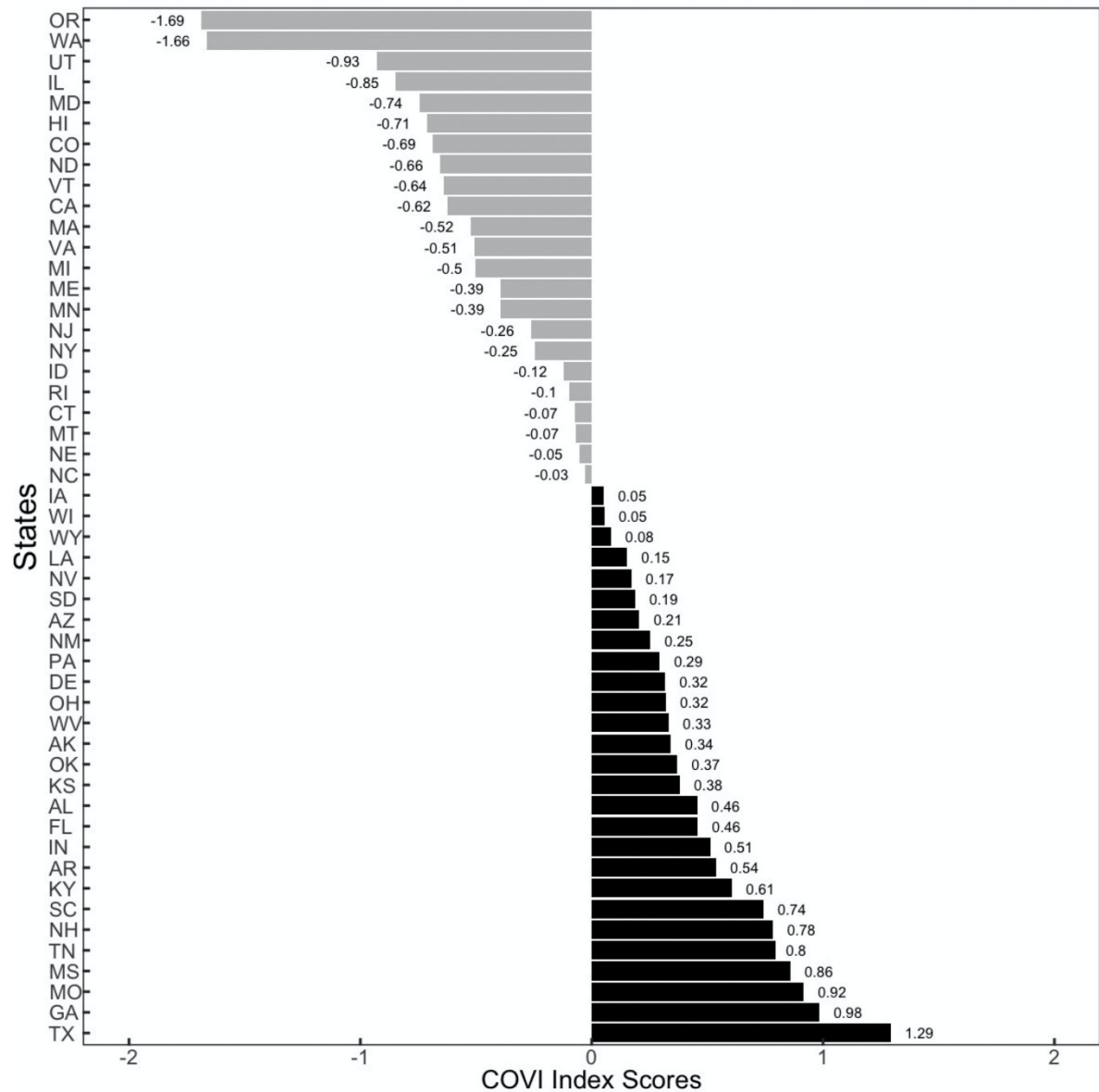
⁶⁵ Public Act 100-0464.

lower the COVI score the score the greater the access to registration and voting in the state. As shown in Figure 1, consistent with Dr. Grumbach's findings, Illinois has the fourth lowest COVI score, meaning it is fourth highest among the states in Democratic access. The only states ahead of Illinois are Utah, Washington, and Oregon, which conduct all elections by mail. Among states that do not conduct all mail-in voting, Illinois ranks first in the study. Also consistent with Dr. Grumbach's findings, the authors of the *Election Law Journal* study found that Illinois have moved up to number 4, from number 12 in their previous study.

In 2021, since the conducting of these studies, Illinois has adopted additional initiatives to facilitate access to voting in the state. The same state legislature that adopted the redistricting plan SB 927, also adopted SB 825, which significantly expanded democratic access. Among S.B. 825's key provisions, it authorized voters to apply for permanent vote-by-mail status so that they would receive mail-in ballots for all future elections unless they opted out. It authorized curbside voting and allowed election officials to accept mail-in ballots with insufficient postage. It established voting centers across the state, where registrants could vote regardless of their precinct. It established the November 2022 Election Day as a state and school holiday. It clarified the pathway for former felons to vote, expanded access to voter registration at high schools, and set up voting at county jails for persons held but not convicted of crime. The bill requires election officials to devise means for allowing disabled people to vote by mail in private rather than be assisted by someone in the voting booth. It tightened cybersecurity measures for elections and also postponed the primary from March to June to account for delays related to the pandemic and the Census. The bill allowed but did not require counties to use American

FIGURE 1**COST OF VOTING RANKINGS BY STATE, 2020**

[Scot Schraufnagel](#), [Michael J. Pomante II](#) and [Quan Li](#), “Cost of Voting in the American States,” *Election Law Journal: Rules, Politics, and Policy*, 2020, 19(4), Figure 1.



Community Survey data for the 2021 redistricting. It also pushed back the date for county redistricting plans.⁶⁶

Consistent with Dr. Grumbach’s finding of the relationship between Republicans and voting restricting, the COVI rankings from the *Election Law Journal* study show that the fifteen states with the worst COVI scores are all Republican controlled states (Table 1). The differences in the COVI scores between Illinois and these states is substantial, ranging from +1.19 to +1.24. Since the publication of these scores, in 2021, many Republican-controlled states have adopted new laws that restrict access to the ballot and expand partisan control over elections. According to an October 4, 2021, compilation by the Brennan Center for Justice, in 2021 11 states adopted new restrictive laws with no counterbalancing expansive measures. All these states have Republican-controlled state governments. The Brennan Center compilation notes that **“restrictive laws in four states — Georgia, Iowa, Kansas, and Texas — impose new or more stringent criminal penalties on election officials or other individuals.** These new criminal laws will deter election officials and other people who assist voters from engaging in ordinary,

⁶⁶ Illinois General Assembly, “Bill Status of SB 0825,” 102nd General Assembly, <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=825&GAID=16&DocTypeID=SB&SessionID=110&GA=102>.
<https://www.ilga.gov/legislation/votehistory.asp?GA=102&DocNum=825&DocTypeID=SB&GAID=16&LegID=133452&SessionID=110>.

TABLE 1
FIFTEEN STATES WITH WORST COVI SCORES, COMPARED TO ILLINOIS,
FROM FIGURE 1

STATE	COVI SCORE	RANK	DIFFERENCE WITH ILLINOIS
ILLINOIS	-.85	4	
ARKANSAS	+.34	36	+1.19
OKAHOMA	+.37	37	+1.22
KANSAS	+.38	38	+1.23
ALABAMA	+.46	39	+1.31
FLORIDA	+.46	40	+1.31
INDIANA	+.51	41	+1.36
ARIZONA	+.54	42	+1.39
KENTUCKY	+.61	43	+1.46
SOUTH CAROLINA	+.74	44	+1.59
NEW HAMPSHIRE	+.78	45	+1.63
TENNESSEE	+.80	46	+1.65
MISSISSIPPI	+.86	47	+1.71
MISSOURI	+.92	48	+1.77
GEORGIA	+.98	49	+1.83
TEXAS	+1.29	50	+2.14

lawful, and often essential tasks.” (emphasis in original)⁶⁷

In Illinois, Republicans have opposed voter access bills, while proposing restrictive measures of their own. All Republicans in the General Assembly voted against the redistricting bill, SB 927. As shown in Table 2, the same Republicans in the General Assembly voted unanimously against the voter access bill SB 825. Only one Democrat in the State House voted against SB 825. All other Democrats in both chambers voted for the bill. Republicans voting against SB 825 included Dan McConchie, the Senate Minority Leader, and Jim Durkin, the House Minority Leader, the two lead McConchie plaintiffs. As further indicated in Table 2, Republicans had also voted unanimously against the landmark 2014 voter access bill. All Democrats in the General Assembly voted for the bill. Leader Durkin also voted against the 2014 voter access bill, H.B. 105.

While opposing voter access laws, Republicans in the Illinois General Assembly introduced voter restriction bills of their own. For example, Republican Senator Darren Bailey introduced legislation for voter photo identification requirement in Illinois. It is well established that photo voter ID laws have a disparate negative impact on minority voting opportunities. MALDEF and the NAACP have both been active in opposing photo voter ID laws for discriminating against minorities.⁶⁸

⁶⁷ Brennan Center for Justice, “Voting Laws Roundup: October 2021,” 4 October 2021, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-october-2021>.

⁶⁸ MALDEF, “MALDEF Works In D.C. Court To Halt Restrictive Voter Id Law That Disenfranchises Latino Voters,” 11 July 2012, <https://www.maldef.org/2016/11/tx-voter-id-law>; NPR, “NAACP Takes Case Against Voter ID Laws to UN,” *Reuters*, 15 March 2012, <https://www.npr.org/2012/03/15/148678008/naacp-takes-case-against-voter-id-laws-to-un>.

TABLE 2
PARTY VOTING FOR SB 825 IN 2021 AND HB 105 IN 2014

BILL	REPUBLICANS SENATE VOTE	DEMOCRATS SENATE VOTE	REPUBLICANS HOUSE VOTE	DEMOCRATS HOUSE VOTE
SB 825 2021	18 NO 0 AYE	41 AYE 0 NO	45 NO 0 AYE	72 AYE 1 NO
HB 105 2014 Public Act 98-0691	17 NO 0 AYE	39 AYE 0 NO	40 NO 0 AYE	64 AYE 1 NO
Sources: Illinois General Assembly, “Voting History for SB0825,” 102 nd General Assembly, https://www.ilga.gov/legislation/votehistory.asp?GA=102&DocNum=825&DocTypeID=SB&GAId=16&LegID=133452&SessionID=110 ; Illinois General Assembly, “Voting History for HB0105, 98 TH General Assembly, https://www.ilga.gov/legislation/votehistory.asp?GA=98&DocNum=105&DocTypeID=HB&GAId=12&LegID=68487&SessionID=85 .				

Six Republican sponsors introduced HB1920, which requires officials to crosscheck each name on the voter registration rolls with the national Change of Address System information gathered by the United States Postal Service to determine if the changed address of each person who has filed a change of address has resulted in the removal of that person from the voting precinct or voting election district in which he or she was enrolled as a voter.”⁶⁹ Such crosschecks are notoriously inaccurate, especially for minorities.

I will now consider information and analysis relative to Factor 1 from expert submissions by the three sets of plaintiffs.

Dr. Charles Gallagher: *McConchie* Plaintiffs

The Gallagher report provides little information on the critical question raised by Factor 1, official discrimination on voting. The limited information that he does provide is outdated and makes no reference to crucial initiatives of the past twenty years, or the finding of Dr. Grumbach and other scholars that such initiatives have made Illinois a leading state in providing access to registration and voting. Dr. Gallagher presents allegations regarding official discrimination in voting on just four of the 48 paragraphs in his report (pp. 17-18). Without exception, the information he presents is outdated or irrelevant.

Dr. Gallagher begins by citing without attribution, that legal scholars have also found that “four decades after the enactment of the Voting Rights Act, racial discrimination in voting is far from over.” (p. 17) However, that is a generic quotation that is not specific to Illinois. He cites no authority for the proposition that racial discrimination in voting is far from over in Illinois, a proposition that is

⁶⁹ Illinois General Assembly, Bill Status of HB 1920, <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=1920&GAID=16&DocTypeID=HB&SessionID=110&A=102>.

refuted by the studies cited above. To the extent there are efforts at racial discrimination in voting they are attempted by the Republicans, who lead the set of plaintiffs that hired Dr. Gallagher.

I tracked down the quotation on discrimination, it is from Law Professor Ellen Katz sixteen years ago, in a 2005 report from the University of Michigan. The quotation is indeed generic and not tied to Illinois. Moreover, the University of Michigan report backs up this claim with examples of recent racial discrimination in voting. None of the examples are from Illinois.⁷⁰

The generic 2005 quotation from Professor Katz is the most recent information in the Gallagher report. In support of his claim about official discrimination in voting Dr. Gallagher goes on to cite the following:

- * The legislatures defense in 1983 of a 1981 redistricting plan for the state legislature.

- * An effort in the town of Cicero in 2000 to put up for referendum an ordinance for an “18-month candidate residency requirement for city office.” (p. 18) According to the source that Dr. Gallagher cites, this effort was orchestrated by “the Republican political machine” in Cicero was not an action of the state.⁷¹

- * Another example of racial discrimination in the 1981 redistricting plan for Illinois.

- * Dr. Gallagher cites the Katz report in his declaration. That report, which covers voting rights enforcement through 2005 cites only the 1981 redistricting and the Cicero proposed ordinance as examples of voting discrimination in Illinois.⁷²

It is although time stopped in Illinois for acts on voting in 2000, and for state action, rather than the act of a single town, time stopped in 1981. For state actions on voting Dr. Gallagher presents nothing more up-to-date than the 1981 redistricting process from forty years ago.

⁷⁰ “Law School Report Shows Voting Rights Act Still.”

⁷¹ On the Road to Political Incorporation: The Status of Hispanics in the Town of Cicero, Illinois Mitzi Ramos, *Critique*, Spring 2004, p. 70.

⁷² *Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982*, Ellen Katz with Margaret Aisenbrey, Anna Baldwin, Emma Cheuse, and Anna Weisbrodt, December 2005.

Dr. Gallagher similarly devotes little more of his report, less than two pages, on alleged official discrimination that is not directly tied to voting. See pages, 16-17 under the heading “Discrimination by State Actors.” Other information in the report, not under this heading, primarily relates to Factor 5, examined below. Even when considering actions in all policy realms, Dr. Gallagher presents little information on official state discrimination in Illinois and almost nothing that is up-to-date. This analysis is limited to housing and racial profiling in law enforcement.

On housing, Dr. Gallagher indicts the City of Chicago and the federal government for failures on housing discrimination but fails to cite any examples of official discrimination in housing by the state of Illinois. Dr. Gallagher cites a 1990s settlement agreement on combatting housing discrimination between a Hispanic organization and the city of Chicago, again not the state of Illinois. He cites allegedly lax enforcement of the federal Fair Housing Act of 1968 by the federal government, not the state of Illinois (pp. 16-17).

Dr. Gallagher does not indicate that Illinois was a pioneer in adopting a state Fair Housing Act that expands the scope of federal law by incorporating ten additional categories, including ancestry, citizenship, and arrest record. Dr. Gallagher does not mention that Illinois’ African American Attorney General Kwame Raoul was leader in seeking the Biden administration to reinstate an anti-discrimination rule on housing that the Trump administration had eliminated. The rule protects individuals against facially neutral housing and lending practices that result in discrimination based on race, color, religion, national origin, sex, disability or familial status.⁷³

⁷³ Illinois Attorney General, “Attorney General Raoul Urges Federal Government To Protect People From Discrimination In Housing,” 25 August 2021, https://illinoisattorneygeneral.gov/pressroom/2021_08/20210825.html.

He does not consider major housing initiatives enacted by the General Assembly in 2021, that Housing Action Illinois called “Key Wins for Affordable Housing,” all of which will benefit low-income minorities.⁷⁴ For example:

* HB 2621: Housing Action Illinois termed this legislation a “landmark bill” that “creates new resources to finance the development of affordable rental housing and establishes property tax policies to support owners of rental housing to invest in their properties and keep rents affordable. It also strengthens existing state law requiring communities with very small stocks of affordable housing to develop plans to remedy this shortage.

* SB 1561 According to Housing Action Illinois this bill makes it “a civil rights violation for a third-party loan modification service provider, because of unlawful discrimination, familial status, or an arrest record, to (1) refuse to engage in loan modification services, (2) alter the terms, conditions, or privileges of such services, or (3) discriminate in making such services available.”

* HB 2877: Housing Action Illinois said, “This hard-won legislation creates a strong set of protections for Illinoisans struggling to pay their rent or mortgages as a result of unprecedented economic instability caused by the pandemic.”

* HB 648: Housing Action Illinois noted that the Rental Housing Support Program under this bill, “provides rental assistance to extremely low households.”

Dr. Gallagher devotes one paragraph to law enforcement. He cites an ACLU which found that minority drivers were stopped and searched in greater proportion than white drivers in Illinois. But he fails to relate this phenomenon to official state of Illinois policy or show how it relates to voting. Dr. Gallagher does not mention that in the nexus between law enforcement and voting that

⁷⁴ Housing Action Illinois, “2021 Legislative Wrap-up,” 20 June 2021, <https://housingactionil.org/blog/2021/06/20/2021-general-assembly-wrap-up/>. All subsequent examples are from this war-up.

Illinois is one of 16 states that automatically restore felon voting rights when released from prison, even if on probation or parole. He does not mention, as cited above, that SB 825 in 2021 established a pioneering program of voting at county jails for persons held but not convicted of crime.

Dr. Lila Fernandez for Contreras Plaintiffs

In analyzing discrimination against Latinos, Dr. Fernandez's analysis primarily focuses on past events, with minimal attention to any developments after 2000. I counted that of 36 substantive pages of her report, 34 pages deal with circumstances before 2000, primarily before 1990. Her report does not reach the 1990s, until page 33. To provide information to sustain her analysis Dr. Fernandez presents six illustrations or tables in her report, all labeled "figures." With the exception of one largely irrelevant table on population changes, they all provide data from before 1984. The figures are as follows:

Figure 1: A worker registration card from 1954

Figure 2: Socioeconomic Indicators of Whites, Latinos/as, and African Americans in Chicago, 1980

Figure 3: Race category selected by Hispanic/Spanish-origin People in 1980 Census

Figure 4: Chicago Non-Voters in Local Elections, 1975-1983

Figure 5: Voter Registration and Turnout, 1975-1983

Figure 6: Cook County, Population Changes 2010-2020

Aside from Figure 6 which just presents population changes in Cook County, all of the figures that Dr. Fernandez deemed probative for sustaining her analysis are dated from 1954 to 1983.

Even for his early historical narrative she does not tie discrimination to official acts of the state but cites examples primarily from private discrimination or actions by particular local governments. She also combines indiscriminately issues related to Factor 1 with issues related to Factor 5 on socio-economic disparities, Factor 6 on racial appeals, and Factor 7 on the election of minority officials, which I will scrutinize in my consideration of these factors. on minority representation.

The following represents the de minimis analysis she presents on discrimination after 2000.

* Dr. Fernandez presented a vaguely stated claim without details that “Latinos also brought numerous cases before the Chicago Commission on Human Relations alleged employment discrimination against various employers as well as housing discrimination during the 1990s and 2000s. She cites allegations not proof (p. 37). Also, discrimination by employers and discrimination in housing do not represent official acts by the Illinois state government.

* She noted that “In education, MALDEF sued the U-46 school district [in] 2005 alleging discrimination in school assignments, school closures, English Language (ELL) services, and gifted education. Again, this lawsuit does not charge discrimination against the state government. She notes that a federal judge only found a violation with respect to gifted education (p. 37).

* “Even as recently as 2009, federal judges found realtors guilty” of racial steering (p. 37). The realtors, however, are private actors, not agents of the state.

* Dr. Fernandez says that “multiple incidents of polling place voter intimidation and harassment have been reported in Illinois.” (p. 35) Again, these are allegations without specificity and do not represent official actions by the state government.

Report of Franita Tolson, J.D., for NAACP Plaintiffs

This report can be dealt with quickly. Tolson’s report rests on a 20-page narrative that stops in the 1970s and focuses primarily on private actors and local government, without a recounting of any official acts by the state. The more recent information or analysis is represented only by brief comments on the 2021 redistricting and equally brief commentary on current social and economic problems in the city of East St. Louis, which are properly considered under Factor 5. In its “Brief for Compliance,” the NAACP plaintiffs recognize the limitations of the Tolson report: “As Professor Tolson recites, there is an unfortunate history of discrimination in voting in East St. Louis stretching back to post-Reconstruction through the *latter quarter of the twentieth century*.”⁷⁵ (emphasis added)

Factor 2: The Extent to Which Voting In The Elections of the State or Political Subdivision is Racially Polarized.

As compared to the analysis of Factor 1 where there was little if any up-to-date relevant information from plaintiffs’ experts, two experts – Dr. Jacob Grumbach for the Contreras plaintiffs and Dr. Anthony Fowler for the McConchie plaintiffs present information on racially polarized voting beyond a single district. I will incorporate their analyses into the main body of the considered Factor and then briefly address the Collingwood report that focuses on one House District (114).

Both the reports of Dr. Grumbach and Dr. Fowler present a restricted definition of racially polarized voting. The purpose of addressing Factor 2 is not abstract. It is relevant to the totality of circumstances facing minority voters because it can cast light on minority opportunities to elect candidates of their choice to office. Both reports find racially polarized

⁷⁵ East St. Louis Branch, NAACP, “Plaintiffs’ Brief in Compliance,” p. 34.

voting whenever there is a difference between the Latino and non-Latino or white (Fowler only, Grumbach does not analyze white voting patterns) or black and non-black or white (Fowler only, Grumbach does not examine black voting) levels of support for candidates. For example, Dr. Grumbach finds racially polarized voting in the 2018 general election Congressional District 4 where Hispanics voted 92.7% for winning Hispanic candidate Jesus “Chuy” Garcia and non-Hispanic vote 84.7% for Garcia. Dr. Fowler examines polarization between Hispanic and non-Hispanic support for Democratic and Republican candidates in statewide elections. He found racially polarized voting in the 2016 general election for U.S. Senate in which he estimated that 54% of Hispanics, 98.5% of Blacks and 76.7% of Asians voted for Democratic Asian challenger Tammy Duckworth over white Republican incumbent Mark Kirk. He found polarized voting in the 2008 general election for U.S. Senate in which he estimated that 55.9% of whites, 97.7% of Blacks, 82.3% of Hispanics, and 67% of Asians voted for Democratic incumbent Dick Durbin over white Republican challenger Steve Sauerberg.

As these examples illustrate, the assessment of numerical differences in minority and white voting patterns is the beginning, not the end, of a racially polarized voting analysis that illuminates minority electoral opportunities in Illinois. It is necessary in addition, to examine whether minority and non-minority candidates have the same candidates of choice (as in the above examples) or differ in their preferred candidate. Further, it is necessary to consider when minority and non-minority voters do not share the same candidates of choice to assess the degree of white crossover for the minority preferred candidate. For example, Dr. Fowler found that racial polarization which he gauges by examining Black-white and Hispanic-white disparities, was 49.7% for Black-white and 26.6% for Hispanic-white in the 2014 general election for governor. He found comparable polarization in the next 2018 election for governor, at 48.1% and

31.5% respectively. A white crossover voting of 48.1% although short of a majority was sufficient to elect the minority preferred gubernatorial candidate in 2018.

It should be noted that in her report, Dr. Collingwood contradicts the restricted approach to racially polarized voting taken by Dr. Grumbach and Dr. Fowler. She indicates appropriately that an analysis of racially polarized voting must consider whether minorities or white (or in the case of Grumbach's calculations Hispanics and non-Hispanics) form coalitions with the same candidates of choice. In the section of her report entitled "Racially Polarized Voting," Dr. Collingwood writes:

"In a two-candidate election contest, RPV is present when a majority of voters belonging to one racial/ethnic group vote for one candidate and a majority of voters who belong to another racial/ethnic group prefer the other candidate. The favored candidate is called a "candidate of choice." *However, if a majority of voters of one racial group back a particular candidate and so do a majority of voters from another racial group, then RPV is not present in that contest.*"

(emphasis added, p. 3)

This same logic would apply in multi-candidate primaries if a plurality of voters from one racial group back a particular candidate and so do a plurality but not necessarily a majority of voters from another racial group.

MALDEF, the NAACP Legal Defense and Education Fund (LDF), and the Asian American Justice Center agree with Dr. Collingwood that an analysis of racially polarized voting must consider whether voters of different races support different candidates and cannot rest on numerical differences in voting if the preferred candidates are the same. In their Guide to Redistricting, these civil rights organizations define racially polarized voting as follows:

“Racially polarized voting is a pattern of voting along racial lines where voters of the same race support the same candidate who is different from the candidate supported by voters of a different race.”⁷⁶

Dr. Collingwood additionally notes that in considering racially polarized voting it is important to consider the degree of support for the preferred candidate of one racial group, from voters of another racial group even when they do not share the same preferred candidate. She writes, “In situations where RPV is clearly present, majority voters may be able to block minority voters from electing candidates of choice.” (p. 3) As indicated below that may not be the case if crossover voting from members of another racial group is sufficiently robust, even absent a common candidate of choice.

Dr. Fowler presents his analysis of racially polarized voting in his Table 1, entitled “Racially Polarized Voting in Illinois.” He examines 13 statewide general elections, using survey data from the Cooperative Congressional Election Study. Several salient conclusions can be drawn from this Table. First, the data in the Table shows that in a majority of the elections (7 of 13) that Dr. Fowler chose as probative, minority and white voters had the same candidate of choice. Second, the data shows that in 12 of these 13 elections, the white crossover was more than 40%, sufficient to elect the minority candidate of choice.

Thus, the minority candidate of choice prevailed in 12 of 13 elections chosen by Dr. Fowler in a state that is 11.2% Hispanic and 15% Black in its minority CVAP percentage, far below the Hispanic CVAP of any districts challenged by any set of plaintiffs. Overall, the

⁷⁶ MALDEF, NAACP Legal Defense and Education Fund (LDF), and the Asian American Justice Center, “The Impact of Redistricting in Your Community: A Guide to Redistricting,” at 75, <https://www.maldef.org/wp-content/uploads/2019/01/redistricting.pdf>

minority CVAP in Illinois is 31%, far below the minority CVAP of any challenged district. As shown in the section of my report on Gingles Prong 3, all the districts challenged for insufficient Hispanic CVAP percentages are majority-minority. The one remaining district challenged for insufficient Black CVAP is 42.6% in its minority CVAP, still well above statewide levels. Overall, Dr. Fowler finds that for his thirteen elections that the average white crossover vote for the minority-preferred Democratic candidate was 48.5%, just short of a majority, and more than enough to elect such candidates statewide and in any challenged district.

Although Fowler examines survey data for exogeneous statewide elections, he does not examine survey results for the more probative endogenous state legislative elections. In both of the most recent election cycles, 2018 and 2020, the Congressional Cooperative Election Study on which Dr. Fowler relies, report survey results in Illinois for State Senate and State House elections. Those results are reported in Table 3.

For consistency with Dr. Fowler's procedure, I have reported the 95% confidence intervals for each estimate, but they make no consequential difference for results. The results reported in Table 3 show that for the two most recent election cycles, for both State Senate and State House elections, whites, Blacks, Hispanic, and Asians in Illinois all shared the same preferred Democratic candidates. The results show that in addition to overwhelming minority support a majority of white voters backed the Democratic candidate with considerable consistency: 56.8% for State Senate in 2020, 56.3% for State House in 2020, 53.9% for State

TABLE 3

**WHITE AND MINORITY VOTING IN ILLINOIS, DEMOCRATIC CANDIDATES FOR
STATE LEGISLATIVE POSITIONS, ILLINOIS, 2018 AND 2020, COOPERATIVE
CONGRESSIONAL ELECTION STUDY⁷⁷**

PERCENTAGE VOTE FOR DEMOCRATIC CANDIDATE STATE SENATE 2020			
WHITES	BLACKS	HISPANICS	ASIANS
56.8%	96.7%	75.9%	83.0%
53.9% to 59.8%	93.4% to 98.7%	67.0% to 83.3%	69.2% to 92.4%
PERCENTAGE VOTE FOR DEMOCRATIC CANDIDATE STATE HOUSE 2020			
WHITES	BLACKS	HISPANICS	ASIANS
56.3%	95.9%	76.3%	80.4%
53.4% to 59.2%	92.8% to 98.4%	67.6% to 83.6%	66.1% to 90.6%
PERCENTAGE VOTE FOR DEMOCRATIC CANDIDATE STATE SENATE 2018			
WHITES	BLACKS	HISPANICS	ASIANS
53.9%	95.9%	73.1%	77.5%
51.0% to 56.8%	92.3% to 98.1%	62.9% to 81.8%	66.6% to 89.6%
PERCENTAGE VOTE FOR DEMOCRATIC CANDIDATE STATE HOUSE 2018			
WHITES	BLACKS	HISPANICS	ASIANS
53.4%	94.5%	72.0%	84.6%
50.5% to 56.3%	90.6% to 97.1%	61.8% to 80.9s%	69.5% to 94.1%

Senate in 2018, and 53.4% for State House in 2018. For each of the results, the lowest confidence level for white voting is above 50%.

⁷⁷ Cooperative congressional Election Study, <https://cces.gov.harvard.edu/data>.

Dr. Fowler does not report any results for statewide Democratic primaries in which most minorities vote. However, ABC News did conduct an exit poll for the 2008 Democratic primary between Black candidate Barack Obama and white candidate Hillary Clinton. Given that the primary was nationwide we can also compare minority and white voting in Illinois to national results. The results reported in Table 4 for the two candidates show that a majority 57% of white voters voted in coalition with an overwhelming majority of Black voters to back Obama. By contrast, only 39% of white voters nationwide voted for Obama in the 2008 primaries, for a differential of 18 percentage points. Obama and Clinton evenly split the Hispanic vote in Illinois, whereas Clinton won the Hispanic vote nationwide with 61%.⁷⁸

Additional insight into polarized voting in primary elections can be obtained through examining the state legislative primary elections analyzed by Dr. Grumbach, supplemented by a few analyzed only by Dr. Chen. As in the section on Prong 3 I report only results that I verified and, in a few cases, corrected. I examine again, elections between Hispanics and non-Hispanics, conducted in probative state legislative districts of 25%+ Hispanic CVAP. Table 5 reports the results for primary elections analyzed by Dr. Grumbach.

⁷⁸ The ABC survey does not provide the data for confidence intervals, but they are likely small given the large size of the national sample and the substantial component of the black and Hispanic vote in the Illinois primary, 24% and 17% respectively, much larger than in a general election. A small scattering of votes was cast for other candidates, which is why the percentages do not quite add to 100%.

TABLE 4
WHITE & MINORITY VOTING BARACK OBAMA V. HILLARY CLINTON, 2008
DEMOCRATIC PRESIDENTIAL PRIMARY

	NATIONAL RESULTS		STATE OF ILLINOIS RESULTS	
	OBAMA	CLINTON	OBAMA	CLINTON
% WHITE VOTERS FOR	39%	55%	57%	41%
% BLACK VOTERS FOR	82%	15%	93%	5%
% HISPANIC VOTERS FOR	35%	61%	50%	49%
Source: ABC News 2008 Democratic Primary Exit Poll Results - Key Groups				

Table 5 reports the Hispanic and non-Hispanic vote for primary elections in state legislative districts of 25+ Hispanic CVAP. As indicated in the section on Gingles Prong 3, I was

able to verify Dr. Grumbach's results with one correction where Dr. Grumbach's estimates only added up to 51% of the vote.

As indicated in Table 5, for fourteen Hispanic v. non-Hispanic elections that Dr. Grumbach analyzed in districts with at least at 25%+ Hispanic CVAP, Hispanics and non-Hispanics had the same candidates of choice in 10 of 14 elections, for a coalition rate of 71%. Moreover, the mean non-Hispanic vote for the Hispanic candidate of choice is a 55% majority.

Dr. Chen also analyzed voting patterns in an additional three Hispanic v. non-Hispanic state legislative primaries in districts with a 25%+ Hispanic CVAP. Unlike, Dr. Grumbach, Dr. Chen does not combine non-Hispanic voters into a single group, but he analyzes white voters separately. Those three elections are shown in Table 6. As indicated in Table 6, a majority of both Hispanic and white voters backed the Hispanic candidate of choice by wide margins. The mean white vote for the Hispanic candidates of choice in these elections was 73%. As indicated in Chart 2, when the results for Dr. Grumbach's and Dr. Chen's analyses are combined, Hispanic and non-Hispanic or white voters had the same candidate of choice in 13 of 17 elections for a coalition rate of 76%.

TABLE 5
STATE LEGISLATIVE PRIMARIES EXAMINED BY DR. GRUMBACH

COUNT	DISTRICT & ELECTION ALL DEMOCRATIC PRIMARIES	CAND. OF CHOICE OF HISPANIC VOTERS	% OF HISPANIC VOTE	% NON-HISP. VOTE FOR HISP. CANDIDATE OF CHOICE	CANDIDATE OF CHOICE OF NON-HISP. VOTERS	HISPANIC CANDIDATE OF CHOICE WINS?*
1	HD 1 2018	ORTIZ	61%	43%	NO	YES
2	HD 2 2016	ACEVEDO	66%	34%*	NO	NO
3	HD 2 2020	MAH	61%	58%	YES	YES
4	HD 4 2016	SOTO	95%	71%	YES	YES
5	HD 4 2018	RAMIREZ	67%	37%**	YES	YES
6	HD 22 2012	MADIGAN	82%	66%	YES	YES
7	HD 22 2016	MADIGAN	64%	68%	YES	YES
8	HD 39 2012	BERRIOS	65%	39%	NO	YES
9	HD 39 2014	BERRIOS	75%	10%	NO	NO
10	HD 40 2014	ANDRADE	56%	47%	YES	YES
11	HD 40 2016	ANDRADE	71%	53%	YES	YES
12	HD 40 2020	ANDRADE	72%*	63%	YES	YES
13	SD 12 2012	LANDEK	57%	82%	YES	YES
14	SD 20 2018	MARTINEZ	73%	54%	YES	YES
* Corrected Percentage. ** Hispanic Preferred Candidate wins plurality in four-candidate primary.						
SUM: 10 OF 14 PRIMARY ELECTIONS WITH SAME CANDIDATE OF CHOICE: COLATION RATE = 71%						
MEAN NON-HISPANIC VOTE FOR HISPANIC CANDIDATE OF CHOICE: 55%						

TABLE 6
STATE LEGISLATIVE ELECTIONS ANALYZED BY CHEN, NOT ANALYZED BY DR.
GRUMBACH

COUNT	DISTRICT & ELECTION ALL DEMOCRATIC PRIMARIES	CAND. OF CHOICE OF HISPANIC VOTERS	% OF HISPANIC VOTE	% WHITE VOTE FOR HISP. CANDIDATE OF CHOICE	CANDIDATE OF CHOICE OF WHITE VOTERS	HISPANIC CANDIDATE OF CHOICE WINS?*
1	HD 77 2016	WILLIS	63%	98%	YES	YES
2	SD 22 2016	CASTRO	95%	54%	YES	YES
3	SD 22 2020	CASTRO	96%	78%	YES	YES

RACIALLY POLARIZATION IN REGION OF HD 114

Dr. Collingwood and Dr. Chen analyze racially polarized voting in the region of HD 114. She analyzes polarization for Black and white voters. Dr. Collingwood states that for her racially polarized voting analysis “At issue in this report is whether the SB927 version of Illinois House District 114 potentially dilutes Black voters’ *ability to elect* candidates of choice” (pp. 3-4). Under the heading of “Racially Polarized Results,” Dr. Collingwood presents her racially polarized voting analysis in Figure 1: “Figure 1 presents the results of the ecological inference racially polarized voting analysis of seven contests between a Black and white candidate from 2014-2020.” (p. 6)

As discussed in my Prong 3 section, this Figure consists of seven black v. white contests mostly in districts or jurisdictions (St. Clair County) with black CVAP percentages lower than challenged HD 114. Polarization between blacks and whites on the surface appears substantial in these elections, because of the extreme degree of black cohesion, ranging from 85% to 99%. Under these circumstances, the white crossover vote, which ranges from 39% to 27% fails her test of diluting the ability of black voters to elect candidates of choice. When corrected, Figure 1 shows that black candidates won six of seven elections.

Factor 3: The extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet voting.

None of these components of Factor 3 are relevant to Illinois. The state does not have unusually large election districts, majority vote requirements, or prohibitions against bullet

voting. None apply to state legislative elections in Illinois. None of the expert reports submitted by plaintiffs analyze Senate Factor 3.

The only mention of Senate Factor 3 occurs in the Contreras brief. The little material presented in the brief is irrelevant and outdated. The brief cites three court cases on redistricting, which do not address any elements of Factor 3 and are long outdated. They range in date from 1983 to 1991 and do not relate to any of the elements of this factor. While citing these past redistricting cases, the brief fails to note that in 2001 and 2011 courts rejected efforts by plaintiffs to overturn the state's redistricting plans. The brief further mentions the 2000 effort by the town of Cicero to establish a residency requirement. This effort was organized by the Republican machine in Cicero, was not successful, and involved one town, not the state government. It is also long outdated.

While relying on these scanty and largely irrelevant examples from twenty-one to 38-years-ago, plaintiffs fail to consider the many recent initiatives to open registration and voting to all citizens of the state. The Contreras plaintiffs do not refer to the research of their expert Dr. Grumbach and other scholars demonstrated that these efforts have vaulted Illinois to third or fourth among all states in facilitating registration and voting. Dr. Grumbach concluded that "Illinois and Vermont move from the middle of the pack in 2000 to among the top democratic performers in 2018." Since 2018 there have been additional initiatives such as SB 825 by the Illinois state legislature to make registration and voting more accessible in the state. To the extent there have been efforts in Illinois to restrict access to the ballot, as demonstrated in my examination of Factor 1, Republicans in the General Assembly have orchestrated those efforts, not the Democrats who voted for SB 927 and enacted SB 825 over Republican opposition. The

Illinois experience confirms Dr. Grumbach's finding that Republican control of government "dramatically reduces states' democratic performance."⁷⁹

Factor 4: The exclusion of members of the minority group from candidate slating processes.

Only the Contreras submission and the report of Dr. Lilia Fernandez briefly refer to Factor 4. The Contreras brief provides no statistics or up-to-date information of any kind. It relies on a reference to one brief paragraph on slating in the report of Dr. Lilia Fernandez (pp. 34-35). Dr. Fernandez refers only to judges and the only information she provides beyond the 1980s, is a 2011 article in the Chicago Tribune discussing the influence of now retired Speaker of the Illinois State House Mike Madigan on judicial appointments in Cook County. The article says nothing about the racial composition of his recommendations or the state of slating today.

I would note that in Cook County today, the Chief Judge, Timothy C. Evans, is Black and the State's Attorney, Kimberly M. Fox, is Black. The Clerk of the Circuit Court, Iris Martinez, is Hispanic. The president of the County Board of Commissioners is Black, and nine of 17 Commissioners (53%) are Black or Hispanic. Statewide, five of eight elected executive officials (62.5%) are minority, including the Black Attorney General Kwame Raoul. All are Democrats. The Contreras plaintiffs also cite a court decision from 25-years ago about the lack of slating of minorities by the Democratic Party in Chicago. However, the Democratic Legislative Caucus staff has provided information on current slating practices in by the Chicago Democratic Party. The most recent slating process for the 2020 election cycle is reproduced as Compilation 1, as it was presented to me. As indicated the slating is diverse and does not exclude Blacks or Latinos.

⁷⁹ *Id.*, at 1.

Chicago is 32.8% Black and 20% Hispanic in its CVAP. Of 16 slated candidates with racial IDs, four are Hispanic (25%) and eight are Black (50%). As noted earlier, of 3 citywide elected officials in Chicago, are all minority. The Mayor and Treasurer are Black, and the City Clerk is Hispanic. Currently 33 members of the 50 person Chicago City Council (66%) are Black or Hispanic.

Factor 5: The Extent to Which Minority Group Members Bear the Effects of Past Discrimination in Areas Such as Education, Employment, and Health, Which Hinder Their Ability to Participate Effectively In The Political Process.

I do not dispute that in Illinois as in virtually every state there are substantial socio-economic disparities between whites and both Blacks and Hispanics. I do not dispute that Hispanics and to a lesser extent Blacks have lower turnout rates than whites. I do not dispute that Chicago is a highly segregated city. If it were to rest there then, Factor 5 would essentially apply to nearly all states. However, that is where my agreement ends. Other than the presentation of this information, analysis is lacking with respect to Factor 5.

COMPILATION 1

Cook County Democratic Party Endorsed Countywide Candidates

Diversity Key

A – Asian American

AA – African American

F – Female

L – Latinx

LGBT - LGBT

2020

Kim Foxx (AA/F)

Mike Cabonargi

Cam Davis

Kim Du Buclet (AA/F)

Eira Corral Sepulveda (L/F)

P. Scott Neville, Jr. (AA)

Michael B. Hyman

John C. Griffin

Kerrie Maloney Laytin (F)

James T. Derico, Jr. (AA/LGBT)

Laura Ayala-Gonzalez (L/F)

Celestia L. Mays (AA/F)

Sheree D. Henry (AA/F)

Levander Smith, Jr. (AA/LGBT)

Chris Stacey

Teresa Molina (L/F)

Lloyd James Brooks (AA)

Lynn Weaver Boyle (F)

Araceli De La Cruz (L/F)

Maura McMahon Zeller (F)

Jill Rose Quinn (LGBT/F)

First, plaintiffs do not tie current socio-economic disparities to past or current policies or practices of the state of Illinois. The key admission comes from the McConchie brief, page 18. With respect to Factor 5 the brief states that based on the report of the McConchie expert Charles Gallagher, “He explains that institutionalized discriminatory practices that were in place for multiple decades (or centuries) such as redline, restrictive covenants, and racial steering in the real estate market, continue to cause socioeconomic harm and deprivation today.” Taking this

claim at face values, it points to practices by the federal government (redlining, which took place across the nation) and private parties (restrictive covenants racial). Neither Dr. Gallagher in its report nor the McConchie plaintiffs in their brief tie this discrimination to any politics or practices of the state of Illinois.

The Contreras brief is silent on Factor 5. With respect to the report of their expert on socio-economic disparities and turnout, the latest data she presents in her tables on these matters are from the early 1980s. Dr. Fernandez is also not up-to-date in her claims that social-economic disparities has led to lagging minority representation in the two jurisdictions where the minority population is most concentrated: Chicago and Cook County has “lagged historically” (with no citation other than to population data, p. 37).

Dr. Fernandez goes on to say that “As Latinos continue to lag behind whites in all socioeconomic measures—income, employment, education, homeownership, wealth, health indicators, etc.—their need for equitable political representation will persist. And their lack of political representation will most likely perpetuate those inequalities.” ((pp. 37-38) Dr. Fernandez provides no data on minority political representation. Despite the limitations cited by Dr. Fernandez her claim about lagging political representation does not fit the current facts. Although both Hispanics and blacks lag behind on whites on the above indicators, these groups have defied Dr. Fernandez’s prediction and achieved more than proportional political representation. As noted above minorities hold 5 of 8 statewide elected positions, a majority of the Cook County elected officials, a majority of the Cook County Board of Commissioners, all three citywide elected offices and a majority of the Chicago Aldermen. I will further examine minority representation in the context of Factor 7.

On turnout I will note that plaintiffs' experts provide only data on general elections. Illinois is Democratic-dominated state. The critical election is usually the Democratic primary, that is especially the case in the overwhelmingly Democratic regions where the challenged districts are located. Turnout data in primaries is difficult to find, but there is available survey data from the 2008 Democratic primary in Illinois between Black candidate Barack Obama and white candidate Hillary Clinton. Table 7 compares the share of the minority and white electorate in the primary as compared to the minority and white share of the electorate in the election of 2008, and the CVAP at the time. As shown in Table 7, the white percentage of the primary electorate is substantially lower than its percentage of the electorate in the general election. Conversely, the minority percentage of the primary electorate is substantially higher than its percentage of the general electorate.

Finally, plaintiffs' claim that socio-economic disparities hinder the ability of minority to gain resources for elections. The Contreras brief states that "Due to these disparities in socioeconomics, people of lower income levels often are unable to financially support a candidate's campaign and often have greater difficulty in getting to the polls." The inability of minorities to finance campaigns is not true in Illinois. In Table 3 on page 3 of his report, Dr. Fowler compiles data on campaign finance in "Elections of Interest." His data shows that in most contests between

TABLE 7
MINORITY PERCENTAGE IN THE 2008 DEMOCRATIC PRESIDENTIAL PRIMARY
COMPARED TO MINORITY CVAP AND THE 2008 GENERAL ELECTION,
ILLINOIS

GROUP	% OF 2008 PRIMARY ELECTORATE	% OF 2008 GENERAL ELECTORATE	DIFFERENCE PRIMARY- GENERAL
WHITE	57%	68%	-11 PERCENTAGE PTS
BLACK	24%	16%	+8 PERCENTAGE PTS
HISPANIC	17%	11%	+6 PERCENTAGE PTS
Sources: ABC News, 2008 Democratic Primaries, Exit Poll Results, https://abcnews.go.com/images/PollingUnit/08DemPrimaryKeyGroups.pdf ; CNN Exit Poll, 2008, Illinois, https://www.cnn.com/election/2016/results/exit-polls/illinois/president .			

minorities pr minority preferred candidates and whites, the minorities have spent more than the competition on the campaign.

Plaintiffs suggest that Dr. Fowler's data explains why minority candidates or minority preferred candidates win so often in districts above 25% minority CVAP. But that puts the cart before the horse. Minorities are able to raise funds not because they are minorities (which should be a

disability for fundraising given socio-economic disparities) but because they have broad support in the community. This support is validated by the ability of minority candidates more often than not to form interracial coalitions. It is interesting that plaintiffs on the one hand claim that minority candidates can't win except in districts or jurisdictions that are 50%+ single-race minority CVAP, but then keep looking for rationales as to why they do win.

Factor 6: The Use of Overt or Subtle Racial Appeals in Political Campaigns.

In their submitted briefs, the three plaintiffs cite one fairly recent racial appeal presented by an expert. In its brief on page 30, the Contreras plaintiffs cite a statement from Republican 2004 Senate candidate Jim Oberweis on immigrants, included in the Fernandez report. By contrast, in investigating this Senate Factor for Texas, I found more than 25 racial appeals, all more recent than 2004.⁸⁰

The two main sources for documenting racial appeals in political campaigns are America's Voice, "Ad Tracker" and the Campaign Legal Center, "Race in Our Politics: A Catalogue of Campaign Materials."⁸¹ These sources do not document any racial appeals by Democrats, whose party was responsible for enacting the challenged plans. in political campaigns in Illinois. They do, however, document racial appeals by Republicans like Jim Oberweis.

* In the 2020 general election campaign in Illinois Congressional District 17, the American Liberty Fund ran an ad attacking Democratic incumbent Cheri Bustos for allegedly supporting Black Lives Matter and its alleged role in violence and mayhem in American cities.

⁸⁰ The best source is America's Voice, Ad Tracker, <https://americasvoice.org/tag/ads-tracking/>, and Campaign Legal Center, "Race in Our Politics: A Catalogue of Campaign Materials," <https://campaignlegal.org/race-our-politics-catalog-campaign-materialst>

⁸¹ America's Voice, Ad Tracker; Campaign Legal Center, "Race in Our Politics: A Catalogue of Campaign Materials," <https://campaignlegal.org/race-our-politics-catalog-campaign-materials>.

* In the 2020 general election campaign in Illinois in Congressional District 14, the Republican Congressional Leadership Fund ran an ad that pictured Democratic incumbent Lauren Underwood, who is Black, with two prominent minority members of Congress, Alexandria Ocasio-Cortez and Rashid Talib. In bold, capital letters it charged that “CONGRESSWOMAN UNDERWOOD HAS COME UNHINGED! WHILE FAR-LEFT EXTREMISTS PUSH FOR OPEN BORDERS, HURL ANTI-SEMITIC REMARKS AND ATTACK AMERICAN HEROES, CONGRESSWOMAN UNDERWOOD STANDS RIGHT THERE WITH THEM.”⁸²

* In the 2020 general election campaign in Illinois Congressional District 14, Underwood’s Republican opponent, the same Jim Oberweis, falsely claimed that illegal aliens were coming to America to receive free health care paid for with American tax dollars and taking jobs from Americans.⁸³

* In the 2020 general election campaign in Illinois Congressional District 6, Republican candidate Jeanne Ives, a former Illinois State Representative, charged “smug politicians like Sean Casten (the District 6 Democratic incumbent) were joining violent protests: “But when riots broke out and protesters filled the streets, those same ‘leaders’ [who had backed COVID-19 restrictions] decided that COVID-19 wasn’t so dangerous after all and joined them.” The ad features a picture of a flaming Chicago police vehicle, with a shadowy figure poised to launch a large object.⁸⁴

⁸² Ad Tracker, <http://2020adwatch.com/node/98>.

⁸³ Ad Tracker, <http://2020adwatch.com/node/562>. As shown in an AP fact check, illegal immigrants are not entitled to free health care in the United States. Jude Joffe-Block, “Immigrants in the US Illegally are not Eligible for Free Health Care Under the ACA,” 21 October 2020, <https://apnews.com/article/fact-checking-afs:Content:9587751367>.

⁸⁴ Ad Tracker, <http://2020adwatch.com/taxonomy/term/230>.

In the 2018 Republican primary for governor, then State Representative Jeanne Ives ran an ad against her opponent Governor Bruce Rauner. The ad featured a black woman in a Chicago Teacher's Union tee shirt. She says, "Thank you [Rauner] for making the rest of Illinois bail out Chicago teacher pensions and giving Rahm Emanuel everything he wanted and more." However, the black woman is not a teacher's union member, but a paid actress.⁸⁵

Factor 7: The Extent to Which Members of the Minority Group Have Been Elected to Public Office in the Jurisdiction.

I have already presented considerable information on this matter and will briefly summarize that data and then focus on representation in the Illinois State Legislature.

To put data in perspective, the Illinois CVAP is 15% Black, 11.2% Hispanic, and 31.4% total minority. The Cook County CVAP is 26% Black, 17.7% Hispanic, 50.7% total minority. The city of Chicago CVAP is 32.8% Black, 20% Hispanic and majority- minority.

- Minorities hold 5 of 8 offices elected statewide (Senator, state executives), compared to just 3 such offices for 5 states with comparable statewide minority CVAP.
- Minorities hold a majority of countywide officers in Cook County and a majority of positions on the County Board.
- Minorities hold all three elected citywide offices in Chicago and 66% of Aldermanic positions.

With respect to representation in the General Assembly, Black representatives have already achieved super-proportionality in the Illinois State House and State Senate. As shown in Table 8 for State Houses, Black representatives in Illinois hold 22 State House seats, equal to 18.6% of the House membership. That is 3.6 percentage points *above* the 15.0% Black share of

⁸⁵ Campaign Legal Center, <https://campaignlegal.org/race-our-politics-catalog-campaign-materials>.

the CVAP in Illinois (including multiracial Blacks and Whites). Nationally, Blacks hold only 10.5% of State House seats, which is 2.4 percentage point *below* the 12.9% Black share of the national CVAP.

For State Senates, shown in Table 9, Black Senators in Illinois hold 12 State Senate seats, equal to 20.3% of the Senate membership. That is 5.3 percentage points *above* the 15.0% Black share of the CVAP in Illinois. Nationally, Blacks hold only 9.5% of State Senate seats, which is 3.4 percentage points *below* the 12.9% Black share of the national CVAP.

Tables 10 and 11 consider Hispanic representation in the Illinois State House and State Senate respectively, with comparison to national data. As per Table 10, Hispanics hold ten Illinois State House seats, equal to 8.5% of House membership. That is 2.7 percentage points below the 11.2% Hispanic share of the CVAP in Illinois. Nationally, Hispanics hold only 5% of State House seats, which is 7.4 percentage points below the 12.4% Hispanic share of the national CVAP. As per Table 11, Hispanics hold six Illinois State Senate seats, equal to 10.2% of Senate membership. That is just 1.0 percentage point below the 11.2% Hispanic share of the CVAP in Illinois. Nationally, Hispanics hold only 5% of State Senate seats, which is 7.4 percentage points below the 12.4% Hispanic share of the national CVAP.

The one plaintiffs' expert who attempts to analyze minority representation in the Illinois General Assembly does not provide accurate information. Dr. Fernandez, on page 9 of her report, states that "there are only 6 Latino Illinois state senators (out of a total of 59) and 8 Latino

TABLE 8
BLACK REPRESENTATION IN THE ILLINOIS STATE HOUSE, COMPARED TO
NATIONAL REPRESENTATION

ILLINOIS DATA				
BLACKS IN STATE HOUSE	TOTAL MEMBERS	BLACK %	BLACK CVAP %	DIFFERENCE
22	118	18.6%	15.0%	+3.6 PERCENTAGE PTS
NATIONAL DATA				
BLACKS IN STATE HOUSES	TOTAL MEMBERS	BLACK %	BLACK CVAP %	DIFFERENCE
569	5,411	10.5%	12.9%	-2.4 PERCENTAGE POINTS
Source: Carl Smith, "Blacks in State Legislatures," <i>Governing</i> , 13 January 2021, https://www.governing.com/now/blacks-in-state-legislatures-a-state-by-state-map.html . Does not include Nebraska which has a unicameral legislature with just two black members.				

TABLE 9
BLACK REPRESENTATION IN THE ILLINOIS STATE SENATE, COMPARED TO
NATIONAL REPRESENTATION

ILLINOIS DATA				
BLACKS IN STATE SENATE	TOTAL MEMBERS	BLACK %	BLACK CVAP %	DIFFERENCE
12	59	20.3%	15.0%	+5.3 PERCENTAGE PTS
NATIONAL DATA				
BLACKS IN STATE SENATES	TOTAL MEMBERS	BLACK %	BLACK CVAP %	DIFFERENCE
184	1,942	9.5%	12.9%	-3.4 PERCENTAGE POINTS
Source: Carl Smith, "Blacks in State Legislatures," <i>Governing</i> , 13 January 2021, https://www.governing.com/now/blacks-in-state-legislatures-a-state-by-state-map.html . Does not include Nebraska which has a unicameral legislature with just two black members.				

TABLE 10
HISPANIC REPRESENTATION IN THE ILLINOIS STATE HOUSE, COMPARED TO
NATIONAL REPRESENTATION

ILLINOIS DATA				
HISPANICS IN STATE HOUSE	TOTAL MEMBERS	HISPANIC %	HISPANIC CVAP %	DIFFERENCE
10	118	8.5%	11.2%	-2.7 PERCENTAGE PTS
NATIONAL DATA				
HISPANICS IN STATE HOUSES	TOTAL MEMBERS	HISPANIC %	HISPANIC CVAP %	DIFFERENCE
272	5,411	5.0%	12.4%	-7.4 PERCENTAGE POINTS
Source: Carl Smith, "Hispanics in State Legislatures: A State-By State Map," <i>Governing</i> , 21 January 2021, https://www.governing.com/now/hispanics-in-state-legislatures-a-state-by-state-map.html . Does not include Nebraska which has a 49-member unicameral legislature with just two Hispanic members.				

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TABLE 11
HISPANIC REPRESENTATION IN THE ILLINOIS STATE SENATE, COMPARED TO
NATIONAL REPRESENTATION

ILLINOIS DATA				
HISPANICS IN STATE SENATE	TOTAL MEMBERS	HISPANIC %	HISPANIC CVAP %	DIFFERENCE
6	59	10.2%	11.2%	-1.0 PERCENTAGE PTS
NATIONAL DATA				
HISPANICS IN STATE SENATES	TOTAL MEMBERS	HISPANIC %	HISPANIC CVAP %	DIFFERENCE
98	1,942	5.0%	12.4%	-7.4 PERCENTAGE POINTS
Source: Carl Smith, "Hispanics in State Legislatures: A State-By State Map," <i>Governing</i> , 21 January 2021, https://www.governing.com/now/hispanics-in-state-legislatures-a-state-by-state-map.html . Does not include Nebraska which has a 49-member unicameral legislature with just two Hispanic members.				

Illinois assembly members (out of a total of 118). That amounts to 10% and 6.8% representation of Latinos in the state legislature.” The correct number of Hispanic State House members is 10, not 8, and the correct percentage is 8.5%, not 6.8%.

Unable to deny the data on minority electoral success, plaintiffs try to explain it away by noting that 9 of 16 elected Hispanic state legislators were initially appointed to their positions. It does not explain how nonincumbent minority candidates, like Tammy Duckworth, are able to win statewide. It does not explain how minorities are able to win in Cook County or Chicago, as non-incumbents, in jurisdictions with single-race CVAP far below 50%. Of course, that does not explain how black legislators achieved super-proportionality. It does not explain the many defeats suffered by incumbents as outlined above, or the wide margins of victory achieved by appointed incumbents. It does not explain the victories of non-incumbents, including for example, Cristina Castro who won election in a 27.9% Hispanic CVAP district. Despite vaguely referring to an incumbency advantage, neither Dr. Grumbach or any other expert quantify the advantage for Illinois or explain why it should apply to appointed incumbents who have not stood the test of election or developed long-term relationships with their constituents or may not even be known to their constituents.

The bottom line is that the commitment of the Democratic caucus to appointing minority incumbents to state legislative officials is a benefit for minorities. It shows the commitment of the Democratic caucus advance minority political empowerment. Since the 2020 elections, the caucus has appointed additional minority legislatures. The Democrats appointed Doris Turner to State Senate District 48 to fill the seat of retiring white Senator Andy Manar. She becomes the first Black Senator to represent Central Illinois. The Democratic appointed Mike Simmons to State Senate District 7 to fill the seat of retiring white Senator Heather Steans. He becomes

the first Black Senator to represent the city's north side.⁸⁶ Under HB 927, SD 48 is 15.6% Black and SD 7 is 14.2 % Black. If through appointment, the Democratic caucus helps these Senators win the next election, it advances not sets back minority empowerment in the state. The Republicans have yet to appoint a minority to a state legislative position in recent years. After the 2020 election it appointed a new white Senator Sally Turner to SD 44.

Factor 8: Whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.

This factor is not analyzed by any plaintiffs' expert report or examined in any plaintiffs' submission. As a result, I will just cite a few highlights on issues of particular concern to minorities in Illinois.

* Voting Rights: I have already discussed in other contexts the many initiatives that have made Illinois a national leader in access to the ballot.

* Medicare Expansion: Illinois was one of the first states to expand Medicaid in the state, in January 2014. The program has since provided medical care for more than an additional 600,000 residents and is particularly beneficial for low-income minorities.⁸⁷ In 2021 the General Assembly expanded Medicaid coverage for mothers to 12 months rather than the preexisting two months. Government.⁸⁸

⁸⁶ Brenden Moore, "Watch Now, Illinois has 3 New Senators in the Past 3 Weeks, Highlighting Unique Appointment Process," The Pantagraph, 24 February 2021, https://pantagraph.com/news/state-and-regional/govt-and-politics/watch-now-illinois-has-3-new-state-senators-within-past-three-weeks-highlighting-unique-appointment/article_21815ab2-63cc-5a53-a325-9b31a7a92aa4.html.

⁸⁷ Louise Norris, "Illinois and the ACA Medicaid Expansion," HealthInsurance.org, 20 September 2020, <https://www.healthinsurance.org/medicaid/illinois/>.

⁸⁸ Ramon Troncoso, "Postpartum Coverage Extended From 60 Days to 12 Months," *Capitol News*, 13 April 2021, <https://www.capitolnewsillinois.com/NEWS/illinois-expands-medicaid-coverage-for-mothers>

* Housing Programs: Illinois enacted a series of laws in 2021 to expand the availability of affordable housing in the state. Housing Action Illinois hailed these measures as “Key Wins for Affordable Housing.”

* Education: In 2021 the General Assembly adopted a series of initiatives on education. It updated the curriculum in a way that made it more responsive to minorities, including becoming the first state to mandate the teaching of Asian-American history. It created a State Education Equity Committee to ensure equity in education for from early childhood through grade 12. It authorized high schools to teach about the process of naturalization for foreign residents. It created a new standard assessment for children entering kindergarten. The law contains provisions designed to expand the number of Black teachers and upgrades the teaching of Black history.⁸⁹

* Immigration: In 2021 the General Assembly adopted legislation that made Illinois only the second state in the nation to end partnerships with Immigration and Customs Enforcement. New law also dealt with hate crimes against immigrants, expand workplace protections for immigrants under the Deferred Action for Childhood Arrivals (DACA) program, and created a task force to ensure that state policies and practices served the immigrant and created a Task Force to help ensure that state programs and policies serve immigrant residents.⁹⁰

Dr. Fowler speculates without evidence in his report that somewhat the appointment of General Assembly members might make them less responsive to constituent needs. Yet, as demonstrated in the discussion of Factor 1, the real divide on minority interests is not among Democrats, whether appointed to not, but between Democrats and Republicans. The Republicans

⁸⁹ “2021 Legislative Update Summary of Changes in School Law,” *JDSUPRA*, 5 October 2021, <https://www.jdsupra.com/legalnews/2021-legislative-update-summary-of-2406907/>.

⁹⁰ “Pritzker Signs Immigration Protection Bills, *Daily Herald*, 3 August 2021, <https://www.dailyherald.com/news/20210802/pritzker-signs-immigrant-protection-bills>.

in the General Assembly also voted along party lines against Medicaid expansion⁹¹ and against the immigration reform that would end partnerships with ICE.⁹²

Minority interest group ratings are not available for state legislators, but ratings are available for the Illinois congressional delegation as a gauge of Democratic and Republican responsiveness to the interests of minorities. Table 12 reports NAACP Civil Rights Federal Legislative Report Card scores for Republican and Democratic members of the Illinois congressional delegation. The scores are 2017-2018, before the pandemic. The scores are based on 32 bills responsive to the particular needs of minorities. The differences between the two parties are striking. No Democrat scores lower than 84% on the scorecard and no Republican scores higher than 28%. The mean score for Democrats is 92%, compared to 18% for Republicans.

⁹¹ Illinois General Assembly, Bill Status of SB0066, 2013.

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=26&GAID=12&DocTypeID=SB&SessionID=85&GA=98>

⁹² Illinois General Assembly, Voting History of SB0665,

<https://www.ilga.gov/legislation/votehistory.asp?GA=102&DocNum=667&DocTypeID=SB&GAID=16&LegID=133273&SessionID=110>.

TABLE 12
NAACP CIVIL RIGHTS FEDERAL LEGISLATIVE REPORT CARD SCORES, U.S.
HOUSE OF REPRESENTATIVES, REPUBLICAN & DEMOCRATS, ILLINOIS, 2017-
2018

REPUBLICAN MEMBER	NAACP SCORE	DEMOCRATIC MEMBER	NAACP SCORE
Peter Roskam	28%	Bobby Rush	84%
Mike Bost	22%	Robin Kelly	100%
Rodney Davis	19%	Daniel Lapinski	84%
Randy Hultgren	9%	Luis V. Guterrez	88%
John Shimkus	16%	Mike Quigley	94%
Adam Kinzinger	16%	Danny K. Davis	88%
Darin LaHood	13%	Raja Krishnamoorthi	97%
		Jan Schakowsky	100%
		Bill Schneider	91%
		Bill Foster	91%
		Cheri Bustos	94%
MEAN REPUBLICAN	18%	MEAN DEMOCRATIC	92%

Factor 9: Whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice, or procedure is tenuous.

None of these cited measures are implicated in the enactment of the redistricting bill SB 927. The rationale for this bill is not tenuous. Soon after the federal government issued official U.S. Census population counts, the General Assembly amended earlier legislation to conform with the constitutional requirements for the apportionment of state legislative districts. There is no dispute among experts that SB 927 created districts that are well within the deviations required for state legislative plans.

Conclusions

No expert for plaintiffs provides a full assessment of the totality of circumstances in Illinois. They present data piecemeal and largely rely on outdated and irrelevant material. My analysis shows that the only Senate Factor that applies in Illinois is Senate Factor 5, which would apply to any state. However, plaintiffs do not link socio-economic disparities or differences in turnout to discrimination by the state of Illinois, which has facilitated access to voting and registration, especially for low-income minorities. In sum, the assessment of the nine Senate Factors validates Dr. Grumbach's finding that the totality of circumstances on democratic access are highly favorable in Illinois, especially when compared to Republican controlled states.

SECTION 4: PLAINTIFFS CHALLENGES AND REMEDIES

I. Summary of Opinions

- 1) Among the plaintiffs, only a brief analysis by Dr. Jowei Chen attempts to demonstrate that challenged Hispanic districts fail to provide Hispanic voters an equal opportunity with whites to elect candidates of their choice.
- 2) Dr. Chen's analysis omits several challenged districts.

- 3) Dr. Chen's analysis rests on a single, unrepresentative and misleading exogenous election and on a deeply flawed methodology. It fails to provide reliable results.
- 4) Dr. Loren Collingwood's analysis of the one challenged black opportunity district, HD 114, proves that it provides black voters an equal opportunity to elect candidates of their choice.
- 5) Plaintiffs' proposals target twelve minority incumbents, most of whom hold leadership positions within the General Assembly.
- 6) District-specific analysis of each challenged House and Senate district further demonstrates plaintiffs' claims' flaws and omissions.
- 7) The proposed remedial plan by the McConchie plaintiffs, who challenge the most districts, shreds the cores of their existing districts and pairs incumbent legislators in the same district, including a four-candidate pairing with three minorities and one white incumbent.
- 8) The summation of plaintiffs' remedies indicates that either both fail to advance minority empowerment in Illinois or are detrimental to such empowerment.

I. Plaintiffs Analysis of Challenged Hispanic Districts in Incomplete and Deeply Flawed.

Except for House District 114, plaintiffs challenge the new SB 927 districts for an alleged deficiency of Hispanic CVAP. The only district-specific proof provided for this claim is provided in a single table by Dr. Chen (Table 10 of his declaration, p.6 on page 46), which attempts to project onto challenged districts the vote for losing candidate Joseph Berrios in the 2018 Democratic primary for Cook County Assessor. That Table is reproduced below as Compilation 1. As indicated in Compilation 1, the analysis is incomplete. As shown in Table 1, it

omits four Hispanic districts challenged by plaintiffs under SB 927: Senate Districts 2 and 11 (prior 12) and House Districts 50 and 77. As a result, plaintiffs have presented no analysis demonstrating that these districts fail to provide Hispanic voters an equal opportunity to elect candidates of their choice. All of these districts have a Hispanic CVAP percentage that is well within the range of districts that have nearly always elected Hispanic candidates or Hispanic candidates of choice. Two of these districts have Hispanic CVAP percentages above the 46.7% McConchie remedial district in Aurora.

Beyond omissions, Dr. Chen's analysis exhibits many serious flaws. The analysis is so severely flawed that it cannot be relied on to assess Hispanic voting opportunities in any challenged districts. As a result of these omissions and problems with Dr. Chen's analysis, plaintiffs have no reliable basis for claiming that any challenged district fails to provide Hispanic voters an equal opportunity to elect candidates. Moreover, the analysis of the one challenged black district, HD 114, by Dr. Collingwood, shows that this district provides black voters more than an equal opportunity to elect candidates of their choice.

There are several fatal flaws in Dr. Chen's analysis. Despite efforts by plaintiffs to discount elections with incumbents, Dr. Chen has chosen for his one probative election for projections to challenged districts the 2018 County Assessor primary contest with losing incumbent Joseph Berrios. He attempts to project the vote for the badly beaten Berrios, who garnered just 33.9% of the vote in a three-candidate election, onto some of the challenged districts. Berrios trailed the two other candidates by 32.2 percentage points and winning candidate Frederick Kaegi by 11.7 percentage. The analysis below demonstrates why this is a poor choice of an election and examines other flaws in Dr. Chen's work.

TABLE 1
SB 927 HISPANIC DISTRICTS CHALLENGED BY PLAINTIFFS, OMITTED IN DR.
CHEN'S ANALYSIS

SB 927 CHALLENGED DISRICTS OMITTED BY DR. CHEN	
DISTRICT	HISPANIC CVAP %
SENATE DISTRICT 2	46.9%
SENATE DISTRICT 11	47.8%
HOUSE DISTRICT 50	36.7%
HOUSE DISTRICT 77	43.6%

A critical problem is that the non-Hispanic vote for Berrios is well less than is usual for Hispanic candidates of choice. Dr. Grumbach estimates through his ecological inference (EI) analysis that Berrios garnered 30.4% of the non-Hispanic vote. Dr. Chen estimates through his EI analysis that Berrios garnered 18.3% of the white vote and 44.4% of the “others” vote, which closely corresponds to Grumbach’s finding. Both experts report small confidence intervals for these estimates in the large Cook County. However, Dr. Grumbach concluded from his “meta” analysis that average Latino candidates in endogenous state legislative elections garnered 37.5% of the non-Latino vote (p. 12). This percentage is an underestimate given the corrections for Dr. Grumbach’s analyses explained above. Regardless, given that Dr. Chen’s projections turn on a few percentage points, even a differential of about seven percentage points would render the projections misleading.

In addition, Berrios garnered a less than usual degree of support from Hispanic voters. Dr. Grumbach estimated that Hispanic candidates garner 68.7% of the Hispanic vote on average in state legislative elections. However, he estimated that Berrios garnered only 53.95% of the Hispanic vote for a differential of 14.8 percentage points. Again, demonstrating the instability of EI estimates, Dr. Chen estimates that Berrios received 63.2% of the Hispanic vote, for a differential of 5.5 percentage points. Both experts again report small confidence intervals. Whether the differential is 14.8 or 5.5 percentage points, it would still make any projection of the Berrios vote misleading.

The Assessor primary was not a two-candidate race between Joseph Berrios and Frederick Kaegi, as Chen portrays it. It was a three-candidate race that also included Andrea A. Raila who garnered 20.5% of the vote. It is unknown how the election would have played out if

it was just between Berrios and Kaegi. According to Dr. Grumbach's estimates, Raila garnered considerable Hispanic support, 20.9% of the Hispanic vote and 20.5% of the non-Hispanic vote.

The Assessor primary was also atypical in that it was marked by a scandal implicating Berrios, according to a January report in ProPublica, before the primary. The scandal involved campaign contributions to Berrios by wealthy moguls who received tax breaks that shifted the property tax burdens to less affluent residents like low-income Hispanics. Jesus "Chuy" Garcia, a foremost Hispanic leader in Cook County, denounced what he viewed as Berrios' corruption. "These contributions look bad," Garcia said. "They appear to the average person as pay-to-play activity." Garcia added, "Joe Berrios always seems to be fighting our ethics agencies in Cook County, and it's taxpayers who end up paying the expensive legal bills." In the same year as the Assessor primary, Garcia won election to Congressional District 4, Cook County's Hispanic opportunity congressional district. He ran unopposed in the Democratic primary and swept the general election with 84.1%.⁹³

According to ProPublica, "Cook County Assessor Joseph Berrios is facing \$41,000 in fines for failing to return campaign contributions from property tax appeals lawyers whose donations exceeded legal limits, according to a pair of new rulings by the county ethics board." The report said that "The fines add to the controversy surrounding Berrios, who is heading into a March primary as he bids for a third four-year term as assessor." It noted that as the incumbent successor "Berrios has been under fire for inaccurate assessments that favor the wealthy over the poor." Further, "Federal court monitors also have criticized Berrios for being too slow to erase politics from hiring and other employment decisions as required under the anti-patronage Shakman decree. In rulings released late Monday, the ethics board listed 30 examples of property

⁹³ Ray Long and Jason Grotto, "Ethics Board Fines Cook County Assessor Campaign Contributions," ProPublica, 10 January 2018, <https://www.propublica.org/article/cook-county-assessor-joseph-berrios-ethics-violations-fines>.

tax attorneys or firms whose donations to Berrios' main political fund in late 2016 or early 2017 exceeded the \$750 limit."

Among Berrios' contributions was \$5,000 from "Thomas Tully, a former Cook County assessor now with Thomas M. Tully & Associates ... The Tully law firm filed appeals on about \$2.9 billion in commercial and industrial value since Berrios took office, winning reductions on \$756 million."⁹⁴

Per another story in the Chicago Tribune published just a few days before the Assessor primary, cites a study conducted by Professor Christopher Berry for the Municipal Finance Center at the University of Chicago's Harris School of Public Policy. The study found that "Under Berrios ... flawed assessments caused as much as \$1 billion to be shaved off the tax bills of Chicago's most expensive residential properties — those in the top 10 percent of value, or single-family homes and condos worth more than \$1 million on average." This meant that "hundreds of thousands of other taxpayers made up the difference, with the lowest-valued homes shouldering a disproportionate amount of the tax shift." Professor Berry said, "I wanted to know how much money is at stake. The answer is easily in the billions. These dollars are being taken from some of our citizens who can least afford it and used to pay the taxes of the wealthy. It's unconscionable."⁹⁵

Dr. Chen does not demonstrate that his methodology is standard practice or that it has accurately predicted outcomes for minority preferred candidates in past elections. Further, his procedure for projecting the Assessor results to SB 927 districts and proposed remedial districts is fundamentally flawed. Dr. Chen uses EI to estimate the support for Berrios from Hispanic and

⁹⁴ *Id.*

⁹⁵ Jason Grotto, "Flawed Assessment Under Assessor Berrios Caused \$2 Billion Shift in Chicago Property Taxes, Study Finds, Chicago *Tribune*, 16 March 2018, <https://www.chicagotribune.com/investigations/ct-met-property-tax-shift-berrios-cook-county-20180314-story.html>.

white voters in these districts. He then applies uses these estimates to project the likely vote for a Hispanic candidate in each district. However, his estimates of the hypothetical Hispanic and white vote in each district are fraught with uncertainty. The uncertainty arises from the combination of instability in EI estimates, and the unreliability of the point estimates he uses to assess Berrios' support for these groups in small state legislative districts.

Dr. Chen reports his internal EI confidence intervals for all the endogenous state legislative elections included in his report's Table 6 referenced above (pp. 37-39). These intervals are often wide for the Latino vote, ranging 0.9 to 64.0 percentage points, with an average of 13.1 percentage points and a median of 7.8 percentage points, more than enough to render any projection unreliable. His confidence intervals for white voters in endogenous state legislative elections are tighter. Still, they range from 0.6 to 27.9 percentage points, for an average of 6.3 percentage points and a median of 4.5 percentage points. These errors are compounding in that Dr. Chen relies on EI estimates of both Hispanic and white voting for Berrios. Tellingly Dr. Chen reports his internal EI confidence intervals for every other estimate in his report, but not for his bottom-line estimates of Hispanic and white voting for Berrios in the SB 927 challenged districts and the proposed remedial districts.

In addition, Dr. Chen seems to have used voting age population (VAP), not CVAP, for his calculations. His projection tables include only VAP percentages in each district. However, estimates of voting patterns based on VAP are more uncertain than estimates based on CVAP because of non-citizens among Hispanics. The mathematician Moon Duchin and law professor Douglas Spencer warn that as compared to VAP, "CVAP is clearly the litigation standard when working with Hispanic VRA claims in particular." For example, House District 22 under SB 927 is 62.6% Hispanic VAP, but 52.6% Hispanic CVAP, for a differential of 10.2 percentage points.

But the differential is not consistent across districts. For example.,House District 39 under SB 927 is 51.6% Hispanic VAP and 45.6% Hispanic CVAP, for a decline of 6 percentage points.

Moreover, Dr. Chen does not provide in his declaration the basic information on whether he used precinct-level VAP or CVAP to derive his ecological inference estimates of voter behavior. If he used CVAP than the results do not apply to the VAP percentages in the compilation. If he used VAP, then he violated the litigation standard for Hispanics.

Another flaw in Dr. Chen's methodology is that he does not estimate the Berrios performance from a complete rendering of the vote for all groups in districts. Compilation 1 below reproduces the Chen analysis for the SB 927 districts as it appears in his Table 10. The compilation shows that it only includes for each district the Latino VAP and the White VAP percentages. It does not include for any district the percentages of other minorities: Blacks, Asians, and others. As indicated in Table 1, his VAP percentages do not add to 100%. The shortfall ranges from 4.6 to 32.7 percentage points, with an average of 13.0 percentage points and a median of 10.3 percentage points. This omission from Dr. Chen's Table is significant

COMPILATION 1
CHEN CALCULATIONS OF ESTIMATED SUPPORT FOR BERRIOS IN SB. 927,
CHEN DECLARATION TABLE 10, P. 46

District	Latino VAP:	Non-Latino White VAP:	Latino Support for Preferred Candidate (Berrios):	White Support for Latino-Preferred Candidate (Berrios):	Estimated Overall Vote Share of Latino-Preferred Candidate (Berrios):
1	76.1%	13.6%	75.4%	22.2%	62.0%
2	64.6%	29.1%	82.5%	26.3%	55.4%
3	54.1%	35.6%	73.8%	22.7%	45.5%
4	52.6%	30.3%	76.7%	18.8%	48.7%
19	27.3%	59.2%	79.0%	23.0%	37.9%
21	51.7%	37.7%	76.8%	25.2%	48.1%
22	62.8%	32.6%	83.2%	22.8%	61.5%
23	84.4%	4.5%	66.0%	35.7%	63.0%
24	48.5%	19.2%	67.0%	24.6%	49.3%
39	51.6%	38.6%	76.6%	20.3%	43.1%
40	42.8%	40.5%	72.2%	24.2%	43.0%

Note: The predicted “Support for Latino-Preferred Candidate” percentages in this table are calculated using the precinct-level EI analysis of the 2018 Cook County Assessor primary election between Joseph Berrios and Fritz Kaegi. Berrios was the Latino preferred candidate, and this table reports the predicted percentage of each group’s voters that are estimated to have supported Berrios within each district.

because, per his EI estimates, the support for Berrios from other minorities voters was 44.4%, nearly two and a half times greater than Berrios' support of 18.3% from white voters. Dr. Chen also computes his estimates for SB 927 and proposed districts from an incomplete accounting of the voting age populations in the districts. In Chen's Table 10 (see Compilation 1 above), he includes only Hispanics and whites, omitting all other minorities: Blacks, Asians, and others. As indicated in Table 2, his VAP percentages do not add to 100%. The shortfall ranges from 4.6 to 32.7 percentage points, with an average of 13.0 percentage points and a median of 10.3 percentage points. This omission for Dr. Chen's Table is significant because, per his EI estimates, the support for Berrios from other minorities voters was 44.4%, nearly two and a half times greater than Berrios' support of 18.3% from white voters.

Dr. Loren Collingwood applies an appropriate standard method for assessing Black voter opportunities in House District 114 (see below). This method is well-known as reconstituted election analysis. For an appropriate comparison election, the process examines the actual results of a minority versus white prior election that covers the precincts of a newly drawn district to assess its prospects for electing a minority candidate or another candidate of choice of minority voters. The methodology does not rely on unstable and uncertain ecological inference estimates in small state legislative districts, and it encompasses the voting of all groups within the district.

I have used this methodology successfully before, including in Illinois, where I testified in 2001 in defense of the black percentages of eleven districts that plaintiffs challenged for allegedly insufficient black voting age population. My analysis included House District 78, which had a black voting age population of 38.9%.⁹⁶ All the districts that I testified would provide

⁹⁶ *Campuzano v. Illinois State Board of Elections*, 200 F. Supp. 2d 905 (N.D. Ill. 2002), at 910, 912, fn. 10

TABLE 2
SHORTFALLS IN CHEN ACCOUNTING FOR CVAP IN DISTRICT CALCULATIONS
OF ESTIMATED SUPPORT FOR BERRIOS IN SB. 927, CHEN DECLARATION
TABLE 10, P. 46

District	Latino VAP	Non-Latino White VAP	Sum of Latino and Non-Latino White VAP	Difference from 100%
1	76.1%	13.6%	89.7%	-10.3 Percentage Points
2	64.6%	29.1%	93.7%	-6.3 Percentage Points
3	54.1%	35.6%	89.7%	-10.3 Percentage Points
4	52.6%	30.3%	82.9%	-17.1 Percentage Points
19	27.3%	59.2%	86.5%	-13.5 Percentage Points
21	51.7%	37.7%	89.4%	-10.6 Percentage Points
22	62.8%	32.6%	95.4%	-4.6 Percentage Points
23	84.4%	4.5%	88.9%	-11.1 Percentage Points
24	48.5%	19.2%	67.7%	-32.7 Percentage Points
39	51.6%	38.6%	90.2%	-9.8 Percentage Points
40	42.8%	40.5%	83.3%	-16.7 Percentage Points

Black voters the opportunity to elect candidates of their choice, actually performed as predicted. That success included HD 78 in which Black candidate Deborah L. Graham prevailed with 80.4% of the general election vote. Graham continued to hold that seat through the 2008 election. when Graham stepped down for the 2010 election, Black candidate Camille Lilly won the seat and has held it since.

II. Plaintiffs' Target Minority Incumbents

Despite plaintiffs' insistence on the importance of electing minorities to the Illinois General Assembly, their remedial plans target districts with minority incumbents who voted for SB 927. As indicated in Table 3, plaintiffs have targeted the districts of twelve minority incumbents, all of whom voted for SB 927. These incumbents have seniority and influence within the General Assembly and most hold leadership positions. Moreover, five of these incumbents are paired with other minority incumbents as explained below.

In my four decades of experience with voting rights litigation, I am unaware of any other plaintiffs at any time in any state that targeted this many minority incumbents who voted for the redistricting legislation under challenge. I have not seen plaintiffs pair so many minority incumbents. Moreover, except for the newly elected incumbents, the other targeted minority incumbents or candidates of choice hold leadership positions within the General Assembly. Notably, plaintiffs have targeted the districts of the Chair of the Senate Redistricting Committee, two Assistant Majority House Leaders, the House Conference Committee Chair, the Majority Conference Chair, the Chair of the Illinois Legislative Black Caucus, and the Chairs of the Health Care Licenses and State Government Committees.

TABLE 3
DISTRICTS WITH MINORITY INCUMBENTS OR MINORITY CANDIDATES OF CHOICE WHO VOTED FOR S.B. 927 TARGETED BY MALDEF OR MCCONCHIE PLAINTFFS

	DISTRICT	INCUMBENT	LEADERSHIP POSITIONS
1	HD 3	Eva Dino Delgado H*	First Elected 2020
2	HD 4	Delia Ramirez H*	Assistant Majority Leader
3	HD 6	Sonya M. Harper B	Joint Caucus Chair, Illinois Legislative Black Caucus
4	HD 23	Edgar Gonzalez Jr. H	First Elected 2020
5	HD 24 (Prior 2)	Theresa Mah A	Chair, Health Care Licenses Committee
6	HD 31	Mary Flowers B*	Deputy House Majority Leader
7	HD 32	Cyril Nichols B*	First Elected 2020
8	HD 40	Jaime Andrade Jr. H*	Asst. Majority Leader
9	HD 50 (Prior 83)	Barbara Hernandez H	First Elected 2020
10	HD 114	Latoya Greenwood B	Majority Conference Chair
11	SD 2	Omar Aquino H*	Chair, Redistricting Committee
12	SD 11 (Prior 12)	Steven Landek W*	Chair, State Government Committee
13	HD 8	La Shawn Ford	Chair, Appropriations-Higher Education
14	SD 5	Patricia Van Pelt B	Chair, Healthcare Access and Availability
15	SD 4	Kimberly Lightford B	Majority Leader
16	SD 57	Christopher Belt B	Chair, Education Committee
17	SD 25	Karina Villa H	First Elected in 2022
18	SD 14	Emil Jones III B	Deputy Majority Leader

19	SD 12 (Prior 11)	Celina Villanueva H	Chair, Human Rights Committee
20	SD 20	Cristina Pacione-Zayas H*	First Appointed in 2020
21	SD 16	Jacqueline Collins B	Assistant Majority Leader
22	SD 1	Antonio Munoz H	Assistant Majority Leader
* Paired with minority incumbents.			

IV. Analysis of Individual SB 927 Districts Challenged by Plaintiffs

Before analyzing individual districts, I would first note that plaintiffs cannot agree on which districts are probative to challenge in their briefs as alleged violations of the Voting Rights Act. As shown in Table 4, only the McConchie plaintiffs challenge House Districts 50 and 77 and redraw Black districts 6 and 32. Only the Contreras plaintiffs challenge Senate Districts 2 and 11. The NAACP and McConchie plaintiffs challenge House District 114. I will consider in turn Northside Cook County, Southside Cook County, Aurora, and East St. Louis.

Northside Cook County Districts: 3, 4, 39, 77

The McConchie brief calls House Districts 3 and 4 “influence districts.” They are not. The CVAP for each of these districts is more than fifteen percentage points or more above the maximum 30% minority CVAP that MALDEF defines for an “influence district.” House District 3 under SB 927 is 47.4% Hispanic CVAP and House District 4 is 45.2% Hispanic CVAP. These districts are well above the Hispanic CVAP percentages in districts that have overwhelmingly elected Hispanic candidates or Hispanic preferred candidates. Both districts have Hispanic incumbents – Eva Dino Delgado in HD 3 and Delia C. Ramirez in HD 4 and the districts have elected Hispanics for more than twenty years. Hispanics have won election in HD 4 in every election during the five post-2010 election cycles. Yet the district was just 37.4% Hispanic in its CVAP, well below the Hispanic CVAP percentages of HD 3 and HD 4 under SB 927.

The Contreras plaintiffs propose raising HD 3 by 4.1 percentage points to just 51.5% Hispanic CVAP and HD 4 by 4.9 points to 50.1% above the 50%+ mark by the barest possible margin. The McConchie plaintiffs propose raising HD 3 by 2.6 percentage points to just 5.04% Hispanic CVAP.

TABLE 4
CHALLENGED DISTRICTS BY MCONCHIE ANDF MALDEF PLAINTIFFS
RELATIVE TO HISPANIC VOTER OPPORTUNITIES

COUNT	DISTRICT	CHALLENGED BY MCCONCHIE PLAINTIFFS	CHALLENGED BY CONTRERAS PLAINTIFFS
1	HD 3	YES	YES
2	HD 4	YES	YES
3	HD 6	YES	NO
4	HD 21	YES	YES
5	HD 23*	YES	NO
6	HD 24 (PRIOR 2)	YES	YES
7	HD 32	YES	NO
8	HD 39	YES	YES
9	HD 50	YES	NO
10	SD 2	NO	YES
11	SD 11 (PRIOR 12)	NO	YES
* Challenged to reduce the Hispanic percentage.			

Hispanic CVAP, also barely above the 50%+ CVAP mark and HD 4 by six points to 51.4%.

Plaintiffs implausibly claim that by pushing these districts just above the 50%+ Hispanic CVAP mark they will transform the districts from misidentified “influence districts” to equal opportunity districts. They have offered no proof that they are not equal opportunity districts other than Dr. Chen’s failed analysis, which is at odds with the track record of the districts in electing Hispanic candidates. Chen’s reliance on VAP rather than CVAP exaggerates the differences between SB 927 districts and proposed districts. For example, plaintiffs raise HD 3 by only 2.6 points, but Chen’s VAP data shows a 6.1 point difference, from 54.1% to 60.2%. Only citizens of voting age are eligible to vote.

Consistent with the actual elections results in HD 3 and 4, applying the standard technique of reconstituted election analysis demonstrates that these districts provide Hispanic voters more than an equal opportunity to elect candidates of their choice. There is a better election to use for this analysis than the unrepresentative and misleading 2018 Democratic primary election for Cook County assessor. For Chicago-based districts like HD 3 and 4, that election is the 2015 Chicago mayoral runoff election between Hispanic candidate Jesus “Chuy” Garcia and white candidate Rahm Emanuel. This election is one of only three exogenous elections that Dr. Chen analyzed in his declaration (Table 7, p. 40). It is one of the two exogenous elections that Dr. Chen included in his five-election sample. It is a two-candidate, not a three-candidate election, so no assumptions must be made about the impact of a third candidate.

According to Dr. Chen’s estimates, the white crossover vote for Garcia is much closer to the norm than the white crossover vote for Berrios. Dr. Chen estimates that the white crossover vote for Garcia was 28.8%, still low, but 10.5 percentage points higher than the minimal white

crossover vote of 18.3% that Dr. Chen estimates for Berrios. Within a tenth of a percentage point, the white crossover vote for Garcia equals the 28.7% average white crossover vote for the Hispanic candidates in the three exogenous elections that Dr. Chen chose for analysis. The use of this runoff election for a reconstituted election analysis does not bias the results. On the contrary, it poses a stern test given that Garcia lost the runoff by 12.4 percentage points, garnering 43.8% of the vote, compared to 56.2% for Emanuel.

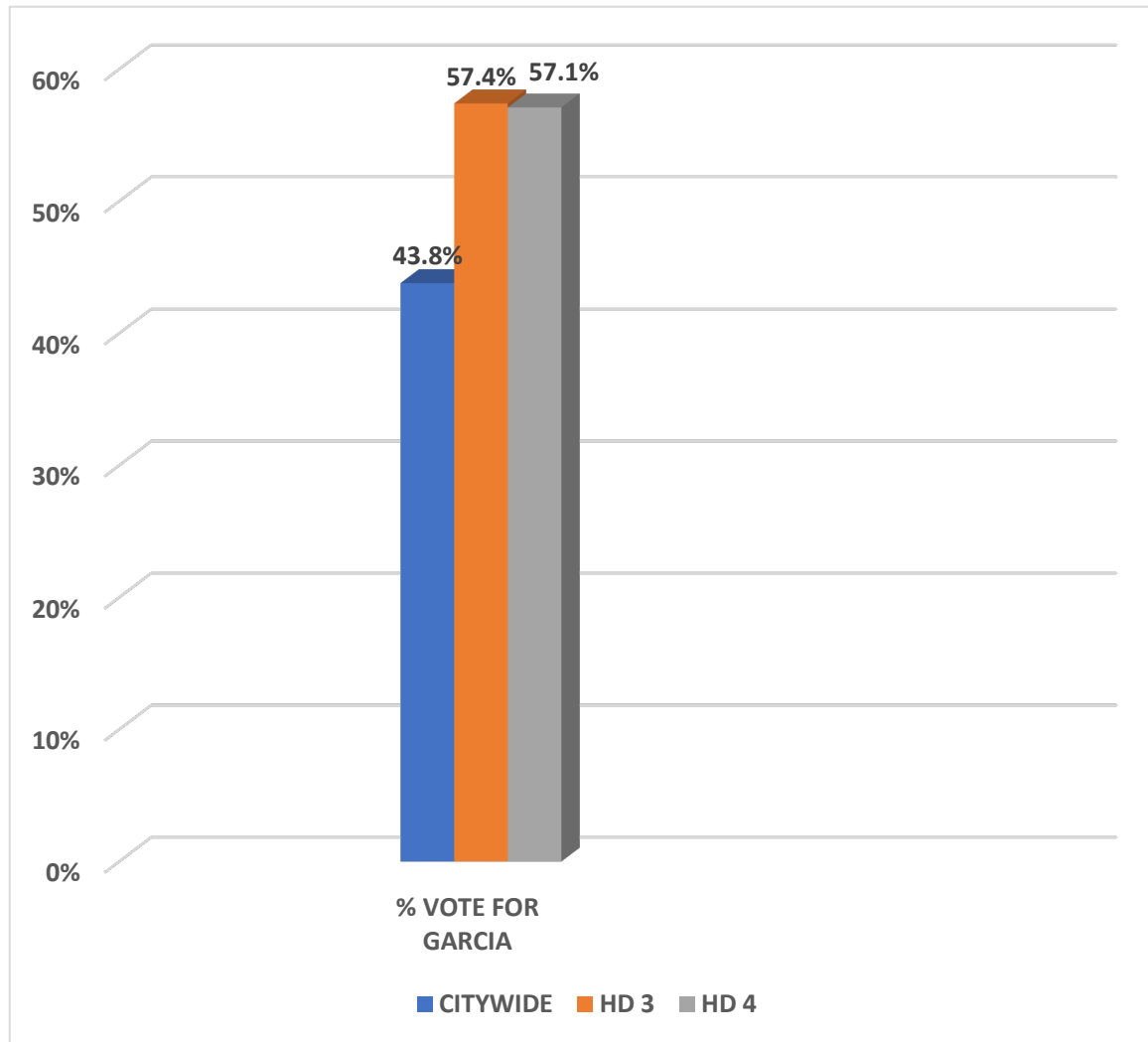
The results of the reconstituted election analysis demonstrate robust results for both HD 3 and HD 4. As reported in Table 5 and Chart 1, in the precincts of new House District 3, Garcia garnered 57.4%. He prevailed by 14.7 percentage points, for a swing to Garcia of 27.1 percentage points as compared to the runoff results. In House District 4, as additionally shown in Table 20 and Chart 2, Garcia garnered a similar 57.1% of the vote within the precincts of HD 4. Garcia prevailed within the precincts of new House District 4 by 14.2 percentage points, for a swing to Garcia of 26.6 percentage points.

The MALDEF and McConchie plaintiffs also fail to provide a complete analysis of the demography of House Districts 3 and 4, reporting only the Hispanic percentages. A comprehensive analysis demonstrates that these are not districts controlled by whites. On the contrary, House Districts 3 and 4 are majority-minority districts, with minorities controlling most of the CVAP in each district. Minorities comprise 57.3% of the District 3's CVAP. Minorities comprise a higher 65.0% of the CVAP in District 4 because of a substantially higher Black CVAP percentage. These results indicate that minority candidates of choice of the predominant Hispanic citizens of voting age need not depend on white votes or can prevail with minimal white crossover voting.

TABLE 5
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF HOUSE DISTRICTS 3 & 4 UNDER S.B. 927

ELECTION	% EMANUEL	% GARCIA	DIFFERENCE	SWING TO GARCIA
2015 MAYOR RUNOFF	56.2%	43.8%	GARCIA -12.4 PERCENTAGE PTS	NA
2015 MAYOR RECONSTITUTED HD 3, S.B. 927	42.7%	57.4%	GARCIA +14.7 PERCENTAGE PTS	+27.1 PERCENTAGE PTS
2015 MAYOR RECONSTITUTED HD 4, S.B. 927	42.9%	57.1%	GARCIA + 14.2 PERCENTAGE PTS	+26.6 PERCENTAGE PTS
In the precincts of new House District 3: Emanuel 10,428 votes, Garcia 14,054 votes. In the precincts of new House District 4: Emanuel 8,680 votes, Garcia 11,539 votes.				

CHART 1
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF HOUSE DISTRICTS 3 & 4 UNDER SB 927



House District 39

In challenging this district, plaintiffs again invoke the claim that it fails to provide Hispanic voters an equal opportunity to elect candidates of their choice because at 45.6% Hispanic CVAP it falls below their 50%+ threshold. Once again, this district is well within the range of Hispanic districts that provide such an opportunity. The McConchie plaintiffs proposal raised the CVAP percentage in this district by 4.6 percentage points from 45.6% Hispanic CVAP to 50.2% Hispanic CVAO, barely above the 50%+ CVAP threshold.

Hispanic candidate Toni Berrios defeated White Will Guzzardi in the 2012 Democratic primary in House District 39, indicating that this district does provide Hispanics an equal opportunity to elect candidates of their choice. The election of white candidate Guzzardi in a 2014 rematch was not a consequence of a Hispanic CVAP percentage that fell slightly below plaintiffs' remedial district of 50.2%+ (48.6%). Plaintiffs fail to report Guzzardi's margin of victory. He defeated Berrios in 2014 by a landslide margin of 20.8 percentage points. He won 60.4% of the vote, compared to just 39.6% for Berrios. Even if that district was 65% Hispanic, Guzzardi would still have prevailed.

Plaintiffs highlight the importance of electing minorities to state legislative positions. But neither the plaintiffs' briefs nor any expert report reveals how the McConchie plaintiffs' reorganization of northern districts devastates the Hispanic incumbents in the region. As shown in Table 6, the McConchie plaintiffs propose to give Republicans a significant boost by pairing four Democratic incumbents in proposed HD 39, with 50.2% Hispanic CVAP. As shown in Table 6,

TABLE 6
MCCONCHIE PAIRINGS IN PROPOSED HD 39, 50.2% HISPANIC CVAP

INCUMBENT	PRIOR HD	NEW HD	INCUMBENT STATUS OF PRIOR HD UNDER PROPOSED PLAN
Eva Dino Delgado Hispanic	HD 3	HD 39	Open
Delia C. Ramirez Hispanic	HD 4	HD 39	Open
Jaime Andrade Jr. Hispanic	HD 40	HD 39	Open
Will Guzzardi	HD 39	HD 39	NA

the McConchie plaintiffs paired white Democratic Will Guzzardi in proposed HD 39 with three Hispanic incumbents from other districts: Eva Dino Delgado from HD 3, Delia C. Ramirez from HD 4, and Jaime Andrade Jr. from HD 40. This extraordinary maneuver immediately wipes out at least two and perhaps three Hispanic incumbents. The pairing creates open seats in proposed HD 3, 4, and 40 that Hispanic incumbents previously occupied. Plaintiffs' do not target HD 40 under SB 927 for insufficient Hispanic concentration, even though its Hispanic CVAP is under 50%.

The quadruple pairing also dismantles the population core of these three Hispanic incumbents as shown in Table 7. As indicated in Table 7, based on the Republican submission, only 11.4% of the core of Delgado's prior district is included in her paired House District 39, by population. Only 22.9% of Andrade's prior district is included in his paired House District 39. The largest but still less than 50% core retention is for Ramirez's prior district at 45.9%. By contrast, in SB 927, Delgado remains in HD 4, which retains 62.0% of her prior district, 50.6 percentage points more than under McConchie. Ramirez remains in HD 4, which retains 61.0% of his prior district, 15.1 percentage points more than under McConchie, and Andrade remains in HD 40, which retains 72.7% of his prior core, 54.4 percentage points more than under McConchie.

Core retention is important for incumbents and their constituents who have built up relationships under a prior plan. MALDEF, the NAACP Legal Defense and Education Fund

TABLE 7
CORE POPULATION RETENTION FOR HISPANIC INCUMBENTS, PRIOR HD 3, 4, 40,
MCCONCHIE PLAN COMPARED TO SB 927

HISPANIC INCUMBENT PRIOR HD	NEW HD MCCONCHIE	CORE RETAINED MCCONCHIE	NEW HD SB 927	CORE RETAINED SB 927	DIFFERENCE Sb 927- MCCONCHIE
DELGADO HD 3	HD 39	11.4%	HD 3	62.0%	+50.6 PERCENTAGE PTS
RAMIREZ HD 4	HD 39	45.9%	HD 4	61.0%	+15.1 PERCENTAGE PTS
ANDRADE HD 40	HD 39	22.9%	HD 39	77.3%	+54.4 PERCENTAGE PTS

(LDF), and the Asian American Justice Center concluded in their “Guide to Redistricting” that “traditional redistricting principles ... may also include considerations deemed important at the local or state level including preserving cores of districts and respecting natural boundaries.”⁹⁷

The reconstituted 2015 Chicago mayor runoff shows robust results under SB 927 for House District 39, clearly revealing that it provides Hispanics more than an equal opportunity to elect candidates of their choice. As reported in Table 8 and Chart 2, in the precincts of new House District 39, Garcia garnered 58.9%. He prevailed by 17.8 percentage points, for a swing to Garcia of 30.2 percentage points compared to the runoff results.

However, the McConchie proposal vitiates the effectiveness of HD 39 under SB 927. Their four-candidate pairing sets up a situation for Hispanic incumbents to fail. The three Hispanic incumbents placed in HD 39 by McConchie are all proven vote-getters with Hispanics. They would likely split the Hispanic vote and open a path to victory for white candidate Guzzardi.

House District 77

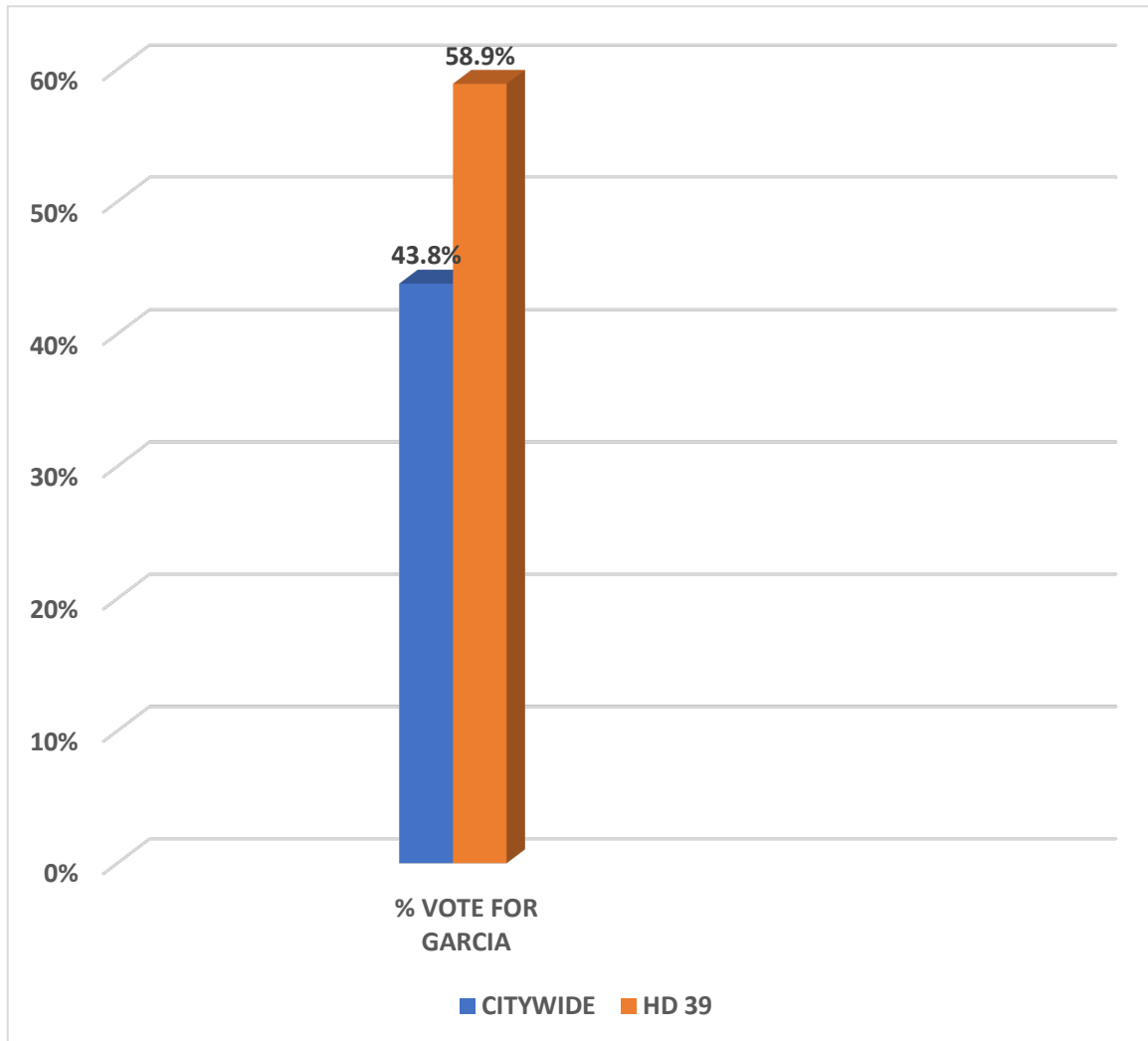
Again, despite claims by the McConchie plaintiffs, this district at 43.6% Hispanic CVAP is well within the districts that have overwhelmingly elected Hispanic candidates or Hispanic preferred candidates. The plaintiffs propose to raise its CVAP to 51.2%. HD 77 has a track record under its prior incarnation with a 46.4% Hispanic CVAP. In the 2014 Democratic primary, Kathleen Willis, the Hispanic preferred candidate, won overwhelmingly in HD 77 with a 74.1% majority.

⁹⁷ MALDEF, NAACP Legal Defense and Education Fund (LDF), and the Asian American Justice Center, “The Impact of Redistricting in Your Community: A Guide to Redistricting,” at 6, <https://www.maldef.org/wp-content/uploads/2019/01/redistricting.pdf>.

TABLE 8
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF HOUSE DISTRICT 39 UNDER SB 927

ELECTION	% EMANUEL	% GARCIA	DIFFERENCE	SWING TO GARCIA
2015 MAYOR RUNOFF	56.2%	43.8%	GARCIA -12.4 PERCENTAGE PTS	NA
2015 MAYOR RECONSTITUTED HD 3, S.B. 927	41.1%	58.9%	GARCIA +17.8 PERCENTAGE PTS	+30.2 PERCENTAGE PTS
In the precincts of new House District 39: Emanuel 9,519 votes, Garcia 13,602 votes.				

CHART 2
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF HOUSE DISTRICT 39 UNDER SB 927



SB 927 maintains Willis is the same district. However, in the McConchie matrix this is now listed as an open seat and incumbent Willis is nowhere to be found on the matrix. Neither is Willis mentioned in the McConchie brief. The Contreras plaintiffs do not challenge this district. Their matrix lists Willis in a renumbered HD 79, with the same percentage for her district as in SB 927.

Southern Cook County

House District 21, Prior HD 23

The McConchie and Contreras plaintiffs contend that House District 21 (formerly House District 23) fails to provide Hispanic voters an equal opportunity to elect candidates of their choice because at 42.7% Hispanic CVAP it falls below their 50%+ Hispanic CVAP threshold. However, as noted for House Districts 3 and 4, House District 21 is well within the range of districts that provide Hispanic voters an equal opportunity with whites to elect candidates of their choice. The McConchie plaintiffs propose to raise the Hispanic CVAP percentage in Zalewski's new district to barely above the 50% mark: 50.5%, The Contreras plaintiffs propose to raise its Hispanic CVAP percentage to 53.2%. The district currently has a white incumbent, Michael L. Zalewski, who has served since 2009. The Contreras plaintiffs claim that SB 927 deliberately reduced the Hispanic CVAP in HD 23 (prior 21) to protect Zalewski.

However, the reduction was just 2.8 percentage points, from 45.5% to 42.7%, hardly enough to change the political fortunes of incumbent Zaleski. Moreover, Zalewski needed no such protection. Zalewski has never been challenged in a Democratic primary in the post-2010 election cycles, so there is no evidence that white bloc voting in prior House District 23 has ever defeated a candidate of choice of Hispanic. The district is not in Chicago, so there is no appropriate White v. Hispanic election to reconstitute in new House District 21.

Again, the MALDEF and McConchie plaintiffs also fail to provide a complete analysis of the demography of House District 21, reporting only the Hispanic percentage. A more thorough analysis demonstrates that this is not a district controlled by whites. House District 21 is majority-minority district, with minorities holding 53.3% of the CVAP.

In addition, as indicated in Table 9, the McConchie plan destroys the core of HD 21. As indicated in Table 6, the McConchie plan retains just 2.7% of prior HD 21 in Zalewski's new HD 21. SB 927 retains 45.2%, for a difference of 42.5 percentage points. Under the McConchie plan, the remainder of HD 21 is scattered among many districts with none retaining more than 26.3%

House District 24 (prior HD 2)

Plaintiffs make the same argument for new House District 24 (previously House District 2) as for House District 21. They claim that because it has a Hispanic CVAP of 43.7%, below their 50%+ threshold, it fails to provide Hispanic voters an equal opportunity with whites to elect candidates of their choice. Again, this district is well within the range of districts that provide Hispanic voters with such an opportunity. The district has one of the largest Asian CVAP percentages of any legislative district in the state at 23.6%, virtually unchanged from prior District 2. The district incumbent is Asian-American Theresa Mah, who was the Hispanic candidate of choice in the 2020 Democratic primary election (see Section 2) . Mah is one of four elected Asian Americans in the Illinois General Assembly. The McConchie proposal would increase Mah's district to 51.5% Hispanic CVAP. The Contreras plan would increase it to 51.1% Hispanic CVAP. The McConchie proposal would slash the Asian CVAP in Mah's new district by 56%, down to just 10.3% The Contreras proposal would still cut the Asian CVAP although less drastically to 20.1%.

TABLE 9
CORE POPULATION RETENTION FOR PRIOR HD 21, MCCONCHIE PLAN
COMPARED TO SB 927

INCUMBENT PRIOR HD	NEW HD MCCONCHIE	CORE RETAINED MCCONCHIE	NEW HD SB 927	CORE RETAINED SB 927	DIFFERENCE Sb 927- MCCONCHIE
ZALEWSKI HD 3	HD 21	2.7%	HD 21	45.2%	+42.5 PERCENTAGE PTS

A reconstitution of the Emanuel v. Garcia 2015 mayoral runoff for this city District 24 demonstrates that it provides Hispanic voters more than an equal opportunity to elect candidates of their choice. As indicated in Table 10 Chart 3, Garcia prevailed in SB 927 HD 24 by 21 percentage points, with 60.5% of the vote, for a swing of 33.4 percentage points when compared to Garcia's 12.4 percentage point loss citywide.

House District 6 and 32

The McConchie plaintiffs claim that Hispanics in House Districts 6 and 32 are being deprived of their rights and are having their voting power diluted because they live outside of effective majority-Latino House Districts but could live within a compact majority-Latino House District.” (p. 30) However, the McConchie plaintiffs fail to disclose that these are Black opportunity districts, even exceeding the plaintiffs’ threshold of 50%+ Black CVAP. Under SB 927 House District 6 has a Black CVAP percentage of 58.1% and a Black incumbent, Sonya Harper. House District 32 has a Black CVAP percentage of 61.2% and a Black incumbent, Cyril Nichols.

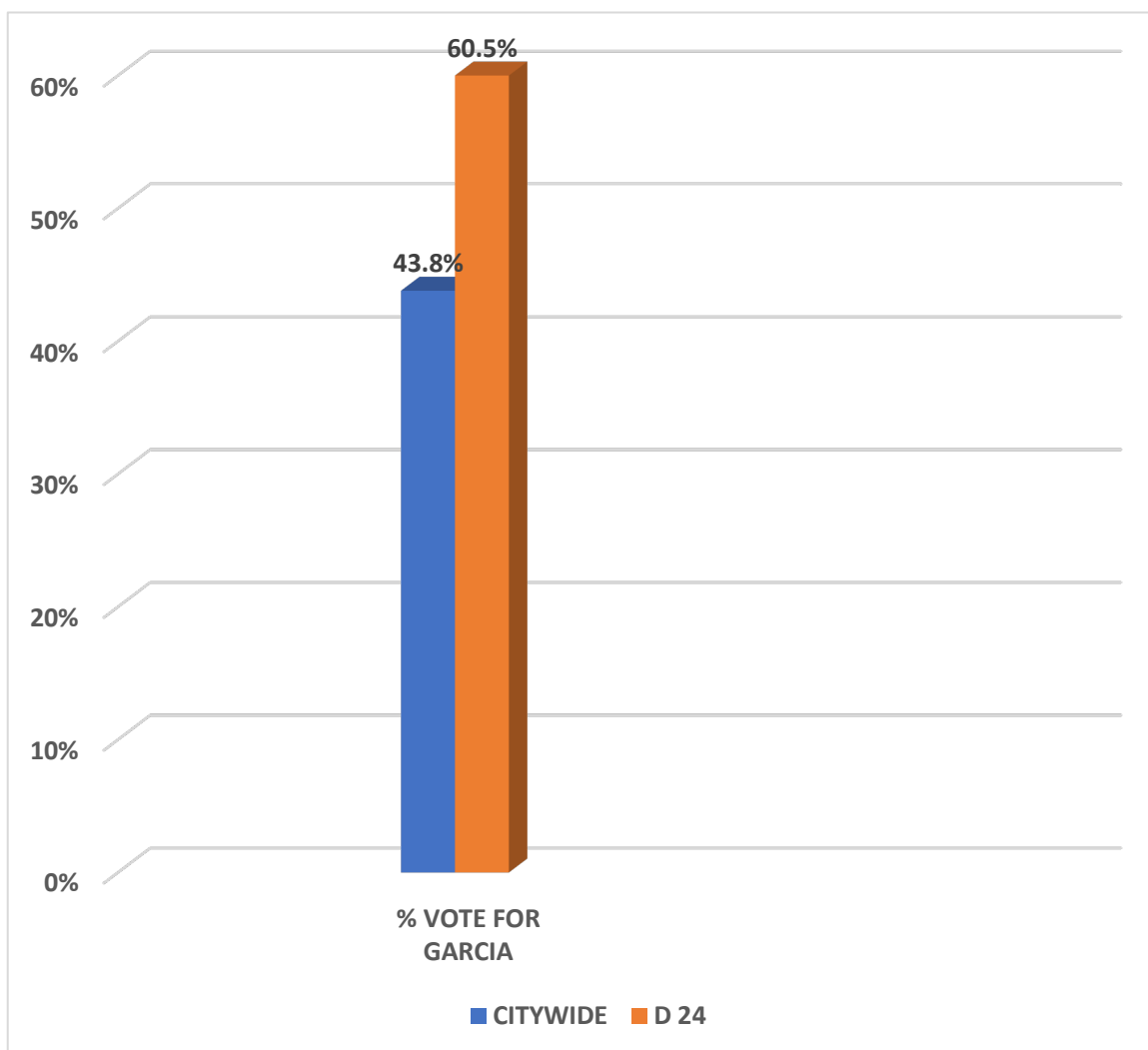
The McConchie proposal would needlessly pack Blacks into HD 6, raising its Black CVAP by 13% to 65.8%. It would slightly reduce the Black CVAP percentage to 59.8%, (new HD 31) but would pair Nichols in his new district with another Black Democratic incumbent Mary Flowers from HD 31, with a 51.8% Hispanic CVAP under SB 927. The Contreras complaint does not challenge these districts. It would leave the Harper and Nichols districts unchanged in the Black CVAP percentage and create no pairings.

In its submission, the McConchie plaintiffs misrepresent the Black percentages in SB 927 districts, and their proposal in the Southern Cook County region. The submission switches to voting age population, not citizen voting age population, which is their basis for

TABLE 10
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF HOUSE DISTRICT 24 UNDER SB 927

ELECTION	% EMANUEL	% GARCIA	DIFFERENCE
2015 MAYOR	56.2%	43.8%	GARCIA -12.4 PERCENTAGE PTS
2015 MAYOR RECONSTITUTED NEW HOUSE DIST. 24	39.5%	60.5%	GARCIA +21.0 PERCENTAGE PTS
In the precincts of new House District 24: Emanuel 9,161 votes, Garcia 14,012 votes.			

CHART 3
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF HOUSE DISTRICT 24 UNDER SB 927



evaluating districts. in the region of these districts. Their Table 2, page 30, of district Black percentages if listed below as Compilation 2, along with a correct table using CVAP.

The corrected version of Compilation 2 reveals facts that are concealed in plaintiffs' VAP presentation. First, it discloses the packing of plaintiffs' House District 6, which is 65.8% Black CVAP. Second, it shows that the Black districts under SB 927 are far more robustly Black than plaintiffs' VAP presentation would indicate.

**COMPILATION 2
REPRODUCTION OF MCCONCHIE PLAINTIFFS TABLE 2, MCCONCHIE
SUBMISSION**

September Map		Plaintiffs' Remedial Map	
House District	Black (Non-Hispanic) Voting Age Population	House District	Black (Non-Hispanic) Voting Age Population
6	45.4%	6	53.6%
8	49.5%	8	49.4%
31	51.9%	31	54.7%
32	50.5%	36	51.%

CORRECTED COMPILATION 2
REPRODUCTION OF MCCONCHIE PLAINTIFFS' TABLE 2,
MCCONCHIE SUBMISSION, CORRECTED FOR CVAP, NOT VAP

September Map		Plaintiffs' Remedial Map	
House District	Black (Non-Hispanic) CVAP	House District	Black (Non-Hispanic) CVAP
6	58.1%	6	65.8%
8	54.5%	8	54.2%
31	56.8%	31	59.8%
32	61.1%	36	54.3%

TABLE 11
CORE POPULATION RETAINED FOR PRIOR HD 22 IN HD 32, MCCONCHIE PLAN
AND IN HD 22 UNDER SB 927

INCUMBENT PRIOR HD	NEW HD MCCONCHIE	CORE RETAINED MCCONCHIE	NEW HD SB 927	CORE RETAINED SB 927	DIFFERENCE Sb 927- MCCONCHIE
GUERRA- CUELLAR HD 22	HD 32	36.7%	HD 22	81.9%	+45.2 PERCENTAGE PTS

House District 50

As explained in Section 1 of this report on plaintiffs’ mechanical single-race 50% CVAP threshold, the McConchie plaintiffs remedy for this district is the exception that disproves the rule. All three plaintiffs maintain that districts must achieve this threshold to provide minorities equal opportunities for minorities to elect candidates of their choice. Yet, the McConchie plaintiffs propose and defend a remedial plan for HD 50 that is 46.7% Hispanic CVAP, well below their threshold and approximately equal to or less than the Hispanic CVAP percentages of several challenged districts. This 46.7% district, the McConchie plaintiffs assert in their brief, “would provide Latino voters an opportunity to elect candidates of their choice.” (p. 3)

The Contreras plaintiffs do not challenge the district. The McConchie plaintiffs maintain incumbent Barbara Hernandez in the redrawn district, but destroy the core of her prior district, maintaining only 1.6% of that core population.

Senate District 2

This district is challenged only by the Contreras plaintiffs. They present no expert analysis to sustain their claim indicate that as constituted in SB 927 the district fails to provide that this district “had the effect of depriving Latino voters of an equal opportunity to elect representatives of choice” because its 46.67% Hispanic CVAP falls just below their 50%+ Hispanic CVAP threshold. As noted above, this percentage of Hispanic CVAP equals the remedial percentage HD 50 advanced by the McConchie plaintiffs. The incumbent in Contreras’ redrawn SD 2 is Hispanic Senator Omar Aquino elected in a 2011 district with an equivalent 46.9% Hispanic CVAP.

Reconstituted election analysis confirms that Senate District 2 provides Hispanic voters an equal opportunity with whites to elect candidates of their choice. As indicated in Table 12 and Chart 4, Emanuel prevailed citywide by 12.4 percentage points. In contrast, Garcia prevailed

within the precincts of new House District 3 by 14.0 percentage points, for a swing of 26.4 percentage points. Senate District 2 also comprises a landslide majority of minority CVAP. SD 2 is a majority-minority district with minorities comprising 61.5% of its CVAP.

Senate District 11 (Prior 12)

The Contreras plaintiffs (the only plaintiff to challenge SD 11) allege that the state legislature reduced the Hispanic CVAP in this district from prior 54.5% to 47.8% in S.B. 927 (to protect White incumbent Democrat Steven Landek. (p. 20). Still, the new Hispanic CVAP is still well within the range of districts that provide Hispanics and equal opportunity with Whites to elect candidates of their choice. It is slightly greater than the Hispanic CVAP is the District 50 remedial plan that the McConchie plaintiffs claim will provide Hispanics such an opportunity.

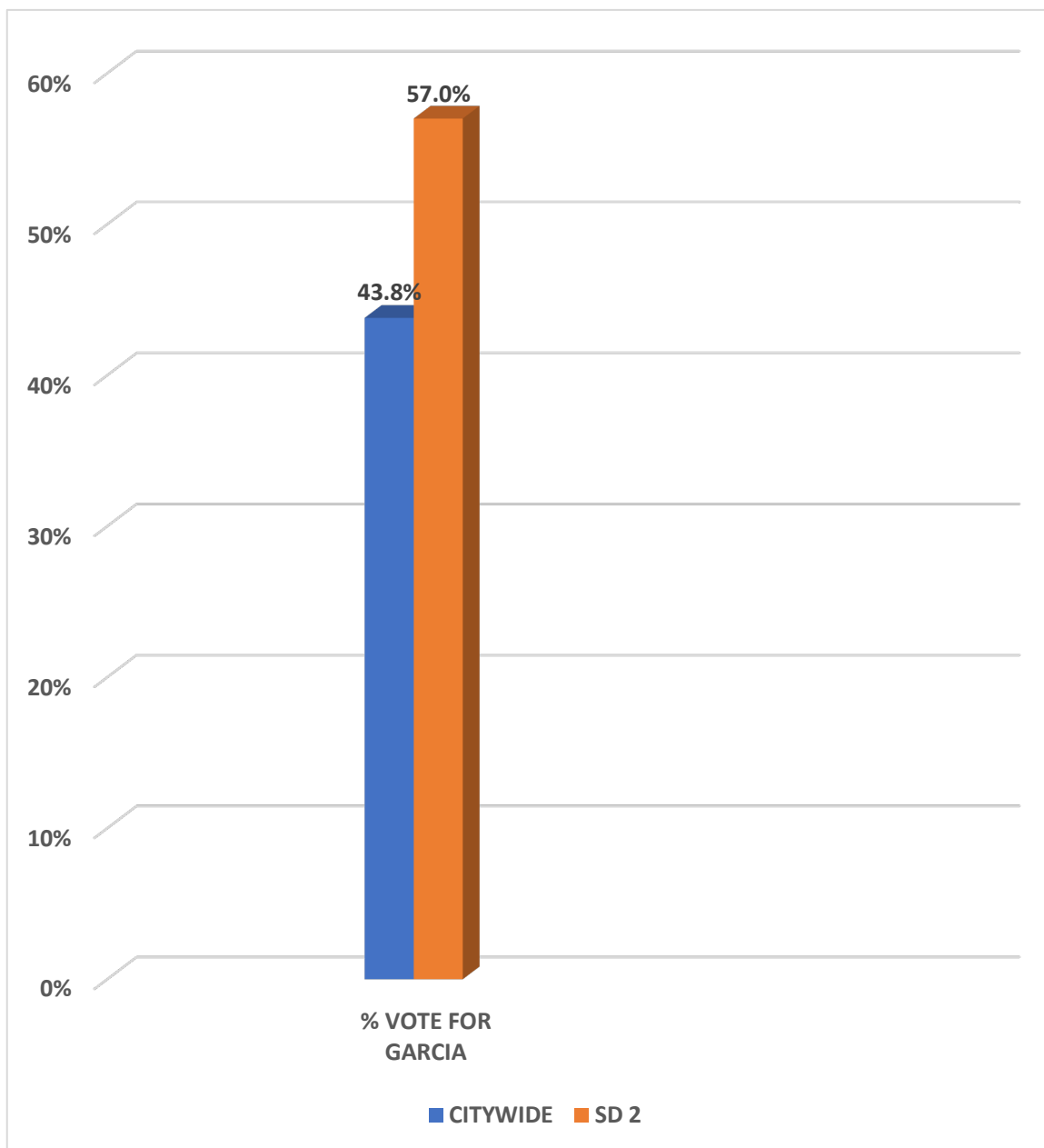
Moreover, Landeck needed no protection. Plaintiffs presume without evidence that white incumbent, Steven Landek was not the candidate of choice of Hispanic voters. The presumption is false. Landek was challenged once in the decisive Democratic primary during the post-2010 election cycle in his Senate District 12. Landek prevailed against Latino candidate Raul Montes, Jr in a district that was 54.5% Latino in its citizen voting age population. This percentage is well above the 50% threshold the MALDEF and McConchie plaintiffs alleged that provides Hispanics the opportunity to elect candidates of their choice. Its Hispanic percentage is the second highest of any State Senate District during the post-2010 cycle. Yet, Landek prevailed overwhelmingly in the 2012 Democratic primary by 30 percentage points, with 66.5% of the vote, compared to 33.5% for Montes, Jr.

As indicated by the analysis in Section 1 on Gingles Prong 3, Dr. Grumbach's confirmed analysis of Senate District 12 (now 11) confirmed that Landek was a coalitional candidate who won a majority of both the Hispanic (57%) and non-Hispanic vote (82%). New Senate District 11 is also a majority-minority district, with minorities comprising 55.3% of the district's CVAP

TABLE 12
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF SENATE DISTRICT 2 UNDER S.B. 927

ELECTION	% EMANUEL	% GARCIA	DIFFERENCE
2015 MAYOR	56.2%	43.8%	EMANUEL +12.4 PERCENTAGE PTS
2015 MAYOR RECONSTITUTED NEW HOUSE DIST. 3	43.0%	57.0%	GARCIA +14.0 PERCENTAGE PTS
In new Senate District 2 Emanuel garnered 17, 075 votes and Garcia 22,589 votes.			

CHART 4
RECONSTITUTED ELECTION, 2015 CHICAGO MAYOR RUNOFF IN PRECINCTS
OF SENATE DISTRICT 2 UNDER SB 927



House District 114

HD 114 is a Black opportunity district. Under SB 927 it has a Black CVAP percentage of 38%, comparable to House District 78 that was the subject of the Campuzano litigation and proved effective for Black voters. The current incumbent is Black representative Latoya Greenwood, and the district has elected black candidates since the 1970s. It is the only Black opportunity district challenged by any plaintiff, although as demonstrated in Compilations 1 and 2, the McConchie plaintiffs redraw several Black opportunity districts and pair Black incumbents Nichols and Flowers in the same district.

The McConchie and Contreras plaintiffs challenge HD 114 in the state's East St. Louis, St. Clair county region. Dr. Chen briefly addresses HD 114 in his report for the McConchie plaintiffs and Dr. Loren Collingwood for the NAACP plaintiffs provides the only detailed analysis of this district. The findings of both analyses prove that HD 114 under SB 927 continues to provide Black voters at least an equal opportunity to elect candidates of their choice.

Dr. Chen analyzes three prior elections in HD 114. His results show that there was white crossover voting sufficed to elect the Black candidate of choice, which was the Black candidate. These Black candidates, Dr. Chen found, all won by wide margins (p. 43):

- * The 2014 General Election in HD 114, Black Candidate Greenwood, 57.2%
- * The 2018 General Election in SD 57, Black Candidate Belt, 59.2%
- * The 2020 General Election in HD 114, Black Candidate Greenwood, 57.1%

With two corrections, the more detailed Collingwood report proves that, as drawn under SB 927, confirms that HD 114 provides Black voters at least an equal opportunity to elect candidates of their choice. Dr. Collingwood analyzes the results of seven elections in districts or jurisdictions primarily with a Black CVAP percentage below that of HD 114 under SB 927. With

one correction (she mistakenly showed white candidate Wilson not Black candidate Williams winning the 2020 general election for St. Clair County Board of Review), her results show that Black candidates won 6 of 7 elections that she chose as probative for assessing Black voter opportunities in HD 114.

Dr. Collingwood further uses reconstituted election analysis to indicate the results in HD 114 for three elections with Black and white candidates. Her results show that Black candidates prevailed in all three contests HD 114 under SB 927. She also speculates that the Black population of HD 114 may dwindle over time. However, the examination of CVAP population changes in St. Clair County since 2010 shows a slight increase in black relative to white CVAP. Dr. Collingwood claims HD 114 may not be a “safe” Black district, but it fulfills plaintiffs’ requirement of a district that provides Black voters and equal opportunity with white voters to elect candidates of their choice.

V. Racial Gerrymandering and Intentional Discrimination

Plaintiffs’ cursorily claim that their remedial plans rectify racial gerrymandering by the state for its failure to aggregate as many minorities as possible into single-race 50%+ districts. They considered this practice to indicate an intent to discriminate against minority voters. The opposite is true. The legislature was following past practice, upheld by the courts, and my advice that it was not necessary to engage in such aggregation. Plaintiffs, not defendants, have engaged in drawing maps based predominantly on race to create 50%+ single-race majority CVAP districts across the state.

The McConchie plaintiffs’ expert Dr. Chen agrees that efforts to aggregate all possible minorities into districts that are 50% or more single-race minority represents racial gerrymandering. In critiquing the use of “‘an announced racial target’ like a 50% minority

population share,” Dr. Chen and his co-author wrote in a 2021 article that “*Indeed, use of such a target renders a district a presumptively unconstitutional racial gerrymander.*”⁹⁸ (emphasis added)

Similarly, in their lawsuit challenging the 2011 Illinois redistricting plan for the state legislature, Republican plaintiffs relied on testimony claiming that the joining together of minority communities is indicative of racial gerrymandering.⁹⁹ Now, Republican plaintiffs are claiming the opposite, that the failure to aggregate minorities everywhere in Illinois according to their fixed demographic threshold constitutes racial gerrymandering. This claim contradicts the common understanding of racial gerrymandering to avoid office-holders becoming stereotyped as representatives of only one race who can ignore the concerns of members of other races.

In testimony at an Illinois House hearing on April 1, 2021, Ben Williams of the National Conference of State Legislatures made this same point about efforts to concentrate minorities wherever possible into districts:

“So the Voting Rights Act requires that districts be drawn with a certain amount of a racial minority group to allow for them to elect a candidate of choice -- something we'll touch on a little bit later -- but there are different claims for whether or not too many people of a certain minority are put into a group, sort of called packing in this sense. The new racial gerrymandering claims get to that element of redistricting.”¹⁰⁰

In addition, plaintiffs have failed to provide the requisite study for proving an intent claim. The U.S. Supreme Court has provided a non-exhaustive list of circumstantial factors that

⁹⁸ Ibid., Chen and Stephanopoulos, p. 901-902.

⁹⁹ *Radogno, et al. v. Illinois State Board of Elections*, 836 F.Supp.2d 759, United States District Court, N.D. Illinois, Eastern Division (2012), at 738.

¹⁰⁰ Report of proceedings had at the Redistricting 10 Committee for the Illinois House of Representatives held 11 virtually via Zoom videoconference on the 1st day of 12 April, A.D., 2021, commencing at the hour of 12:14 p.m., pp. 29-30.

experts should examine for proof of discriminatory intent. The Supreme Court indicated that the determination of discriminatory intent requires a “a sensitive inquiry” that includes the non-exhaustive “subjects for proper inquiry in determining whether racially discriminatory intent existed,” These subjects include (1) The impact of the decision; (2) the historical background of the decision, particularly if it reveals a series of decisions undertaken with discriminatory intent; (3) the sequence of events leading up to the decision; (4) whether the challenged decision departs, either procedurally or substantively, from the normal practice; and (5) contemporaneous statements and viewpoints held by the decision-makers.¹⁰¹

These guidelines are consistent with standard principles and methods used in my field of history. I have many times used the guidelines as an expert for both plaintiffs and defendants to scrutinize intentional discrimination, including in as an expert for state defendants in Illinois during the 2011 litigation. The court in that litigation rejected the claims of intentional discrimination by Republican plaintiffs.

In their published redistricting guide already referenced in this report, MALDEF, the LDF and Asian Americans Advancing Justice recognized the necessity of analyzing the *Arlington Heights* factors and reproduces them on page 36. MALDEF additionally noted, “Legislators’ awareness of a harmful impact on a protected group is not enough. In order to prove intentional discrimination you must provide evidence of intent to cause that targeted impact.”¹⁰² The assessment of the *Arlington Heights* factors requires comprehensive and detailed

¹⁰¹ *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 268 (1977), at 266-68.

¹⁰² MALDEF, LDF, and Asian American Advancing Justice, “Power on the Lines: Making Redistricting Work for Us,” 2021, at 26-37, https://www.maldef.org/wp-content/uploads/2021/05/FINAL-LDF_04142021_RedistrictingGuide-22e.pdf.

analysis of each factor.¹⁰³ However, the MALDEF, NAACP and McConchie experts do not analyze the *Arlington Heights* factors or their equivalent in their reports.

To believe that the Illinois General Assembly intentionally racial gerrymandered legislative districts and intentionally discriminated against minorities, then implausibly in the State House, Emanuel Welch, the Black Speaker of the House, Mary E. Flowers and Jehan Gordon -Booth, the Black Deputy Majority Leaders, Elizabeth Hernandez, the Hispanic Chair of the House Redistricting Committee, LaToya Greenwood, the Black Majority Conference Chair, and Sonya M. Harper, the Chair of the Illinois Legislative Black Caucus, would have to be part of these alleged schemes. So too, in the State Senate, Kimberly Lightford, the Black Majority Leader, Antonio Munoz, Hispanic Assistant Majority Leader; Jacqueline Collins, Black Assistant Majority Leader, Mattie Hunter, the Black Majority Conference Chair, and Omar Aquino the Hispanic Chair of the Senate Redistricting Committee would have to be part of the alleged schemes. Also allegedly complicit would be the more than fifty minority members of the General Assembly who voted for S.B. 927 in the State House and the State Senate. Implausibly if the allegations had any merit, it would involve the same Democrats that enacted S.B. 927 also voted in the same session to adopt sweeping reforms in 2021 to expand access to the ballot.

White Republicans unanimously voted against SB 927. No minority Republicans are serving in the Illinois State Legislature.¹⁰⁴ All minorities in the Illinois General Assembly are Democrats. The House and Senate legislative sessions that adopted SB 927 sparked spirited debate. Republicans blasted Democrats for allegedly using the redistricting process to advance

¹⁰³ See, for example, my expert report in *City of South Miami v. DeSantis*: “Expert Report of Allan J. Lichtman,” https://www.splcenter.org/sites/default/files/documents/ijp_fl_miami_v_desantis_expert_report_2020-final.pdf and U.S. District Court Judge Beth Bloom’s 21 September 2021 opinion: https://www.govinfo.gov/content/pkg/USCOURTS-flsd-1_19-cv-22927/pdf/USCOURTS-flsd-1_19-cv-22927-5.pdf.

¹⁰⁴ Illinois General Assembly, Senate Bill 927, 2021, <https://legiscan.com/IL/bill/SB0927/2021>.

their partisan objectives and protect their incumbents. However, Republicans did not charge the Democrats with intentional racial gerrymandering or intent to discriminate against minorities. Those claims came only post hoc when plaintiffs filed their complaints.

It is additionally significant that in the legislative session that adopted S.B. 927, Republicans in the General Assembly lined up to against S.B. 825, which significantly expanded access to the vote as demonstrated in the Section that examines the nine Senate Factors. Every Republican in the Illinois House and Senate voted against S.B. 825. Only one Democrat in the House voted against S.B. 825. All other Democrats in both chambers voted for the bill.¹⁰⁵ SB 825 is analyzed in the Section on the Senate Factors, under Factor 1.

VI. Conclusions: Summation of Plaintiffs' Remedies

McConchie Plaintiffs: The McConchie plaintiffs offer the only district-specific evidence on challenged districts through the analysis of Dr. Chen based on projections from one exogenous election. However, his choice of a representative election is misguided, his analysis omits four challenged districts, and is unreliable. Instead, I analyzed five challenged districts – HDs 3, 4, 24, and 39 and SD 2, using the appropriate method of reconstituted elections and a more representative election. The results demonstrated that for these districts, where analysis was feasible, a Hispanic candidate or preferred candidate would prevail by wide margins. Given the outcomes of landslide or near landslide victories in all five tested districts, there is reason to believe that other challenged districts in Cook County would perform similarly. Dr. Collingwood's report shows that a Black candidate or Black preferred candidate would prevail in challenged HD 114 for three representative elections for which reconstituted election analysis

¹⁰⁵ Illinois General Assembly, Senate Bill 825, 2021, <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=825&GAID=16&DocTypeID=SB&SessionID=110&GA=102>.

could be applied. Like the other plaintiffs, the McConchie plaintiffs also do not adequately consider the prior electoral performance of most challenged districts or their status as majority-minority districts with no white majority.

The McConchie plaintiffs' attempt to create a new Hispanic 50%+ CVAP district in the Southern Cook County region: new HD 32, which includes Hispanic incumbent Angelia Guerra-Cuellar. The new HD 32 is barely above the 50%+ Hispanic CVAP percentage at 50.5%. And it substantially reduces the 60.4% Hispanic CVAP percentage of her prior district, HD 22. The McConchie proposal also shreds the core of Guerra-Cuellar's prior district as indicated in Table 11. The McConchie plan retains only 36.7% of the core of her prior HD 22, compared 81.9% under SB 927 for a differential of 45.2 percentage points. The McConchie plaintiffs also violate the 50%+ single-race threshold established by all the plaintiffs. Instead, they have defended as effective, a remedial district that is just 46.7% Hispanic in its CVAP percentage.

The attempt to create a new Hispanic opportunity district under the McConchie proposal is fraught with problems. As was demonstrated in the Section on Gingles Prong 3, at a win rate of more than 90%, Hispanics have been able to elect candidates of their choice in State House districts of 28% Hispanic CVAP or more. There are fourteen such districts in the SB 927 plan and fourteen in the McConchie plaintiffs' proposed plan. Moreover, as noted above, the Republican plan dismantles the Asian CVAP of one of the few districts that has elected an Asian representative and slashing the Asian percentage of her new district by more than half. The McConchie plan comes further at the expense of pairing two Black incumbents in the same district and pairing three Hispanic incumbents and one white incumbent in a single district. It comes at the expense of shredding the core of existing districts for other minority incumbents.

Contreras Plan: The Contreras plaintiffs challenge HDs 3, 4, 21, 24, and 39 and SD 2 and 11. Yet I was able to conduct reconstituted election analysis on five of these six districts, except for SD 11. The results for each reconstitution showed a substantial victory for the Hispanic candidate ranging from 57% to just over 60%. Thus, the Contreras plaintiffs have not established any district-specific deficiency that needs rectification through their plan. They have not offered any district-specific proof of their own that the challenged districts fail to provide an equal opportunity for Hispanic voters to elect candidates of their choice.

Moreover, in their attempt to pack Hispanics into 50%+ single-race CVAP districts, the Contreras plaintiffs have reduced the number of Hispanic opportunity districts in the Illinois State House. There are thirteen, not fourteen, districts in the Contreras proposal that are above the minimum 28% Hispanic CVAP percentage. The next most substantial Hispanic district in their plan falls to 24.0%. This is House District 19, with white incumbent Lindsey Lapointe.

NAACP plaintiffs: The NAACP plaintiffs challenge only House District 114. As demonstrated above, based on the findings of both Dr. Chen and Dr. Collingwood, HD 114 is already a Black opportunity district and does not need to be redrawn.

With respect to this challenge, the plaintiffs create a problem where it does not exist and attempt to create a detrimental precedent for Illinois and the nation. Minority empowerment is restricted, not advanced, through plaintiffs' strategy of packing minorities into 50%+ single race CVAP districts, typically three-quarters or more minority in total population. Their artificial, forced aggregation of minorities to conform to a mechanical threshold is evidence from the many district that they push up to just a fraction of one-percent above the 50%+ mark. A flexible approach to drawing minority districts expands opportunities for minorities to run for office and win legislative seats. This more flexible approach also benefits from challenging the stereotypes

that minorities are insular groups capable of electing candidates of their choice only with their own votes. These propositions were established through the Bartels litigation in New Jersey twenty years ago and reaffirmed in subsequent litigation in Virginia, Alabama, and North Carolina. I am surprised to see the same arguments from twenty years ago reprised in this matter in Illinois.

**ALLAN J. LICHTMAN, CASES (DATES APPROXIMATE)
DEPOSITION, AFFIDAVIT, OR ORAL TESTIMONY**

LULAC v. Pate (Iowa District Court, Johnson County), 2021

McConchie v. Illinois State Board of Elections (U.S. District Court, Illinois), 2021

City of South Miami v. DeSantis (U.S. District Court for the Southern District of Florida), 2020

Bruni v. Hughs (U.S. District Court for the Southern District of Texas), 2020

NAACP v. Cooper (U.S. District Court for the Middle District of North Carolina), 2019

Jason Gonzales v. Michael J. Madigan (U.S. District Court for the Northern District of Illinois), 2019

Anne Harding v. County of Dallas, (U.S. District Court for the Northern District of Texas), 2018

Pico Neighborhood Association v. Santa Monica (State Superior Court, California), 2018

Benisek v. Lamone, (U.S. District Court, Maryland), 2017

Arizona Democratic Party v. Reagan (U.S. District Court, Arizona), 2017

Perez v. Abbott (U.S. District Court for the Western District of Texas), 2017

Terrebonne Parish NAACP v. Jindal (U.S. District Court for the Middle District of Louisiana), 2017

Feldman v. Arizona Secretary of State (U.S. District Court for the District of Arizona), 2016, 2017

Covington v. North Carolina (U. S. District Court Middle District of North Carolina) 2016

One Wisconsin Institute v. Nichols (United States District Court for the Western District of Wisconsin) 2016

Lee v. Virginia State Board of Elections (United States District Court for the Eastern District of Virginia) 2016

League of Women Voters v. Detzner, (Circuit Court for the Second Judicial Circuit, Leon County) 2015

North Carolina State Conference of the NAACP v. McCrory (U. S. District Court Middle District of North Carolina) 2015

Curriculum Vitae

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EDUCATION

BA, Brandeis University, Phi Beta Kappa, Magna Cum Laude, 1967

PhD, Harvard University, Graduate Prize Fellow, 1973

PROFESSIONAL EXPERIENCE

Teaching Fellow, American History, Harvard University, 1969-73

Instructor, Brandeis University, 1970, quantitative history.

Assistant Professor of History, American University, 1973-1977

Associate Professor of History, American University, 1977-1978

Professor of History, American University, 1979 –

Distinguished Professor, 2011 -

Expert witness in more than 90 redistricting, voting rights and civil rights cases

Associate Dean for Faculty and Curricular Development, College of Arts & Sciences, The American University 1985-1987

Chair, Department of History, American University, 1997- 2001

Regular political analyst for CNN Headline News, 2003-2006

HONORS AND AWARDS

Outstanding Teacher, College of Arts and Sciences, 1975-76

Outstanding Scholar, College of Arts and Sciences, 1978-79

Outstanding Scholar, The American University, 1982-83

Outstanding Scholar/Teacher, The American University, 1992-93 (Highest University faculty award)

Sherman Fairchild Distinguished Visiting Scholar, California Institute of Technology, 1980-81

American University summer research grant, 1978 & 1982

Chamber of Commerce, Outstanding Young Men of America 1979-80

Graduate Student Council, American University, Faculty Award, 1982

Top Speaker Award, National Convention of the International Platform Association, 1983, 1984, 1987

National Age Group Champion (30-34) 3000-meter steeplechase 1979

Eastern Region Age Group Champion (30-34) 1500 meter run 1979

Defeated twenty opponents on nationally syndicated quiz show, TIC TAC DOUGH, 1981

Listing in Marquis, WHO'S WHO IN THE AMERICA AND WHO'S WHO IN THE WORLD

McDonnell Foundation, Prediction of Complex Systems (\$50,000, three years), 2003-2005

Organization of American Historians, Distinguished Lecturer, 2004 -

Selected by the Teaching Company as one of America's Super Star Teachers."

Associate Editor, International Journal of Operations Research and Information Systems, 2008 -

Keynote Speaker, International Forecasting Summit, 2007 and 2008

Cited authoritatively by United States Supreme Court in statewide Texas Congressional redistricting case *LULAC v. Perry* (2006)

Interviews nominated by the Associated Press for the Edward R. Murrow Award for broadcasting excellence.

WHITE PROTESTANT NATION: THE RISE OF THE AMERICAN CONSERVATIVE MOVEMENT: Finalist for the 2008 National Book Critics Circle Award in general nonfiction.

Elected Member, PEN American Center, 2009

Appointed Distinguished Professor, 2011

FDR AND THE JEWS: Designated for Belknap Imprint of the Harvard University Press,

reserved for works of special distinction and lasting value; *New York Times* editors' choice book for 2013, submitted for Pulitzer Prize 2013, winner of Tikkun Olam Award for Holocaust Studies, winner of National Jewish Book Award in American Jewish Studies, finalist for Los Angeles Times Book Award in History.

THE CASE FOR IMPEACHMENT: Independent bookstore bestseller, Amazon.com bestseller in several academic categories, *Newsweek*, best new book releases, April 18, 2017.

Winner of the Alfred Nelson Marquis Life Time Achievement Award for top 5% of persons included in Marquis WHO'S WHO, 2018.

Listed by rise.global as # 85 among 100 most influential geopolitical experts in the world.

SCHOLARSHIP

A. Books

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PREJUDICE AND THE OLD POLITICS: THE PRESIDENTIAL ELECTION OF 1928 (Lanham, MD: Lexington Books, 2000), reprint of 1979 edition with new introduction.

HISTORIANS AND THE LIVING PAST: THE THEORY AND PRACTICE OF HISTORICAL STUDY (Arlington Heights, Ill.: Harlan Davidson, Inc., 1978, with Valerie French)

ECOLOGICAL INFERENCE (Sage Series in Quantitative Applications in the Social Sciences, 1978, with Laura Irwin Langbein)

YOUR FAMILY HISTORY: HOW TO USE ORAL HISTORY, PERSONAL FAMILY ARCHIVES, AND PUBLIC DOCUMENTS TO DISCOVER YOUR HERITAGE (New York: Random House, 1978)

KIN AND COMMUNITIES: FAMILIES IN AMERICA (edited, Washington, D. C.: Smithsonian Press, 1979, with Joan Challinor)

THE THIRTEEN KEYS TO THE PRESIDENCY (Lanham: Madison Books, 1990, with Ken DeCell)

THE KEYS TO THE WHITE HOUSE, 1996 EDITION (Lanham: Madison Books, 1996)

THE KEYS TO THE WHITE HOUSE, (Lanham: Lexington Books Edition, 2000)

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WHITE PROTESTANT NATION: THE RISE OF THE AMERICAN CONSERVATIVE MOVEMENT (New York: Grove/Atlantic Press, 2008)

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THE CASE FOR IMPEACHMENT (HarperCollins, April 2017, updated paperback January 2018)

THE EMBATTLED VOTE IN AMERICA: FROM THE FOUNDING TO THE PRESENT (Harvard University Press, 2018)

REPEAL THE SECOND AMENDMENT: THE CASE FOR A SAFER AMERICA (St. Martin's Press, 2020)

THE KEYS TO THE WHITE HOUSE, 2020 EDITION (Lanham: Rowman & Littlefield, 2020)

THIRTEEN CRACKS: CLOSING DEMOCRACIES LOOPHOLES ((Lanham: Rowman & Littlefield, 2021)

Monographs:

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B. Scholarly Articles

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DeCell on Lichtman's advance predictions that the Democrats would recapture the Senate in

1986)

"Welcome War?" THE BALTIMORE EVENING SUN, Opinion Page, (July 15, 1987)

"How to Bet in 1988," WASHINGTONIAN (May 1988; advance prediction of George Bush's 1988 victory)

"President Bill?," WASHINGTONIAN (October 1992; advance prediction of Bill Clinton's 1992 victory)

"Don't be Talked Out of Boldness," CHRISTIAN SCIENCE MONITOR, Opinion Page (with Jesse Jackson, November 9, 1992)

"Defending the Second Reconstruction," CHRISTIAN SCIENCE MONITOR, Opinion Page (April 8, 1994)

"Quotas Aren't The Issue," NEW YORK TIMES, Op Ed Page (December 7, 1994)

"History According to Newt," WASHINGTON MONTHLY (May, 1995)

"A Ballot on Democracy," WASHINGTON POST Op Ed (November 1, 1998)

"The Theory of Counting Heads vs. One, Two, Three," CHRISTIAN SCIENCE MONITOR Op Ed (June 22, 1999)

"Race Was Big Factor in Ballot Rejection, BALTIMORE SUN Op Ed (March 5, 2002)

"Why is George Bush President?" NATIONAL CATHOLIC REPORTER (Dec. 19, 2003)

"In Plain Sight: With the Public Distracted, George W. Bush is Building a Big Government of the Right," NEWSDAY, (August 7, 2005)

"Why Obama is Colorblind and McCain is Ageless," JEWISH DAILY FORWARD (June 26, 2008)

"Splintered Conservatives McCain," POLITICO (June 24, 2008)

"Will Obama be a Smith or a Kennedy," NATIONAL CATHOLIC REPORTER (October 17, 2008)

"What Obama Should Do Now," POLITICO (Jan. 22, 2010)

“Why Democrats Need Hillary Clinton in 2016,” THE HILL, June 11, 2014

“How Corporations Buy Our Government,” THE HILL, July 1, 2014

“Who Rules America,” THE HILL, August 12, 2014

“The End of Civil Discourse?” THE HILL, September 10, 2014

“Pass the Ache Act and Stop Destroying Appalachia?” THE HILL, October 28, 2014

“Democrats Have No One to Blame But Themselves,” THE HILL, November 7, 2014

“Donald Trump’s Best Friend: Bernie Sanders,” THE HILL March 10, 2016

“Trump Had One Thing Right About Abortion,” THE HILL, April 1, 2016

“What is so Progressive About Sanders’ Old-Fashioned Protectionism,” April 7, 2016

“Sanders is Only Helping Trump by Staying in Race,” THE HILL, June 30, 2016

“7 Pieces of Advice for Hillary Clinton,” THE HILL, July 25, 2016

“Donald Trump’s Call For Russia To Hack Hillary Clinton’s Email Is A New Low For American Politics — And Maybe A Crime, NEW YORK DAILY NEWS, July 27, 2016

“Here’s the Big Speech Clinton Needs to Make,” THE HILL, September 9, 2016

“The Real Story Behind Trump’s Tax Returns,” THE HILL, October 3, 2016

“Trump is Establishment No Matter What He Says,” THE HILL, October 12, 2016

“Trump Brings the Big Lie About Voter Fraud,” THE HILL, October 19, 2016

“How a New Clinton Presidency Will Change American Politics Forever,” THE HILL, October 22, 2016

“The Media is Rigging the Election by Reporting WikiLeaks Emails,” THE HILL, October 26, 2016

“Why James Comey Must Resign Now,” THE HILL, November 3, 2016

“Why Trump is Vulnerable to Impeachment,” USA TODAY, April 18, 2017

“Donald Trump Meet the Real Andrew Jackson,” THE HILL, May 5, 2017

“Why Does Trump’s Voter Fraud Commission Really Wants Your Personal Voter Information,”

THE HILL, August 3, 2017

“Trump is a Lot Closer to Being Impeached, TIME.COM, November 2, 2017

“American Democracy Could be at Risk in the 2018 Elections,” VICE December 20, 2017

“We are One Tantrum Away From Accidental War With North Korea,” THE HILL, January 25, 2018

“Democrats Can’t Survive on Anti-Trumpism Alone,” TIME.COM, January 28, 2018

“Don’t Expect the Mueller Investigation to End Anytime Soon,” VICE March 21, 2018

“President Trump Faces Political Disaster if he Tries to Fire Mueller,” THE HILL April 5, 2018

“Framers Fail: Voting is a Basic Right But They Didn’t Guarantee it in the Constitution,” USA TODAY, September 26, 2018

Suppressing Voting Rights is as Old as the Republic, But the Tactics Change,” ZOCALO, October 8, 2018

“Voter Fraud Isn’t a Problem in America. Low Turnout Is,” WASHINGTON POST, Made for History, October 22, 2018

“Here are five ways a Democratic US House might try to impeach Donald Trump,” LONDON SCHOOL OF ECONOMICS, US CENTRE, October 26, 2018.

“The Midterm Results Will Reveal What Drives Voters: A Love or Hate of Trump,” THE GUARDIAN, November 5, 2018

“Unless Democrats Find a 2020 Candidate Like Beto O’Rourke, Trump May Well Be Set to Win” THE DAILY CALLER, November 7, 2018

“Why Nancy Pelosi Should be the Next Speaker, FORTUNE, November 27, 2018

“Its Well Past Time to Restructure the U.S. Senate,” DAILY CALLER, December 4, 2018

“The Seven Crucial Takeaways From William Barr’s Confirmation Hearings,” SPECTATOR USA, January 16, 2019

“Did Democrats Forfeit, 2020” THE HILL March 14, 2019

“Barr’s ‘Summary’ Of The Mueller Report Hardly Vindicates Trump,” DAILY CALLER, March

25, 2019

“Collusion and Obstruction by Trump remain Open Questions after Attorney General’s
“Summary” of the Mueller Report,” ARTSFORUM, March 26, 2019

“21 Questions for Robert Mueller,” THE HILL, April 24, 2019

With U.S. Representative Al Green, “Congress Has a Duty to go Through With the Impeachment
and Trial of Donald Trump,” THE HILL, May 17, 2019

“If Democrats Want to Beat Trump, They Need to Take off the Gloves in the Primary,” GQ,
June 26, 2019

“Why Impeachment Of William Sulzer Is Solid Precedent For Donald Trump,” THE HILL,
September 9, 2019

“Not Futile To Impeach,” NY DAILY NEWS, September 25, 2019

“Why Impeachment Favors Democrats In The Election,” THE HILL, September 28, 2019

“If Trump is Impeached, Pence Should Go Too,” TPM, October 7, 2019

“Time to Stop Talking ‘Quid Pro Quo,’ and Start Looking at Actual Crimes,” THE HILL,
November 13, 2019

“Of all the Presidential Impeachment Inquiries, This is the One That Transcends Politics the
Most,” POLITICO, November 16, 2019

“Bill Barr’s Dangerous Celebration of Unchecked Presidential Power, NEW YORK DAILY
NEWS, November 25, 2019

“What Trump Really Wanted From Ukraine Was Not About Enemies,” THE HILL, November
25, 2019

“Pelosi, Schiff Should Take More Time If They Want A Successful Impeachment Effort,”
DAILY CALLER, November 29, 2019

“It’s Our Political System, Not Impeachment, That Is Broken. And Only Politics Can
Fix It,” POLITICO, December 6, 2019

“The 2010s Were the Decade That Brought Democracy to the Breaking Point,” TPM, December
23, 2019

“Will Roberts Call Balls and Strikes at the Impeachment Trial,” THE HILL, December 30, 2019

“The Bill Clinton Trial Cannot Serve as the Model for the Donald Trump Trial,” THE HILL,

January 8, 2020

“What Law Did Donald Trump Break?” THE HILL, January 23, 2020

“The Flawed Case of Alan Dershowitz,” THE HILL, January 30, 2020

“What Will the History Books Say About This Impeachment,” POLITICO, February 5, 2020

“Why Bernie Sanders is Electable,” THE HILL, February 24, 2020

“The Ugly History of Trump’s Looting/Shooting Threat,” NEW YORK DAILY NEWS, May 29, 2020

“What Joe Biden Must do Now,” THE HILL, June 10, 2020

“Bad Economies do not Threaten Lives,” (with Sam Lichtman), THE HILL, July 6, 2020

“He Predicted Trump’s Win in 2016: Now He’s Ready to Call 2020,” NEW YORK TIMES VIDEO, August 5, 2020

“Time to Jettison Horse Race Polls,” THE HILL, November 19, 2020

“Here is the Smoking Gun Evidence to Back Impeachment of Donald Trump,” THE HILL, February 8, 2021.

“There’s No Constitutional Question: The Senate Can Try Trump,” NEW YORK DAILY NEWS, February 8, 2021

Bi-weekly column, THE MONTGOMERY JOURNAL, GAZETTE 1990 - 2013

Election-year column, REUTERS NEWS SERVICE 1996 & 2000

Contributor: THE HILL, 2014-present

D. Video Publication

“Great American Presidents,” The Teaching Company, 2000.

TEACHING

Ongoing Courses

The History of the U. S. I & II, The Emergence of Modern America, The U. S. in the Twentieth Century, United States Economic History, Historiography, Major Seminar in History, Graduate Research Seminar, Colloquium in U. S. History Since 1865, The American Dream, The Urban-Technological Era, Senior Seminar in American Studies, Seminar in Human Communication.

New Courses: Taught for the first time at The American University

Quantification in History, Women in Twentieth Century American Politics, Women in Twentieth Century America, Historians and the Living Past (a course designed to introduce students to the excitement and relevance of historical study), **Historians and the Living Past for Honors Students**, How to Think: Critical Analysis in the Social Sciences, Pivotal Years of American Politics, **Government and the Citizen (Honors Program)**, Introduction to Historical Quantification, Public Policy in U. S. History, **Honors Seminar in U.S. Presidential Elections**, America's Presidential Elections, What Is America?, **Honors Seminar on FDR, Jews, and the Holocaust**.

TELEVISION APPEARANCES

More than 1,000 instances of political commentary on NBC, CBS, ABC, CNN, C-SPAN, FOX, MSNBC, BBC, CBC, CTV, NPR, VOA, and numerous other broadcasting outlets internationally, including Japanese, Russian, Chinese, German, French, Irish, Austrian, Australian, Russian, Swedish, Danish, Dutch, and Middle Eastern television.

Regular political commentary for NBC News Nightside.

Regular political commentary for Voice of America and USIA.

Regular political commentary for America's Talking Cable Network.

Regular political commentary for the Canadian Broadcasting System.

Regular political commentary for CNN, Headline News

Consultant and on-air commentator for NBC special productions video project on the history of the American presidency.

CBS New Consultant, 1998 and 1999

Featured appearances on several History Channel specials including *The Nuclear Football* and *The President's Book of Secrets*.

RADIO SHOWS

I have participated in many thousands of radio interview and talk shows broadcast nationwide, in foreign nations, and in cities such as Washington, D. C., New York, Atlanta, Chicago, Los Angeles and Detroit. My appearances include the Voice of America, National Public Radio, and well as all major commercial radio networks.

PRESS CITATIONS

I have been cited many hundreds of times on public affairs in the leading newspapers and magazines worldwide. These include, among many others,

New York Times, Washington Post, USA Today, Los Angeles Times, Wall Street Journal, Miami Herald, Washington Times, St. Louis Post Dispatch, Christian Science Monitor, Philadelphia Inquirer, Time, Newsweek, Business Week, Le Monde, Globe and Mail, Yomuiiri Shimbun, Die Welt, El Mundo, and South China Post, among others.

SELECTED CONFERENCES, PRESENTATIONS, & LECTURES: UNITED STATES

Invited participant and speaker, Bostick Conference on Fogel and Engerman's TIME ON THE CROSS, University of South Carolina, November 1-2, 1974

"Critical Election Theory and the Presidential Election of 1928," Annual Meeting of the American Historical Association, December 1974

"A Psychological Model of American Nativism," Bloomsberg State Historical Conference, April 1975

"Methodology for Aggregating Data in Education Research," National Institute of Education, Symposium on Methodology, July 1975, with Laura Irwin

Featured Speaker, The Joint Washington State Bicentennial Conference on Family History, October 1975

Featured Speaker, The Santa Barbara Conference on Family History, May 1976

Chair, The Smithsonian Institution and the American University Conference on Techniques for Studying Historical and Contemporary Families, June 1976

Panel Chair, Sixth International Smithsonian Symposium on Kin and Communities in America, June 1977

"The uses of History for Policy Analysis," invited lecture, Federal Interagency Panel on Early Childhood Research, October 1977

Invited participant, Conference on "Child Development within the Family - Evolving New Research Approaches," Interagency Panel of the Federal Government for Research and Development on Adolescence, June 1978

Commentator on papers in argumentation, Annual Meeting of the Speech Communication Association, November 1978

Commentator on papers on family policy, Annual Meeting of the American Association for the Advancement of Science, Jan. 1979

"Phenomenology, History, and Social Science," Graduate Colloquium of the Department of Philosophy," The American University, March 1979

"Comparing Tests for Aggregation Bias: Party Realignment of the 1930's," Annual Meeting of the Midwest Political Science Association March 1979, with Laura Irwin Langbein

"Party Loyalty and Progressive Politics: Quantitative Analysis of the Vote for President in 1912," Annual Meeting of the Organization of American Historians, April 1979, with Jack Lord II

"Policy Systems Debate: A Reaffirmation," Annual Meeting of the Speech Communication Association, November 1979

"Personal Family History: Toward a Unified Approach," Invited Paper, World Conference on Records, Salt Lake City, August 1980

"Crisis at the Archives: The Acquisition, Preservation, and Dissemination of Public Documents," Annual Meeting of the Speech Communication Association, November 1980

"Recruitment, Conversion, and Political Realignment in America: 1888- 1940," Social Science Seminar, California Institute of Technology, April 1980

"Toward a Situational Logic of American Presidential Elections," Annual Meeting of the Speech Communication Association, November 1981

"Political Realignment in American History," Annual Meeting of the Social Science History Association, October 1981

"Critical Elections in Historical Perspective: the 1890s and the 1930s," Annual Meeting of the Social Science History Association, November 1982

Commentator for Papers on the use of Census data for historical research, Annual Meeting of the Organization of American Historians, April 1983

"Thirteen Keys to the Presidency: How to Predict the Next Election," Featured Presentation, Annual Conference of the International Platform Association, August 1983, Received a Top Speaker Award

"Paradigms for Academic Debate," Annual Meeting of the Speech Communication Association, November 1983

Local Arrangements Chair, Annual Convention of the Social Science History Association, October 1983

"Forecasting the Next Election," Featured Speaker, Annual Convention of the American Feed Manufacturers Association, May 1984

Featured Speaker, "The Ferraro Nomination," Annual Convention of The International Platform Association, August 1984, Top Speaker Award

"Forecasting the 1984 Election," Annual Convention of the Social Science History Association Oct. 1984,

Featured Speaker, "The Keys to the Presidency," Meeting of Women in Government Relations October 1984

Featured Speaker, "The Presidential Election of 1988," Convention of the American Association of Political Consultants, December 1986

Featured Speaker, "The Presidential Election of 1988," Convention of the Senior Executive Service of the United States, July 1987

Commentary on Papers on Voting Rights, Annual Meeting of the American Political Science Association, September 1987.

Commentary on Papers on Ecological Inference, Annual Meeting of the Social Science History Association, November 1987.

Featured Speaker: "Expert Witnesses in Federal Voting Rights Cases," National Conference on Voting Rights, November 1987.

Featured Speaker: "The Quantitative Analysis of Electoral Data," NAACP National Conference on Voting Rights and School Desegregation, July 1988.

Panel Chair, "Quantitative Analysis of the New Deal Realignment," Annual Meeting of the Social Science History Association, Nov. 1989.

Keynote Speaker, Convocation of Lake Forest College, Nov. 1989.

Featured Speaker, The American University-Smithsonian Institution Conference on the Voting Rights Act, April 1990

Panel Speaker, Voting Rights Conference of the Lawyer's Committee for Civil Rights Under Law, April 1990

Panel Speaker, Voting Rights Conference of the NAACP, July 1990

Panel Speaker, Voting Rights Conference of Stetson University, April 1991

Panel Chair, Annual Meeting of the Organization of American Historians, April, 1992

Panel Speaker, Symposium on "Lessons from 200 Years of Democratic Party History, Center for National Policy, May 1992

Olin Memorial Lecture, U.S. Naval Academy, October 1992

Commentator, Annual Meeting of the Organization of American Historians, April, 1993

Panel presentation, Conference on Indian Law, National Bar Association, April 1993

Feature Presentation, Black Political Science Association, Norfolk State University, June 1993

Feature Presentation, Southern Regional Council Conference, Atlanta Georgia, November, 1994

Master of Ceremonies and Speaker, State of the County Brunch, Montgomery County, February, 1996

Feature Presentation, Predicting The Next Presidential Election, Freedom's Foundation Seminar on the American Presidency, August 1996

Feature Presentation, Predicting The Next Presidential Election, Salisbury State College, October 1996

Feature Presentation on the Keys to the White House, Dirksen Center, Peoria, Illinois, August, 2000

Feature Presentation on American Political History, Regional Conference of the Organization of American Historians, August 2000

Testimony Presented Before the United States Commission on Civil Rights Regarding Voting Systems and Voting Rights, January 2001

Testimony Presented Before the United States House of Representatives, Judiciary Committee, Subcommittee on the Constitution, February 2001

Testimony Presented Before the United States Senate, Government Operations Committee, Regarding Racial Differentials in Ballot Rejection Rates in the Florida Presidential Election, June 2001

Testimony Presented Before the Texas State Senate Redistricting Committee, Congressional Redistricting, July 2003

Testimony Presented Before the Texas State House Redistricting Committee, Congressional Redistricting, July 2003

American University Honors Program Tea Talk on the Election, September 2004

Feature Presentation, The Keys to the White House, International Symposium on Forecasting, June 2006.

Feature Presentation, The Keys to the White House, International Symposium on Forecasting, New York, June 2007.

Keynote Speaker, Hubert Humphrey Fellows, Arlington, Virginia, 2007-2013

Feature Presentation, Forecasting 2008, Annual Meeting of the American Political Science Association, Chicago, August 2007

Keynote Speaker, International Forecasting Summit, Orlando, Florida, February 2008.

Feature Presentation on the Keys to the White House, Senior Executive's Service, Washington, DC, June 2008

Feature Presentation, American Political History, Rockford Illinois School District, July 2008

American University Honors Program Tea Talk on the Election, September 2008

Featured Lecture, Keys to the White House, American Association for the Advancement of Science, Washington, DC, September 2008

Keynote Speaker, International Forecasting Summit, Boston, September 2008

Keynote Lecture, Hubert Humphrey Fellows, Arlington, Virginia October 2008

Featured Lectures, Keys to the White, Oklahoma Central and East Central Universities, October 2008

Bishop C. C. McCabe Lecture, "Seven Days until Tomorrow" American University, October 28, 2008

Featured Lecture, WHITE PROTESTANT NATION, Eisenhower Institute, December 2008

American University Faculty on the Road Lecture, "Election 2008: What Happened and Why?" Boston, February 2009

Critic Meets Author Session on WHITE PROTESTANT NATION, Social Science History Association, November 2009

American University Faculty on the Road Lecture, "The Keys for 2012" Chicago, April 2010

Keynote Speaker, Hubert Humphrey Fellows, Arlington, Virginia October, 2010, 2011

Panel Participant, Search for Common Ground, Washington, DC, April 2011

Presentation, The Keys to the White House, International Symposium on Forecasting, June 2012

SELECTED CONFERENCES, PRESENTATIONS, & LECTURES: INTERNATIONAL

Featured Speaker, World Conference on Disarmament, Moscow, Russia, November 1986

Delegation Head, Delegation of Washington Area Scholars to Taiwan, Presented Paper on the promotion of democracy based on the American experience, July 1993

Lecture Series, American History, Doshisha University, Kyoto, Japan, December 2000

Lectures and Political Consultation, Nairobi, Kenya, for RFK Memorial Institute, October 2002

Featured Lectures, US Department of State, Scotland and England, including Oxford University, University of Edinburg, and Chatham House, June 2004

Keynote Speech, American University in Cairo, October 2004

Feature Presentation on the Keys to the White House, University of Munich, June 2008

Featured Lectures, US Department of State, Russia, Ukraine, Slovenia, Austria, and Romania, 2008-2010

Paper Presentation, Fourth International Conference on Interdisciplinary Social Science, Athens, Greece, July 2009

Featured Lectures, US Department of State, India, Korea, and Belgium 2012

Panel Speaker, Economic Forum, Krynica, Poland, 2013

DEPARTMENTAL AND UNIVERSITY SERVICE

Department of History Council 1973 -

Undergraduate Committee, Department of History 1973-1977

Chair Undergraduate Committee, Department of History 1984-1985

Graduate Committee, Department of History, 1978-1984

Freshman Advisor, 1973-1979

First Year Module in Human Communications, 1977-1979

University Committee on Fellowships and Awards 1976-1978

University Senate 1978-1979, 1984-1985

University Senate Parliamentarian and Executive Board 1978-1979

Founding Director, American University Honors Program, 1977-1979

Chair, College of Arts and Sciences Budget Committee 1977-1978, 1982-1984

University Grievance Committee, 1984-1985

Member, University Honors Committee 1981-1982

College of Arts and Sciences Curriculum Committee 1981-1982

Jewish Studies Advisory Board, 1982-1984

Mellon Grant Executive Board, College of Arts & Sciences, 1982-1983

Chair, College of Arts and Sciences Faculty Colloquium, 1983

Chair, College of Arts and Sciences Task Force on the Department of Performing Arts, 1984-1985

Local Arrangements Chair, National Convention of the Social Science History Association, 1983

Chair, Rank & Tenure Committee of the Department of History, 1981-1982, 1984-1985

Board Member, Center for Congressional and Presidential Studies, The American University, 1988-1989

Chair, Graduate Committee, Department of History, 1989 - 1991

Chair, Distinguished Professor Search Committee 1991

Member, College of Arts & Sciences Associate Dean Search Committee, 1991

Board Member, The American University Press, 1991-1995

Chair, Subcommittee on Demographic Change, The American University Committee on Middle

States Accreditation Review 1992-1994

Member, Dean's Committee on Curriculum Change, College of Arts and Sciences 1992-1993

Member, Dean's Committee on Teaching, College of Arts and Sciences 1992

Co-Chair, Department of History Graduate Committee, 1994-1995

Vice-Chair, College of Arts & Sciences Educational Policy Committee, 1994-1995

Elected Member, University Provost Search Committee, 1995-1996

Chair, Search Committee for British and European Historian, Department of History, 1996

Department Chair, 1999-2001

CAS Research Committee, 2006-2007

University Budget and Benefits Committee, 2008

Chair, Personnel Committee, Department of History, 2010-11, 2012-13

Chair, Term Faculty Search Committee, Department of History, 2011

OTHER POSITIONS

Director of Forensics, Brandeis University, 1968-71

Director of Forensics, Harvard University, 1971-72

Chair, New York-New England Debate Committee, 1970-71

Historical consultant to the Kin and Communities Program of the Smithsonian Institution
1974-1979

Along with general advisory duties, this position has involved the following activities:

1. directing a national conference on techniques for studying historical and contemporary families held at the Smithsonian in June 1976.
2. chairing a public session at the Smithsonian on how to do the history of one's own family.
3. helping to direct the Sixth International Smithsonian Symposium on Kin and Communities in America (June 1977).
4. editing the volume of essays from the symposium.

Consultant to John Anderson campaign for president, 1980.

I researched and wrote a study on "Restrictive Ballot Laws and Third-Force Presidential Candidates." This document was a major component of Anderson's legal arguments against restrictive ballot laws that ultimately prevailed in the Supreme Court (Anderson v. Celebrezze 1983). According to Anderson's attorney: "the basis for the majority's decision echoes the themes you incorporated in your original historical piece we filed in the District Court."

Statistical Consultant to the George Washington University Program of Policy Studies in Science and Technology, 1983

I advised researchers at the Policy Studies Program on the application of pattern recognition techniques to their work on the recovery of communities from the effects of such natural disasters as earthquakes and floods.

Consultant to the New York City Charter Revision Commission, 2000-2006

I analyzed the implications of non-partisan elections for voting rights issues for the Charter Revision Commissions appointed by mayors Rudy Giuliani and Michael Bloomberg.

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03091
v.)	
	)	Circuit Judge Michael B. Brennan
CHARLES SCHOLZ, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	

JULE CONTRERAS, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03139
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF ELECTIONS, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	
)	

EAST ST. LOUIS BRANCH NAACP, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-05512
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF ELECTIONS, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)

DECLARATION OF JONATHAN MAXSON

I, Jonathan Maxson, do hereby declare under penalty of perjury that the foregoing is true and correct:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration. The evidence presented in this declaration is based on my personal knowledge and information I believe to be true.
2. I have worked in the Office of the Speaker since 2009. I have served as a Program Specialist and Director of Communications. In 2020, I was asked to serve as the Director of Redistricting for the 2021 legislative redistricting process.
3. I supervised a team of five staff that assisted the House Democratic Caucus with the legislative redistricting process.
4. Information about redistricting and the Redistricting Committee was available on the General Assembly's website (www.ilga.gov). In addition to the General Assembly's website, the House Democratic Caucus developed a redistricting website (<https://ilhousedems.com/redistricting>), as did the Senate (<https://www.ilsenateredistricting.com>). The redistricting websites included hearings notices, hearings transcripts, access to 2011 redistricting maps and data, and a mapmaking portal that allowed the public or members to draw and submit proposed maps. I worked with staff to prepare and have the materials posted on these websites.
5. Between March and passage of the June Redistricting Plan, the House and Senate Redistricting Committee held more than 50 meetings. I attended, watched, or read the transcripts of the hearings, or had a staff member provide me with a summary. The hearings were typically structured by geographical regions of the State, and often the

Democratic and Republican members from the area would participate. The hearings typically began with a slide show presented by a House Democratic staffer on the redistricting team. The slideshow provided an overview of the redistricting process, explanation of the redistricting criteria, and how the public or members could provide testimony or submit draft maps.

6. Most hearings were virtual or a combination of in person and virtual. A few hearings were in person only. Most hearings were broadcast live on the General Assembly's website (www.ilga.gov). Additionally, the video service website BlueRoomStream (www.blueroomstream.com) was streaming many of the hearings, and some of those hearings are still available for public review. Notice of each hearing was made through the General Assembly via the Office of the Clerk and the General Assembly website, and many members shared the information on social media or via email. The date, time, and location for hearings were posted on the ilga.gov website and the House Redistricting website.
7. Any individual interested in testifying was given an opportunity, and presenters could share their screens to provide for more interactive feedback in real time. Any individual or group interested in submitting testimony was given the email address for submission. If an individual or representative of a group could not attend one or more hearings, they could contact any committee member or submit testimony through the general email address for the Committee. Documents submitted for the Committee's consideration were available to the public on the General Assembly website and redistricting websites created by each chamber.

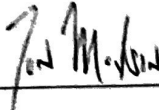
8. To identify groups and individuals with an interest in the 2021 redistricting process, House and Senate Democratic staff emailed or telephoned community groups, community leaders, and not-for-profit organizations, including many who participated during the 2011 redistricting cycle. I estimate the staff made hundreds of calls initially, and hundreds more throughout the entire process.
9. Approximately 200 witnesses testified before the House Committee or at joint hearing with the Senate Committee. Any recommendations provided were reviewed by staff and members to determine whether the recommendation was feasible. While I cannot recall every recommendation made, to the best of my knowledge some of the recommendations for redrawing boundaries became part of the legislative redistricting plan. In my experience, recommendations that were not accepted generally did not conform with the redistricting principles or differed from other recommendations, including those made by members of the General Assembly.
10. After the Census Bureau released the 2020 Census data, I analyzed the General Assembly Redistricting Act of 2021 and determined the maximum population deviation for the Senate Districts and the House Districts exceeded 10%. I directed my staff to begin reviewing potential changes to the June Redistricting Plan to ensure equal population among the districts.
11. During the process of preparing what is known as the September Plan, staff contacted individuals and groups to invite input and recommendations, including groups affiliated with the Plaintiffs.

12. I was involved in drawing the boundaries for every region of the map. I am familiar with the districts, many of the communities of interest, and some of the recommendations made by incumbent members.
13. I reviewed the proposed districts to ensure all House Districts achieved equal population throughout the map. When equalizing population, I did not consider the racial or ethnic composition of the population. However, I did consider the Democratic index and adjust to account for political composition of a district or neighboring districts.
14. With respect to Metro East districts, I was involved in drawing the boundaries of the districts. When adjusting the districts in the Metro East, changes were made to equalize population, maintain a sufficient Democratic index to preserve the Democratic incumbents, and accommodate incumbent requests. The racial or ethnic composition of the population was not a factor in adjusting boundaries in Metro East. With respect to the community of Washington Park, that community has been split between RD 113 and RD 114 for at least twenty years. When equalizing population, there was an opportunity to achieve population by consolidating the majority of Washington Park in one district, rather than having it split evenly between two districts. Thus, the changes to the boundaries of RD 113 and RD 114 relevant to Washington Park were made to equalize population and further consolidate the community in one district. Racial composition was not considered when making those changes. After the map was finalized and I examined the Black VAP and CVAP of the districts, it was clear that the changes benefit Black voters in the area in that they have opportunities to influence the election of two House districts rather than one.

15. I reviewed each of the Plaintiffs' proposals for changes to the September Plan. I analyzed the shapefiles and the demographics of the populations in each district changed under the proposals. I reviewed the section of the Defendant's submission detailing the proposed remedial plans and compared the description of the changes with the shapefiles provided by Plaintiffs. In my opinion, the Defendant's descriptions of the Plaintiffs' proposed changes to district boundaries, as well as the impact of such changes, are accurate.
16. Using the shapefiles provided and the redistricting software used to prepare the September Plan, I prepared matrices comparing the populations of the September Plan and each of the Plaintiffs' plans. Copies of my matrices are attached. Using the shapefiles provided and the redistricting software used to prepare the September Plan, I prepared the maps and figures in the Defendant's submission that related to the House districts.
17. In my opinion, many of the Plaintiffs' proposed changes appear to use race as the predominant factor to alter district boundaries of challenge districts, ignore traditional redistricting principles, make changes that do not necessarily address the alleged deficiency with the challenged district, or make changes that alter the political composition of the district in such a way that the incumbent party could lose an election in the district.
18. In reviewing the *McConchie* Plaintiffs proposed changes to RDs 35 and 36, I noted that RD 36 was drawn to match up parts Chicago's 19th Ward, which is well known as an area heavily populated with Chicago police officers and fire fighters from all ethnic groups with heavily populated Black precincts moved from RD 31. Though the changes result in the creation of a district with Black VAP of 51%, the pairing of these two distinct communities could result in the Black population being represented by someone with

very different views on matters such as of criminal justice reform and policing should the Black population not vote entirely as a bloc.

Executed on November 24, 2021, in Springfield, Illinois.



Jonathan Maxson

Exhibit A to Maxson Declaration

House Matrix - Comparison of September Plan and McConchie Plan

prepared by Jon Maxson

September Redistricting Plan

McConchie Plaintiffs Proposed Plan

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
1	Ortiz	81.08%	5.57%	3.60%	76.09%	9.5%	3.6%	64.6%	Open	71.30%	5.45%	2.14%	61.88%	7.9%	2.4%	51.0%
2	Hernandez, L.	70.30%	3.44%	1.23%	64.57%	4.0%	1.3%	55.1%	Ortiz	68.82%	3.09%	1.50%	61.69%	4.6%	1.7%	50.8%
3	Delgado	81.17%	4.01%	3.98%	54.13%	4.9%	3.6%	47.4%	Open	85.27%	7.02%	6.96%	60.23%	9.2%	7.4%	50.6%
4	Ramirez	86.56%	11.99%	2.66%	52.65%	15.8%	2.4%	45.2%	Open	71.35%	2.45%	3.94%	58.59%	2.5%	3.7%	51.4%
5	Robinson	87.11%	51.13%	10.27%	5.00%	54.2%	6.4%	4.4%	Robinson	87.11%	51.13%	10.27%	5.00%	54.2%	6.4%	4.4%
6	Harper	89.27%	45.37%	6.80%	26.19%	58.1%	4.2%	13.7%	Harper	90.12%	53.60%	6.69%	18.09%	65.8%	3.8%	8.1%
7	Welch	76.80%	42.33%	3.21%	22.49%	48.3%	2.6%	14.5%	Welch	76.80%	42.33%	3.21%	22.49%	48.3%	2.6%	14.5%
8	Ford	77.86%	49.51%	1.36%	15.11%	54.5%	0.9%	10.1%	Ford	77.21%	49.38%	1.35%	13.88%	54.2%	0.9%	9.3%
9	Collins	84.92%	40.54%	12.81%	9.32%	45.9%	7.7%	7.9%	Collins	84.92%	40.54%	12.81%	9.32%	45.9%	7.7%	7.9%
10	Williams, O.	85.64%	38.96%	4.86%	11.41%	43.5%	3.7%	7.7%	Williams, J.	85.64%	38.96%	4.86%	11.41%	43.5%	3.6%	7.7%
11	Williams, A.	76.73%	3.51%	6.99%	9.43%	3.6%	4.8%	8.2%	Williams, A.	76.73%	3.51%	6.99%	9.43%	3.6%	4.8%	8.2%
12	Croke	70.81%	4.62%	8.23%	6.45%	5.3%	5.7%	5.3%	Croke	70.81%	4.62%	8.23%	6.45%	5.3%	5.7%	5.3%
13	Harris	83.99%	10.91%	10.26%	14.24%	9.6%	8.4%	11.4%	Harris	83.99%	10.91%	10.26%	14.24%	9.6%	8.4%	11.3%
14	Cassidy	86.57%	18.53%	10.23%	16.96%	19.1%	6.4%	12.4%	Cassidy	86.57%	18.53%	10.23%	16.96%	19.1%	6.4%	12.4%
15	D'Amico	60.00%	2.42%	22.06%	14.48%	2.4%	19.0%	12.4%	D'Amico	60.00%	2.42%	22.06%	14.48%	2.4%	19.0%	12.4%
16	Stoneback	68.00%	8.93%	28.27%	14.42%	8.3%	23.8%	11.5%	Stoneback	68.00%	8.93%	28.27%	14.42%	8.3%	23.8%	11.5%
17	Gong-Gershowitz	61.10%	3.70%	19.87%	6.67%	3.7%	16.4%	5.0%	Gong-Gershowitz	61.10%	3.70%	19.87%	6.67%	3.7%	16.4%	5.0%
18	Gabel	73.33%	12.70%	10.21%	9.15%	13.3%	6.3%	7.4%	Gabel	73.33%	12.70%	10.21%	9.15%	13.3%	6.3%	7.4%
19	LaPointe	66.03%	2.26%	8.36%	27.32%	2.2%	6.6%	24.0%	LaPointe	66.03%	2.26%	8.36%	27.32%	2.1%	6.6%	24.0%
20	Stephens	50.38%	1.09%	5.02%	19.02%	1.1%	4.3%	15.9%	Stephens	48.96%	1.14%	6.56%	14.17%	1.3%	5.0%	11.8%
21	Zalewski	67.32%	6.43%	2.32%	51.74%	7.2%	2.6%	42.7%	Zalewski	71.21%	5.85%	1.94%	59.68%	6.2%	2.2%	50.5%
22	Guerrero-Cuellar	69.28%	1.92%	1.55%	62.79%	2.7%	1.1%	52.6%	Hernandez, L.	67.33%	3.67%	1.44%	60.41%	5.0%	1.3%	51.1%
23	Gonzalez	88.17%	7.05%	3.33%	84.44%	16.5%	3.3%	71.1%	Mah	82.31%	8.94%	11.41%	66.00%	17.1%	10.3%	51.6%
24	Mah	81.39%	3.49%	26.93%	48.50%	3.7%	23.6%	43.7%	Gonzalez	84.52%	4.27%	21.67%	57.87%	5.6%	20.1%	50.9%
25	Tarver	91.93%	53.63%	6.49%	18.15%	56.7%	3.2%	16.6%	Tarver	91.93%	53.63%	6.49%	18.15%	56.7%	3.2%	16.6%
26	Buckner	83.44%	46.08%	10.85%	5.51%	52.4%	5.4%	4.1%	Buckner	83.44%	46.08%	10.85%	5.51%	52.4%	5.4%	4.1%
27	Slaughter	74.68%	51.82%	1.82%	6.49%	53.7%	1.8%	4.8%	Slaughter	74.68%	51.82%	1.82%	6.49%	53.7%	1.7%	4.8%
28	Rita	74.27%	45.40%	1.66%	15.49%	50.0%	1.2%	10.9%	Rita	74.27%	45.40%	1.66%	15.49%	50.0%	1.1%	10.9%
29	Jones	72.78%	57.12%	0.47%	6.12%	57.8%	0.3%	4.0%	Jones	72.78%	57.12%	0.47%	6.12%	57.8%	0.3%	3.9%
30	Davis	79.00%	51.17%	1.78%	15.74%	55.6%	1.6%	9.2%	Davis	79.00%	51.17%	1.78%	15.74%	55.6%	1.6%	9.1%
31	Flowers	80.41%	51.92%	1.12%	11.23%	56.8%	0.6%	8.8%	Flowers / Nichols	80.57%	54.74%	1.17%	11.95%	59.8%	0.8%	7.1%
32	Nichols	87.20%	50.46%	0.93%	31.17%	61.2%	1.0%	19.2%	Guerrero-Cuellar	76.07%	10.36%	1.22%	64.07%	15.7%	1.1%	50.9%
33	Evans	86.32%	62.35%	0.35%	20.83%	66.1%	0.3%	15.6%	Evans	86.32%	62.35%	0.35%	20.83%	66.1%	0.3%	15.5%
34	Smith	81.65%	66.87%	0.29%	8.58%	67.9%	0.3%	4.9%	Smith	81.65%	66.87%	0.29%	8.58%	67.9%	0.3%	4.9%
35	Hurley	55.78%	21.04%	1.88%	8.67%	21.4%	1.3%	7.0%	Hurley	46.75%	6.76%	2.00%	10.93%	6.8%	1.6%	9.0%
36	Burke	55.96%	13.16%	2.26%	14.12%	14.1%	2.4%	11.2%	Burke	78.29%	51.46%	1.24%	8.49%	54.3%	1.2%	6.3%
37	Ozinga	37.45%	2.01%	2.56%	6.40%	1.2%	2.5%	5.4%	Ozinga	37.45%	2.01%	2.56%	6.40%	1.2%	2.5%	5.4%
38	Meyers-Martin	70.13%	47.04%	2.16%	5.82%	49.3%	2.0%	4.2%	Meyers-Martin	70.13%	47.04%	2.16%	5.82%	49.3%	2.0%	4.2%
39	Guzzardi	83.44%	3.20%	4.06%	51.61%	3.1%	4.0%	45.6%	Andrade / Delgado / Guzzardi / Ramirez	87.74%	9.08%	3.31%	55.77%	11.1%	3.4%	50.2%
40	Andrade	81.45%	4.00%	9.54%	42.76%	4.8%	9.1%	34.6%	Open	82.33%	3.83%	6.22%	21.07%	5.1%	4.8%	18.9%
41	Yang Rohr	50.22%	5.13%	16.39%	8.05%	5.7%	11.1%	5.7%	Yang Rohr	49.74%	4.86%	17.92%	6.62%	5.5%	11.8%	5.3%
42	Costa Howard	51.05%	4.69%	10.25%	7.55%	4.2%	6.6%	5.8%	Costa Howard	51.05%	4.69%	10.25%	7.55%	4.2%	6.6%	5.8%
43	Moeller	62.14%	6.04%	7.95%	51.19%	7.6%	7.3%	34.9%	Moeller	62.14%	6.04%	7.95%	51.19%	7.6%	7.3%	34.9%
44	Crespo	59.56%	4.91%	19.10%	26.93%	5.7%	16.4%	19.6%	Crespo	59.56%	4.91%	19.10%	26.93%	5.7%	16.4%	19.6%
45	Open	46.53%	2.89%	11.05%	9.85%	2.9%	8.4%	7.6%	Willis	46.53%	2.89%	11.05%	9.85%	2.8%	8.4%	7.6%
46	Conroy / Mazzochi	55.72%	5.67%	15.90%	23.85%	6.8%	14.1%	15.0%	Conroy / Mazzochi	57.06%	5.77%	15.74%	26.93%	7.0%	14.0%	17.2%
47	Grant / Lewis	43.91%	3.50%	9.47%	7.79%	3.9%	6.8%	4.7%	Grant / Lewis	43.87%	3.49%	9.48%	7.83%	3.9%	6.8%	4.8%
48	Open	45.82%	2.14%	11.68%	12.35%	2.3%	8.9%	9.0%	Open	44.98%	2.18%	11.82%	12.26%	2.5%	9.4%	9.1%
49	Hirschauer	51.22%	4.01%	14.01%	23.85%	3.6%	12.4%	16.4%	Hirschauer	50.44%	4.76%	11.66%	19.71%	4.7%	10.9%	13.2%
50	Hernandez, B.	60.70%	7.76%	4.21%	48.78%	9.5%	2.8%	36.7%	Hernandez, B.	68.10%	8.01%	2.50%	61.98%	11.1%	1.9%	46.7%
51	Bos / Morrison	43.76%	1.39%	13.52%	6.23%	1.7%	9.4%	3.8%	Bos / Morrison	43.76%	1.39%	13.52%	6.23%	1.6%	9.4%	3.8%
52	McLaughlin	41.72%	1.16%	7.90%	9.57%	1.4%	6.9%	6.1%	McLaughlin	41.72%	1.16%	7.90%	9.57%	1.4%	6.8%	6.1%

House Matrix - Comparison of September Plan and McConchie Plan

prepared by Jon Maxson

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
53	Walker	50.85%	2.69%	14.41%	14.22%	2.9%	8.9%	8.4%	Walker	50.85%	2.69%	14.41%	14.22%	2.9%	8.9%	8.3%
54	Open	50.38%	2.26%	9.80%	14.00%	1.9%	6.2%	8.7%	Open	50.38%	2.26%	9.80%	14.00%	1.9%	6.2%	8.7%
55	Moylan	52.51%	2.52%	18.17%	12.06%	3.3%	13.0%	10.2%	Moylan	54.07%	2.64%	19.61%	13.05%	3.2%	15.4%	10.7%
56	Mussman	54.56%	3.39%	18.72%	16.91%	3.5%	14.2%	11.7%	Mussman	53.89%	3.59%	16.21%	19.94%	3.6%	11.0%	14.9%
57	Carroll	54.47%	1.44%	14.93%	14.12%	2.0%	10.4%	8.7%	Carroll	54.47%	1.44%	14.93%	14.12%	2.0%	10.4%	8.7%
58	Morgan	57.46%	3.97%	6.07%	9.75%	3.6%	5.1%	6.7%	Morgan	57.46%	3.97%	6.07%	9.75%	3.6%	5.1%	6.7%
59	Didech	57.27%	2.31%	20.91%	18.89%	2.4%	12.3%	12.0%	Didech	57.27%	2.31%	20.91%	18.89%	2.4%	12.3%	12.0%
60	Mayfield	71.47%	18.87%	4.13%	50.27%	26.8%	3.4%	31.4%	Mayfield	71.47%	18.87%	4.13%	50.27%	26.8%	3.4%	31.4%
61	Mason	52.11%	11.79%	6.49%	23.22%	11.6%	5.5%	14.2%	Mason	52.11%	11.80%	6.49%	23.23%	11.6%	5.5%	14.2%
62	Yingling	53.70%	3.97%	6.65%	27.32%	4.2%	4.6%	16.9%	Yingling	53.70%	3.97%	6.65%	27.32%	4.1%	4.5%	16.9%
63	Reick	42.87%	1.19%	2.23%	13.59%	1.4%	1.5%	8.1%	Reick	42.87%	1.19%	2.23%	13.59%	1.3%	1.4%	8.1%
64	Weber	38.87%	1.48%	1.96%	9.04%	1.4%	1.6%	6.3%	Weber	38.87%	1.48%	1.96%	9.04%	1.4%	1.6%	6.3%
65	Ugaste	40.21%	1.84%	6.12%	9.81%	2.5%	4.8%	7.1%	Ugaste	40.21%	1.84%	6.12%	9.81%	2.5%	4.8%	7.1%
66	Ness	47.40%	3.13%	6.63%	16.92%	2.5%	6.0%	11.8%	Ness	47.40%	3.13%	6.63%	16.92%	2.5%	6.0%	11.8%
67	West	56.10%	20.13%	2.02%	16.53%	20.1%	1.1%	10.0%	West	56.10%	20.13%	2.02%	16.53%	20.1%	1.1%	10.0%
68	Vella	47.93%	9.71%	3.82%	17.48%	10.1%	2.6%	11.2%	Vella	47.93%	9.71%	3.82%	17.48%	10.1%	2.5%	11.2%
69	Sosnowski	38.18%	1.49%	3.09%	13.67%	2.1%	2.9%	8.9%	Sosnowski	38.18%	1.49%	3.09%	13.67%	2.1%	2.9%	8.8%
70	Keicher	40.16%	2.00%	3.77%	9.00%	2.3%	3.4%	6.7%	Keicher	40.16%	2.00%	3.77%	9.00%	2.2%	3.3%	6.6%
71	Swanson	46.59%	7.28%	1.87%	6.07%	5.8%	1.0%	4.6%	Swanson	46.59%	7.28%	1.87%	6.07%	5.7%	1.0%	4.5%
72	Halpin	56.99%	11.39%	2.50%	13.74%	10.1%	1.2%	10.5%	Halpin	56.99%	11.39%	2.50%	13.74%	10.1%	1.2%	10.5%
73	Spain	34.94%	1.16%	3.32%	2.66%	0.9%	1.2%	1.9%	Spain	34.94%	1.16%	3.32%	2.66%	0.9%	1.1%	1.8%
74	Demmer	42.02%	2.96%	0.68%	12.24%	2.9%	0.3%	9.3%	Demmer	42.02%	2.96%	0.68%	12.24%	2.9%	0.3%	9.2%
75	Welter	37.58%	4.26%	1.49%	12.33%	4.7%	0.8%	9.5%	Welter	37.58%	4.26%	1.49%	12.33%	4.7%	0.8%	9.4%
76	Yednock	53.06%	7.04%	2.34%	11.66%	6.8%	1.4%	7.6%	Yednock	53.06%	7.04%	2.34%	11.66%	6.8%	1.3%	7.6%
77	Lilly	60.32%	3.05%	3.51%	52.73%	3.0%	2.8%	43.6%	Open	65.31%	3.30%	2.71%	58.66%	3.0%	2.2%	51.2%
78	Willis	80.15%	30.75%	4.38%	14.76%	32.6%	3.1%	10.5%	Lilly	80.15%	30.75%	4.38%	14.76%	32.6%	3.1%	10.5%
79	Haas	50.07%	24.05%	1.09%	8.81%	23.5%	0.9%	5.7%	Haas	50.07%	24.05%	1.09%	8.81%	23.5%	0.9%	5.7%
80	DeLuca	55.48%	26.43%	0.74%	15.37%	27.3%	0.7%	11.1%	DeLuca	55.48%	26.43%	0.74%	15.37%	27.2%	0.7%	11.0%
81	Stava-Murray	50.79%	4.34%	12.36%	6.81%	4.4%	9.3%	5.7%	Stava-Murray	50.79%	4.34%	12.36%	6.81%	4.4%	9.3%	5.7%
82	Durkin	40.67%	3.03%	7.44%	7.50%	4.0%	7.5%	6.4%	Durkin	39.71%	2.78%	7.63%	6.30%	3.9%	7.6%	5.4%
83	Wheeler	49.66%	6.11%	2.82%	20.63%	6.1%	1.6%	14.2%	Wheeler	47.95%	5.20%	2.92%	17.12%	4.7%	1.8%	11.9%
84	Kifowit	58.17%	10.66%	18.53%	18.69%	12.0%	12.2%	15.5%	Kifowit	58.65%	10.87%	20.76%	15.44%	11.3%	13.2%	13.4%
85	Avelar	57.91%	14.54%	6.88%	23.27%	15.8%	5.2%	14.7%	Avelar	57.91%	14.54%	6.88%	23.27%	15.8%	5.1%	14.7%
86	Walsh	56.80%	15.97%	1.00%	30.41%	19.4%	0.9%	18.4%	Walsh	56.80%	15.97%	1.00%	30.41%	19.4%	0.9%	18.4%
87	Sommer	28.79%	2.08%	0.65%	2.14%	2.8%	0.3%	2.0%	Sommer	28.79%	2.08%	0.65%	2.14%	2.7%	0.3%	2.0%
88	Brady	33.54%	3.93%	4.38%	2.88%	4.0%	2.1%	1.9%	Brady	33.54%	3.93%	4.38%	2.89%	4.0%	2.0%	1.8%
89	McCombie	33.94%	1.34%	0.44%	4.43%	0.7%	0.3%	2.6%	McCombie	33.94%	1.34%	0.44%	4.43%	0.7%	0.2%	2.5%
90	Chesney	39.30%	5.56%	1.48%	5.12%	5.1%	1.1%	3.1%	Chesney	39.30%	5.56%	1.48%	5.12%	5.1%	1.1%	3.1%
91	Open	49.66%	9.64%	2.43%	5.84%	8.4%	1.6%	3.7%	Open	49.66%	9.64%	2.43%	5.84%	8.4%	1.6%	3.7%
92	Gordon-Booth	58.41%	25.84%	3.24%	6.15%	24.9%	1.8%	3.8%	Gordon-Booth	58.41%	25.84%	3.24%	6.15%	24.9%	1.8%	3.7%
93	Luft	38.61%	2.11%	1.07%	3.10%	2.2%	0.7%	2.1%	Luft	38.61%	2.11%	1.07%	3.10%	2.2%	0.6%	2.0%
94	Hammond	36.76%	1.51%	0.29%	1.77%	1.9%	0.3%	1.6%	Hammond	36.76%	1.51%	0.29%	1.77%	1.8%	0.2%	1.4%
95	Butler	41.25%	7.86%	2.87%	2.18%	7.0%	1.6%	1.5%	Butler	41.25%	7.86%	2.87%	2.18%	7.0%	1.6%	1.5%
96	Scherer	56.11%	26.96%	1.56%	2.89%	23.7%	0.6%	2.0%	Scherer	56.11%	26.96%	1.56%	2.89%	23.7%	0.6%	2.0%
97	Batinick	48.25%	8.68%	7.69%	15.85%	9.3%	6.0%	13.6%	Batinick	48.25%	8.68%	7.69%	15.85%	9.3%	6.0%	13.6%
98	Manley	58.22%	13.98%	7.67%	22.57%	14.0%	5.7%	17.2%	Manley	58.22%	13.98%	7.67%	22.57%	14.0%	5.7%	17.2%
99	Davidsmeyer / Frese	31.12%	5.75%	0.78%	3.98%	6.2%	0.5%	2.4%	Davidsmeyer / Frese	31.12%	5.75%	0.78%	3.98%	6.2%	0.5%	2.4%
100	Elik	29.30%	1.11%	0.38%	1.23%	1.2%	0.3%	1.0%	Elik	29.30%	1.11%	0.38%	1.23%	1.1%	0.3%	0.9%
101	Open	31.03%	2.27%	1.12%	4.04%	2.2%	0.7%	2.8%	Open	31.03%	2.27%	1.12%	4.04%	2.1%	0.6%	2.7%
102	Miller / Neiberg	25.65%	2.57%	0.34%	1.68%	3.1%	0.3%	1.5%	Miller / Neiberg	25.65%	2.57%	0.34%	1.68%	3.0%	0.2%	1.4%
103	Ammons	72.70%	16.61%	19.11%	9.19%	16.9%	7.3%	5.8%	Ammons	72.62%	16.66%	19.11%	9.19%	16.9%	7.3%	5.8%
104	Marron	46.27%	13.65%	5.15%	5.51%	14.5%	3.2%	3.4%	Marron	46.34%	13.60%	5.17%	5.51%	14.4%	3.2%	3.3%
105	Open	32.40%	2.03%	1.64%	2.91%	2.4%	1.0%	2.3%	Open	32.40%	2.03%	1.64%	2.91%	2.4%	1.0%	2.2%
106	Bennett	29.13%	1.00%	0.51%	5.87%	1.0%	0.5%	4.1%	Bennett	29.13%	1.00%	0.51%	5.87%	0.9%	0.4%	3.9%

House Matrix - Comparison of September Plan and McConchie Plan

prepared by Jon Maxson

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)				Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %				Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
107	Caulkins / Halbrook	25.57%	0.71%	0.58%	2.09%	1.1%	0.2%	0.9%		Caulkins / Halbrook	25.57%	0.71%	0.58%	2.09%	1.0%	0.1%	0.8%
108	Bourne / Murphy	33.18%	1.52%	0.50%	1.27%	1.7%	0.4%	1.1%		Bourne / Murphy	33.18%	1.52%	0.50%	1.27%	1.7%	0.3%	1.0%
109	Meier	28.61%	2.30%	0.70%	2.67%	2.4%	0.7%	2.0%		Meier	28.61%	2.30%	0.70%	2.67%	2.3%	0.7%	1.9%
110	Wilhour	25.21%	3.36%	0.69%	1.99%	3.9%	0.4%	1.3%		Wilhour	25.21%	3.36%	0.69%	1.99%	3.9%	0.4%	1.3%
111	Open	45.89%	9.02%	0.82%	3.38%	8.0%	0.6%	1.8%		Open	45.89%	9.02%	0.82%	3.38%	8.0%	0.6%	1.7%
112	Stuart	49.63%	14.41%	2.00%	5.66%	13.6%	1.3%	3.4%		Stuart	45.20%	10.82%	2.10%	4.54%	9.9%	1.3%	2.9%
113	Hoffman	54.27%	29.56%	1.66%	4.64%	25.3%	1.0%	3.7%		Greenwood / Hoffman	71.15%	50.61%	0.86%	4.94%	51.1%	0.8%	2.5%
114	Greenwood	54.16%	33.41%	1.01%	2.38%	38.0%	0.8%	1.6%		Open	41.72%	16.00%	1.72%	3.29%	13.5%	1.0%	3.2%
115	Friess	31.71%	5.49%	0.45%	2.44%	6.6%	0.5%	1.8%		Friess	31.71%	5.49%	0.45%	2.44%	6.6%	0.5%	1.7%
116	Severin	25.74%	2.70%	0.80%	1.45%	3.3%	0.5%	1.5%		Severin	25.74%	2.70%	0.80%	1.45%	3.2%	0.4%	1.4%
117	Windhorst	27.57%	3.87%	0.35%	1.86%	4.0%	0.2%	1.2%		Windhorst	27.57%	3.87%	0.35%	1.86%	3.9%	0.1%	1.1%
118	Jacobs	42.83%	9.98%	2.76%	3.79%	11.8%	1.1%	2.9%		Jacobs	42.83%	9.98%	2.76%	3.79%	11.7%	1.1%	2.8%

September Redistricting Plan

Contreras Plaintiffs Proposed Plan

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
1	Ortiz	81.08%	5.57%	3.60%	76.09%	9.5%	3.6%	64.6%	Ortiz	74.47%	5.95%	1.71%	69.44%	9.4%	2.4%	56.5%
2	Hernandez, L.	70.30%	3.44%	1.23%	64.57%	4.0%	1.3%	55.1%	Hernandez, L.	70.11%	3.29%	1.35%	63.76%	3.8%	1.4%	54.8%
3	Delgado	81.17%	4.01%	3.98%	54.13%	4.9%	3.6%	47.4%	Delgado	80.93%	3.75%	3.63%	58.51%	4.5%	3.5%	51.5%
4	Ramirez	86.56%	11.99%	2.66%	52.65%	15.8%	2.4%	45.2%	Ramirez	86.34%	9.49%	2.64%	55.61%	11.1%	2.5%	50.1%
5	Robinson	87.11%	51.13%	10.27%	5.00%	54.2%	6.4%	4.4%	Robinson	87.11%	51.13%	10.27%	5.00%	54.2%	6.4%	4.4%
6	Harper	89.27%	45.37%	6.80%	26.19%	58.1%	4.2%	13.7%	Harper	89.27%	45.37%	6.80%	26.19%	58.1%	4.2%	13.7%
7	Welch	76.80%	42.33%	3.21%	22.49%	48.3%	2.6%	14.5%	Welch	76.80%	42.33%	3.21%	22.49%	48.3%	2.6%	14.5%
8	Ford	77.86%	49.51%	1.36%	15.11%	54.5%	0.9%	10.1%	Ford	77.98%	50.37%	1.34%	14.34%	55.3%	0.9%	9.3%
9	Collins	84.92%	40.54%	12.81%	9.32%	45.9%	7.7%	7.9%	Collins	84.92%	40.54%	12.81%	9.32%	45.9%	7.7%	7.9%
10	Williams, O.	85.64%	38.96%	4.86%	11.41%	43.5%	3.7%	7.7%	Williams, J.	86.46%	41.04%	4.53%	14.11%	47.2%	3.3%	8.6%
11	Williams, A.	76.73%	3.51%	6.99%	9.43%	3.6%	4.8%	8.2%	Williams, A.	76.73%	3.51%	6.99%	9.43%	3.6%	4.8%	8.2%
12	Croke	70.81%	4.62%	8.23%	6.45%	5.3%	5.7%	5.3%	Croke	70.81%	4.62%	8.23%	6.45%	5.3%	5.7%	5.3%
13	Harris	83.99%	10.91%	10.26%	14.24%	9.6%	8.4%	11.4%	Harris	83.99%	10.91%	10.26%	14.24%	9.6%	8.4%	11.4%
14	Cassidy	86.57%	18.53%	10.23%	16.96%	19.1%	6.4%	12.4%	Cassidy	86.57%	18.53%	10.23%	16.96%	19.1%	6.4%	12.4%
15	D'Amico	60.00%	2.42%	22.06%	14.48%	2.4%	19.0%	12.4%	D'Amico	60.00%	2.42%	22.06%	14.48%	2.4%	19.0%	12.4%
16	Stoneback	68.00%	8.93%	28.27%	14.42%	8.3%	23.8%	11.5%	Stoneback	68.00%	8.93%	28.27%	14.42%	8.3%	23.8%	11.5%
17	Gong-Gershowitz	61.10%	3.70%	19.87%	6.67%	3.7%	16.4%	5.0%	Gong-Gershowitz	61.10%	3.70%	19.87%	6.67%	3.7%	16.4%	5.0%
18	Gabel	73.33%	12.70%	10.21%	9.15%	13.3%	6.3%	7.4%	Gabel	73.33%	12.70%	10.21%	9.15%	13.3%	6.3%	7.4%
19	LaPointe	66.03%	2.26%	8.36%	27.32%	2.2%	6.6%	24.0%	LaPointe	66.03%	2.26%	8.36%	27.32%	2.2%	6.6%	24.0%
20	Stephens	50.38%	1.09%	5.02%	19.02%	1.1%	4.3%	15.9%	Stephens	50.38%	1.09%	5.02%	19.02%	1.1%	4.3%	15.9%
21	Zalewski	67.32%	6.43%	2.32%	51.74%	7.2%	2.6%	42.7%	Zalewski	72.74%	5.96%	1.78%	64.25%	7.2%	2.1%	53.2%
22	Guerrero-Cuellar	69.28%	1.92%	1.55%	62.79%	2.7%	1.1%	52.6%	Guerrero-Cuellar	69.28%	1.92%	1.55%	62.79%	2.7%	1.1%	52.6%
23	Gonzalez	88.17%	7.05%	3.33%	84.44%	16.5%	3.3%	71.1%	Gonzalez	82.36%	6.65%	12.26%	67.68%	13.3%	10.6%	55.5%
24	Mah	81.39%	3.49%	26.93%	48.50%	3.7%	23.6%	43.7%	Mah	84.18%	4.02%	21.01%	58.51%	5.3%	20.1%	51.1%
25	Tarver	91.93%	53.63%	6.49%	18.15%	56.7%	3.2%	16.6%	Tarver	91.93%	53.63%	6.49%	18.15%	56.7%	3.2%	16.6%
26	Buckner	83.44%	46.08%	10.85%	5.51%	52.4%	5.4%	4.1%	Buckner	83.44%	46.08%	10.85%	5.51%	52.4%	5.4%	4.1%
27	Slaughter	74.68%	51.82%	1.82%	6.49%	53.7%	1.8%	4.8%	Slaughter	74.68%	51.82%	1.82%	6.49%	53.7%	1.8%	4.8%
28	Rita	74.27%	45.40%	1.66%	15.49%	50.0%	1.2%	10.9%	Rita	74.27%	45.40%	1.66%	15.49%	50.0%	1.2%	10.9%
29	Jones	72.78%	57.12%	0.47%	6.12%	57.8%	0.3%	4.0%	Jones	72.78%	57.12%	0.47%	6.12%	57.8%	0.3%	4.0%
30	Davis	79.00%	51.17%	1.78%	15.74%	55.6%	1.6%	9.2%	Davis	79.00%	51.17%	1.78%	15.74%	55.6%	1.6%	9.2%
31	Flowers	80.41%	51.92%	1.12%	11.23%	56.8%	0.6%	8.8%	Flowers	80.41%	51.92%	1.12%	11.23%	56.8%	0.6%	8.8%
32	Nichols	87.20%	50.46%	0.93%	31.17%	61.2%	1.0%	19.2%	Nichols	87.20%	50.46%	0.93%	31.17%	61.2%	1.0%	19.2%
33	Evans	86.32%	62.35%	0.35%	20.83%	66.1%	0.3%	15.6%	Evans	86.32%	62.35%	0.35%	20.83%	66.1%	0.3%	15.6%
34	Smith	81.65%	66.87%	0.29%	8.58%	67.9%	0.3%	4.9%	Smith	81.65%	66.87%	0.29%	8.58%	67.9%	0.3%	4.9%
35	Hurley	55.78%	21.04%	1.88%	8.67%	21.4%	1.3%	7.0%	Hurley	55.78%	21.04%	1.88%	8.67%	21.4%	1.3%	7.0%
36	Burke	55.96%	13.16%	2.26%	14.12%	14.1%	2.4%	11.2%	Burke	55.96%	13.16%	2.26%	14.12%	14.1%	2.4%	11.2%
37	Ozinga	37.45%	2.01%	2.56%	6.40%	1.2%	2.5%	5.4%	Ozinga	37.45%	2.01%	2.56%	6.40%	1.2%	2.5%	5.4%
38	Meyers-Martin	70.13%	47.04%	2.16%	5.82%	49.3%	2.0%	4.2%	Meyers-Martin	70.13%	47.04%	2.16%	5.82%	49.3%	2.0%	4.2%
39	Guzzardi	83.44%	3.20%	4.06%	51.61%	3.1%	4.0%	45.6%	Guzzardi	83.28%	3.11%	4.61%	54.98%	2.8%	4.5%	50.5%
40	Andrade	81.45%	4.00%	9.54%	42.76%	4.8%	9.1%	34.6%	Andrade	81.26%	4.12%	9.57%	30.48%	5.3%	8.6%	22.7%
41	Yang Rohr	50.22%	5.13%	16.39%	8.05%	5.7%	11.1%	5.7%	Yang Rohr	50.22%	5.13%	16.39%	8.05%	5.7%	11.1%	5.7%
42	Costa Howard	51.05%	4.69%	10.25%	7.55%	4.2%	6.6%	5.8%	Costa Howard	51.05%	4.69%	10.25%	7.55%	4.2%	6.6%	5.8%
43	Moeller	62.14%	6.04%	7.95%	51.19%	7.6%	7.3%	34.9%	Moeller	62.14%	6.04%	7.95%	51.19%	7.6%	7.3%	34.9%
44	Crespo	59.56%	4.91%	19.10%	26.93%	5.7%	16.4%	19.6%	Crespo	59.56%	4.91%	19.10%	26.93%	5.7%	16.4%	19.6%
45	Open	46.53%	2.89%	11.05%	9.85%	2.9%	8.4%	7.6%	Open	46.53%	2.89%	11.05%	9.85%	2.9%	8.4%	7.6%
46	Conroy / Mazzochi	55.72%	5.67%	15.90%	23.85%	6.8%	14.1%	15.0%	Conroy	55.72%	5.67%	15.90%	23.85%	6.8%	14.1%	15.0%
47	Grant / Lewis	43.91%	3.50%	9.47%	7.79%	3.9%	6.8%	4.7%	Grant / Lewis	43.91%	3.50%	9.47%	7.79%	3.9%	6.8%	4.7%
48	Open	45.82%	2.14%	11.68%	12.35%	2.3%	8.9%	9.0%	Open	45.82%	2.14%	11.68%	12.35%	2.3%	8.9%	9.0%
49	Hirschauer	51.22%	4.01%	14.01%	23.85%	3.6%	12.4%	16.4%	Hirschauer	51.22%	4.01%	14.01%	23.85%	3.6%	12.4%	16.4%
50	Hernandez, B.	60.70%	7.76%	4.21%	48.78%	9.5%	2.8%	36.7%	Hernandez, B.	60.70%	7.76%	4.21%	48.78%	9.5%	2.8%	36.7%
51	Bos / Morrison	43.76%	1.39%	13.52%	6.23%	1.7%	9.4%	3.8%	Bos / Morrison	43.76%	1.39%	13.52%	6.23%	1.7%	9.4%	3.8%
52	McLaughlin	41.72%	1.16%	7.90%	9.57%	1.4%	6.9%	6.1%	McLaughlin	41.72%	1.16%	7.90%	9.57%	1.4%	6.9%	6.1%
53	Walker	50.85%	2.69%	14.41%	14.22%	2.9%	8.9%	8.4%	Walker	50.85%	2.69%	14.41%	14.22%	2.9%	8.9%	8.4%

House Matrix - Comparison of September Plan and Contreras Plan

prepared by Jon Maxson

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
54	Open	50.38%	2.26%	9.80%	14.00%	1.9%	6.2%	8.7%	Open	50.38%	2.26%	9.80%	14.00%	1.9%	6.2%	8.7%
55	Moylan	52.51%	2.52%	18.17%	12.06%	3.3%	13.0%	10.2%	Moylan	52.51%	2.52%	18.17%	12.06%	3.3%	13.0%	10.2%
56	Mussman	54.56%	3.39%	18.72%	16.91%	3.5%	14.2%	11.7%	Mussman	54.56%	3.39%	18.72%	16.91%	3.5%	14.2%	11.7%
57	Carroll	54.47%	1.44%	14.93%	14.12%	2.0%	10.4%	8.7%	Carroll	54.47%	1.44%	14.93%	14.12%	2.0%	10.4%	8.7%
58	Morgan	57.46%	3.97%	6.07%	9.75%	3.6%	5.1%	6.7%	Morgan	57.46%	3.97%	6.07%	9.75%	3.6%	5.1%	6.7%
59	Didech	57.27%	2.31%	20.91%	18.89%	2.4%	12.3%	12.0%	Didech	57.27%	2.31%	20.91%	18.89%	2.4%	12.3%	12.0%
60	Mayfield	71.47%	18.87%	4.13%	50.27%	26.8%	3.4%	31.4%	Mayfield	71.47%	18.87%	4.13%	50.27%	26.8%	3.4%	31.4%
61	Mason	52.11%	11.79%	6.49%	23.22%	11.6%	5.5%	14.2%	Mason	52.11%	11.79%	6.49%	23.22%	11.6%	5.5%	14.2%
62	Yingling	53.70%	3.97%	6.65%	27.32%	4.2%	4.6%	16.9%	Yingling	53.70%	3.97%	6.65%	27.32%	4.2%	4.6%	16.9%
63	Reick	42.87%	1.19%	2.23%	13.59%	1.4%	1.5%	8.1%	Reick	42.87%	1.19%	2.23%	13.59%	1.4%	1.5%	8.1%
64	Weber	38.87%	1.48%	1.96%	9.04%	1.4%	1.6%	6.3%	Weber	38.87%	1.48%	1.96%	9.04%	1.4%	1.6%	6.3%
65	Ugaste	40.21%	1.84%	6.12%	9.81%	2.5%	4.8%	7.1%	Ugaste	40.21%	1.84%	6.12%	9.81%	2.5%	4.8%	7.1%
66	Ness	47.40%	3.13%	6.63%	16.92%	2.5%	6.0%	11.8%	Ness	47.40%	3.13%	6.63%	16.92%	2.5%	6.0%	11.8%
67	West	56.10%	20.13%	2.02%	16.53%	20.1%	1.1%	10.0%	West	56.10%	20.13%	2.02%	16.53%	20.1%	1.1%	10.0%
68	Vella	47.93%	9.71%	3.82%	17.48%	10.1%	2.6%	11.2%	Vella	47.93%	9.71%	3.82%	17.48%	10.1%	2.6%	11.2%
69	Sosnowski	38.18%	1.49%	3.09%	13.67%	2.1%	2.9%	8.9%	Sosnowski	38.18%	1.49%	3.09%	13.67%	2.1%	2.9%	8.9%
70	Keicker	40.16%	2.00%	3.77%	9.00%	2.3%	3.4%	6.7%	Keicher	40.16%	2.00%	3.77%	9.00%	2.3%	3.4%	6.7%
71	Swanson	46.59%	7.28%	1.87%	6.07%	5.8%	1.0%	4.6%	Swanson	46.59%	7.28%	1.87%	6.07%	5.8%	1.0%	4.6%
72	Halpin	56.99%	11.39%	2.50%	13.74%	10.1%	1.2%	10.5%	Halpin	56.99%	11.39%	2.50%	13.74%	10.1%	1.2%	10.5%
73	Spain	34.94%	1.16%	3.32%	2.66%	0.9%	1.2%	1.9%	Spain	34.94%	1.16%	3.32%	2.66%	0.9%	1.2%	1.9%
74	Demmer	42.02%	2.96%	0.68%	12.24%	2.9%	0.3%	9.3%	Demmer	42.02%	2.96%	0.68%	12.24%	2.9%	0.3%	9.3%
75	Welter	37.58%	4.26%	1.49%	12.33%	4.7%	0.8%	9.5%	Welter	37.58%	4.26%	1.49%	12.33%	4.7%	0.8%	9.5%
76	Yednock	53.06%	7.04%	2.34%	11.66%	6.8%	1.4%	7.6%	Yednock	53.06%	7.04%	2.34%	11.66%	6.8%	1.4%	7.6%
77	Lilly	60.32%	3.05%	3.51%	52.73%	3.0%	2.8%	43.6%	Willis	60.32%	3.05%	3.51%	52.73%	3.0%	2.8%	43.6%
78	Willis	80.15%	30.75%	4.38%	14.76%	32.6%	3.1%	10.5%	Lilly	80.15%	30.75%	4.38%	14.76%	32.6%	3.1%	10.5%
79	Haas	50.07%	24.05%	1.09%	8.81%	23.5%	0.9%	5.7%	Haas	50.07%	24.05%	1.09%	8.81%	23.5%	0.9%	5.7%
80	DeLuca	55.48%	26.43%	0.74%	15.37%	27.3%	0.7%	11.1%	DeLuca	55.48%	26.43%	0.74%	15.37%	27.3%	0.7%	11.1%
81	Stava-Murray	50.79%	4.34%	12.36%	6.81%	4.4%	9.3%	5.7%	Stava-Murray	50.79%	4.34%	12.36%	6.81%	4.4%	9.3%	5.7%
82	Durkin	40.67%	3.03%	7.44%	7.50%	4.0%	7.5%	6.4%	Durkin	40.67%	3.03%	7.44%	7.50%	4.0%	7.5%	6.4%
83	Wheeler	49.66%	6.11%	2.82%	20.63%	6.1%	1.6%	14.2%	Wheeler	49.66%	6.11%	2.82%	20.63%	6.1%	1.6%	14.2%
84	Kifowit	58.17%	10.66%	18.53%	18.69%	12.0%	12.2%	15.5%	Kifowit	58.17%	10.66%	18.53%	18.69%	12.0%	12.2%	15.5%
85	Avelar	57.91%	14.54%	6.88%	23.27%	15.8%	5.2%	14.7%	Avelar	57.91%	14.54%	6.88%	23.27%	15.8%	5.2%	14.7%
86	Walsh	56.80%	15.97%	1.00%	30.41%	19.4%	0.9%	18.4%	Walsh	56.80%	15.97%	1.00%	30.41%	19.4%	0.9%	18.4%
87	Sommer	28.79%	2.08%	0.65%	2.14%	2.8%	0.3%	2.0%	Sommer	28.79%	2.08%	0.65%	2.14%	2.8%	0.3%	2.0%
88	Brady	33.54%	3.93%	4.38%	2.88%	4.0%	2.1%	1.9%	Brady	33.54%	3.93%	4.38%	2.88%	4.0%	2.1%	1.9%
89	McCombie	33.94%	1.34%	0.44%	4.43%	0.7%	0.3%	2.6%	McCombie	33.94%	1.34%	0.44%	4.43%	0.7%	0.3%	2.6%
90	Chesney	39.30%	5.56%	1.48%	5.12%	5.1%	1.1%	3.1%	Chesney	39.30%	5.56%	1.48%	5.12%	5.1%	1.1%	3.1%
91	Open	49.66%	9.64%	2.43%	5.84%	8.4%	1.6%	3.7%	Open	49.66%	9.64%	2.43%	5.84%	8.4%	1.6%	3.7%
92	Gordon-Booth	58.41%	25.84%	3.24%	6.15%	24.9%	1.8%	3.8%	Gordon-Booth	58.41%	25.84%	3.24%	6.15%	24.9%	1.8%	3.8%
93	Luft	38.61%	2.11%	1.07%	3.10%	2.2%	0.7%	2.1%	Luft	38.61%	2.11%	1.07%	3.10%	2.2%	0.7%	2.1%
94	Hammond	36.76%	1.51%	0.29%	1.77%	1.9%	0.3%	1.6%	Hammond	36.76%	1.51%	0.29%	1.77%	1.9%	0.3%	1.6%
95	Butler	41.25%	7.86%	2.87%	2.18%	7.0%	1.6%	1.5%	Butler	41.25%	7.86%	2.87%	2.18%	7.0%	1.6%	1.5%
96	Scherer	56.11%	26.96%	1.56%	2.89%	23.7%	0.6%	2.0%	Scherer	56.11%	26.96%	1.56%	2.89%	23.7%	0.6%	2.0%
97	Batinick	48.25%	8.68%	7.69%	15.85%	9.3%	6.0%	13.6%	Batinick	48.25%	8.68%	7.69%	15.85%	9.3%	6.0%	13.6%
98	Manley	58.22%	13.98%	7.67%	22.57%	14.0%	5.7%	17.2%	Manley	58.22%	13.98%	7.67%	22.57%	14.0%	5.7%	17.2%
99	Davidsmeyer / Frese	31.12%	5.75%	0.78%	3.98%	6.2%	0.5%	2.4%	Davidsmeyer / Frese	31.12%	5.75%	0.78%	3.98%	6.2%	0.5%	2.4%
100	Elik	29.30%	1.11%	0.38%	1.23%	1.2%	0.3%	1.0%	Elik	29.30%	1.11%	0.38%	1.23%	1.2%	0.3%	1.0%
101	Open	31.03%	2.27%	1.12%	4.04%	2.2%	0.7%	2.8%	Open	31.03%	2.27%	1.12%	4.04%	2.2%	0.7%	2.8%
102	Miller / Neiberg	25.65%	2.57%	0.34%	1.68%	3.1%	0.3%	1.5%	Miller / Neiberg	25.65%	2.57%	0.34%	1.68%	3.1%	0.3%	1.5%
103	Ammons	72.70%	16.61%	19.11%	9.19%	16.9%	7.3%	5.8%	Ammons	72.70%	16.61%	19.11%	9.19%	16.9%	7.3%	5.8%
104	Marron	46.27%	13.65%	5.15%	5.51%	14.5%	3.2%	3.4%	Marron	46.27%	13.65%	5.15%	5.51%	14.5%	3.2%	3.4%
105	Open	32.40%	2.03%	1.64%	2.91%	2.4%	1.0%	2.3%	Open	32.40%	2.03%	1.64%	2.91%	2.4%	1.0%	2.3%
106	Bennett	29.13%	1.00%	0.51%	5.87%	1.0%	0.5%	4.1%	Bennett	29.13%	1.00%	0.51%	5.87%	1.0%	0.5%	4.1%
107	Caulkins / Halbrook	25.57%	0.71%	0.58%	2.09%	1.1%	0.2%	0.9%	Caulkins / Halbrook	25.57%	0.71%	0.58%	2.09%	1.1%	0.2%	0.9%

prepared by Jon Maxson

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)				Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %				Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
108	Boume / Murphy	33.18%	1.52%	0.50%	1.27%	1.7%	0.4%	1.1%		Boume / Murphy	33.18%	1.52%	0.50%	1.27%	1.7%	0.4%	1.1%
109	Meier	28.61%	2.30%	0.70%	2.67%	2.4%	0.7%	2.0%		Meier	28.61%	2.30%	0.70%	2.67%	2.4%	0.7%	2.0%
110	Wilhour	25.21%	3.36%	0.69%	1.99%	3.9%	0.4%	1.3%		Wilhour	25.21%	3.36%	0.69%	1.99%	3.9%	0.4%	1.3%
111	Open	45.89%	9.02%	0.82%	3.38%	8.0%	0.6%	1.8%		Open	45.89%	9.02%	0.82%	3.38%	8.0%	0.6%	1.8%
112	Stuart	49.63%	14.41%	2.00%	5.66%	13.6%	1.3%	3.4%		Stuart	49.63%	14.41%	2.00%	5.66%	13.6%	1.3%	3.4%
113	Hoffman	54.27%	29.56%	1.66%	4.64%	25.3%	1.0%	3.7%		Hoffman	54.27%	29.56%	1.66%	4.64%	25.3%	1.0%	3.7%
114	Greenwood	54.16%	33.41%	1.01%	2.38%	38.0%	0.8%	1.6%		Greenwood	54.16%	33.41%	1.01%	2.38%	38.0%	0.8%	1.6%
115	Friess	31.71%	5.49%	0.45%	2.44%	6.6%	0.5%	1.8%		Friess	31.71%	5.49%	0.45%	2.44%	6.6%	0.5%	1.8%
116	Severin	25.74%	2.70%	0.80%	1.45%	3.3%	0.5%	1.5%		Severin	25.74%	2.70%	0.80%	1.45%	3.3%	0.5%	1.5%
117	Windhorst	27.57%	3.87%	0.35%	1.86%	4.0%	0.2%	1.2%		Windhorst	27.57%	3.87%	0.35%	1.86%	4.0%	0.2%	1.2%
118	Jacobs	42.83%	9.98%	2.76%	3.79%	11.8%	1.1%	2.9%		Jacobs	42.83%	9.98%	2.76%	3.79%	11.8%	1.1%	2.9%

House Matrix - Comparison of September Plan and NAACP Plan

prepared by Jon Maxson

September Redistricting Plan

NAACP Plaintiffs Proposed Plan

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
111	Open	45.89%	9.02%	0.82%	3.38%	8.0%	0.6%	1.8%	Open	45.90%	9.02%	0.82%	3.38%	8.0%	0.6%	1.8%
112	Stuart	49.63%	14.41%	2.00%	5.66%	13.6%	1.3%	3.4%	Stuart	52.13%	16.48%	1.75%	6.84%	16.2%	1.2%	4.1%
113	Hoffman	54.27%	29.56%	1.66%	4.64%	25.3%	1.0%	3.7%	Open	39.23%	12.45%	1.52%	3.05%	48.1%	1.1%	2.1%
114	Greenwood	54.16%	33.41%	1.01%	2.38%	38.0%	0.8%	1.6%	Greenwood / Hoffman	66.89%	48.51%	1.42%	2.80%	10.4%	0.7%	2.6%

Exhibit 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03091
v.)	
	)	Circuit Judge Michael B. Brennan
CHARLES SCHOLZ, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	

JULE CONTRERAS, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03139
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF	)	Chief District Judge Jon E. DeGuilio
ELECTIONS, <i>et al.</i>,	)	District Judge Robert M. Dow, Jr.
)	
Defendants,	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	
)	

EAST ST. LOUIS BRANCH NAACP, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-05512
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF	)	Chief District Judge Jon E. DeGuilio
ELECTIONS, <i>et al.</i>,	)	District Judge Robert M. Dow, Jr.
)	
Defendants,	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)

**DECLARATION OF ELIZABETH H. YANDELL IN SUPPORT OF DEFENDANTS’
RESPONSE TO PLAINTIFFS’ BRIEFS AND PROPOSED REMEDIAL
REDISTRICTING PROPOSALS**

I, Elizabeth H. Yandell, declare as follows:

1. I am an attorney with the law firm of Latham & Watkins LLP, counsel of record for Defendants Harmon and the Office of the President in the above-captioned matter. I am licensed to practice law in the State of California. I submit this Declaration in Support of Defendants' Response to Plaintiffs' Briefs and Proposed Remedial Redistricting Proposals. I have personal knowledge of the information set forth below and, if called as a witness in a court of law, could and would testify competently thereto.

2. Attached hereto as Exhibit A is a true and correct copy of the transcript of the September 1, 2021, hearing before the three-judge panel.

3. Attached hereto as Exhibit B is a true and correct copy of excerpts of the transcript of Senator Steven Landek's deposition, which was held on November 5, 2021.

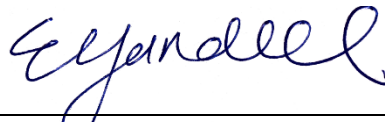
4. Attached hereto as Exhibit C is a true and correct copy of excerpts of the transcript of Senator Michael Zalewski's deposition, which was held on November 4, 2021.

5. Attached hereto as Exhibit D is a true and correct copy of excerpts of the transcript of Jonathon Maxson's deposition, which was held on November 3, 2021.

6. Attached hereto as Exhibit E is a true and correct copy of an August 24, 2021, letter from Senator Omar Aquino, the Chair of the Illinois Senate 2021 Redistricting Committee, and Representative Elizabeth Hernandez, Chair of the Illinois House of Representatives 2021 Redistricting Committee, to Plaintiffs Dan McConchie and Jim Durkin, inviting their participation in the redistricting process to amend H.B. 2777.

7. Attached hereto as Exhibit F is a true and correct copy of an August 26, 2021, response letter from Plaintiffs Dan McConchie and Jim Durkin to Senator Omar Aquino and Representative Elizabeth Hernandez.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
November 24, 2021, in San Francisco County, California.

A handwritten signature in blue ink, appearing to read "E. Yandell", written over a horizontal line.

Elizabeth H. Yandell

Exhibit A to Yandell Declaration

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAN MCCONCHIE, in his official) Docket No. 21 CV 3091
capacity as Minority Leader of the)
Illinois Senate and individually)
as a registered voter, and)
JIM DURKIN, in his official)
capacity as Minority Leader of the)
Illinois House of Representatives)
and individually as a registered)
voter,)
Plaintiffs,) Chicago, Illinois
v.) September 1, 2021
12:30 P.M.

ILLINOIS STATE BOARD OF)
ELECTIONS, CHARLES W. SCHOLZ,)
IAN K. LINNABARY, WILLIAM M.)
MCGUFFAGE, WILLIAM J. CADIGAN,)
KATHERINE S. O'BRIEN, LAURA K.)
DONAHUE, CASANDRA B. WATSON, and)
WILLIAM R. HAINE, in their)
official capacities as members)
of the Illinois State Board of)
Elections, EMANUEL CHRISTOPHER)
WELCH, in his official capacity)
as Speaker of the Illinois House)
of Representatives, the OFFICE)
OF SPEAKER OF THE ILLINOIS HOUSE)
OF REPRESENTATIVES, DON HARMON,)
in his official capacity as)
President of the Illinois)
Senate, and the OFFICE OF THE)
PRESIDENT OF THE ILLINOIS)
SENATE,)
Defendants..)

JULIE CONTRERAS, IRVIN FUENTES,) Docket No. 21 CV 3139
ABRAHAM MARTINEZ, IRENE PADILLA,)
and ROSE TORRES,)
Plaintiffs,) Chicago, Illinois
vs.) September 1, 2021
12:30 P.M.
ILLINOIS STATE BOARD OF ELECTIONS)

1 Anybody else? Okay. Great.

2 So I guess all I can say is I read the paper this
3 morning, and I also saw the McConchie plaintiffs filed a status
4 report that's more of a backward-looking report than a
5 forward-looking report. And it's basically reporting on their
6 version of the events that have transpired over the last week
7 that led up to the passage of the law last night.

8 Let me just direct my question, first, to counsel for
9 the speaker and the president of the senate. Has the governor
10 said anything about his time frame for dealing with this
11 legislation, which I assume has been transmitted to his desk?

12 MR. BERKOWITZ: I'm going to defer to Mr. Kasper on
13 that, your Honor. I don't believe -- I think the answer is I
14 don't believe so, but he may have more current information.

15 MR. KASPER: Yes, your Honor. Michael Kasper. I
16 agree with that. I'm not aware of any pronouncements from the
17 governor about if and when he will take up the legislation that
18 passed last night.

19 DISTRICT JUDGE DOW: Okay. And going back to
20 Mr. Berkowitz because he is the person I think I had the more
21 extended conversation with last time. Assuming that the
22 governor does sign this legislation, you will no longer be
23 defending the old map, you will only be defending this map; is
24 that right?

25 MR. BERKOWITZ: Correct.

1 DISTRICT JUDGE DOW: Okay. Very good. That's
2 helpful.

3 Now, I read, and I assume my colleagues have also read
4 the plaintiff's status report, which is really all about the
5 process. But I think for looking forward, obviously, you can
6 raise any objections you have in regard to the process and
7 we'll certainly allow the defendants to say their piece in the
8 process, too, but we have a map, and let's just assume for the
9 moment that the governor's going to sign it.

10 How much time would the plaintiffs need on
11 both -- both sets of plaintiffs -- to decide whether they have
12 an amended complaint to file? And I guess embedded in that
13 question is, I think the last time you told us your experts
14 were able in a very quick period of time to determine if there
15 were malapportionment problems. Have they already been able to
16 determine that or do you need further discovery before the
17 experts are even able to do the math problem, much less
18 identify any other legal challenges to this new map, assuming
19 that it becomes the operative map?

20 And I will start with the McConchie plaintiffs. What
21 do you have to say on that question?

22 MR. LUETKEHANS: Your Honor, this is Phil Luetkehans.
23 As of right now we believe the malapportionment issues are
24 taken care of. We are still analyzing, but it does appear that
25 issue has been resolved.

1 DISTRICT JUDGE DOW: Okay. So it sounds to me like,
2 then, if I remember from your complaint you really had two
3 issues. One is the malapportionment issue, which was framed as
4 a federal constitutional challenge. The other is this issue of
5 whether the legislature gets a second bite at the apple or a
6 commission should have been formed.

7 There's a decent argument that if that were the only
8 argument you had, that's an argument that ought to be deferred
9 to the Illinois Supreme Court, as opposed to a federal
10 three-judge panel, because it arises under the Illinois
11 Constitution. It's a matter of first impression. The Illinois
12 Constitution provides a direct action in the Supreme Court.
13 But the other question that the panel, I'm sure, would be very
14 interested in, but perhaps you haven't had time and you would
15 have to tell us how much time you would need is, are there
16 other potential federal claims here that would be
17 constitutional or Voting Rights Act or anything else. And do
18 you guys have a sense of how long it will take you to figure
19 that out? Because if you're agreeing that the malapportionment
20 problems have been solved, all that's left of your complaint, I
21 think, as it now stands, is the claim that this should have
22 gone to a commission.

23 So what do you guys have to say on that piece?

24 MR. LUETKEHANS: Your Honor, I do believe we'll be
25 filing an amended complaint as it relates to the racial and

1 DISTRICT JUDGE DOW: Okay. I am going to see if I can
2 get somebody from our tech department to come up and fix that.
3 How's that? You know what I am going to do? I am going to go
4 back into my office. I am going to go to my office and sign
5 in.

6 (District Judge Dow exited the courtroom.)

7 DISTRICT JUDGE DOW: Hello.

8 THE CLERK: Hi, Judge. We can hear you.

9 (District Judge Dow re-entered the courtroom.)

10 DISTRICT JUDGE DOW: Okay.

11 THE CLERK: Try it now. Okay. How is that? Can
12 everybody hear me?

13 DISTRICT JUDGE DOW: Okay. How's that? It's still
14 echoing.

15 (Audio issues addressed by Systems.)

16 DISTRICT JUDGE DOW: Can you all hear me now?

17 All right. Thank you. Success. I'm sorry about
18 that. I don't know if it's because we have too many
19 microphones going here because we have to do the court
20 reporting in this room, too. I am sorry for that delay, but I
21 think we're good now.

22 I think what I was about to say was I sort of expected
23 what both set of plaintiffs said. My concern is there is going
24 to be some discovery need here before the experts can even do
25 their work.

1 Let me ask Mr. Herrera, for what purpose would we
2 issue a summary judgment ruling on the old map if the governor
3 signs the bill before we get to the ruling? Is it just for
4 attorneys' fees, or for what other issue would we be issuing a
5 ruling on a defunct map?

6 MR. HERRERA: Your Honor, it would be a much faster
7 use of judicial resources and the parties' resources if you
8 rule on that on the map that is still in place at this moment.
9 We would be able to move to a remedial phase, which there would
10 still be some work involved, of course, to get the new
11 information on the maps, but it would give the Court oversight
12 and that would include the Section 2 issues.

13 Going through amended complaints, other filings, would
14 take quite a bit more time.

15 DISTRICT JUDGE DOW: So your position is we can't go
16 to a remedial phase until we've ruled on that motion. And the
17 fact that the general assembly has essentially abandoned the
18 old maps as soon as the governor signs this isn't sufficient?

19 MR. HERRERA: We still have no proof that these are
20 legal maps, your Honor, and we have constitutional and Section
21 2 concerns with them. Even though in the maps -- assuming
22 they're signed -- the malapportionment issues seem to have been
23 addressed.

24 MR. LEUTKEHANS: Your Honor, this is Phil Leutkehans.
25 We do agree with the Herrera -- or with the Contreras

1 plaintiffs, it would be appropriate to rule on the fact that
2 the first maps were invalid. I think that does come into play
3 as we go forward.

4 THE COURT: Okay. Let me ask the defendants. Does
5 anybody take issue with the proposition that the first maps are
6 invalid and they were in violation of the law?

7 MR. BERKOWITZ: So, Judge, I think that what we would
8 say is they were malapportioned and presumptively
9 unconstitutional. I don't think we're willing to on this call
10 today that they were an unconstitutional violation of the law.
11 The issues have not been reached. There are different analyses
12 that would need to be done.

13 I do believe that your Honor's perspective that from
14 the judicial economy standpoint debating over a map that's no
15 longer in play doesn't make a lot of sense, and we ought to
16 determine whether the current map, assuming, as we all do, that
17 the governor will sign that map shortly, makes the most sense
18 to focus on, and attacking the constitutionality of that map if
19 plaintiffs believe there is an issue or concern with that map
20 is the appropriate course of action.

21 DISTRICT JUDGE DOW: Do the defendants take the
22 position that we would not be in a remedial phase at this
23 point? The mere abandonment of the map isn't sufficient?

24 MR. BERKOWITZ: I don't believe we're in a remedial
25 phase. I do believe that this Court, as you indicated last

* * * * *

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

<u>/s/Kristin M. Ashenhurst, CSR, RDR, CRR</u>	<u>September 2, 2021</u>
Kristin M. Ashenhurst, CSR, RDR, CRR	Date
Federal Official Court Reporter	

Exhibit B to Yandell Declaration

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,)
ABRAHAM MARTINEZ, IRENE PADILLA,)
ROSE TORRES, LAURA MURPHY,)
CRISTINA FLORES, JOSE ALCALA,)
TROY HERNANDEZ, GABRIEL PEREZ,)
IVAN MEDINA, ALFREDO CALIXTO,)
HISPANIC LAWYERS ASSOCIATION OF)
ILLINOIS and PUERTO RICAN BAR)
ASSOCIATION OF ILLINOIS,)

Plaintiffs,)

-vs-)

No. 1:21-cv-3139

ILLINOIS STATE BOARD OF)
ELECTIONS, IAN K. LINNABARY,)
WILLIAM J. CADIGAN, LAURA K.)
DONAHUE, WILLIAM M. MCGUFFAGE,)
CATHERINE S. MCCRORY, RICK S.)
TERVEN, SR. and CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, and THE)
OFFICE OF THE PRESIDENT OF THE)
ILLINOIS SENATE, EMANUEL)
CHRISTOPHER WELCH, in his)
official capacity as Speaker of)
the Illinois House of)
Representatives, and THE OFFICE)
OF THE SPEAKER OF THE ILLINOIS)
HOUSE OF REPRESENTATIVES,)

Defendants.)

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1 A Senator Curran.

2 Q How do you spell that?

3 A C-U-R-R-A-N.

4 Q And did you speak with any other senators
5 regarding 2021 redistricting?

6 A Leader McConchie. I don't know how to spell his
7 name. Senator Plummer.

8 Q Okay. Okay. Any others?

9 A Senator Barickman and Senator DeWitte.

10 Q Okay. And so -- I think my first question was
11 about neighboring senators and then I expanded it,
12 right?

13 So first we'll start with Senator Villanueva,
14 Senator Villanueva is a neighboring senator?

15 A Yes.

16 Q What did you discuss with Senator Villanueva?

17 A I saw her in the capitol in the hallway. We
18 just had -- I don't know exactly when. It wasn't a set
19 meeting. She mentioned to me would I have a problem if
20 she took the Little Village area of my district into
21 hers. And I said no. That's what she was -- she
22 wanted.

23 Q And why did you say no?

24 A To Senator Villanueva I said I didn't care if

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1 she took that territory. She asked to take the Little
2 Village area from my current district.

3 Q Sure.

4 And is there any reason you didn't care if she
5 took the Little Village area of your Senate district?

6 A Well, it was to help Senator Villanueva, that's
7 her home base, she had grown up there, that's her
8 community. It was a progressive area, and she perhaps
9 felt more comfortable in that section. I don't know. I
10 didn't ask her all the details. I'm just theorizing why
11 she may have.

12 Q Okay. Do you, and this is only if you know, but
13 do you know what she may have meant by progressive
14 Democrats?

15 A She didn't describe it as progressive Democrats.

16 Q Okay.

17 A She said Little Village. I said progressive
18 Democrats.

19 Q Okay. And in terms of Little Village, is
20 there -- Let me strike that.

21 Why do you think of those Democrats as
22 progressive Democrats?

23 MS. YANDELL: Object to form.

24 MR. BRUCE: Which Democrats are you talking about,

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1 Ernest?

2 MR. HERRERA: Q The ones in Little Village.

3 MS. YANDELL: Object to form.

4 THE WITNESS: I think it's based on the legislative
5 agenda of some of the representatives in that area.

6 MR. HERRERA: Q And can you tell me a little bit
7 about that legislative agenda for the representatives in
8 that area?

9 A Well, they might focus more on driver's licenses
10 for undocumented versus in Riverside, they would -- that
11 probably would not be the first issue that they were
12 concerned about. It's just everybody has their own
13 issues in their own communities.

14 So she wanted to join that common thought in
15 her legislative district, Senate district.

16 Q And are there any other aspects of a legislative
17 agenda associated with your definition of progressive
18 Democrats in the Little Village that you know of besides
19 the driver's licenses?

20 MS. YANDELL: Object to form.

21 THE WITNESS: I couldn't just rattle them off right
22 now, but, you know, that was, I think, a very clear
23 example.

24 MR. HERRERA: Q And, if you know, what would

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1 senators.

2 Do you remember that portion of your testimony?

3 A Yes.

4 Q And I think you discussed somewhat when asked
5 about the conversations you had with those Republican
6 senators.

7 Do you remember that?

8 A Yes.

9 Q All right. I don't know that we finished that
10 discussion nor was it asked. How did that end with your
11 discussions -- Strike that.

12 Those discussions were, what, in January and
13 February of 2021?

14 A Yes.

15 Q Early in 2021?

16 A January, February.

17 Q And so you start with Senator McConchie and the
18 other Republicans senators, Senator Barickman, and the
19 other ones that you identified, I think it was Curran
20 and who else, Senator?

21 A DeWitte and Plummer.

22 Q Okay. And you were trying to reach some accord
23 with the Republicans to reach some kind of bipartisan
24 agreement so there would not be a conflict later in the

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1 redistricting process --

2 A Yes.

3 Q And the question that wasn't asked is, and I'm
4 asking this, how did those conversations end, Senator?

5 A The final -- the last conversation I had with
6 Leader McConchie was he told me he appreciated our
7 conversation, he thought about the issue, he's consulted
8 with his attorneys, but he felt that he was going to be
9 the plaintiff on the lawsuit when the litigation was
10 filed, so he had really -- he had no ability to work
11 with the Democrats to try to come to a map.

12 And this was before we started the
13 redistricting process. So, okay.

14 And then after that, the other senators, I
15 would see them or I would tell them what I was told by
16 Leader McConchie, and they confirmed it, said we all
17 agreed that we wouldn't be able to work together.

18 Q And when did those conversations occur when you
19 wound up, when was that conversation with Leader
20 McConchie?

21 A January, February. I saw the leader two, three
22 times. I went to his office. And then I would see the
23 other senators along the way or they came to my office.
24 Some of them came to my office and we talked about it.

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1 Q And when Leader McConchie told you that he
2 couldn't continue discussions about a possible
3 bipartisan map and that he was going to be a plaintiff
4 in redistricting litigation, those were his words,
5 you're not guessing or speculating?

6 MR. HERRERA: Objection, form.

7 Go ahead.

8 THE WITNESS: He specifically told me that.

9 MR. BRUCE: Q Those are his words?

10 A As exact as I can remember, yes.

11 MR. BRUCE: All right. That's all that I have.

12 Anybody else have any questions?

13 MR. HERRERA: I do unless any of the other defense
14 counsel do.

15 MR. BRUCE: Go ahead.

16 MR. HERRERA: Okay.

17 FURTHER EXAMINATION

18 by Mr. Herrera:

19 Q Senator Landek, during the break that -- the
20 last break we took, did you discuss the substance of
21 your testimony with anyone?

22 MR. BRUCE: Objection, attorney-client privilege.
23 You mean other than his lawyer. Go ahead. Other than
24 your lawyer, did you have any conversations with anyone?

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1 STATE OF ILLINOIS)
) ss:
2 COUNTY OF COOK)

4 The within and foregoing deposition of the
5 aforementioned witness was taken before TRACY L.
6 BLASZAK, CSR, CRR, and Notary Public, at the place, date
7 and time aforementioned.

8 There were present during the taking of the
9 deposition the previously named counsel.

10 The said witness was first duly sworn and was
11 then examined upon oral interrogatories; the questions
12 and answers were taken down in shorthand by the
13 undersigned, acting as stenographer and Notary Public;
14 and the within and foregoing is a true, accurate and
15 complete record of all of the questions asked of and
16 answers made by the aforementioned witness, at the time
17 and place hereinabove referred to.

18 The signature of the witness was not waived,
19 and the deposition was submitted, pursuant to
20 Rules 30(e) and 32(d) of the Rules of Civil Procedure
21 for the United States District Court, to the deponent
22 per copy of the attached letter.

23 The undersigned is not interested in the within
24 case, nor of kin or counsel to any of the parties.

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1 Witness my official signature and seal as
2 Notary Public in and for Cook County, Illinois, on this
3 8th day of November, 2021.

4
5
6
7
8 <%20644,Signature%>
9 TRACY L. BLASZAK, CSR, CRR
10 CSR No. 084-002978
11 One North Franklin Street
12 Suite 3000
13 Chicago, Illinois 60606
14 Phone: (312) 442-9087
15
16
17
18
19
20
21
22
23
24

Steven Landek
November 05, 2021

Exhibit C to Yandell Declaration

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,)
ABRAHAM MARTINEZ, IRENE PADILLA,)
ROSE TORRES, LAURA MURPHY,)
CRISTINA FLORES, JOSE ALCALA,)
TROY HERNANDEZ, GABRIEL PEREZ,)
IVAN MEDINA, ALFREDO CALIXTO,)
HISPANIC LAWYERS ASSOCIATION OF)
ILLINOIS and PUERTO RICAN BAR)
ASSOCIATION OF ILLINOIS,)

Plaintiffs,)

-vs-)

ILLINOIS STATE BOARD OF)
ELECTIONS, IAN K. LINNABARY,)
WILLIAM J. CADIGAN, LAURA K.)
DONAHUE, WILLIAM M. MCGUFFAGE,)
CATHERINE S. MCCRORY, RICK S.)
TERVEN, SR. And CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, and THE)
OFFICE OF THE PRESIDENT OF THE)
ILLINOIS SENATE, EMANUEL)
CHRISTOPHER WELCH, in his)
official capacity as Speaker of)
the Illinois House of)
Representatives, and THE OFFICE)
OF THE SPEAKER OF THE ILLINOIS)
HOUSE OF REPRESENTATIVES,)

Defendants.)

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1 how the lines in your district would be modified?

2 A I'm -- counsel, I understand your
3 question to be did I review the proposed map --

4 Q Prior it being passed?

5 A Prior to it being passed. The answer to
6 that question is yes.

7 Q Okay. Now, how were you notified to come
8 review that proposed May 2021 map before it was
9 passed?

10 A How I was notified that?

11 Q To come review the map that we just
12 described.

13 A I don't recall ever being -- I don't
14 recall ever being asked to review the map that was
15 passed.

16 Q For your House district lines?

17 A Your question a moment ago was -- was --
18 can I have it read back?

19 Q I'll strike that. I'll reask my
20 question. I'll rephrase.

21 A Okay.

22 Q Representative, how were you notified to
23 come review the proposed May 2021 map before it got
24 passed specific to reviewing your House district

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1 lines?

2 A I do not recall being notified to come,
3 Counsel, to any review of the map.

4 Q Okay.

5 MR. VAUGHT: I think, Counsel, if I can
6 just say, just so everybody understands, your audio
7 is coming through. It's a little muffled. I don't
8 know if it's our speaker here, so when he's like
9 leaning in it's like we're having -- we're just
10 trying to like make sure we're understanding you.
11 So...

12 MS. VEGA SAMUEL: Okay. I will do my
13 best to speak up.

14 MR. VAUGHT: It's not the volume of your
15 voice. It's just the audio equipment, I don't know
16 on which end.

17 THE WITNESS: You're asking precise
18 questions, too, Counsel, so we want to make sure
19 we're being mindful of that. So...

20 BY MS. VEGA SAMUEL:

21 Q Right. Representative, you talked about
22 your conversations with Mr. Maxson, so were you
23 involved -- did you provide preferences on the
24 boundary lines of your House district in the May

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1 2021 maps?

2 A I recall two preferences. I own and
3 lease a townhome on the Southwest side of Chicago.
4 I thought it would be ideal if I -- that were part
5 of my representative district. Current 23 had a
6 portion of the City of Chicago, the townhouse is in
7 a portion of the City of Chicago, so I recall the
8 preference for that.

9 I also recall a preference for North
10 Riverside. My children go to a school, a public
11 school in North Riverside called -- or in Riverside
12 called Ames Elementary School. I recall a
13 preference for North Riverside because I knew the
14 parents that go to -- the kids go to school with my
15 kids.

16 Those were the two preferences I
17 recall.

18 Q Great. Now, do you recall if you -- if
19 the use of ACS data was part of how you decided to
20 make those preferences or those preference requests
21 for your district?

22 A Do I recall if ACS data was a part of
23 whether I made those requests?

24 Q Yes. Or did you use ACS data to make

1 those requests --

2 A No.

3 Q -- as a basis for your requests?

4 A No.

5 Q So what data did you look to to make
6 those specific requests on your House district?

7 A With respect to --

8 MS. YANDELL: Objection.

9 THE WITNESS: With respect to those two
10 requests, I did them as part of an ability to
11 express myself with respect to mapmaking. So it
12 was -- it was a request by myself with no other
13 aspect to it.

14 BY MS. VEGA SAMUEL:

15 Q So you didn't look at any specific data
16 to make those requests?

17 A I didn't look at data to make those two
18 requests.

19 Q Okay. Now let's get back to your
20 specific House district and the preferences that
21 you made -- or strike that.

22 So now you mentioned those two
23 specific requests specific to sort of some of the
24 things that were going on in your personal life.

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1 Did you make any other preference?

2 MS. YANDELL: Objection. Okay. Sorry.

3 THE WITNESS: It wasn't that bad,
4 Counsel, I promise.

5 BY MS. VEGA SAMUEL:

6 Q Yeah.

7 A I'm making a joke because you said what
8 was going on in your personal life. I'm sorry for
9 being facetious.

10 Q Were those -- yeah, I'm having a hard
11 time characterizing it otherwise.

12 A I know. I know. I get it. I get it.

13 Q And please correct me if I'm
14 mischaracterizing that.

15 So we'll set aside those specific
16 preferences you've actually just told us about.
17 Representative, did you make any additional
18 preference requests on your specific House district
19 lines in that May map, that May 2021 state
20 legislative redistricting map?

21 A With respect to the 2021 legislative
22 redistricting map the two preferences I recall
23 making were the townhouse and Ames Elementary -- or
24 North Riverside because of the Ames Elementary

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1 School issue.

2 Q Okay. Now, to the best of your
3 recollection do you know if any other House members
4 expressed certain preferences in adjusting the
5 boundary lines for your House district in the May
6 2021 maps during the Illinois legislative state
7 redistricting process?

8 MS. YANDELL: Objection to form.

9 THE WITNESS: I don't have any
10 recollection of any other members weighing in on my
11 map.

12 BY MS. VEGA SAMUEL:

13 Q Okay. Let's move on to August 2021's
14 redistricting hearings.

15 Now did you participate in any of
16 those House redistricting hearings that occurred in
17 August of 2021?

18 A I don't recall participating in any of
19 the August hearings.

20 Q Okay. Now, Representative, did you
21 review the proposed August 2021 map before it was
22 passed for how the lines in your district would be
23 modified?

24 A There's two questions there. Do I recall

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1 reviewing a revised map in August, I do.

2 Q And did you review it for how your
3 boundary lines would be modified?

4 A I recall reviewing a legislative map in
5 August of this year with respect to the new what
6 would be the 21st representative district. I'm not
7 sure if I can expound on that beyond what I just
8 said.

9 Q Okay. That's fine.

10 A Yeah.

11 Q Now when you reviewed that map as you
12 just described it, who was in the room when you
13 reviewed the map?

14 A Well, there was no room. Jon Maxson,
15 again, reached out to me and asked for an
16 appointment to look at a revised map for August,
17 and we did Zoom -- or Google Meet.

18 Q Okay. And it was -- was it just you and
19 Mr. Maxson on that Zoom Meet?

20 A Yes.

21 Q Okay. Now, in between -- or for that
22 August -- before the August 2021 map passed did you
23 communicate with Speaker Welch or the House staff
24 regarding any concerns you may have had on your

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1 Representative, can you look at
2 that -- I'm really going to focus just on this
3 page, but did you see -- did you get a chance -- I
4 mean, it's, what, six pages?

5 A I see what you're -- I see an e-mail on
6 the screen.

7 Q Representative, is that your name in the
8 "from" line?

9 A It is.

10 Q And it's to Tiffany Moy. Can you tell me
11 who Tiffany Moy is?

12 A Tiffany Moy took over as Speaker Welch's
13 chief of staff in the summer of 2021.

14 Q Okay. And the subject line here is
15 Regarding Revised Legislative Maps, and it was sent
16 on Monday, August 30th, 2021. Is that accurate?

17 A Correct.

18 Q Okay. And is it fair to say that this
19 e-mail represents that you and Representative Aaron
20 Ortiz agreed to some kind of change in the 2020 --
21 in the August 2021 redistricting plan?

22 A That's a fair assessment.

23 Q Okay. When did you agree to that change
24 with Representative Ortiz?

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1 A I don't recall the date. The e-mail -- I
2 don't recall.

3 Q Okay. And was this in reference to the
4 preference you requested that you mentioned right
5 before we got off -- right before the break?

6 A Excuse me. Yes.

7 Q Okay. Can you tell me if the discussion
8 with Representative Ortiz -- Strike that.

9 So you just stated that you had
10 discussed with Representative Ortiz to -- some kind
11 of -- made an agreement to some kind of
12 modification. Is it fair to say that that
13 modification was not made?

14 A No, it's not fair to say that. It was --
15 it was -- well, can you repeat your question?

16 Q Okay. Can you tell me in your own words
17 if the agreement between you and Representative
18 Ortiz was not implemented in the August 2021 map?

19 MS. YANDELL: Object to form.

20 THE WITNESS: Counsel, I'm not trying to
21 be difficult. Your question is is it fair to say
22 that the change me and Ortiz agreed to was not
23 incorporated into the August map?

24

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1 BY MS. VEGA SAMUEL:

2 Q Can you tell me whether or not the
3 agreement you and Rep. Ortiz made made it into the
4 August 2021 map?

5 A It made it into the August 2021 map.

6 Q Okay. And can you tell me what that was,
7 what the agreement was?

8 A Yes. Me and Ortiz agreed to take a
9 portion of the 14th Ward in the City of Chicago,
10 place it into Representative District 21, and take
11 a piece of the 23rd Ward in the City of Chicago and
12 place it into Representative District 1.

13 Q Okay. And what was the basis for that
14 swap?

15 A Representative Ortiz had --

16 MS. YANDELL: Object to form. Just give
17 me one second to get the objections in if I need
18 them.

19 THE WITNESS: Sorry. Sorry, Libby.

20 BY MS. VEGA SAMUEL:

21 Q You can answer.

22 A Representative Ortiz had broached with me
23 the idea of making a change to the districts where
24 a portion of the 14th Ward would go into

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1 Representative 21 and a portion of the 23rd Ward
2 would go into -- a portion of 14th Ward of the City
3 of Chicago would go into Representative 21 and a
4 portion of the 23rd Ward of the City of Chicago
5 would go into Representative 1.

6 Q Okay. So what was the reasoning or
7 rational behind swapping those out?

8 MS. YANDELL: Object to the form to the
9 extent that it's calling for speculation.

10 THE WITNESS: Politics.

11 BY MS. VEGA SAMUEL:

12 Q What kind of politics?

13 A Representative Ortiz in the precinct we
14 swapped in a either state representative or
15 committeeman's race, I can't recall which, had lost
16 that precinct or there was a rep. candidate that
17 had lost that precinct. He had preferred go into
18 my district, and he'd prefer that the portion I had
19 go into his district.

20 Q And do you recall who that politician was
21 in that race that you mentioned?

22 A I don't recall anything -- any more
23 detail than what I just offered.

24 Q Okay. Thank you.

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1 I think that's it for this exhibit.
2 Thanks, Juan.

3 Great. Okay. Representative, I'm
4 going to walk you through some questions related to
5 the resolutions that were passed specific to the
6 2021 legislative -- state legislative redistricting
7 cycle. So, Representative, did House Bill 2777
8 maps, that included the maps passed on May 28th,
9 2021?

10 A Yes.

11 (Witness referred to previously
12 marked Exhibit 10.)

13 BY MS. VEGA SAMUEL:

14 Q Okay. I'm going to show you what's
15 already been marked as Exhibit 10. It's House
16 Resolution 0359.

17 Representative, are you able to see
18 this?

19 A I am.

20 Q Okay. Great. So I'm just going to focus
21 on -- now, Representative, this was the house
22 resolution passed along with HB2777 or, as I'm
23 going to start referring to it, as the June 2021
24 maps that were passed; is that correct?

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1 A I don't know how to characterize the bulk
2 because I don't know -- I don't know what that
3 means in terms of how it's being described. I do
4 acknowledge House District 2 includes a portion of
5 Cicero.

6 Q Okay. Now as you see, Cicero, the red
7 block, the red outline, incorporates two other
8 districts besides proposed House District 2?

9 A Okay.

10 Q Do you see that?

11 A Yes.

12 Q Okay. Can you tell me what the other two
13 proposed House districts that have parts of Cicero
14 in them are?

15 A Representative District 21 and
16 Representative District 23.

17 Q To your knowledge do you know how
18 proposed House District 2 got such a large portion
19 of Cicero?

20 MS. YANDELL: Object to form.

21 THE WITNESS: No. To my knowledge, no.

22 BY MS. VEGA SAMUEL:

23 Q Okay. Thank you.

24 Representative, did you have any

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1 conversation with Representative Lisa Hernandez to
2 discuss the boundaries of Cicero in this proposed
3 August 2021 map?

4 A I had conversation --

5 MS. YANDELL: Object to form.

6 THE WITNESS: I had conversations with
7 Representative Hernandez about proposed district
8 boundaries. The extent of which it had to do with
9 Cicero I don't recall.

10 BY MS. VEGA SAMUEL:

11 Q Okay. What parts of her district do you
12 recall discussing?

13 A There were two component parts. She
14 was -- her husband was the Cicero Township
15 Democratic committeeman. As I recall, there was a
16 desire on her part to sort of get more turf, what
17 we refer to as turf, which is geography, in Cicero,
18 and then in the 2018 primary she had an opponent
19 who lived in Berwyn. We had a specific
20 conversation of where that person lived, and we
21 talked about the political nature of the district
22 boundaries with relation to where that gentleman
23 lives.

24 Q Do you recall who that candidate was in

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1 2018 that ran against Representative Hernandez?

2 A I believe his name was Robert Reyes,
3 Counsel, but I don't want to be held to that. I
4 don't recall specifically.

5 Q Thank you. Excuse me.

6 Okay. Representative, did you have
7 any conversations with Representative Edgar
8 Gonzalez to discuss the boundaries of Cicero in
9 August of 2021?

10 A I don't recall specific conversations
11 with Edgar Gonzalez about Cicero.

12 Q Who do you recall having conversations
13 about proposed District 23 related to Cicero?

14 A I recall -- can you be more specific with
15 that question?

16 Q Sure. So I just asked you if you spoke
17 with Representative Gonzalez. You said no, but you
18 said I don't -- how about this. How about we have
19 the court reporter read it back, your response to
20 my question about Edgar Gonzalez.

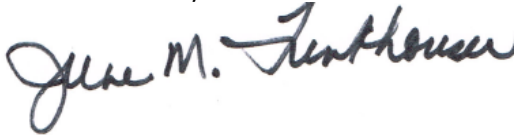
21 Ms. Court Reporter?

22 THE REPORTER: Yes.

23 (Whereupon the record was read
24 by the reporter as follows:

1 The undersigned is not interested in the
2 within case, nor of kin or counsel to any of the
3 parties.

4 Witness my official signature and seal as
5 Notary Public in and for Kane County, Illinois, on
6 the 5th day of November, A.D. 2021.

7 

8 JUNE M. FUNKHOUSER, CSR, RMR

9 Notary Public

 License No. 084-003024

10 One North Franklin Street, Suite 3000

 Chicago, Illinois 60606

11 Phone: (312) 442-9087

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF K A N E)

3 The within and foregoing videoconference
4 deposition of the aforementioned witness was
5 reported remotely by JUNE M. FUNKHOUSER, CSR, RMR
6 and Notary Public, at the date and time
7 aforementioned.

8 There were present via videoconference
9 during the taking of the deposition the previously
10 named counsel.

11 The said witness was first duly sworn via
12 videoconference and was then examined upon oral
13 interrogatories; the questions and answers were
14 taken down in shorthand by the undersigned, acting
15 as stenographer and Notary Public; and the within
16 and foregoing is a true, accurate and complete
17 record of all of the questions asked of and answers
18 made by the aforementioned witness, at the time and
19 place hereinabove referred to.

20 The signature of the witness was not
21 waived, and the deposition was submitted, pursuant
22 to Rule 30(e) of the Rules of Civil Procedure for
23 the United States District Courts, to the deponent
24 per copy of the attached letter.

Exhibit D to Yandell Declaration

Atkinson-Baker, a Veritext Company
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CERTIFIED COPY

JULIE CONTRERAS, IRVIN FUENTES,)
ABRAHAM MARTINEZ, IRENE PADILLA,)
ROSE TORRES, LAURA MURPHY,)
CRISTINA FLORES, JOSE ALCALA,)
TROY HERNANDEZ, GABRIEL PEREZ,)
IVAN MEDINA, ALFREDO CALIXTO,)
HISPANIC LAWYERS ASSOCIATION OF)
ILLINOIS and PUERTO RICAN BAR)
ASSOCIATION OF ILLINOIS,)

Plaintiffs,)

-vs-)

No. 1:21-cv-3139

ILLINOIS STATE BOARD OF)
ELECTIONS, IAN K. LINNABARY,)
WILLIAM J. CADIGAN, LAURA K.)
DONAHUE, WILLIAM M. MCGUFFAGE,)
CATHERINE S. MCCRORY, RICK S.)
TERVEN, SR. and CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, and THE)
OFFICE OF THE PRESIDENT OF THE)
ILLINOIS SENATE, EMANUEL)
CHRISTOPHER WELCH, in his)
official capacity as Speaker of)
the Illinois House of)
Representatives, and THE OFFICE)
OF THE SPEAKER OF THE ILLINOIS)
HOUSE OF REPRESENTATIVES,)

Defendants.)

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1 did you work with to create House district 21?

2 A By members, do you mean members of the General
3 Assembly?

4 Q Yes, yes.

5 A House district 21 would have been created as a
6 result of conversations with Representative Zalewski and
7 surrounding members because, obviously, any change
8 that's made to a neighboring district is going to have
9 an impact on this district to some extent.

10 Q Okay. And was it, in fact, drawn in conjunction
11 with Representative Zalewski?

12 A Can you define drawn in conjunction with?

13 Q Well, the way you were just defining it, did he
14 help you draw this district?

15 A Representative Zalewski provided some input on
16 the district lines which were taken into consideration,
17 among other factors.

18 Q Okay. And what were those other factors?

19 A Achieving equal population, total population.

20 Q And what else?

21 A The interests of members in neighboring
22 communities, neighboring districts which ultimately have
23 impact on the configuration of what this district looked
24 like.

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1 Q And what else?

2 A Those are the primary guiding factors that I can
3 think of.

4 Q And when you say the neighboring -- members from
5 the neighboring districts, which members had input on
6 the boundaries of HD 21 before May 28th, 2021?

7 A What I would say is that the requests and the
8 input that we received from representatives in all of
9 the neighboring districts ultimately had an impact on
10 what district 21 looked like.

11 Q Okay. Whose decision was it to lower or whose
12 decision was it to put the Latino CVAP of that district
13 at 42.2 percent?

14 MR. VAUGHT: Objection on foundation. I don't think
15 you have established that anybody made that decision.

16 MR. HERRERA: Q If you know.

17 A Again, I would -- I think your question implies
18 that there was a decision made to draw the district to
19 that specific citizen voting age population, and that is
20 not a conversation that I ever had.

21 Q So you mentioned the neighboring districts that
22 were members who had input on the boundaries of HD 21,
23 who were those members before May 28th, 2021?

24 A I think we touched on one earlier when we

1 discussed how Representative Guerrero Cuellar wanted to
2 include the Midway Airport and a number of the
3 surrounding neighborhoods. That, obviously, had an
4 impact on what the 21st district looked like.

5 And I would say that the other members of the
6 House Democratic caucus in that area also had feedback
7 on their specific communities that ultimately impacted
8 the 21st district.

9 Q Okay. And who were those other members besides
10 Representative Guerrero Cuellar?

11 A Representative Lisa Hernandez, Aaron Ortiz,
12 Representative Edgar Gonzalez, and going even as far
13 east as Representative Theresa Mah, Representative Sonya
14 Harper and others in that area.

15 As I said, every district that is drawn
16 necessarily has an impact on surrounding districts.
17 We're not drawing these in a vacuum.

18 Q I understand.

19 Did any of those other members you just
20 mentioned comment specifically on the boundaries of
21 House district 21?

22 A Not that I recall.

23 Q What do you recall about what these other
24 members said about the boundaries of House district 21?

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1 A Once again, I don't recall them making specific
2 comments on the boundaries of district 21.

3 Q Okay. You said -- also, you said Lisa
4 Hernandez. Which district is that?

5 A I believe the new number for her district is
6 district No. 2.

7 Q And how many times did you meet with Lisa
8 Hernandez about her district boundaries?

9 MR. VAUGHT: Objection, you've asked and answered
10 about Representative Hernandez before, but you can
11 answer again.

12 THE WITNESS: To my previous answer, I find it
13 difficult to characterize the number of meetings that I
14 had with her given her role as the chairperson of the
15 redistricting committee.

16 I met with her dozens of times over the last
17 several months related to redistricting.

18 MR. HERRERA: Q And is Representative Lisa
19 Hernandez also known as Elizabeth Hernandez?

20 A That's correct.

21 Q Okay. And what do you recall from your meetings
22 with Representative Lisa Hernandez before May 28, 2021,
23 in terms of her comments on the boundaries of House
24 district 21?

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1 2011 map, or are you talking about in preparation for
2 the 2021 map?

3 MR. HERRERA: Q In preparing either of the 2021
4 maps, did you ever examine the Hispanic citizen voting
5 age population of House district 23 as it was in the
6 2011 adopted maps?

7 A I would have seen the Hispanic citizen voting
8 age population for the 23rd district prior to the
9 passage of the May map when I loaded the 2011 districts
10 into the American Community Survey data.

11 What I would say about that 23rd district,
12 though, is that it would not have been drawn to equal
13 population, so it would not have been the final version
14 of the district or a district that you could rightly
15 characterize as being of a certain makeup because it's
16 not the final -- not the final version of district equal
17 population.

18 Q Did anyone from the -- so you used -- When you
19 were drawing the HB2777 maps back in the spring of 2021,
20 you were using the 2011 adopted maps as a starting
21 point, right?

22 A It was a -- one of several places we started at,
23 yes.

24 Q Okay. So in returning to the SB927 maps, did

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1 anyone from the -- any members of the House Democratic
2 caucus ever tell you that you should draw representative
3 district 23 to be equal population to other districts
4 without regard to the Hispanic citizen voting age
5 population of that district?

6 A No member of the Democratic caucus mentioned the
7 Latino or Hispanic voting age population of the 21st
8 district to me.

9 Q In preparing the maps for SB927, after May 28th
10 2021, but before August 31st, 2021, did you ever have a
11 discussion with Representative Zalewski about the
12 Hispanic citizen voting age population of his district?

13 A No.

14 Q Did you ever have, between May 28th and August
15 31st, 2021, did you have any meetings with
16 Representative Zalewski about his district?

17 A Can you repeat the timeline.

18 Q Sure.

19 Between May 28th and August 31st, 2021, did you
20 meet with Representative Zalewski about his district?

21 A Yes.

22 Q Okay. And how many times did you meet?

23 A At least once, possibly two or three times,
24 though.

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1 Q And what did you discuss with Representative
2 Zalewski during those meetings?

3 A We would have discussed what the census figures
4 showed in terms of total population for his district,
5 what, if any, further adjustments needed to be made and
6 how he would like to go about getting his district to
7 equal total population.

8 Q Okay. And in order to get Representative
9 Zalewski's -- Well, let me take this down.

10 MR. HERRERA: I think we can take a break. Heather,
11 were you asking for a break?

12 MR. VAUGHT: We were just making sure the witness is
13 okay. We can keep going.

14 MR. HERRERA: Okay. All right. Let's open up -- I
15 think we can take a break soon, but I just wanted to
16 show a map really quickly.

17 So I'm going to pull up another document. And
18 for the attorneys, this is -- it says Illinois House
19 September 2021 adopted map.

20 And let's see here. All right. So I'll ask
21 that we mark this as Exhibit 24.

22 (Exhibit 24 marked as requested.)

23 MR. HERRERA: Q And do you recognize this
24 document, Mr. Maxson?

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1 Q What staff member was that?

2 A Darrin Reinhart.

3 Q And did you say that person's first name was
4 Darrin?

5 A Darrin with a D, yes.

6 Q For ease of purpose, man or woman?

7 A He is a man.

8 Q Man.

9 And so you and Mr. -- you worked with
10 Mr. Reinhart with respect to Metro East, fair to say?

11 A Mr. Reinhart and I both worked with the members
12 of the delegation, of the caucus to create this
13 district, yes.

14 Q And which members are those?

15 A Representative Greenwood, Representative
16 Hoffman, Representative Katie Stuart.

17 Q With Representative Stuart representing 112,
18 Representative Hoffman representing 113, and
19 Representative Greenwood representing 114?

20 A That's correct.

21 Q What, if anything, did Representative Stuart say
22 to you or to Mr. Reinhart as to what her goals were with
23 respect to district 112?

24 A I don't recall what specifically the goals that

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1 Representative Stuart had for her district.

2 Q What goals did you have? Did you or
3 Mr. Reinhart identify any goals for district 112?

4 A First and foremost, the district needed to be
5 drawn to equal population.

6 I think second of all keeping the Edwardsville
7 base of that district together was important politically
8 for Representative Stuart.

9 And then beyond that what could be done within
10 reason to enhance the Democratic performance of the
11 112th district.

12 Q And did you feel like you accomplished all three
13 of those goals in HB2777?

14 A I would say that the -- in terms of population
15 questions, we did that as much as -- using the best
16 information we had.

17 With regard to the political questions, I would
18 wait and see what the outcome of the future elections is
19 to weigh in on that.

20 Q How about Representative Hoffman, did he
21 identify goals that he had with respect to district 113?

22 A Representative Hoffman's goals were to maintain
23 the Belleville senator of his district and as much as
24 possible to be politically in a position where he and

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1 Representative Stuart -- and Representative Greenwood's
2 districts would be at about an equal Democratic
3 performance, which is where they started at.

4 Q And how did you know that that's where they
5 started?

6 A Looking at those races that I had identified for
7 the MALDEF attorney, they were approximately the same
8 level of Democratic performance of those districts.

9 Q And you're referring to the presidential races
10 in 2016 and 2020, the gubernatorial race in 2014, and
11 the controller's race in 2016?

12 A That's correct.

13 Q Did I leave any out?

14 A Not that I recall.

15 Q Prior to the passage of SB927, did you look at
16 any other races other than those to assess Democratic
17 performance?

18 A I believe we also looked at some countywide
19 election results and the individual results from
20 Representatives Greenwood, Hoffman, and Stuart in their
21 previous races.

22 Q Did you do that anywhere else in the state?

23 A Yes.

24 Q Where else in the state did you look at local

1 races?

2 A In the Chicago suburbs.

3 Q And were those numbers integrated into the
4 Democratic performance numbers that would show up when
5 you were on the AutoBound system?

6 A No.

7 Q Those were things that you looked at
8 independently of that?

9 A That's correct.

10 Q Now, in Exhibit 23, I can pull that up, share my
11 screen. If I did this correctly, it should say combo
12 race figures on the top?

13 A That's correct.

14 Q All right. So, you know, looking at -- You
15 recall looking at this document when Mr. Herrera was
16 asking you questions?

17 A I do.

18 Q Okay. So in terms of this document, did this
19 document reflect at all in the D index column the local
20 races that you referenced?

21 A No.

22 Q Why did you choose to look at some of the local
23 races in Metro East?

24 A Because the individual legislators in that area

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1 Q Sorry. Well, one of the things that you were
2 trying to do was, to the extent possible, keep
3 communities together, is that right, keep municipalities
4 together?

5 A Certainly, it is a goal.

6 Q And were you aware that you moved some
7 population from 114 to 113 in Washington Park?

8 A I was not aware, no.

9 Q Okay. So you weren't aware that you split up a
10 predominantly black community in Metro East?

11 A No.

12 Q Okay. Now, what this map also shows is that you
13 had to -- that the decision that was made was basically
14 to extend 114 to the south and the east between the 2011
15 plan and SB927, is that accurate?

16 A Yes.

17 Q And are you aware that the population to the
18 south and to the east of 114 is a predominantly white
19 population?

20 A I cannot characterize the entire area of the
21 south or the east in broad terms.

22 Q Okay. So would you -- so you don't have any
23 idea that the demographic -- of the racial demographics
24 of the area south and east of -- in the south and

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1 eastern parts of Metro East?

2 A I'm sorry, what's that?

3 Q So are you telling me that you're not aware of
4 the racial demographics of the area in the southern and
5 eastern parts of Metro East?

6 A It's not something that we were giving primary
7 consideration to.

8 Q So that the Democrats were not giving primary
9 consideration to the racial demographics of district 11?

10 MR. VAUGHT: Objection. He just said the Democrats.
11 Mr. Maxson is testifying on his behalf.

12 MR. GREENBAUM: Q All right. Did the Democrats
13 ever mention any concern about the racial demographics
14 of HD 114?

15 A I don't understand what you mean by the
16 Democrats.

17 Q Anybody, any elected official in the Democratic
18 party, state elected official in the Democratic party?

19 A They did not express that to me.

20 Q Not a single one?

21 A I am but one person, though.

22 Q What did you say?

23 A I am only one person, though.

24 Q Okay. Did Representative Greenwood ever mention

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1 to you that he was concerned about the racial
2 demographics of HD 114?

3 A Not that I recall.

4 Q Okay. Did you ever hear anybody in the
5 community express any concern about the racial
6 demographics with respect to HD 114?

7 A Not that I recall.

8 Q Did you read all of the transcripts of the
9 various redistricting hearings that took place across
10 the state?

11 A I made an effort to listen to the hearings. And
12 if I was unable to hear hearings, I did try to read the
13 transcripts.

14 Q And you knew that there was a hearing in
15 St. Louis?

16 A Yes.

17 Q And did you either listen to that hearing or
18 read the transcript of that hearing?

19 A I can't recall.

20 Q Did you take into account any concerns that were
21 identified by any of the people who testified at that
22 hearing with respect to HD 114?

23 A I can't recall the specifics of the testimony,
24 so I can't answer that.

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1 STATE OF ILLINOIS)
) ss:
2 COUNTY OF COOK)

4 The within and foregoing deposition of the
5 aforementioned witness was taken before TRACY L.
6 BLASZAK, CSR, CRR, and Notary Public, at the place, date
7 and time aforementioned.

8 There were present during the taking of the
9 deposition the previously named counsel.

10 The said witness was first duly sworn and was
11 then examined upon oral interrogatories; the questions
12 and answers were taken down in shorthand by the
13 undersigned, acting as stenographer and Notary Public;
14 and the within and foregoing is a true, accurate and
15 complete record of all of the questions asked of and
16 answers made by the aforementioned witness, at the time
17 and place hereinabove referred to.

18 The signature of the witness was not waived,
19 and the deposition was submitted, pursuant to
20 Rules 30(e) and 32(d) of the Rules of Civil Procedure
21 for the United States District Court, to the deponent
22 per copy of the attached letter.

23 The undersigned is not interested in the within
24 case, nor of kin or counsel to any of the parties.

1 Witness my official signature and seal as
2 Notary Public in and for Cook County, Illinois, on this
3 4th day of November, A.D. 2021.
4
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8



TRACY L. BLASZAK, CSR, CRR

CSR No. 084-002978

One North Franklin Street

Suite 3000

Chicago, Illinois 60606

Phone: (312) 442-9087

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Exhibit E to Yandell Declaration

Leader Jim Durkin
316 State Capitol Building
Springfield, IL 62706

Leader Dan McConchie
309G State Capitol Building
Springfield, IL 62706

Dear Leaders Durkin and McConchie:

In May, the General Assembly passed a legislative redistricting plan set forth in House Bill 2777 which was signed into law by the Governor as Public Act 102-0010. On August 12, 2021, the United States Census Bureau released the 2020 Census Public Law 94-171 population data to the States, including Illinois.

The President and Speaker have convened a Special Session of the General Assembly for 12:00 pm on August 31, 2021 to consider legislative measures related to the legislative redistricting plan, including amending Public Act 102-0010 to incorporate the 2020 Census Public Law 94-171 population data recently released by the U.S. Census Bureau.

The House and Senate Redistricting Committees will hold a series of public hearings to gather input and recommendations for potential adjustments to the legislative boundaries. The following hearings have been scheduled to date:

- Thursday, Aug. 26 at 1 p.m. – Joint House and Senate Hearing in Room C-600, 6th Floor, Michael A. Bilandic Building, 160 N LaSalle St, Chicago, IL
- Friday, Aug. 27 at 10 a.m. – House Hearing (In-Person Hearing) at IBEW Local 309, 2000 Mall St., Collinsville, IL
- Friday, Aug. 27 at 12 p.m. – Senate Hearing (Virtual Hearing – participants may testify at the hearing location or via Zoom) in Will County Board Room, 302 N. Chicago St., Joliet, IL
- Saturday, Aug. 28 at 10 a.m. – Joint House and Senate Hearing (Virtual Hearing – participants may testify in person or via Zoom) in the Gilmore Auditorium at the Peoria Riverfront Museum, 222 SW Washington St, Peoria, IL
- Saturday, Aug. 28 at 12 p.m. – House Hearing (Virtual Hearing – participants may testify via Zoom)
- Saturday, Aug. 28 at 3 p.m. – Senate Hearing (Virtual Hearing – participants may testify at the hearing location or via Zoom) in the Vermilion Room located on the 2nd Floor of the Southern Illinois University at Carbondale SIU Student Center, 1255 Lincoln Dr., Carbondale, IL
- Sunday, Aug. 29 at 10 a.m. – House Hearing (In-Person Hearing) in the Phillips Park Visitors' Center, 1000 Ray Moses Dr., Aurora, IL

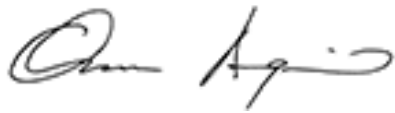
To reiterate our previous appeals, we invite you and your caucuses to submit any redistricting plans, adjustments to the enacted plan, testimony, and hearing witnesses you wish to have considered. If you have any testimony you would like to present at a hearing, please let us know

at which hearing you or your designated witness would like to testify and how much time will be needed.

With the robust hearing schedule and special session over the next week, we ask that you submit to the Redistricting Committees any redistricting plans, adjustments to the enacted plan, testimony, and/or hearing witnesses you wish to have considered as soon as you are able.

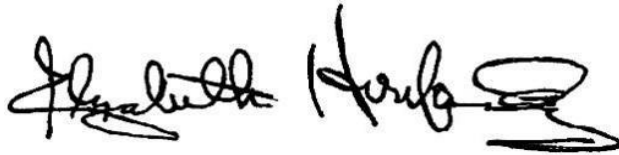
We look forward to continued engagement with you and other groups to enact a legislative map that continues to represent the rich diversity of Illinois.

Sincerely,

A handwritten signature in black ink, appearing to read "Omar Aquino".

Senate Omar Aquino

Chair of the Senate Redistricting Committee

A handwritten signature in black ink, appearing to read "Elizabeth Hernandez".

Representative Elizabeth Hernandez

Chair of the House Redistricting Committee

CC: Jason Barickman, Minority Spokesperson of the Senate Redistricting Committee
Tim Butler, Minority Spokesperson of the House Redistricting Committee
Andrew Freiheit, Chief of Staff to Leader Durkin
Dale Righter, Chief of Staff to Leader McConchie

Exhibit F to Yandell Declaration



GENERAL ASSEMBLY

STATE OF ILLINOIS

August 26, 2021

Dear Chairpersons Aquino and Hernandez:

Illinois deserves a legislative map that puts voters ahead of politicians. Illinois needs a legislative map that complies with the United States and Illinois Constitutions and other federal and state laws. It is clear that Illinois Democrats have no intention of enacting such a map. As the *Chicago Tribune* observed this week, you “releged on the voters of Illinois.”

It is evident that your prior plan, H.B. 2777, is unconstitutional and unlawful. That plan, which is the subject of ongoing federal litigation, has a maximum population deviation of approximately 30%—three times the deviation over which a plan becomes presumptively invalid under federal law and well beyond the “tolerable limit” of the Equal Protection Clause. When pressed by the three-judge tribunal whether they would continue defending the plan in light of its obvious failings, your attorneys would not commit to defending it, repeatedly acknowledging your “math problem.”

The General Assembly no longer has authority to enact a redistricting plan. Under our Constitution, that responsibility has shifted to the Legislative Redistricting Commission, which has enacted four of the five decennial legislative plans since 1970.

We and countless community advocates warned you that the H.B. 2777 plan was unconstitutional. We urged you to wait until the release of the decennial census counts. In your reckless zeal, you ignored these warnings.

Now, again, you are rushing. The problems of your prior plan are so inherent and severe that it must be abandoned. As counsel for the Mexican American Legal Defense and Educational Fund (MALDEF) told the U.S. District Court last week, “tinkering with lines” based on American Community Survey (ACS) estimates, which “ignore essential elements of community composition,” is “doomed to fail again.” We agree.

Any lawful redistricting plan, particularly in a state with the rich diversity of Illinois, must be developed in full compliance with the Equal Protection Clause and the federal Voting Rights Act. The data necessary to determine that compliance became available only two weeks ago, and the General Assembly cannot guarantee that compliance in the handful of days you have allotted this month. Your rush to fix your unconstitutional plan betrays your insincerity.

Your insincerity extends, too, to your appeal for participation. You withheld a map from public review until the week of passage at the end of our spring session. You shared drafts only with your caucus members in a secret, locked room deep beneath the Capitol, outside of public view. In crafting that map, you disregarded almost every public comment—except for those cherry-picked few that served your own interests. You pushed through an unconstitutional map over the strenuous objections of the dozens of community organizations who testified about it.

This flagrant disregard for the public interest is the consequence of politicians' sense of entitlement. This is why politicians should not draw maps.

If you sincerely desired to collaborate with us, MALDEF, or the many other community advocates who have stepped forward to craft a map that Illinois needs and deserves, you would have afforded the necessary time for proper analysis of the data and provided drafts of your own ideas well in advance of any hearing. You would have invited a dialogue, rather than pushed a *fait-accompli*. You would have taken the locks off of your secret map drawing room and welcomed public scrutiny. So will you commit to unveiling any map at least 14 days before a final vote, as requested by good government and community advocates?

History suggests not. We were asked to vote on a map with not even 24 hours' notice on one of the last days of the spring session. Earlier this week in court, MALDEF's attorneys asked yours whether and when you would share your new proposed map. No answer was given.

We will continue analyzing the data released earlier this month so that we can make an informed judgment about any proposal. But the ultimate judgment on a map will be reserved for the Commission and, if necessary, the courts.

Sincerely,



Jim Durkin
House Republican Leader



Dan McConchie
Senate Republican Leader

Exhibit 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA, and
ROSE TORRES

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K. LINNABARY,
WILLIAM J. CADIGAN, LAURA K. DONAHUE,
WILLIAM R. HAINE, WILLIAM M.
MCGUFFAGE, KATHERINE S. O'BRIEN, and
CASANDRA B. WATSON in their official capacities
as members of the Illinois State Board of Elections,
DON HARMON, in his official capacity as President
of the Illinois Senate, and THE OFFICE OF THE
PRESIDENT OF THE ILLINOIS SENATE,
EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of the
Illinois House of Representatives, and the OFFICE
OF THE SPEAKER OF THE ILLINOIS HOUSE
OF REPRESENTATIVES,

Defendants.

Case No. 1:21-cv-03139

Circuit Judge Michael B. Brennan,
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

DECLARATION OF STATE SENATOR CELINA VILLANUEVA

I, Celina Villanueva, do hereby declare under penalty of perjury that the foregoing is true and correct:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration. The evidence presented in this declaration is based on my personal knowledge and information I believe to be true.

2. I was born in Chicago and raised in Little Village, a neighborhood located in the Chicago community known as South Lawndale. I have organized in and advocated for my community since I was a teenager and serve my community as an elected State Senator.
3. I am a graduate of the University of Illinois with a B.A in Latina/Latino Studies with minors in African American Studies and Spanish.
4. I have experience working as a community organizer for various organizations in the Chicagoland area, including Latinx communities. I have worked for the Illinois Coalition for Immigrant and Refugee Rights (ICIRR), Illinois Migrant Council, Illinois Unites for Marriage, Instituto del Progreso Latino, Erie Neighborhood House, Enlace Chicago, and Chicago Votes.
5. As the Director of Organizing at Chicago Votes, I worked to engage young voters in the democratic process and supported the organization's push for legislative solutions for easier voter registration laws. While at ICIRR, I successfully organized communities to pressure lawmakers to update voting laws, with a specific focus on making voter registration more accessible. As part of our advocacy, we helped pass legislation related to online voter registration, same-day registration, and automatic voter registration. I also ran the largest immigrant civic engagement program in the state, registering over 200,000 new American voters.
6. I have experience as a political consultant for various candidates and campaigns.
7. I was appointed as the State Representative for the 21st District in the House of Representatives in 2018 and was elected at the General Election in 2018. I was appointed as the State Senator for Illinois' 11th District in 2020 and elected at the 2020 General Election.

8. As a lifelong resident of the area, I am very familiar with the geography, demographics, and political ideology of Chicago's southside, especially South Lawndale and the Little Village neighborhood. As State Senator for the 11th District, I am familiar with the political boundaries of our communities and neighborhoods.
9. Little Village is well known as the center of Mexican commerce and culture in the city of Chicago, and it is the largest Mexican neighborhood in Chicago. It is a vibrant economic engine for Chicago, and the people share many socio-economic characteristics. The community is a largely immigrant community with many households that include family members with different immigration statuses living under one roof. I worked at several community organizations that offered ESL English as a Second Language classes to the Little Village community since Spanish is the most common spoken language in Little Village. During this time, I learned that a significant population of Little Village immigrants have a 3rd or 6th grade education from Mexico, so those organizations started offering Alfabetización to help people with basic grammar skills. The population of this neighborhood has steadily declined, and the community is in danger of being transformed over the next decade due to gentrification. In my experience, the residents tend to align with the more progressive ideologies and issues that lead them to favor candidates that reflect those values, regardless of ethnicity.
10. In my experience as a community and political organizer, it is apparent that Latinos are not all the same and do not always vote for the same candidates. Like other communities populated by immigrants or immigrant heritage, such as the Irish or Polish, our communities break along ideological lines. We have very distinct progressive and moderate factions, and these differences are very apparent when it comes to southside

politics, particularly in the Democratic Primary where many Latinos pull Democratic ballots, but do not vote for the same type of Democrat.

11. Little Village and another predominantly Latinx neighborhood, Pilsen, have had a long history of fighting against the political machine. The Independent Political Organization of the 22nd Ward (“IPO”) was founded in the early 1980s in large part due to the blatant disregard for the Black and Brown communities of the ward by then Alderman Frank Stemberk, a white Chicago machine politician. In 1983, Rudy Lozano Sr., a founding member of the IPO, waged a tough campaign against Stemberk and barely lost. In 1984, another active member of the IPO, Jesus “Chuy” Garcia, defeated Stemberk for the 22nd Ward Democratic Committeeman. In 1986, Chuy Garcia won a special election to replace Stemberk as Alderman. Today, the Independent Political Organization of the 22nd Ward is still active and supporting progressive candidates for office that will fight for the priorities of Little Village and surrounding community. The Pilsen community in the 25th Ward has a similar organization born in the 1980s out of similar frustration with a white Alderman, Vito Marzullo, “representing” a non-white ward until the federal court redrew the ward in the mid-80s and Marzullo retired.
12. These community organizations formed as coalitions of independent, now progressive, Latino, Black and White community folks who were tired of not receiving basic services, like having their trash picked up. That is why, to this day, community groups in our area provide a multitude of services independent of government and remain locally based within the neighborhood because communities like Little Village and Pilsen demand services that are not as simple as tree trimming and graffiti blasting, but basic health,

safety, and life services, such as basic grammar skills, immigration assistance, and legal advocates.

13. I have direct knowledge of several political races that highlight the divide between the progressive and moderate Latinos. One example is the 2018 Democratic Primary Election between Latino incumbent Joe Berrios and White challenger Fritz Kaegi. In 2017, the Independent Political Organization of the 22nd Ward and County Commissioner Chuy Garcia endorsed Fritz Kaegi for Assessor over then-incumbent Joe Berrios. Kaegi was supported, regardless of Berrios' heritage, because Kaegi was a progressive and Berrios was not. During that Democratic Primary, Berrios received only 45% of the vote in the 22nd Ward and only 29% in the 25th Ward. However, election results show Berrios received much higher percentages of the votes in the more moderate Latino areas, such as the 13th Ward (Berrios received 56%) and Cicero Township (Berrios received 60%). These are Latino areas with different, distinct political philosophies and voting habits.

14. Another race which highlights the divide between the progressive and moderate Latinos is the 2016 Democratic Primary for States Attorney. Kim Foxx, an African-American, was the progressive choice against then-incumbent Anita Alvarez, a conservative Latina. Foxx received over 50% of the vote in the 22nd Ward and 52.61% in the 25th Ward, but received only 27.65% in Cicero Township, 24.84% in the 13th Ward, 27.23% in the 14th Ward, and 35.89% in Berwyn Township. Four years later Foxx, the African American progressive, fought hard and beat Bill Conway, a White moderate candidate in the 2020 Democratic Primary. Again, the election results show the differing political ideologies. Bill Conway received over 56% of the vote in Cicero Township, 42.81% in Berwyn

Township, 56.5% in the 13th Ward, 57.14% in the 23rd Ward and 48.59% in the 14th Ward, but he received only 37.12% and 31.03% in the 22nd and 25th Wards.

15. The progressive political nature of the 22nd and 25th Wards was also on display in the 2016 and 2020 Democratic Presidential Primaries when progressive candidate Bernie Sanders overwhelming won both Wards (55.10% in the 22nd Ward and 58.57% in the 25th Ward in 2016 and 65.97% in the 22nd Ward and 61.39% in the 25th Ward in 2020).
16. The General Assembly's 2011 legislative map created what is currently the 21st Representative District. This District is similar to the 21st Representative District proposed by the *Contreras* Plaintiffs and the 22nd Representative District proposed by the *McConchie* Plaintiffs. Like those Plaintiffs' proposals, the 2011 21st Representative District diluted the political power coming out of Little Village. In the 2012 Democratic Primary, Rudy Lozano Jr., a progressive candidate from Little Village that was supported by the IPO, lost the race by 330 votes to Silvana Tabares, a Latina candidate favored by moderate factions from the far side of the district.
17. I was involved in the 2021 redistricting process as a State Senator and as the sub-Vice Chair for the Senate Redistricting Committee's Chicago south region.
18. During the redistricting process, I made specific recommendations related to my District. One of those recommendations was to include the community of Little Village in one district, rather than have it divided across multiple districts. It is my belief that the community would benefit from and have the best representation if it is located wholly within one Legislative District, and preferably one Representative District. I am of the opinion fracturing Little Village will dilute the political power and negatively impact the influence of this strong community.

19. When members of the General Assembly began redistricting discussions, I shared with my colleagues my recommendation that Little Village be wholly located in one district. To the best of my recollection, other Latinx members shared my desire to protect the boundary of Little Village, and other colleagues were supportive of this request.
20. This recommendation was based on my desire to protect the political power of this neighborhood. The southside of Chicago is incredibly politically diverse, but the people living in and around Little Village tend to be more politically progressive. It is an area that encourages younger people to become political active, and as a result, over the past decade numerous people under 30 have been appointed or elected to positions. The political ideology and party politics of the area has led to overwhelming support for progressive candidates, including non-Latinx candidates such as Senator Bernie Sanders, Kim Foxx, and Fritz Kaagi. A legislative map that divides Little Village into multiple districts, including those with more moderate or conservative ideologies, will fracture the political cohesion that currently exists and reverse many of the significant political advances made by local Latinx leaders and politicians.
21. My recommendation was also made based on my belief that regardless of political tendencies, all residents of the area share the view that we must work together to protect this neighborhood, fight for better educational opportunities for our children, build better job opportunities, and work to prevent gentrification. Fracturing the political power of the community would harm their ability to work together to advance their community.
22. During the legislative session, members of the General Assembly worked together to ensure the legislative map complied with federal and state laws and the traditional redistricting principles articulated in the resolutions approved by both chambers. As a

Latina Senator, it was incredibly important to me that the entire map maximize opportunities for Latinos to participate in the process and elect the candidates of their choice. In my opinion, determining whether the map has maximized opportunities for Latinos to elect the candidates of their choice does not solely require examining the demographics or the political indexes of areas, but also requires a real life understanding of the political dynamics of communities.

23. During the process, members had difficult conversations and recognized the reality that there are several factions of the Democratic Party, including progressives and moderates.
24. Based on my understanding of the demographics, and my political experience and knowledge of the political dynamics of the southside of Chicago, I supported Senate Bill 927 because it maximizes opportunities for Latinos to elect the candidates of their choice. I also supported Senate Bill 927 because I believe it will help increase opportunities for Latinos to choose the candidate of their choice, which will likely increase the number of Latinos serving in the General Assembly.
25. I am an immigrant rights organizer. I have been present when ICE raids have happened; I have driven the streets to help provide support in those situations. I have hosted events with community organizations around issues such as citizenship applications, DACA applications, and Know Your Rights because I understand my community on the deepest level. It is not just the work I do, it is my own experience. My mom was a naturalized citizen and I came into organizing because as kids, my mom would take us with her to help volunteer at citizenship workshops to help other people become citizens—because someone had done the same to help her. Services like this are important to the Little Village community.

26. When COVID hit, I knew what was going to happen because the backbone of the service industry lives in our area. The hotel workers, the airport workers, the folks working in grocery stores, the folks working in the restaurant industry are our neighbors and friends. These individuals were, and still are, essential. They went to work so that our economy did not crater and food was on the shelves or table. Due to these great risks, our community needed more testing and vaccines. I hosted many PPE events and food distribution events, where the lines wrapped around buildings and blocks down the street. Sometimes we would be out of food in 20 minutes because the need was so great. Those are the services the Little Village, Pilsen and similar communities need.
27. I have reviewed the changes proposed by the *Contreras* and *McConchie* plaintiffs and have drawn my own conclusions about the impact on the southside of Chicago and Latinos serving in the General Assembly. Plaintiffs' proposals would split Little Village into multiple separate districts, splitting a vital community of interest, and thereby dilute the ability of Latino voters to elect the candidate of their choice. The changes proposed by both Plaintiffs would substantially alter the recommendations made by several incumbent members, including those that reflect the desire of their constituents and various political concerns of members.

Executed on November 22, 2021, in Chicago, Illinois.



Celina Villanueva

Exhibit 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03091
v.)	
	)	Circuit Judge Michael B. Brennan
CHARLES SCHOLZ, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	

JULE CONTRERAS, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03139
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF	)	Chief District Judge Jon E. DeGuilio
ELECTIONS, <i>et al.</i>,	)	District Judge Robert M. Dow, Jr.
)	
Defendants,	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	

DECLARATION OF ILLINOIS STATE REPRESENTATIVE THERESA MAH

I, Theresa Mah, do hereby declare under penalty of perjury that the foregoing is true and correct:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration. The evidence presented in this declaration is based on my personal knowledge and information I believe to be true.
2. I am a second-generation Chinese American born of Chinese immigrants in San Francisco, California. I moved to Chicago in 1991 to pursue graduate studies.

3. I have a B.A. in history from the University of California Berkeley and a Ph.D. in history from the University of Chicago. My dissertation was entitled "Buying into the Middle Class: Residential Segregation and Racial Formation in the United States, 1920–1964."
4. As a former college professor, I have taught classes on history, ethnic studies, and Asian American studies.
5. I have experience working as a community organizer and policy advocate for various organizations in the Chicagoland area, including Illinois Coalition for Immigrant and Refugee Rights (ICIRR) and the Coalition for a Better Chinese American Community (CBCAC).
6. At CBCAC, I focused on efforts to increase voter registration, voter education and turnout; increasing the voting power of the Chinese American community through redistricting; advocating for a new Chinatown library and fieldhouse; preventing the closure of the Chinatown Post Office; and educating community members to become more involved in lobbying their elected officials on various issues.
7. I served as a senior advisor in former Illinois Governor Pat Quinn's administration and worked on efforts to improve diversity and minority representation in state government, including implementation of the first Asian American Employment Plan.
8. In 2016, I was a candidate in the Democratic Primary for State Representative in the 2nd District. It was a two-way primary, and I successfully defeated my challenger, Latino candidate Alex Acevedo, the son of the retiring incumbent Edward Acevedo. I ran unopposed in the General Election and was elected the first Asian American in the Illinois General Assembly.
9. I ran unopposed in the 2018 Democratic Primary and General Election.

10. I was opposed in the 2020 Democratic Primary by Bobby Martinez Olson and Kenneth Kozlar. I received 67% of the votes. I was unopposed in the 2020 General Election.
11. As the first Asian American elected to the General Assembly, I am uniquely aware that the Asian American community has historically been underrepresented in Chicago and state politics.
12. As a longtime resident, community advocate, and public official in the area, I am very familiar with the geography, demographics, and political ideology of Chicago's south side, especially the greater Chinatown community.
13. Chinatown is well known as the center of Asian American commerce and culture in the city of Chicago. It is a vibrant economic and cultural engine for Chicago, and the people of the greater Chinatown community share many socio-economic characteristics.
14. The greater Chinatown community is located on the south west side of Chicago. Anchored by the century-old Chinatown neighborhood, the community has been expanding for decades with Chinese American population growing in the neighborhoods of Bridgeport, McKinley Park, Brighton Park, and Archer Heights along and near Archer Avenue which connects the more commercial center of Chinatown with the more residential communities to the southwest. *See Manny Ramos, Chicago's Asian Population, Fastest Growing in the City, Is Booming South of Chinatown – Especially in Former Daley Stronghold*, Chicago Sun-Times, (Nov. 9, 2021, 5:30 AM), <https://chicago.suntimes.com/2021/11/9/22751188/asian-american-population-bridgeport-archer-avenue-chinatown-2020-census-mckinley-park-armour-square>
15. In 2011, after extensive lobbying on behalf of the Asian American community, the General Assembly adopted a legislative redistricting plan that placed the core of the

greater Chinatown community in one House district and allowed for the creation of the first Asian American coalition district. Subsequently, Latinos and Asian Americans came together to elect me as the first Asian American member of the General Assembly. *See* Rich Miller, *How the South Side Elected Theresa Mah, Illinois' First Asian-American Lawmaker*, Crain's Chicago Business (Apr. 29, 2016, 7:00 AM)

<https://www.chicagobusiness.com/article/20160429/NEWS02/160429795/how-the-south-side-elected-theresa-mah-illinois-first-asian-american-lawmaker>; *see also* Dan

Mihalopoulos, *Mihalopoulos: First Asian American State Rep Leads Diverse Area*, Chicago Sun Times (Jan. 3, 2017, 7:48 PM),

<https://chicago.suntimes.com/2017/1/3/18351559/mihalopoulos-first-asian-american-state-rep-leads-diverse-area>.

16. I was involved in the 2021 redistricting process as a State Representative and served as member of the House Redistricting Committee.
17. During the 2021 redistricting process, I recommended that the General Assembly prioritize keeping the greater Chinatown community together similar to 2011. The neighborhoods of Bridgeport, McKinley Park, and Brighton Park have continued to see significant growth in Chinese Americans and have many similarities with Chinatown. Together these areas form an important community of interest in which the population share many common concerns, such as concerns about immigration, discrimination, education, language access, and culturally appropriate services.
18. This recommendation was based on my desire to protect the political power of this community. Fracturing the political power of the community would harm their ability to work together to advance their community and their unique interests.

19. I reviewed Senate Bill 927 when it was introduced and confirmed that House District 2 was drawn to keep the greater Chinatown community together in one district.
20. Based on my understanding of the redistricting principles, the demographics of this area of Chicago, and my political experience, I supported Senate Bill 927 because it maximizes opportunities for Asian Americans to elect the candidates of their choice, while increasing opportunities for Latinos to choose the candidate of their choice, which will likely increase the number of minorities serving in the General Assembly.
21. I have reviewed the changes proposed by the *Contreras* and *McConchie* Plaintiffs. I am incredibly concerned about the impact their proposed changes would have on the southwest side of Chicago, especially the greater Chinatown community. Both proposals fracture the greater Chinatown community by separating the Chinatown neighborhood from many of the areas in Bridgeport, McKinley Park, and Brighton Park that have been experiencing growth in Chinese American population. By pairing Chinatown with a significant portion of Little Village, the proposals diminish the influence of Asian Americans and two very diverse political factions will be forced to engage in political fights, rather than working together to benefit the community. Historically, the 11th Ward, which includes much of the Chinatown community, and the Little Village neighborhood (Wards 12 and 22) often support different candidates, and it is highly unlikely that these communities would coalesce around one candidate of choice. Like the splitting of the greater Chinatown community, the fracturing of the core of Little Village will be detrimental to that community of interest and its political influence. Little Village and the greater Chinatown community deserve to form the base of their own House districts to maximize the influence of two important, historical communities of interest in Chicago.

Executed on November 23, 2021, in Chicago, Illinois.

A handwritten signature in black ink, appearing to read 'Theresa Mah', written over a horizontal line.

Theresa Mah

Exhibit 6

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03091
v.)	
	)	Circuit Judge Michael B. Brennan
CHARLES SCHOLZ, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	

JULE CONTRERAS, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-03139
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF ELECTIONS, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)
)	
)	

EAST ST. LOUIS BRANCH NAACP, <i>et al.</i> ,)	
)	
Plaintiffs,	)	Case No. 1:21-CV-05512
v.)	
	)	Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF ELECTIONS, <i>et al.</i>,	)	Chief District Judge Jon E. DeGuilio
	)	District Judge Robert M. Dow, Jr.
Defendants,)	
	)	Three-Judge Court
	)	Pursuant to 28 U.S.C. § 2284(a)

DECLARATION OF JOSEPH SODOWSKI

I, Joseph “Miles” Sadowski, do hereby declare under penalty of perjury that the foregoing is true and correct:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration. The evidence presented in this declaration is based on my personal knowledge and information I believe to be true.
2. I have worked in the Office of the Senate President since May of 2014. I am currently the Deputy Director of the Policy and Budget Staff of the Office of the Senate President. In 2021, I was responsible for overseeing the day-to-day operations of the legislative redistricting process for the Senate Democratic Caucus.
3. Between March 2021 and passage of the June Redistricting Plan, the Senate held approximately 25 public hearings. In August 2021, the Senate held 5 additional public hearings. I attended, watched, or read transcripts of the hearings, or had a staff member provide me with a summary of the hearing. The hearings were often structured by geographical regions of the State, and at times, the Democratic and Republican members from the geographic region would participate.
4. Most hearings were virtual or hybrid, a combination of in-person and virtual. To my knowledge, all hearings were broadcast live on the Illinois General Assembly’s website (www.ilga.gov).
5. Any individual interested in testifying was given an opportunity, and witnesses could share their screens to provide for more interactive feedback in real time. Any individual or group interested in submitting testimony was given the email address for submission of such testimony. If an individual or representative of a group could not attend one or more hearings, they could contact any committee member or submit testimony through

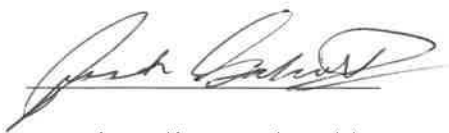
the general email address for the Redistricting Committee. Documents submitted for the Committee's consideration were available to the public on the Illinois General Assembly website and redistricting websites created by each chamber.

6. To identify groups and individuals with an interest in the 2021 redistricting process, House and Senate Democratic staff worked together and emailed or telephoned community groups, community leaders, and not-for-profit organizations, including many who participated during the 2011 redistricting cycle. I estimate that staff made hundreds of initial calls, and hundreds more throughout the entire redistricting process.
7. Between March 2021 and May 2021, approximately 161 witnesses testified before the Senate Redistricting Committee or at joint hearings with the House Redistricting Committee.. Approximately 30 witnesses testified during the Senate's August hearings. Any recommendations provided were reviewed by staff and Members and were posted on the Committee's General Assembly website.
8. After the Census Bureau released the 2020 Census data, I analyzed the General Assembly Redistricting Act of 2021 and determined the maximum population deviation for some Senate Districts and the House Districts exceeded 10%. I began reviewing potential changes to the June Redistricting Plan to ensure equal population among the districts.
9. During the process of preparing SB 927, "the September Plan", staff contacted individuals and groups to invite input and recommendations, including groups affiliated with the Plaintiffs.
10. I was involved in drawing all regions of the June map and September map plans. I am familiar with the districts, many of the communities of interest, and some of the recommendations made by incumbent members.

11. I reviewed the proposed districts to ensure all Senate Districts achieved substantially equal population throughout the map. When equalizing population, I did not consider the racial or ethnic composition of the population. However, I did consider the Democratic index and adjust to account for political composition of a district or neighboring districts, governmental boundaries, such as municipalities and wards, the cores of prior districts, and any communities of interest.
12. I reviewed each of the Plaintiffs' proposals for changes to the September Plan. I analyzed the shapefiles and the demographics of the populations in each district changed under the proposals. I reviewed the section of the Defendant's submission detailing the proposed remedial plans and compared the description of the changes with the shapefiles provided by Plaintiffs. In my opinion, the Defendant's descriptions of the Plaintiffs' proposed changes to district boundaries, as well as the impact of such changes, are accurate.
13. Using the shapefiles provided and the redistricting software used to prepare the September Plan, I prepared matrices comparing the populations of the September Plan and each of the Plaintiffs' plans. Copies of my matrices are attached.
14. Using the shapefiles provided and the redistricting software used to prepare the September Plan, I prepared the maps and figures in the Defendant's submission that related to the Senate districts.
15. In my opinion, many of the Plaintiffs' proposed changes appear to use race as the predominant factor to alter district boundaries of challenge districts, ignore traditional redistricting principles, make changes that do not necessarily address the alleged deficiency with the challenged district, or make changes that alter the political

composition of the district in such a way that the incumbent party could lose an election in the district.

Executed on November 24, 2021, in Springfield, Illinois.

A handwritten signature in dark ink, appearing to read "Joseph Sodowski", written over a horizontal line.

Joseph "Miles" Sodowski

Exhibit A to Sodowski Declaration

September Redistricting Plan

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
1	Munoz	75.06%	4.50%	2.40%	70.27%	6.6%	2.4%	59.6%	Landek/Villanueva	69.98%	4.27%	1.82%	61.79%	6.2%	2.0%	50.9%
2	Aquino	83.88%	7.99%	3.32%	53.39%	10.3%	3.0%	46.3%	Open	78.16%	4.74%	5.45%	59.41%	5.8%	5.6%	51.0%
3	Hunter	88.11%	48.36%	8.60%	15.19%	56.1%	5.3%	8.8%	Hunter	88.60%	52.32%	8.54%	11.33%	60.0%	5.1%	6.2%
4	Lightford	77.32%	45.84%	2.30%	18.89%	51.3%	1.8%	12.4%	Lightford	77.00%	45.77%	2.30%	18.28%	51.2%	1.8%	11.9%
5	Van Pelt	85.30%	39.76%	8.86%	10.36%	44.7%	5.7%	7.8%	Van Pelt	85.30%	39.76%	8.86%	10.36%	44.7%	5.7%	7.8%
6	Feigenholtz	73.79%	4.09%	7.64%	7.88%	4.5%	5.3%	6.7%	Feigenholtz	73.79%	4.09%	7.64%	7.88%	4.5%	5.3%	6.7%
7	Simmons	85.22%	14.73%	10.24%	15.60%	14.2%	7.4%	11.8%	Simmons	85.22%	14.73%	10.24%	15.60%	14.2%	7.4%	11.8%
8	Villivalam	63.64%	5.62%	25.11%	14.45%	5.2%	21.3%	12.0%	Villivalam	63.64%	5.62%	25.11%	14.45%	5.2%	21.3%	12.0%
9	Fine	67.19%	8.23%	15.00%	7.92%	8.5%	11.4%	6.2%	Fine	67.19%	8.23%	15.00%	7.92%	8.5%	11.4%	6.2%
10	Martwick	58.05%	1.68%	6.69%	23.18%	1.6%	5.5%	20.0%	Martwick	57.16%	1.71%	7.46%	20.78%	1.7%	5.8%	18.0%
11	Villanueva	68.31%	4.18%	1.94%	57.26%	4.9%	1.8%	47.7%	Open	69.30%	4.75%	1.68%	60.05%	5.6%	1.8%	50.8%
12	Landek	84.08%	5.19%	15.68%	65.63%	9.3%	14.8%	55.5%	Munoz	83.48%	6.55%	16.65%	61.85%	11.5%	15.1%	51.2%
13	Peters	87.66%	49.76%	8.73%	11.67%	54.6%	4.3%	10.4%	Peters	87.66%	49.76%	8.73%	11.67%	54.6%	4.3%	10.4%
14	Jones	74.49%	48.65%	1.74%	10.93%	51.9%	1.5%	7.8%	Jones	74.49%	48.65%	1.74%	10.93%	51.9%	1.5%	7.8%
15	Harris	75.76%	54.16%	1.12%	10.92%	56.7%	1.0%	6.5%	Harris	75.76%	54.16%	1.12%	10.92%	56.7%	1.0%	6.5%
16	Collins	83.49%	51.20%	1.03%	21.00%	58.9%	0.8%	13.8%	Open	78.79%	33.10%	1.20%	37.36%	40.6%	1.0%	26.2%
17	Sims	83.86%	64.62%	0.32%	14.66%	67.0%	0.3%	10.1%	Sims	83.86%	64.62%	0.32%	14.66%	67.0%	0.3%	10.1%
18	Cunningham	55.86%	17.12%	2.07%	11.39%	17.9%	1.8%	9.1%	Cunningham/Collins	62.40%	29.09%	1.62%	9.71%	30.3%	1.4%	7.6%
19	Hastings	53.76%	24.59%	2.36%	6.11%	25.5%	2.3%	4.8%	Hastings	53.76%	24.59%	2.36%	6.11%	25.5%	2.3%	4.8%
20	Pacione-Zayas	82.46%	3.60%	6.79%	47.19%	3.9%	6.6%	40.1%	Pacione-Zayas/Aquino	84.67%	6.38%	4.81%	37.88%	7.8%	4.2%	33.0%
21	Ellman	50.63%	4.91%	13.28%	7.80%	5.0%	8.8%	5.8%	Ellman	50.39%	4.77%	14.03%	7.09%	4.8%	9.1%	5.6%
22	Castro	60.71%	5.46%	13.66%	38.78%	6.6%	12.0%	26.9%	Castro	60.71%	5.46%	13.66%	38.78%	6.6%	12.0%	26.9%
23	Cullerton/ Glowiak Hilton	50.40%	4.29%	13.50%	16.91%	4.8%	11.2%	11.1%	Cullerton/ Glowiak Hilton	50.84%	4.34%	13.41%	18.44%	4.8%	11.0%	12.1%
24	Open	44.80%	2.81%	10.59%	10.10%	3.1%	7.9%	6.9%	Open	44.39%	2.83%	10.67%	10.08%	3.2%	8.2%	7.0%
25	Villa	55.41%	5.85%	9.19%	36.10%	6.5%	7.5%	26.7%	Villa	56.91%	6.33%	7.23%	40.18%	7.8%	6.6%	29.0%
26	McConchie	42.73%	1.28%	10.70%	7.91%	1.5%	8.1%	5.0%	McConchie	42.73%	1.28%	10.70%	7.91%	1.5%	8.1%	5.0%
27	Gillespie	50.60%	2.47%	12.10%	14.11%	2.4%	7.6%	8.5%	Gillespie	50.60%	2.47%	12.10%	14.11%	2.4%	7.6%	8.5%
28	Murphy	53.50%	2.95%	18.44%	14.47%	3.4%	13.6%	10.9%	Murphy	53.99%	3.11%	17.93%	16.45%	3.4%	13.2%	12.8%
29	Morrison	56.06%	2.71%	10.49%	11.93%	2.8%	7.6%	7.7%	Morrison	56.06%	2.71%	10.49%	11.93%	2.8%	7.6%	7.7%
30	Johnson	63.15%	10.50%	12.61%	34.41%	14.4%	7.9%	21.5%	Johnson	63.15%	10.50%	12.61%	34.41%	14.4%	7.9%	21.5%
31	Bush	52.88%	7.91%	6.57%	25.26%	8.0%	5.1%	15.5%	Bush	52.88%	7.91%	6.57%	25.26%	8.0%	5.1%	15.5%
32	Wilcox	40.87%	1.34%	2.09%	11.30%	1.4%	1.5%	7.2%	Wilcox	40.87%	1.34%	2.09%	11.30%	1.4%	1.5%	7.2%
33	DeWitte	43.59%	2.49%	6.37%	13.40%	2.5%	5.4%	9.5%	DeWitte	43.59%	2.49%	6.37%	13.40%	2.5%	5.4%	9.5%
34	Stadelman	51.67%	14.90%	2.92%	17.01%	15.0%	1.8%	10.6%	Stadelman	51.67%	14.90%	2.92%	17.01%	15.0%	1.8%	10.6%
35	Syverson	39.19%	1.74%	3.43%	11.33%	2.2%	3.2%	7.8%	Syverson	39.19%	1.74%	3.43%	11.33%	2.2%	3.2%	7.8%
36	Open	51.57%	9.31%	2.18%	9.86%	7.8%	1.1%	7.4%	Open	51.57%	9.31%	2.18%	9.86%	7.8%	1.1%	7.4%
37	Stoller	38.21%	2.07%	1.99%	7.50%	2.0%	0.7%	5.7%	Stoller	38.21%	2.07%	1.99%	7.50%	2.0%	0.7%	5.7%
38	Rezin	45.20%	5.69%	1.93%	11.98%	5.8%	1.1%	8.5%	Rezin	45.20%	5.69%	1.93%	11.98%	5.8%	1.1%	8.5%
39	Harmon	73.20%	17.04%	3.95%	33.56%	19.2%	3.0%	25.5%	Harmon	75.14%	17.22%	3.56%	36.40%	19.4%	2.7%	28.6%
40	Joyce	52.70%	25.23%	0.92%	12.07%	25.3%	0.8%	8.3%	Joyce	52.70%	25.23%	0.92%	12.07%	25.3%	0.8%	8.3%
41	Curran	45.74%	3.68%	9.89%	7.16%	4.2%	8.4%	6.0%	Curran	45.15%	3.55%	9.98%	6.55%	4.2%	8.4%	5.6%
42	Holmes	53.50%	8.33%	10.50%	19.68%	8.8%	6.5%	14.8%	Holmes	52.71%	7.99%	11.70%	16.30%	7.7%	7.1%	12.6%
43	Connor	57.36%	15.25%	3.98%	26.79%	17.6%	3.1%	16.5%	Connor	57.36%	15.25%	3.98%	26.79%	17.6%	3.1%	16.5%
44	Turner	31.20%	3.00%	2.50%	2.51%	3.4%	1.2%	2.0%	Turner	31.20%	3.00%	2.50%	2.51%	3.4%	1.2%	2.0%
45	Stewart	36.49%	3.44%	0.96%	4.77%	2.9%	0.7%	2.9%	Stewart	36.49%	3.44%	0.96%	4.77%	2.9%	0.7%	2.9%
46	Koehler	53.87%	17.53%	2.83%	5.99%	16.5%	1.7%	3.8%	Koehler	53.87%	17.53%	2.83%	5.99%	16.5%	1.7%	3.8%
47	Anderson	37.64%	1.81%	0.68%	2.43%	2.0%	0.5%	1.8%	Anderson	37.64%	1.81%	0.68%	2.43%	2.0%	0.5%	1.8%
48	Turner	47.64%	17.32%	2.22%	2.53%	15.6%	1.1%	1.7%	Turner	47.64%	17.32%	2.22%	2.53%	15.6%	1.1%	1.7%
49	Cappel	53.24%	11.41%	7.68%	19.32%	11.8%	5.8%	15.5%	Cappel	53.24%	11.41%	7.68%	19.32%	11.8%	5.8%	15.5%
50	Tracy	30.15%	3.43%	0.58%	2.60%	3.7%	0.4%	1.7%	Tracy	30.15%	3.43%	0.58%	2.60%	3.7%	0.4%	1.7%
51	Rose	28.24%	2.42%	0.73%	2.85%	2.6%	0.5%	2.2%	Rose	28.24%	2.42%	0.73%	2.85%	2.6%	0.5%	2.2%
52	Bennett	58.01%	15.20%	12.47%	7.44%	15.7%	5.3%	4.6%	Bennett	58.01%	15.20%	12.47%	7.44%	15.7%	5.3%	4.6%
53	Barickman	30.81%	1.52%	1.07%	4.39%	1.7%	0.7%	3.2%	Barickman	30.81%	1.52%	1.07%	4.39%	1.7%	0.7%	3.2%

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)				Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %				Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
54	McClure	29.44%	1.12%	0.54%	1.68%	1.4%	0.3%	1.0%		McClure	29.44%	1.12%	0.54%	1.68%	1.4%	0.3%	1.0%
55	Plumer/Bailey	27.00%	2.83%	0.70%	2.33%	3.2%	0.6%	1.6%		Plumer/Bailey	27.00%	2.83%	0.70%	2.33%	3.2%	0.6%	1.6%
56	Crowe	47.75%	11.72%	1.41%	4.52%	10.6%	0.9%	2.5%		Crowe	45.54%	9.92%	1.46%	3.96%	8.9%	1.0%	2.3%
57	Belt	54.22%	31.44%	1.34%	3.53%	31.8%	0.9%	2.6%		Belt	56.55%	33.24%	1.29%	4.11%	33.5%	0.9%	2.9%
58	Tracy	28.79%	4.11%	0.62%	1.94%	5.0%	0.5%	1.7%		Tracy	28.79%	4.11%	0.62%	1.94%	5.0%	0.5%	1.7%
59	Fowler	34.94%	6.93%	1.56%	2.83%	8.0%	0.6%	2.1%		Fowler	34.94%	6.93%	1.56%	2.83%	8.0%	0.6%	2.1%

Senate Matrix - Comparison of September Plan and Contreras Plan
prepared by Miles Sodowski

September Redistricting Plan									Contreras Plaintiffs Proposed Plan								
Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %	
1	Munoz	75.06%	4.50%	2.40%	70.27%	6.6%	2.4%	59.6%	Villanueva	71.36%	4.61%	1.56%	64.00%	5.5%	1.7%	54.0%	
2	Aquino	83.88%	7.99%	3.32%	53.39%	10.3%	3.0%	46.3%	Aquino	83.67%	6.62%	3.14%	57.06%	7.8%	3.0%	50.8%	
3	Hunter	88.11%	48.36%	8.60%	15.19%	56.1%	5.3%	8.8%	Hunter	88.11%	48.36%	8.60%	15.19%	56.1%	5.3%	8.8%	
4	Lightford	77.32%	45.84%	2.30%	18.89%	51.3%	1.8%	12.4%	Lightford	77.38%	46.26%	2.29%	18.51%	51.7%	1.8%	12.0%	
5	Van Pelt	85.30%	39.76%	8.86%	10.36%	44.7%	5.7%	7.8%	Van Pelt	85.71%	40.79%	8.71%	11.69%	46.6%	5.5%	8.3%	
6	Feigenholtz	73.79%	4.09%	7.64%	7.88%	4.5%	5.3%	6.7%	Feigenholtz	73.79%	4.09%	7.64%	7.88%	4.5%	5.3%	6.7%	
7	Simmons	85.22%	14.73%	10.24%	15.60%	14.2%	7.4%	11.8%	Simmons	85.22%	14.73%	10.24%	15.60%	14.2%	7.4%	11.8%	
8	Villivalam	63.64%	5.62%	25.11%	14.45%	5.2%	21.3%	12.0%	Villivalam	63.64%	5.62%	25.11%	14.45%	5.2%	21.3%	12.0%	
9	Fine	67.19%	8.23%	15.00%	7.92%	8.5%	11.4%	6.2%	Fine	67.19%	8.23%	15.00%	7.92%	8.5%	11.4%	6.2%	
10	Martwick	58.05%	1.68%	6.69%	23.18%	1.6%	5.5%	20.0%	Martwick	58.05%	1.68%	6.69%	23.18%	1.6%	5.5%	20.0%	
11	Villanueva	68.31%	4.18%	1.94%	57.26%	4.9%	1.8%	47.7%	Landek	71.54%	3.92%	1.63%	66.08%	5.8%	1.7%	54.4%	
12	Landek	84.08%	5.19%	15.68%	65.63%	9.3%	14.8%	55.5%	Munoz	83.31%	5.32%	16.70%	63.02%	9.4%	15.2%	53.4%	
13	Peters	87.66%	49.76%	8.73%	11.67%	54.6%	4.3%	10.4%	Peters	87.66%	49.76%	8.73%	11.67%	54.6%	4.3%	10.4%	
14	Jones	74.49%	48.65%	1.74%	10.93%	51.9%	1.5%	7.8%	Jones	74.49%	48.65%	1.74%	10.93%	51.9%	1.5%	7.8%	
15	Harris	75.76%	54.16%	1.12%	10.92%	56.7%	1.0%	6.5%	Harris	75.76%	54.16%	1.12%	10.92%	56.7%	1.0%	6.5%	
16	Collins	83.49%	51.20%	1.03%	21.00%	58.9%	0.8%	13.8%	Collins	83.49%	51.20%	1.03%	21.00%	58.9%	0.8%	13.8%	
17	Sims	83.86%	64.62%	0.32%	14.66%	67.0%	0.3%	10.1%	Sims	83.86%	64.62%	0.32%	14.66%	67.0%	0.3%	10.1%	
18	Cunningham	55.86%	17.12%	2.07%	11.39%	17.9%	1.8%	9.1%	Cunningham	55.86%	17.12%	2.07%	11.39%	17.9%	1.8%	9.1%	
19	Hastings	53.76%	24.59%	2.36%	6.11%	25.5%	2.3%	4.8%	Hastings	53.76%	24.59%	2.36%	6.11%	25.5%	2.3%	4.8%	
20	Pacione-Zayas	82.46%	3.60%	6.79%	47.19%	3.9%	6.6%	40.1%	Pacione-Zayas	82.19%	3.62%	7.13%	42.54%	4.1%	6.7%	36.1%	
21	Ellman	50.63%	4.91%	13.28%	7.80%	5.0%	8.8%	5.8%	Ellman	50.63%	4.91%	13.28%	7.80%	5.0%	8.8%	5.8%	
22	Castro	60.71%	5.46%	13.66%	38.78%	6.6%	12.0%	26.9%	Castro	60.71%	5.46%	13.66%	38.78%	6.6%	12.0%	26.9%	
23	Cullerton/ Glowiak Hilton	50.40%	4.29%	13.50%	16.91%	4.8%	11.2%	11.1%	Cullerton/ Glowiak Hilton	50.40%	4.29%	13.50%	16.91%	4.8%	11.2%	11.1%	
24	Open	44.80%	2.81%	10.59%	10.10%	3.1%	7.9%	6.9%	Open	44.80%	2.81%	10.59%	10.10%	3.1%	7.9%	6.9%	
25	Villa	55.41%	5.85%	9.19%	36.10%	6.5%	7.5%	26.7%	Villa	55.41%	5.85%	9.19%	36.10%	6.5%	7.5%	26.7%	
26	McConchie	42.73%	1.28%	10.70%	7.91%	1.5%	8.1%	5.0%	McConchie	42.73%	1.28%	10.70%	7.91%	1.5%	8.1%	5.0%	
27	Gillespie	50.60%	2.47%	12.10%	14.11%	2.4%	7.6%	8.5%	Gillespie	50.60%	2.47%	12.10%	14.11%	2.4%	7.6%	8.5%	
28	Murphy	53.50%	2.95%	18.44%	14.47%	3.4%	13.6%	10.9%	Murphy	53.50%	2.95%	18.44%	14.47%	3.4%	13.6%	10.9%	
29	Morrison	56.06%	2.71%	10.49%	11.93%	2.8%	7.6%	7.7%	Morrison	56.06%	2.71%	10.49%	11.93%	2.8%	7.6%	7.7%	
30	Johnson	63.15%	10.50%	12.61%	34.41%	14.4%	7.9%	21.5%	Johnson	63.15%	10.50%	12.61%	34.41%	14.4%	7.9%	21.5%	
31	Bush	52.88%	7.91%	6.57%	25.26%	8.0%	5.1%	15.5%	Bush	52.88%	7.91%	6.57%	25.26%	8.0%	5.1%	15.5%	
32	Wilcox	40.87%	1.34%	2.09%	11.30%	1.4%	1.5%	7.2%	Wilcox	40.87%	1.34%	2.09%	11.30%	1.4%	1.5%	7.2%	
33	DeWitte	43.59%	2.49%	6.37%	13.40%	2.5%	5.4%	9.5%	DeWitte	43.59%	2.49%	6.37%	13.40%	2.5%	5.4%	9.5%	
34	Stadelman	51.67%	14.90%	2.92%	17.01%	15.0%	1.8%	10.6%	Stadelman	51.67%	14.90%	2.92%	17.01%	15.0%	1.8%	10.6%	
35	Syverson	39.19%	1.74%	3.43%	11.33%	2.2%	3.2%	7.8%	Syverson	39.19%	1.74%	3.43%	11.33%	2.2%	3.2%	7.8%	
36	Open	51.57%	9.31%	2.18%	9.86%	7.8%	1.1%	7.4%	Open	51.57%	9.31%	2.18%	9.86%	7.8%	1.1%	7.4%	
37	Stoller	38.21%	2.07%	1.99%	7.50%	2.0%	0.7%	5.7%	Stoller	38.21%	2.07%	1.99%	7.50%	2.0%	0.7%	5.7%	
38	Rezin	45.20%	5.69%	1.93%	11.98%	5.8%	1.1%	8.5%	Rezin	45.20%	5.69%	1.93%	11.98%	5.8%	1.1%	8.5%	
39	Harmon	73.20%	17.04%	3.95%	33.56%	19.2%	3.0%	25.5%	Harmon	73.20%	17.04%	3.95%	33.56%	19.2%	3.0%	25.5%	
40	Joyce	52.70%	25.23%	0.92%	12.07%	25.3%	0.8%	8.3%	Joyce	52.70%	25.23%	0.92%	12.07%	25.3%	0.8%	8.3%	
41	Curran	45.74%	3.68%	9.89%	7.16%	4.2%	8.4%	6.0%	Curran	45.74%	3.68%	9.89%	7.16%	4.2%	8.4%	6.0%	
42	Holmes	53.50%	8.33%	10.50%	19.68%	8.8%	6.5%	14.8%	Holmes	53.50%	8.33%	10.50%	19.68%	8.8%	6.5%	14.8%	
43	Connor	57.36%	15.25%	3.98%	26.79%	17.6%	3.1%	16.5%	Connor	57.36%	15.25%	3.98%	26.79%	17.6%	3.1%	16.5%	
44	Turner	31.20%	3.00%	2.50%	2.51%	3.4%	1.2%	2.0%	Turner	31.20%	3.00%	2.50%	2.51%	3.4%	1.2%	2.0%	
45	Stewart	36.49%	3.44%	0.96%	4.77%	2.9%	0.7%	2.9%	Stewart	36.49%	3.44%	0.96%	4.77%	2.9%	0.7%	2.9%	
46	Koehler	53.87%	17.53%	2.83%	5.99%	16.5%	1.7%	3.8%	Koehler	53.87%	17.53%	2.83%	5.99%	16.5%	1.7%	3.8%	
47	Anderson	37.64%	1.81%	0.68%	2.43%	2.0%	0.5%	1.8%	Anderson	37.64%	1.81%	0.68%	2.43%	2.0%	0.5%	1.8%	
48	Turner	47.64%	17.32%	2.22%	2.53%	15.6%	1.1%	1.7%	Turner	47.64%	17.32%	2.22%	2.53%	15.6%	1.1%	1.7%	
49	Cappel	53.24%	11.41%	7.68%	19.32%	11.8%	5.8%	15.5%	Cappel	53.24%	11.41%	7.68%	19.32%	11.8%	5.8%	15.5%	
50	Tracy	30.15%	3.43%	0.58%	2.60%	3.7%	0.4%	1.7%	Tracy	30.15%	3.43%	0.58%	2.60%	3.7%	0.4%	1.7%	
51	Rose	28.24%	2.42%	0.73%	2.85%	2.6%	0.5%	2.2%	Rose	28.24%	2.42%	0.73%	2.85%	2.6%	0.5%	2.2%	
52	Bennett	58.01%	15.20%	12.47%	7.44%	15.7%	5.3%	4.6%	Bennett	58.01%	15.20%	12.47%	7.44%	15.7%	5.3%	4.6%	
53	Barickman	30.81%	1.52%	1.07%	4.39%	1.7%	0.7%	3.2%	Barickman	30.81%	1.52%	1.07%	4.39%	1.7%	0.7%	3.2%	

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
54	McClure	29.44%	1.12%	0.54%	1.68%	1.4%	0.3%	1.0%	McClure	29.44%	1.12%	0.54%	1.68%	1.4%	0.3%	1.0%
55	Plumer/Bailey	27.00%	2.83%	0.70%	2.33%	3.2%	0.6%	1.6%	Plumer/Bailey	27.00%	2.83%	0.70%	2.33%	3.2%	0.6%	1.6%
56	Crowe	47.75%	11.72%	1.41%	4.52%	10.6%	0.9%	2.5%	Crowe	47.75%	11.72%	1.41%	4.52%	10.6%	0.9%	2.5%
57	Belt	54.22%	31.44%	1.34%	3.53%	31.8%	0.9%	2.6%	Belt	54.22%	31.44%	1.34%	3.53%	31.8%	0.9%	2.6%
58	Tracy	28.79%	4.11%	0.62%	1.94%	5.0%	0.5%	1.7%	Tracy	28.79%	4.11%	0.62%	1.94%	5.0%	0.5%	1.7%
59	Fowler	34.94%	6.93%	1.56%	2.83%	8.0%	0.6%	2.1%	Fowler	34.94%	6.93%	1.56%	2.83%	8.0%	0.6%	2.1%

Senate Matrix - Comparison of September Plan and NAAC Plan

prepared by Miles Sodowski

September Redistricting Plan**NAACP Plaintiffs Proposed Plan**

Rep. District	Incumbent	Dem Index	Voting Age Population			CVAP (ACS)			Incumbent	Dem Index	Voting Age Population			CVAP (ACS)		
			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %			Black %	Asian %	Hispanic %	Black %	Asian %	Hispanic %
56	Crowe	47.75%	11.72%	1.41%	4.52%	10.6%	0.9%	2.5%	Crowe	45.90%	12.75%	1.29%	5.11%	11.9%	0.9%	2.9%
57	Belt	54.22%	31.44%	1.34%	3.53%	31.8%	0.9%	2.6%	Belt	52.13%	30.35%	1.47%	2.93%	30.7%	1.0%	2.3%

Exhibit 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN McCONCHIE, *et al.*,)
)
Plaintiffs,) Case No. 1:21-CV-03091
v.)
) Circuit Judge Michael B. Brennan
CHARLES SCHOLZ, *et al.*,) Chief District Judge Jon E. DeGuilio
) District Judge Robert M. Dow, Jr.
Defendants,)
) Three-Judge Court
) Pursuant to 28 U.S.C. § 2284(a)
)

JULE CONTRERAS, *et al.*,)
)
Plaintiffs,) Case No. 1:21-CV-03139
v.)
) Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF) Chief District Judge Jon E. DeGuilio
ELECTIONS, *et al.*,) District Judge Robert M. Dow, Jr.
Defendants,)
) Three-Judge Court
) Pursuant to 28 U.S.C. § 2284(a)
)

EAST ST. LOUIS BRANCH NAACP, *et al.*,)
)
Plaintiffs,) Case No. 1:21-CV-05512
v.)
) Circuit Judge Michael B. Brennan
ILLINOIS STATE BOARD OF) Chief District Judge Jon E. DeGuilio
ELECTIONS, *et al.*,) District Judge Robert M. Dow, Jr.
Defendants,)
) Three-Judge Court
) Pursuant to 28 U.S.C. § 2284(a)

DECLARATION OF ILLINOIS STATE REPRESENTATIVE LATOYA GREENWOOD

I, LaToya Greenwood, do hereby declare under penalty of perjury that the foregoing is true and correct:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration. The evidence presented in this declaration is based on my personal knowledge and information I believe to be true.
2. I am an African American female and lifelong resident of East St. Louis.
3. I am a graduate of Michigan State University with a B.A. in Criminal Justice and earned a Masters of Public Administration from Southern Illinois University at Edwardsville.
4. I previously served as a member of the East St. Louis City Council, and I am currently the Executive Director of Human Resources for East St. Louis School District 189
5. In 2018, I was selected as an Edgar Fellow, which is a leadership development program at the University of Illinois Urbana-Champaign.
6. I am Democratic member of the Illinois House of Representatives who has represented the 114th District since January 2017.
7. In 2016, I won the General Election for State Representative of the 114th District over Bob Romanik, a white Republican, after I ran unopposed in the Democratic Primary.
8. I ran unopposed in the 2018 Democratic Primary and defeated Jason Medlock, a Black Republican, in the General Election.
9. I ran unopposed in the 2020 Democratic Primary and defeated Dave Barnes, a white Republican, in the General Election.
10. I am currently one of 22 members of the Black Caucus in the House of Representatives and serve in House leadership as Majority Conference Chairperson.

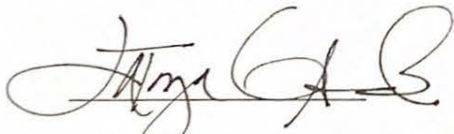
11. During my time in the House, I have worked to advance the priorities of minorities and those who are low income and disadvantaged. I have helped pass overdue reforms regarding criminal justice, education, workforce development, economic access, health care inequities, and other priorities. I have also supported voting laws that expand access to voting and make it easier for all Illinoisans to participate in the political process.
12. As a longtime resident and public official in the area, I am very familiar with the geography, demographics, and political ideology of the Metro East, which is the region located across the Mississippi River to the east of St. Louis, Missouri.
13. In a continuing pattern over the last several decades, the Metro East region experienced population loss over the last 10 years, especially in and around East St. Louis. The 114th District was particularly impacted and needed to expand to add almost 11,000 people.
14. The Metro East region, a longtime Democratic stronghold, has become more Republican as the remainder of southern Illinois has lost Democratic voters and officials.
15. I was involved in the 2021 redistricting process as a State Representative and attended the April 19, 2021 joint hearing of the House Redistricting Committee and Senate Redistricting Committee for the Metro East region.
16. During the 2021 redistricting process, I recommended that the General Assembly prioritize keeping East St. Louis within one district similar to 2011 despite population loss, while avoiding pairing the community with significant portions of larger cities in the region and maintaining the Metro East region's influence as a Democratic stronghold for the Illinois House and Senate.
17. This recommendation was based on my desire to protect the political power of East St. Louis and retain it as a base for the 114th District. Fracturing the political power of the

community or pairing it with large portions of more populous cities such as Alton, Belleville, Collinsville, or Edwardsville would harm its ability to advance its unique interests. Additionally, reducing the number of Democratic members in the region would be detrimental to the entire area by reducing the area's influence in the General Assembly. These goals remained consistent in the drawing of the map in May and August.

18. To achieve maximization of Democratic performance in the Metro East region, I worked with fellow Democratic members from the region to increase the Democratic index of House District 112 while maintaining an equal Democratic index for House Districts 113 and 114. Race was not a factor in determining the Democratic performance of the districts.
19. In May, I reviewed the House Bill 2777 map when it was introduced and confirmed the goals explained above were met.
20. In August, after release of the census data, I reviewed Senate Bill 927 when it was introduced and confirmed that East St. Louis remained within House District 114 and the map met the political goals of the region's Democratic members.
21. Based on my understanding of the redistricting principles, the demographics of the Metro East area, and my political experience, I supported Senate Bill 927 because it provides equal opportunities for Black voters to elect the candidates of their choice, and maintains the influence of East St. Louis and the Metro East region in Springfield.
22. I have reviewed the changes proposed by the *NAACP* and *McConchie* Plaintiffs. I am incredibly concerned about the impact their proposed changes would have on the Metro East region, especially the East St. Louis community. All three proposals create a district

based on Black voters but do so in ways that will end up hurting the East St. Louis community and the region. The proposals pair East St. Louis with significantly more of Belleville, Fairview Heights, and Swansea, which are larger cities. This would likely have the effect of ensuring that East St. Louis is no longer the base of its own district and limit its influence not only in the district but in the General Assembly as well. Additionally, all three proposals pair me in the district with Representative Jay Hoffman, a white male who is a longtime, well-known, and well-funded representative of the area, making it difficult for me to win. The pairing is particularly troubling in the *NAACP* liability plan and the *McConchie* plan because the majority of the population of the proposed district would be made up of Representative Hoffman's current constituents. Lastly, the reconfiguration of the districts in the three proposals would likely result in less Democratic representation in the region, further harming the influence of East St. Louis and the Metro East region in Springfield.

Executed on November 24, 2021, in East St. Louis, Illinois.

A handwritten signature in black ink, appearing to read 'LaToya Greenwood', with a horizontal line drawn through the middle of the signature.

LaToya Greenwood

Exhibit 8

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA, and
ROSE TORRES

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K. LINNABARY,
WILLIAM J. CADIGAN, LAURA K. DONAHUE,
WILLIAM R. HAINE, WILLIAM M.
MCGUFFAGE, KATHERINE S. O'BRIEN, and
CASANDRA B. WATSON in their official capacities
as members of the Illinois State Board of Elections,
DON HARMON, in his official capacity as President
of the Illinois Senate, and THE OFFICE OF THE
PRESIDENT OF THE ILLINOIS SENATE,
EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of the
Illinois House of Representatives, and the OFFICE
OF THE SPEAKER OF THE ILLINOIS HOUSE OF
REPRESENTATIVES,

Defendants.

Case No. 1:21-cv-03139

Circuit Judge Michael B. Brennan
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

DECLARATION OF STATE SENATOR CRISTINA PAIONE-ZAYAS

I, Cristina Pacione-Zayas, do hereby declare under penalty of perjury that the foregoing is true
and correct:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration. The
evidence presented in this declaration is based on my personal knowledge and
information I believe to be true.

2. I have a doctorate degree from the University of Illinois at Urbana-Champaign in Educational Policy Studies. I also hold an Ed.M. in Educational Policy Studies and a BA degree in Sociology and Spanish, also from the University of Illinois at Urbana-Champaign.
3. I have worked with Enlace Chicago and in Chicago Public Schools. As the Community Schools Director at Enlace Chicago, Cristina managed a network of eight community schools in Little Village, representing more than 1,500 youth and 650 adults. I have served as an Associate Vice President of Policy for Erikson Institute. Prior to my appointment to the Senate, I served with numerous public entities including Illinois Early Learning Council, Illinois State Team of the BUILD Initiative, Kindergarten Transition Advisory Committee of the P-20 Council, Educational Success Committee for Governor J.B. Pritzker's Transition Team, Education Committee for Mayor Lori Lightfoot's Transition Team, and Title V Needs Assessment Advisory Committee for the State's federally-mandated Maternal and Child Health Services. I was appointed and confirmed by the Senate to the Illinois State Board of Education in 2019. I also served as Director of education at the Latino Policy Forum and co-chair of The Puerto Rican Agenda of Chicago six years leading one of the largest state-side relief responses in the aftermath of the catastrophic Hurricanes Irma and Maria in 2017 and earthquakes in 2020 in Puerto Rico mobilizing over \$500,000 and investing in over 40 affected towns on the island.
4. Prior to my appointment, I was invited by local news outlets including WGN Chicago and WTTW to provide political commentary on Latino focused issues for local and national elections since 2018.

5. I was appointed as the State Senator for the Twentieth District of the Illinois State Senate in December 2020 to fill the vacancy created by the retirement of Senator Iris Martinez. Senator Martinez had served as Senator for the Twentieth Legislative District since its creation in the 2001 redistricting cycle until her election as Clerk of the Circuit Court for Cook County.
6. I was born and raised on the Northwest side of Chicago, I am very familiar with the geography, demographics, and political ideology of Chicago's northside communities. When my father came from Puerto Rico in 1954, his family resided in Lathrop Homes, a diversely populated historic landmark of public housing on the northwest side of Chicago. He met my mother at the Logan Square Boys and Girls Club in the 1970s and they both spent decades involved in community-driven work that sought to secure basic services (i.e. housing assistance, workforce training, public safety, and youth development, arts and culture) for the members of Logan Square, Palmer Square, Humboldt Park and Avondale. Growing up in this context provided unique insight to my understanding of community building, mutual aid, and collectively advancing an agenda where all historically marginalized residents can thrive. When we moved to Logan Square in 1980, it was at the height of white flight and challenged by the impact of disinvestment, abandonment of safety net services, and other expressions of systemic racism. My parents' life work along with other community-based organizations specifically attempted to close service gaps and ensure Latino and other working families stay in their homes to ultimately stabilize communities, neighborhood institutions, and schools. As lifelong residents of Logan Square, our family has witnessed the aggressive

forms of gentrification that has resulted in the significant loss of Latino population over the past twenty years.

7. As a Latina, it is my experience that not all Latinos all share the same political ideology, and do not always support the same candidates. Despite our ideological differences, Latinos have increased political power in Illinois, in part because many Latino candidates have successfully built coalitions in solidarity with other minoritized groups among others that share similar beliefs. This is particularly true for progressive Latinos, including myself, who work closely with all residents of their districts to bring out the changes necessary to bring about self-determination of the people in our communities.
8. In 2021, I served as vice-chair of the Senate Redistricting Subcommittee on Chicago Northwest. As the vice-chair of the Senate Redistricting Subcommittee on Chicago Northwest and a member of the General Assembly, it was important to me that the legislature hear from as many community groups as possible and consider all the recommendations. Both members and staff worked hard to identify and encourage individuals and groups to provide testimony or recommendations for the boundaries of the districts.
9. It was important to me that the final map reflect the recommendations and priorities of the various groups as well as the recommendations of members of the General Assembly affiliated with various caucuses in both chambers, including the Asian American caucus, Black caucuses, Latino caucuses, Progressive caucuses, Moderate caucuses, and Green caucuses. The September Map integrates those recommendations, and notably was approved unanimously by the Asian, Black, and Latino members of the General Assembly.

10. When members of the General Assembly began redistricting discussions, I shared my recommendations for the districts located in the northwest side of Chicago, including Senate District 20. My priorities included maintaining the current cores as much possible, with deviations for population or to keep together or bring together communities of interest if possible, so as not to disrupt the constituent services provided to these districts. I wanted to maximize opportunities for Democrats to elect the candidates of their choice because the past election outcomes demonstrate a strong concentration of support for Democratic candidates, but specifically Progressive candidates especially given that my predecessor served in the General Assembly for 18 years with large margins of support, and more recent elections of members of the Democratic Socialist Party in Aldermanic and Committeemen positions. Also, I prioritized drawing a map that did not pair incumbents in the northwest area of Chicago because this area has elected a strong contingent of Democratic elected officials, including many Latinos at all levels of government.
11. The recommendations I made and the priorities I had for the northwest side of Chicago were collectively aimed at protecting and growing the political power of this area in the face of great change and gentrification. The northwest side of Chicago is politically diverse, and while my community tends to be progressive as evidenced by the overwhelming turn-out for Presidential Candidate, Senator Bernie Sanders, neighboring communities are more moderate. The September Plan recognized the diverse ideology of the area and allowed each faction of the Democratic Party to exercise their voices.
12. As a Latina Senator, it was incredibly important to me that the entire map maximize opportunities for Latinos to participate in the process and elect the candidates of their

choice. In my opinion, the General Assembly achieved this goal by carefully balancing the requirements of federal and state laws and the traditional redistricting principles, many of which are articulated in the resolutions approved by both chambers.

13. I supported Senate Bill 927 because it maximizes opportunities for Latinos to elect the candidates of their choice. Rather than limiting opportunities for Latinos by packing them into a few districts, the redistricting plan approved by the General Assembly maximized the influence of Latinos. I also supported Senate Bill 927 because I believe it will help increase opportunities for other minoritized groups as well, and likely increase the number of individuals from minoritized groups serving in the General Assembly.
14. I have reviewed the changes proposed by the plaintiffs and have concluded the changes proposed will negatively impact Democrats and Latinos on the northwest side of Chicago, especially the *McConchie* plaintiffs proposal. It will likely reduce the number of Latinos serving in the General Assembly and result in fewer Latinos representing the northwest side of Chicago. Many of the changes proposed by Plaintiffs would substantially alter the decisions made by the members of the General Assembly that ultimately reflect the desire of their constituents and could change the political landscape of Illinois.

Executed on November 24, 2021, in Chicago, Illinois.

A handwritten signature in black ink, appearing to read 'Cristina H. Pacione-Zayas', written over a horizontal line.

Cristina H. Pacione-Zayas