

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

PRESS ROBINSON, EDGAR CAGE,
DOROTHY NAIRNE, EDWIN RENÉ SOULÉ,
ALICE WASHINGTON, CLEE EARNEST
LOWE, DAVANTE LEWIS, MARTHA DAVIS,
AMBROSE SIMS, NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED
PEOPLE (“NAACP”) LOUISIANA STATE
CONFERENCE, and POWER COALITION FOR
EQUITY AND JUSTICE,

Plaintiffs,

v.

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

Defendant.

Case No. 3:22-cv-00211-SDD-SDJ c/w

EDWARD GALMON, SR., CIARA HART,
NORRIS HENDERSON, and TRAMELLE
HOWARD,

Plaintiffs,

v.

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

Defendant.

Case No. 3:22-cv-00214-SDD-SDJ

PLAINTIFFS’ PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW*

* Pursuant to the Court’s instruction at the preliminary injunction hearing, Plaintiffs Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard (the “*Galmon* Plaintiffs”), Plaintiffs Press Robinson, Edgar Cage, Dorothy Nairne, Edwin René Soulé, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, NAACP Louisiana State Conference, and Power Coalition for Equity and Justice (the “*Robinson* Plaintiffs”), and Intervenor-Plaintiff Louisiana Legislative Black Caucus (together with the *Galmon* Plaintiffs and the *Robinson* Plaintiffs, “Plaintiffs”) submit these joint proposed findings of fact and conclusions of law. They address the evidence and arguments offered by Defendant R. Kyle Ardoin, in his official capacity as Louisiana Secretary of State (the “Secretary”); Intervenor-Defendant the

TABLE OF CONTENTS

CITATION GLOSSARY	vi
TRANSCRIPT INDEX.....	vi
INTRODUCTION	1
PROPOSED FINDINGS OF FACT	2
I. Plaintiffs.....	2
A. The <i>Robinson</i> Plaintiffs.....	2
B. The <i>Galmon</i> Plaintiffs.....	4
C. Intervenor-Plaintiff	5
II. Defendants	5
III. Background.....	5
A. 2020 Census and Demographic Developments	5
B. 2022 Enacted Congressional Plan.....	7
IV. Likelihood of Success on the Merits.....	9
A. First <i>Gingles</i> Precondition: Numerosity and Compactness	9
1. Numerosity.....	12
a. <i>Robinson</i> Illustrative Plans	12
b. <i>Galmon</i> Illustrative Plans.....	13
c. Use of the AP Black Metric	14
2. Geographic Compactness.....	17
a. Contiguity	18
b. Single-Member Districts.....	18

State of Louisiana (the “State Intervenor”); and Intervenor-Defendants Clay Schexnayder, in his official capacity as Speaker of the Louisiana House of Representatives, and Patrick Page Cortez, in his official capacity as President of the Louisiana Senate (the “Legislative Interveners,” and together with the Secretary and the State Intervenor, “Defendants”).

c.	Population Equality.....	19
d.	Maintenance of VTDs.....	20
e.	Respect for Communities of Interest	20
f.	Respect for Political Subdivisions	27
g.	Compactness	29
h.	Fracking	34
i.	Core Retention	35
j.	Incumbent Pairing.....	37
k.	Racial Considerations	38
B.	Racially Polarized Voting.....	49
1.	Second <i>Gingles</i> Precondition: Political Cohesion	51
2.	Third <i>Gingles</i> Precondition: Bloc Voting	53
C.	Totality of Circumstances	59
1.	Senate Factor One: History of Voting-Related Discrimination....	60
a.	Racial Hierarchies and Suppression of the Franchise in Antebellum Louisiana.....	62
b.	Targeted Efforts Against Black Voters in Reconstruction Louisiana.....	63
c.	Official Discrimination after the Voting Rights Act.....	65
d.	Redistricting-Related Discrimination	66
e.	Discrimination in Areas Related to Voting.....	67
2.	Senate Factor 2: Racially Polarized Voting.....	68
3.	Ultimately, the Court concludes that Defendants have not adduced facts to displace the evidence of racial bias in Louisiana voting patterns. Senate Factor 3: Discriminatory Voting Procedures.....	75
4.	Senate Factor Four: Candidate Slating	76
5.	Senate Factor Five: Contemporary Socioeconomic Disparities ...	76

6.	Senate Factor Six: Racial Appeals in Louisiana Campaigns	83
7.	Senate Factor Seven: Underrepresentation of Black Louisianians in Elected Office	84
8.	Senate Factor Eight: State Nonresponsiveness	85
9.	Senate Factor Nine: Tenuousness of Justification for Enacted Map	89
10.	Proportionality	91
V.	Irreparable Harm	92
VI.	Balance of Harms and Public Interest	93
A.	Implementation of New Congressional Map	93
B.	Harm to Voters and Candidates and Public Interest	99
	PROPOSED CONCLUSIONS OF LAW	101
I.	Plaintiffs are substantially likely to succeed on the merits of their Section 2 claims.	101
A.	Plaintiffs have satisfied the first <i>Gingles</i> precondition because a second compact, majority-Black congressional district can be drawn in Louisiana.	104
1.	Louisiana’s Black population is sufficiently numerous to form an additional majority-Black congressional district.	105
2.	Louisiana’s Black population is sufficiently compact to form a second majority-Black congressional district.	106
B.	Plaintiffs have satisfied the second <i>Gingles</i> precondition because Black Louisianians are politically cohesive.	111
C.	Plaintiffs have satisfied the third <i>Gingles</i> precondition because white Louisianians engage in bloc voting to defeat Black-preferred candidates.	113
D.	The totality of circumstances demonstrates that HB 1 denies Black Louisianians an equal opportunity to elect their preferred candidates to Congress.	114
1.	Senate Factor One: Louisiana has an ongoing history of official, voting-related discrimination.	117

2.	Senate Factor Two: Louisiana voters are racially polarized.	117
3.	Senate Factor Three: Louisiana’s voting practices enhance the opportunity for discrimination.	120
4.	Senate Factor Four: Louisiana has no history of candidate slating for congressional elections.....	120
5.	Senate Factor Five: Louisiana’s discrimination has produced severe socioeconomic disparities that impair Black Louisianians’ participation in the political process.	120
6.	Senate Factor Six: Both overt and subtle racial appeals are prevalent in Louisiana’s political campaigns.....	122
7.	Senate Factor Seven: Black candidates in Louisiana are underrepresented in office and rarely succeed outside of majority-minority districts.	123
8.	Senate Factor Eight: Louisiana has not been responsive to its Black residents.	123
9.	Senate Factor Nine: The justifications for HB 1 are tenuous.	124
10.	Proportionality further supports a finding of vote dilution.	125
E.	Defendants’ additional legal arguments lack merit.	126
1.	Plaintiffs have standing to bring their Section 2 claim.	126
2.	Section 2 confers a private right of action.	127
II.	Plaintiffs and other Black Louisianians will suffer irreparable harm absent a preliminary injunction.....	128
III.	The balance of equities and the public interest favor injunctive relief.	129
IV.	Any remedial plan must contain an additional congressional district in which Black voters have a demonstrable opportunity to elect their candidates of choice.	131
	PROPOSED ORDER GRANTING INJUNCTIVE RELIEF	132

CITATION GLOSSARY

Party	Exhibit Designation
<i>Galmon</i> Plaintiffs	GX-##
<i>Robinson</i> Plaintiffs	PR-##
Defendant	SOS_##
Legislative Intervenor-Defendants	LEG_##
State Intervenor-Defendant	LAG_##

TRANSCRIPT INDEX**

Date	Citation Format	Attached as Exhibit
Monday, May 9, 2022	May 9 Tr. ##:##-##:##	1
Tuesday, May 10, 2022	May 10 Tr. ##:##-##:##	2
Wednesday, May 11, 2022	May 11 Tr. ##:##-##:##	3
Thursday, May 12, 2022	May 12 Tr. ##:##-##:##	4
Friday, May 13, 2022	May 13 Tr. ##:##-##:##	5

** To ensure timely submission of these proposed findings of fact and conclusions of law, the parties secured a third-party court reporter to prepare unofficial transcripts. Due to a family emergency, the court reporter was not able to complete a finalized version of the May 10 hearing transcript before the filing deadline. Accordingly, only the attached transcripts for May 9, 11, 12, and 13 are completely finalized. Plaintiffs propose to submit an updated version of this filing as needed with corrected transcript citations within two days of receipt of the finalized May 10 transcript.

INTRODUCTION

Pursuant to the Court’s minute entry dated May 3, 2022, *see* Rec. Doc. No. 136, Plaintiffs respectfully submit the following proposed findings of fact, conclusions of law, and proposed order granting preliminary injunctive relief.

The evidence presented at the preliminary injunction hearing established that Louisiana’s enacted congressional map drawn by House Bill 1 (“HB 1”) violates Section 2 of the Voting Rights Act of 1965 under the standards established by *Thornburg v. Gingles*, 478 U.S. 30 (1986), and its progeny. Plaintiffs have established the first *Gingles* precondition by demonstrating that Louisiana’s Black population is sufficiently large and compact to form a second majority-Black congressional district. They further established the second and third *Gingles* preconditions by showing that Black Louisianians are politically cohesive and that white Louisianians vote sufficiently as a bloc to enable them usually to defeat Black voters’ candidates of choice. And the totality of circumstances makes clear that the enacted map denies Black voters an equal opportunity to participate in the state’s political processes and elect their preferred candidates to the U.S. House of Representatives. To prevent the irreparable harm of vote dilution for Plaintiffs and all Black Louisianians, the Court can and should remedy this violation of federal law and provide preliminary injunctive relief in advance of the 2022 midterm elections.

In response, Defendants have attempted to confound the proceedings by manufacturing additional hurdles that they claim Plaintiffs must clear to secure relief—for example, drawing an illustrative plan without consideration of race, or proving in the first instance that the cause of racially polarized voting is the result of race and not partisanship. But no binding authority imposes these requirements on Plaintiffs. And, in any event, the evidence presented at the hearing established that race did not predominate in the drawing of Plaintiffs’ illustrative maps and that race is the driving mechanism for Louisiana’s polarized voting.

Defendants’ argument that it is too close to the election to implement any remedy is contrary to law and to the facts adduced at the hearing. There is ample time in advance of the State’s November 8, 2022, open primary election—more than five-and-a-half months from now—for the Louisiana State Legislature or this Court to implement a remedial congressional plan that complies with the Voting Rights Act. The evidence at trial, including the testimony of Governor John Bel Edwards’s executive counsel and Louisiana’s commissioner of elections, demonstrated that the State has regularly postponed pre-election deadlines and adjusted election procedures when required, and there is no reason to conclude that it would be unable to do so now. Diluting the voting strength of Louisiana’s Black voters in violation of the Voting Rights Act would impose irreparable harm that far outweighs any administrative inconvenience that might result from the Court’s enforcement of that landmark legislation. For these reasons and those that follow, the Court should grant Plaintiffs’ motions for preliminary injunction.

PROPOSED FINDINGS OF FACT

I. Plaintiffs

A. The *Robinson* Plaintiffs

1. Plaintiff Press Robinson is a Black resident of Baton Rouge, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-1. Under the enacted congressional plan, Plaintiff Robinson resides in Congressional District 2. Rec. Doc. No. 143 ¶ 15.

2. Plaintiff Edgar Cage is a Black resident of Baker, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-2. Under the enacted congressional plan, Plaintiff Cage resides in Congressional District 2. Rec. Doc. No. 143 ¶ 18.

3. Plaintiff Dorothy Nairne is a Black resident of Assumption Parish, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-3. Under the enacted congressional plan, Plaintiff Nairne resides in Congressional District 6. Rec. Doc. No. 143 ¶ 21.

4. Plaintiff Edwin René Soulé is a Black resident of Hammond, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-4. Under the enacted congressional plan, Plaintiff Soulé resides in Congressional District 1. Rec. Doc. No. 143 ¶ 24.

5. Plaintiff Alice Washington is a Black resident of Baton Rouge, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-5. Under the enacted congressional plan, Plaintiff Washington resides in Congressional District 6. Rec. Doc. No. 143 ¶ 27.

6. Plaintiff Clee Earnest Lowe is a Black resident of Baton Rouge, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-6. Under the enacted congressional plan, Plaintiff Lowe resides in Congressional District 6. Rec. Doc. No. 143 ¶ 30.

7. Plaintiff Davante Lewis is a Black resident of Baton Rouge, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-7. Under the enacted congressional plan, Plaintiff Lewis resides in Congressional District 2. Rec. Doc. No. 143 ¶ 33.

8. Plaintiff Martha Davis is a Black resident of Baton Rouge, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-8. Under the enacted congressional plan, Plaintiff Davis resides in Congressional District 2. Rec. Doc. No. 143 ¶ 36.

9. Plaintiff Ambrose Sims is a Black resident of West Feliciana Parish, Louisiana, who is registered to vote and intends to vote in future congressional elections. PR-9. Under the enacted congressional plan, Plaintiff Sims resides in Congressional District 5. Rec. Doc. No. 143 ¶ 39.

10. Plaintiff National Association for the Advancement of Colored People Louisiana State Conference (“Louisiana NAACP”) is a state subsidiary of the National Association for the Advancement of Colored People, Inc. PR-10. Members of the Louisiana NAACP include Black

voters who live in every parish and in each of the six congressional districts in the enacted congressional plan. PR-10; Rec. Doc. No. 143 ¶ 41.

11. Plaintiff Power Coalition for Equity and Justice (“Power Coalition”) is a coalition of groups from across Louisiana whose mission is to organize, educate, and turn out voters, and fight for policies that create a more equitable and just system in Louisiana. PR-11; Rec. Doc. No. 143 ¶¶ 43-44. Because the Legislature has enacted a map that packs Black voters into Congressional District 2 and cracks them among the remaining districts, Power Coalition will need to increase education and outreach to member organizations and voters in Congressional Districts 1, 3, 4, 5, and 6, where Black voting strength is diluted. PR-11.

B. The *Galmon* Plaintiffs

12. Plaintiffs Edward Galmon, Sr., is a Black resident of St. Helena Parish, Louisiana who is registered to vote and intends to vote in future congressional elections. GX-6 ¶¶ 2-3, 5; Rec. Doc. No. 143 ¶¶ 1-2. Under the enacted congressional plan, Plaintiff Galmon resides in Congressional District 5. GX-6 ¶ 4; Rec. Doc. No. 143 ¶ 3.

13. Plaintiff Ciara Hart is a Black resident of East Baton Rouge Parish, Louisiana who is registered to vote and intends to vote in future congressional elections. GX-7 ¶¶ 2-3, 5; Rec. Doc. No. 143 ¶¶ 4-5. Under the enacted congressional plan, Plaintiff Hart resides in Congressional District 6. GX-7 ¶ 4; Rec. Doc. No. 143 ¶ 6.

14. Plaintiff Norris Henderson is a Black resident of Orleans Parish, Louisiana who is registered to vote and intends to vote in future congressional elections. GX-8 ¶¶ 2-3, 5; Rec. Doc. No. 143 ¶¶ 7-8. Under the enacted congressional plan, Plaintiff Henderson resides in Congressional District 2. GX-8 ¶ 4; Rec. Doc. No. 143 ¶ 9.

15. Plaintiff Tramelle Howard is a Black resident of East Baton Rouge Parish, Louisiana who is registered to vote and intends to vote in future congressional elections. GX-9

¶¶ 2-3, 5; Rec. Doc. No. 143 ¶¶ 10-11. Under the enacted congressional plan, Plaintiff Howard resides in Congressional District 2. GX-9 ¶ 4; Rec. Doc. No. 143 ¶ 12.

C. Intervenor-Plaintiff

16. Intervenor-Plaintiff Louisiana Legislative Black Caucus (“LLBC”) is an association of Black members of the Louisiana State Legislature. Members of LLBC opposed HB 1 when it was first proposed and were united in opposing the plan throughout the process of its adoption by the Legislature.

II. Defendants

17. Defendant R. Kyle Ardoin is the Louisiana Secretary of State and is named in his official capacity. Rec. Doc. No. 143 ¶¶ 45-46.

18. Intervenor-Defendant Clay Schexnayder is the Speaker of the Louisiana House of Representatives. Rec. Doc. No. 143 ¶ 47.

19. Intervenor-Defendant Patrick Page Cortez is the President of the Louisiana Senate. Rec. Doc. No. 143 ¶ 48.

20. Intervenor-Defendant the State of Louisiana is the State, represented by and through Jeff Landry, the Louisiana Attorney General. Rec. Doc. No. 143 ¶ 49.

III. Background

A. 2020 Census and Demographic Developments

21. Every 10 years following the decennial census, the Legislature must redraw district boundaries for Louisiana’s congressional districts. Rec. Doc. No. 143 ¶ 50.

22. The U.S. Census Bureau delivered apportionment counts for the 2020 census on April 26, 2021, more than 18 months before the 2022 congressional elections. Louisiana was apportioned six seats in the U.S. House of Representatives, the same number it was apportioned following the 2010 census. Rec. Doc. No. 143 ¶ 51.

23. Between 1990 and 2020, Louisiana’s minority population increased from 34.22% to 44.25%, and its minority voting-age population increased from 31.21% to 41.69%. GX-1 Figures 1-2.

24. Between 1990 and 2020, Louisiana’s single race (“SR”) Black population increased from 30.79% to 31.43%, and its SR Black voting-age population (“BVAP”) increased from 27.87% to 30.07%. GX-1 ¶¶ 15, 18, Figures 1-2.

25. Between 1990 and 2020, Louisiana’s non-Hispanic (“NH”) white population decreased from 65.78% to 55.75%, and its NH white voting-age population decreased from 68.79% to 58.31%. GX-1 ¶¶ 15, 18, Figures 1-2.

26. Between 1990 and 2020, Louisiana’s overall population increased by 10.37%. GX-1 ¶ 21. This statewide population growth between 1990 and 2020 can be attributed entirely to a 42.74% increase in the state’s minority population. GX-1 ¶ 22; May 9 Tr. 86:2-11. By contrast, between 1990 and 2020, the state’s NH population decreased by 6.46%. GX-1 ¶ 22.

27. The first time the U.S. Census Bureau reported Louisiana’s any-part (“AP”) Black—which includes all Louisianians who identify as Black, including those who identify as Black and another race—population was the 2000 Census. GX-1 Figures 1-2.

28. Between 2000 and 2020, Louisiana’s AP Black population increased from 32.86% to 33.13%, and its AP BVAP increased from 29.95% to 31.25%. GX-1 Figures 1-2.

29. From 2010 to 2020, Louisiana’s population grew from 4,533,372 to 4,657,757 people—an increase of 2.74%. PR-15 at 15.

30. Louisiana’s population growth over the last decade can be attributed entirely to the growth in the overall minority population, while the white population decreased by 4.58%. PR-15 at 15, Table 1.

31. As a matter of total and voting-age population, AP Black Louisianians comprise the largest minority population in the State. PR-15 at 15, Table 1; PR-15 at 16, Table 2. Under the 2020 census, Black Louisianians represent 33.13% of the State’s total population. PR-15 at 15, Table 1.

32. The BVAP (using AP Black) is 1,115,769, or 31.25% of the State’s total voting-age population—an increase of 7.2% over the 2010 census results. PR-15 at 16, Table 2.

B. 2022 Enacted Congressional Plan

33. The Legislature first passed two identical bills, HB 1 and Senate Bill 5—establishing a congressional plan with only a single majority-Black district—on February 18, 2022. PR-15 at 6. In doing so, the Legislature ignored multiple congressional plans introduced by individual legislators that contained two majority-Black districts. *See, e.g.*, PR-37.

34. On March 9, Governor Edwards vetoed both bills based on a “firm belief” that the map “violates Section 2 of the Voting Rights Act.” Rec. Doc. 41-1 at 11; GX-17; GX-18; May 11 Tr. 47:4-48:2.

35. The Legislature overrode Governor Edwards’s veto of HB 1 on March 30, 2022. Rec. Doc. No. 143 ¶ 62.

36. The enacted congressional plan has only one majority-Black congressional district. PR-15 at 6. The AP BVAP and NH Black citizen voting-age population (“BCVAP”) for the sole majority-Black district—Congressional District 2—is 58.65% and 61.41%, respectively. PR-15 at 23. All other districts have a BVAP below 34%. GX-1 at 17, Figure 10.

37. The voting-age population of each district under the 2022 Congressional Plan is as follows:

Figure 10						
2022 Plan – 2020 Census						
District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	776319	26	601744	13.43%	10.81%	70.06%
2	776328	35	600126	58.67%	7.93%	29.71%
3	776297	4	586509	24.58%	4.81%	66.89%
4	776200	-93	590852	33.80%	4.08%	58.11%
5	776295	2	597344	32.93%	3.57%	60.32%
6	776318	25	593973	23.95%	6.29%	65.02%

GX-1 at 17, Figure 10.

38. Even though Black residents of Louisiana make up 33.13% of the total population and 31.25% of the state's voting-population, they constitute a majority of the total and voting-age population in just 17% of the state's congressional districts. GX-1 Figures 1-2, 10.

39. 31.5% of the state's BVAP lives in Congressional District 2 under HB 1, and 91.5% of the state's NH white voting-age population lives in the other five districts. GX-1 ¶ 42; May 9 Tr. 116:5-18.

40. Plaintiffs' mapping expert Bill Cooper observed that the enacted congressional plan packs Black voters into a single congressional district, Congressional District 2, and cracks other Black voters among the remaining five congressional districts. GX-1 ¶¶ 36, 43.

41. Like its predecessor plan, HB 1 draws Congressional Districts 2 and 6 to contain highly irregular and noncompact shapes: Congressional District 2 strings together predominantly Black precincts from New Orleans to Baton Rouge through parts of the River Parishes. Congressional District 6 wraps around Congressional District 2, starting on the south shore of Lake Pontchartrain in St. Charles Parish and meandering northwest to West Feliciana Parish, then looping south into Terrebonne and Lafourche Parishes. GX-1 ¶¶ 34, 39; May 9 Tr. 86:23-88:21.

42. HB 1 splits 15 parishes in total, 11 of which are split by Congressional Districts 2 and 6. GX-1 ¶ 39.

IV. Likelihood of Success on the Merits

43. Plaintiffs are substantially likely to succeed on the merits of their Section 2 claims.

A. First *Gingles* Precondition: Numerosity and Compactness

44. Plaintiffs' mapping and demographics experts, Anthony Fairfax and Mr. Cooper, demonstrated that the Black population in Louisiana is sufficiently large and geographically compact to comprise a majority of the voting-age population in two congressional districts in the State's six-district congressional plan. Mr. Fairfax and Mr. Cooper independently presented multiple illustrative maps that included two majority-Black congressional districts.

45. The Court has accepted Mr. Fairfax in this case as qualified to testify as an expert in demography, redistricting, and census data. May 9 Tr. 163:18-164:7. Mr. Fairfax has been a demographer involved in preparing and analyzing redistricting plans for approximately 30 years. May 9 Tr. 167:8-168:13. The Court finds Mr. Fairfax's analysis methodologically sound and his conclusions reliable. In addition, based upon his demeanor at the hearing, and in particular his straightforward and candid responses to questions posed to him by defendants' counsel on cross-examination, the Court finds Mr. Fairfax to be highly credible. The Court credits Mr. Fairfax's testimony and conclusions.

46. Mr. Fairfax prepared three illustrative congressional plans, *Robinson* Illustrative Plan 1, *Robinson* Illustrative Plan 2, and *Robinson* Illustrative Plan 2A. PR-15; PR-86; PR-90.

47. Each of the three illustrative plans from Mr. Fairfax contains a second majority-Black congressional district (illustrative Congressional District 5) that encompasses Louisiana's Delta Parishes and significant portions of East Baton Rouge Parish and the city of Baton Rouge, as well as all or part of between 21 and 24 parishes. PR-15 at 26-27, 54 (map of *Robinson*

Illustrative Plan 1 Congressional District 5); PR-86 at 32 (map of *Robinson* Illustrative Plan 2 Congressional District 5); PR-90 at 4 (“The plan adjustment [from *Robinson* Illustrative Plan 2 to 2A] was insignificant enough to keep all of *Robinson* Illustrative Plan 2’s criteria measurements.”). Each illustrative plan adheres to traditional districting principles, as well as state districting principles adopted by the Louisiana Legislature in Joint Rule 21. PR-79 (Joint Rule 21); *see also* PR-15; PR-86; PR-90.

48. Each plan retains the state’s current majority-Black district (illustrative Congressional District 2), anchored around New Orleans metropolitan area to “lessen the presence of District 2 in Baton Rouge and create a more sing[ular] metro[politan] district.” PR-15 at 23-25, 26 n. 48.

49. *Robinson* Illustrative 1 creates two majority-Black districts. Congressional District 2 is anchored in New Orleans and includes many of the River Parishes, whereas Congressional District 5 is centered around Baton Rouge and includes many of the Delta Parishes. PR-15.

50. *Robinson* Illustrative Plan 2 was developed to include more of the city of Baton Rouge in Congressional District 5 consistent with roadshow testimony about New Orleans and Baton Rouge comprising two separate communities of interest. PR-86.

51. *Robinson* Illustrative Plan 2A is virtually indistinguishable from *Robinson* Illustrative Plan 2 but includes minor adjustments to avoid pairing incumbents. PR-90.

52. The Court has also accepted Mr. Cooper in this case as qualified to testify as an expert in redistricting, demographics, and census data. May 9 Tr. 75:1-9. Mr. Cooper earned a living as a demographer for the last 30 years, drawing maps for electoral purposes and providing demography services to nonprofits and government entities. *Id.* at 78:4-12. Mr. Cooper has testified in 52 federal cases regarding voting, the vast majority being Section 2 cases. *Id.* at 78:13-

25. Specifically, Mr. Cooper has testified in a handful of Louisiana voting rights cases and has performed work across the entire state of Louisiana—working in the northwestern corner of the state in Shreveport in the 1990s and then in East Carroll, Madison, Point Coupee, and Terrebonne Parishes. *Id.* at 79:2-16. Given his vast knowledge and expertise in this area and his candid and fulsome testimony, the Court finds Mr. Cooper credible, his analysis methodologically sound, and his conclusions reliable. The Court credits Mr. Cooper’s testimony and conclusions.

53. Mr. Cooper prepared four illustrative maps, each of which includes two majority-Black congressional districts. GX-1 ¶¶ 47-83; GX-29 ¶¶ 10-22; May 9 Tr. 93:8-97:3.

54. Mr. Cooper described his objective and process as follows: “I was asked to prepare plans that adhered to traditional redistricting principles and that would possibly demonstrate [that a] second majority black district could be drawn in Louisiana. I was not told that I had to produce such a plan, but in the process of drawing districts it was clear to me that it is, in fact, relatively easy and relatively obvious that one can do so and I don’t see how anyone could think otherwise.” May 9 Tr. 159:21-160:8.

55. Mr. Cooper testified that, in the past, he has declined to draw illustrative maps where it was not possible to draw majority-minority districts consistent with traditional districting principles. May 9 Tr. 161:7-163:3.

56. Mr. Cooper’s illustrative congressional plans contain a second majority-Black congressional district that reaches from East Baton Rouge and St. Landry Parishes in the south to the Delta Parishes along the Louisiana/Mississippi border. GX-1 Figures 12, 14, 16; GX-29 Figure 1. The plans comply with the traditional districting principles adopted by the Legislature to guide its redistricting efforts following the 2020 census. GX-1 ¶¶ 51-55; GX-20.

57. In drawing his illustrative plans, Mr. Cooper applied the redistricting criteria set forth in Joint Rule No. 21, balancing them all equally, to determine whether it was possible to draw a second majority-Black congressional district in Louisiana. May 9 Tr. 91:4-22, 97:5-98:8.

58. The main difference between Mr. Cooper's illustrative plans and HB 1 is that he made Congressional Districts 2 and 6, which were bizarrely shaped under HB 1, more regularly shaped. May 9 Tr. 93:8-6.

59. The Court credits the analyses and conclusions of Mr. Fairfax and Mr. Cooper that the Black population in Louisiana is sufficiently numerous to comprise a majority of the voting-age population in two congressional districts.

60. In sum, the Court concludes that Mr. Fairfax's and Mr. Cooper's findings—unrefuted by Defendants' experts—demonstrate Plaintiffs have satisfied the first *Gingles* precondition.

1. Numerosity

61. The Court concludes that Mr. Fairfax and Mr. Cooper have established that the Black population in Louisiana is sufficiently numerous to comprise a majority of the voting-age population in a second congressional district.

62. None of Defendants' experts, particularly Mr. Thomas Bryan and Dr. M.V. Hood, disputed that Plaintiffs' illustrative congressional plans create two majority-Black districts using the AP BVAP metric. May 11 Tr. 110:8-15; LEG_01 (Dr. Hood's report containing no analysis of AP BVAP); LAG_02 at 19.

a. Robinson Illustrative Plans

63. *Robinson* Illustrative Plan 1 includes two majority-Black districts using both the AP BVAP and NH BCVAP. Under this plan, Congressional District 2 has an AP BVAP of 50.96%

and an NH BCVAP of 54.10%. PR-15 at 23. Congressional District 5 has an AP BVAP of 52.05% and a NH BCVAP of 52.21%. PR-15 at 26.

64. *Robinson* Illustrative Plans 2 and 2A contain two majority-Black districts using the AP BVAP and NH BCVAP. For *Robinson* Illustrative Plan 2, the AP BVAP is 51.55% in Congressional District 2 and 51.79% in Congressional District 5. The NH BCVAP is 54.28% in Congressional District 2 and 52.44% in Congressional District 5. PR-86 at 8, 37. Under *Robinson* Illustrative Plan 2A, Congressional District 2 has an AP BVAP of 51.55% and a NH BCVAP of 54.28%, and Congressional District 5 has an AP BVAP of 51.98% and a NH BCVAP of 52.44%. PR-90 at 8-9.

65. The below table is compiled from Mr. Fairfax's reports:

Illustrative Plan	CD 2 AP BVAP	CD 2 NH BCVAP	CD 5 AP BVAP	CD 5 NH BCVAP
1	50.96%	54.10%	52.05%	52.21%
2	51.55%	54.28%	51.79%	52.44%
2A	51.55%	54.28%	51.98%	52.44%

b. *Galmon* Illustrative Plans

66. The AP BVAPs of Congressional Districts 2 and 5 in each of Mr. Cooper's plans are as follows:

Illustrative Plan	CD 2 BVAP	CD 5 BVAP
1	50.16%	50.04%
2	50.65%	50.04%
3	50.16%	51.63%
4	50.06%	50.29%

GX-1 Figures 13, 15, 17; GX-29 Figure 2.

67. In each of Mr. Cooper's illustrative plans, Black voters make up a majority of the registered voters in both Congressional Districts 2 and 5. GX-29 Figure 5; May 9 Tr. 111:21-23. Mr. Bryan does not dispute this fact. May 11 Tr. 113:19-24.

68. In each of Mr. Cooper's illustrative plans, non-Hispanic single-race Black citizens make up a majority of the voting-age population in both Congressional Districts 2 and 5. GX-29 Figure 5; May 9 Tr. 112:17-24. Mr. Bryan did not dispute this fact. May 11 Tr. 112:18-23.

c. Use of the AP Black Metric

69. Mr. Bryan and Dr. Hood opined that the two proposed majority-Black districts in Mr. Fairfax's first illustrative plan and in all of Mr. Cooper's plans do not reach 50% when the BVAP is measured using a metric they designate "DOJ Black." LAG_02; LEG_01. However, neither of these experts offered an opinion as to which metric is appropriate in this case or disagreed that Plaintiffs' use of AP Black was proper. May 12 Tr. 219:2-6 (Hood testimony); May 11 Tr. 110:2-7 (Bryan testimony).

70. The Court gives little weight to the distinction drawn by Defendants' experts.

71. First, neither Mr. Bryan nor Dr. Hood makes *any* assertion as to which definition should be used, much less any justification for using the more restrictive DOJ Black definition to measure the BVAP in Louisiana. Mr. Bryan acknowledged that the AP Black metric is widely accepted and has been used in other cases. May 11 Tr. 103:21-25 (Mr. Bryan testified that it is "[his] understanding" that at least one court had unanimously determined that AP Black was the proper metric for evaluating first *Gingles* precondition). The Court considers Defendants' failure to offer any expert testimony challenging the appropriateness of the AP Black' metric in this context to be persuasive evidence supporting the use of that approach by Plaintiffs' experts.

72. Dr. Hood, for instance, was unable to defend his use of the DOJ Black definition. He testified that he offered no opinion about the merits of using either the DOJ Black or AP Black definition. May 12 Tr. 234:5-12. Even further, he conceded in his supplemental report that the *Robinson* Illustrative Plan 2 and Plan 2A do have two majority-Black districts using the DOJ Black definition. LEG_78 at 3. Nor did Mr. Bryan offer any opinion on the appropriate definition to use

in this case. May 11 Tr. 110:2-7 (Mr. Bryan stated that he “[did] not arrive at a conclusion about what’s the appropriate definition [of BVAP] to use.”).

73. Moreover, Defendants’ experts used an inaccurate and incomplete definition of “DOJ Black” that ignores the second and third steps of the DOJ’s definition. For example, Mr. Bryan reported what he called “the *first tier or the first step* of the DOJ’s definition of a black minority population; and that population is black in combination with white alone, two races in combination, not Hispanic.” May 11 Tr. 6279-13 (emphasis added); *see also* LEG_01 at 4 (Dr. Hood claimed that he used the DOJ definition which “combines all single-race Black identifiers who are also non-Hispanic with everyone who is non-Hispanic and identifies as white and Black” but did not include the second part of the DOJ definition).

74. Plaintiffs’ experts’ use of AP Black, by contrast, is supported by undisputed evidence at the hearing concerning the history of racial politics in Louisiana, the lived experiences of Black Louisianians, and the self-identification of Black Louisianians. Plaintiff Michael McClanahan of the Louisiana State Conference of the NAACP corroborated Professor Gilpin’s testimony: “You know, I remember when I was in school, I’m from a little town of called Zwolle, so in northwest Louisiana and we were taught if we had one drop of black blood, no matter what you look like on the outside, you are considered black.” May 9 Tr. 26:23-27:3.

75. Testimony presented by Plaintiffs’ expert witness, Professor R. Blakeslee Gilpin (discussed in more detail *infra* Part IV.D.1), supports the conclusion that AP Black is an appropriate definition of “Black,” given that it includes all Louisianians who identify as Black and any other race or ethnicity in determining the BVAP.

76. As Dr. Gilpin explained, Louisiana’s use of rigid racial categorizations “stretching back to pre-American Louisiana”—categorizations contrary to the self-identification of individual

Louisiana citizens—has long been used to disenfranchise Black voters. May 10 Tr. 226:1-13, 227:3-7. This history of categorization is exemplified by the so-called “one-drop rule” and its subsequent analogues. As Professor Gilpin explained, under the one-drop rule, Louisiana deemed any person with a single Black ancestor as Black regardless of self-identification. *Id.* at 226:1-13; PR-88 at 2-4. This rule remained in place until 1970 and was then replaced by the 1/32nd rule, which the state enforced vigorously, and even litigated until it was repealed in 1983. May 10 Tr. 226:14-227:2; PR-88 at 2-5.

77. As Dr. Gilpin testified, over Louisiana’s 300-year history, Louisianians of color have become “keenly aware of the consequences” of which of the state’s racial categories they fall into. May 10 Tr. 227:19-228:8; PR-88 at 4. This awareness has had direct effects on how multiracial Louisianians identify. *Id.*

78. By contrast, Mr. Bryan testified that while he had “heard the concept” of the one drop rule, he admitted that he did not “deeply know, understand the demographic or historic context of the term.” May 11 Tr. 108:8-15.

79. The Court credits Professor Gilpin’s and Mr. McClanahan’s testimonies on this issue.

80. Two of the illustrative plans presented by plaintiffs (*Robinson* Illustrative Plans 2 and 2A) include two majority Black districts even using the erroneous and unduly narrow “DOJ Black” definition employed by Defendants’ experts. Mr. Fairfax testified that he developed *Robinson* Illustrative Plans 2 and 2A to demonstrate that it is possible to create a congressional plan using the more restrictive definition of Black proposed by Mr. Bryan and Dr. Hood. May 9 Tr. 198:11-19. Under *Robinson* Illustrative Plan 2, the DOJ BVAP is 50.02% in Congressional District 2 and 50.96% in Congressional District 5. PR-86 at 7. For *Robinson* Illustrative Plan 2A,

the DOJ BVAP is 50.02% in Congressional District 2 and 51.15% in Congressional District 5. PR-90 at 8.

81. In light of this testimony, the Court finds that it is inappropriate for the State of Louisiana to disregard the racial self-identification of Black citizens of the State merely because they also identify with other races or ethnicities.

82. Thus, the Court concludes that it is appropriate and consistent with the evidence presented at the hearing to use AP Black to determine whether the BVAP is sufficiently numerous to constitute a majority in two congressional districts.

2. Geographic Compactness

83. Plaintiffs' illustrative plans demonstrate that the Black population is sufficiently geographically compact to constitute a voting-age majority in a second congressional district.

84. The Court also finds that the illustrative plans are consistent with the Legislature's stated districting principles—articulated in Joint Rule No. 21, GX-20—as well as traditional districting principles.

85. The districting guidelines adopted by the Legislature in Joint Rule No. 21 included population equality, contiguity, respect for political subdivision boundaries, preserving communities of interest, as well as compliance with Section 2 of the Voting Rights Act. GX-20. Mr. Fairfax's and Mr. Cooper's illustrative maps adhere to these and other neutral, traditional districting criteria, including compactness and minimizing cracking. Notably, while Joint Rule 21 requires consideration of "traditional district alignments . . . for the [Louisiana] House of Representatives, Senate, Public Service Commission, and Board of Elementary and Secondary Education," it does not identify core retention as a factor in congressional redistricting. *Id.*

86. The illustrative plans created by Mr. Fairfax and Mr. Cooper perform as well or better than the enacted plan on all state and traditional districting principles.

87. Mr. Fairfax testified that he balanced all of these districting principles when developing his illustrative plan, and that no one districting principle predominated. May 9 Tr. 178:3-179:12.

88. Mr. Cooper explained that none of the traditional districting principles predominated when drawing his illustrative congressional plans; instead, he “made a real effort to try to balance all the factors.” May 9 Tr. 113:9-14.

a. Contiguity

89. The Court finds that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps are composed of contiguous districts. *See* PR-15 at 21; PR-86 at 38; PR-90 at 11; GX-1 Exs. J-3, K-3, L-3; GX-29 Ex. B-3; May 9 Tr. 108:24-109:1, 184:21-24.

90. This fact is not disputed.

91. Moreover, Mr. Cooper’s illustrative maps improve on the contiguity of HB 1, which places small areas in East Baton Rouge Parish around the Capitol in Congressional District 6 that are not connected to the rest of the district by anything other than water. May 9 Tr. 110:1-20. The enacted Congressional District 6 also includes a spit of land between Lake Pontchartrain and Lake Maurepas that is not easily accessible from other parts of the district and thus raises additional contiguity concerns. May 9 Tr. 111:4-19.

b. Single-Member Districts

92. The Court finds that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps are composed of single-member districts. GX-1 Exs. J-2, K-2, L-2; GX-29 Ex. B-2; PR-15 at 19.

93. This fact is not disputed.

c. Population Equality

94. The Court finds that Mr. Fairfax's and Mr. Cooper's illustrative congressional maps comply with the one-person, one-vote principle, and that in many instances their illustrative maps more closely adhere to the goal of population equality than does the state's enacted plan.

95. The ideal population size for each district is 776,293 people. Both the enacted congressional plan and Mr. Fairfax's illustrative congressional plans have minimal deviation from the ideal size. PR-15 at 19; May 9 Tr. 182:7-9, 183:7-15; May 12 Tr. 42:6-8.

96. Mr. Fairfax testified that he compared population equality in both plans by measuring the overall population deviation of each plan—that is, the difference between the most and least populated districts. May 9 Tr. 183:10-20. His testimony and analysis in his initial and supplemental report demonstrate that *Robinson* Illustrative Plan 1 had an overall population deviation of 51 and *Robinson* Illustrative Plans 2 and 2A have an overall population deviation of 58. PR-86 at 5, Table 1; PR-90 at 5, Table 1. By contrast, the enacted plan has a population deviation of 65. *Id.*; May 9 Tr. 183:10-20.

97. Similarly, there is no factual dispute that *Galmon* Illustrative Plans 1, 2, and 3 each achieve perfect population equality. In each plan, five districts are equal in population and one district unavoidably contains just one person more than the others. GX-1 Figures 13, 15, 17; GX-29 Figure 2; May 9 Tr. 98:11-99:2.

98. *Galmon* Illustrative Plan 4 also contains minimal, justified population deviation. GX-29 Figure 2. It is impossible to avoid splitting any VTDs while attaining perfect population equality. As a result, *Galmon* Illustrative Plan 4's minimal population deviation is justified by an effort to avoid splitting VTDs. GX-29 ¶¶ 11-12, 14; May 9 Tr. 99:3-12.

99. Defendants do not dispute that any of the illustrative plans drawn by Mr. Fairfax or Mr. Cooper achieved population equality.

100. The Court concludes that Plaintiffs' illustrative plans comply with the one-person, one-vote principle and that all but one have less overall population deviation than the enacted plan.

d. Maintenance of VTDs

101. The Court finds that Mr. Fairfax's and Mr. Cooper's illustrative congressional maps respect the boundaries of VTDs.

102. VTDs are "precinct or precinct proxies defined by the Census Bureau in the PL94-171 redistricting file." GX-1 at 21 n.21.

103. Mr. Fairfax testified that he analyzed the enacted plan and determined that the Legislature prioritized eliminating VTD splits. In accordance with the Legislature's apparent priority to eliminate VTD splits, PR-79 (Joint Rule No. 21), Mr. Fairfax also developed the *Robinson* illustrative plans to eliminate VTD splits. As such, both the enacted plan and Mr. Fairfax's illustrative plans split no VTDs. 185:14-18.

104. It is undisputed that *Galmon* Illustrative Plan 4 does not split a single VTD. GX-29 ¶ 14. In *Galmon* Illustrative Plans 1, 2, and 3, Mr. Cooper split a VTD only when necessary to achieve perfect population equality among the districts. GX-1 ¶¶ 50, 53.

e. Respect for Communities of Interest

105. The Court finds that Mr. Fairfax's and Mr. Cooper's illustrative congressional maps respect Louisiana's communities of interest.

106. Mr. Fairfax explained in his report that he analyzed communities of interest by considering the number of times the illustrative plans split census places and landmark areas. May 9 Tr. 178:5. He also considered extensive socioeconomic data to determine commonalities in different regions and roadshow testimony for insight into how individual members of the community viewed their communities of interest. PR-15 at 14, 21; PR-86 at 21-23; May 9 Tr. 177, 179:25-180:25.

107. Starting with census places, Mr. Fairfax’s report and testimony demonstrate that his illustrative plans split fewer census places as communities of interest than the enacted plan. PR-15 at 21-22, May 9 Tr. 186:8-12.

108. Census places include municipalities and census-designated places (“CDPs”). CDPs are generated by the U.S. Census Bureau for statistical purposes and typically reflect “named” areas that are designated by local communities but do not have governmental bodies. PR-15 at 21.

109. As Mr. Fairfax testified, CDPs are “in some ways more communities of interest than actual cities. These are locally defined areas that the community knows about, the community really has named them and so they really represent just as much or even sometimes more [communities of interest] than a city or a town.” May 9 Tr. 176:10-20.

110. Mr. Fairfax’s report explained that *Robinson* Illustrative Plan 1 split 31 census places and *Robinson* Illustrative Plans 2 and 2A split 26 census places, whereas the enacted congressional plan split 32 census places. PR-15 at 21-22, Appendix C; PR-90 at 5, Table 1.

111. The Court gives little weight to claims by Mr. Bryan that the *Robinson* Illustrative Plan 1 split more places than the enacted plan. As Mr. Fairfax explained, Mr. Bryan defines “places” to include CDPs but then inexplicably analyzes only the number of cities, towns, and villages split, excluding CDPs from his split analysis. May 9 Tr. 176:5-9.

112. In his report, Mr. Fairfax explained that he also preserved communities of interest by minimally splitting major landmarks areas, such as airports, major parks, colleges, and universities. PR-15 at 21-22; PR-90 at 5, Table 1.

113. Mr. Fairfax’s report indicates that the illustrative plans and enacted plan split the same number of landmark areas. *Id.*, Appendix C; PR-90 at 5, Table 1.

114. Mr. Fairfax also considered socioeconomic data and roadshow testimony to guide his understanding of communities of interest and to ensure his drawing of Congressional District 5 was based primarily on socioeconomic commonalities in the district. May 9 Tr. 186:17-187:1, 188:2-9, 195:10-196:1, 223:19-24.

115. Mr. Fairfax used socioeconomic data to guide his understanding of communities of interest and of commonalities between areas in a particular district. PR-86 at 98-103. He testified that he drew “overlay maps of socioeconomic data . . . to actually see and visually see commonalities amongst different geographic areas in the state or even in a particular city.” *Id.*; May 9 Tr. 186:20-25.

116. For instance, Mr. Fairfax explained that he used socioeconomic data about food-stamp recipients and persons with no high school education, which showed how areas in Ouachita Parish, Rapides Parish, Evangeline Parish, Lafayette, and Baton Rouge have socioeconomic commonalities, which informed Mr. Fairfax’s decisions in drawing Congressional District 5. Mr. Fairfax also considered the community resilience estimates “an index . . . of the risk for a disaster for a particular community,” median household income, poverty, and renter percentages to direct “where the boundary lines actually should be in [a] particular district” and “where the split parishes potentially could be.” May 9 Tr. 189:16-190:5, 191:9-22. As Mr. Fairfax testified and the court saw, the community resilience estimates map of most at-risk communities for a disaster in Louisiana “actually creates and maps out the boundaries” of Congressional District 5 in the *Robinson* illustrative maps. May 9 Tr. 190:12-191:1.

117. The Court credits Mr. Fairfax’s methodology and conclusions about communities of interest and finds that he preserved significant communities of interest to the extent practicable.

118. In his supplemental report, Mr. Fairfax highlights some of the roadshow testimony by Louisiana voters about their communities of interest that guided him in his mapmaking process. He quotes Albert Samuels asked “why the North Baton Rouge area [was] lumped in a district that really predominantly represents New Orleans. Because from [his] standpoint, that looks like packing and cracking.” PR-86 at 22. All of Mr. Fairfax’s maps remove large portions of Baton Rouge from Congressional District 2 and place them in Congressional District 5, which is drawn as a second majority-Black district.

119. Mr. Fairfax also relied on testimony from Melissa Flournoy, who testified that because of the “specific challenges for the Northshore,” she thought “it’s appropriate to consider a congressional district that includes both Baton Rouge and the Northshore and to hold the Florida Parishes together.” PR-86 at 22. All of Mr. Fairfax’s illustrative plans join East Baton Rouge Parish in the same district as some of the Florida Parishes, specifically East Feliciana, West Feliciana, and St. Helena Parishes and parts of Tangipahoa Parish.

120. Mr. Fairfax also relied on testimony from Gary Chambers during the Baton Rouge roadshow. Mr. Chambers testified that the “people of Assumption Parish are not represented fairly” and should be included in Congressional District 2. PR-86 at 23. Similarly, during the preliminary injunction hearing, plaintiff Dorothy Nairne testified that Assumption Parish should be in Congressional District 2: “We have a shared history, we have a shared cultural heritage, and we work together to make improvements along this area with community development where we are doing work around creating jobs for people, opportunities for young people, and trying to improve our health.” May 10 Tr. 89:1-6. It makes “complete sense” based on lived experiences culturally, socioeconomically, historically or otherwise for her community to fall in Congressional

District 2. May 10 Tr. 90:16-22. *Robinson* Illustrative Plan 1 adheres to this testimony with Assumption Parish contained wholly in Congressional District 2.

121. As discussed below, Mr. Cooper further testified that his illustrative maps better preserve Core Based Statistical Areas (“CBSAs”) and other political subdivisions than HB 1. CBSAs and other political subdivisions constitute additional communities of interest that are preserved in Mr. Cooper’s illustrative maps. May 9 Tr. 132:5-22, 156:16-157:6, 159:8-20. CBSAs are regions defined by the Office of Management and Budget that consist of urban centers and their surrounding communities, reflecting commuting patterns, commercial activity, and communities of interest. May 9 Tr. 103:4-104:24. The federal government uses CBSAs for various purposes, including highway funding and Medicare reimbursement. *Id.* at 104:25-105:15. Each of Mr. Cooper’s plans splits fewer CBSAs than HB 1. GX-1 Figure 20; GX-29 Figure 3; May 9 Tr. 105:16-21.

122. Lay witnesses further confirmed that a community of interest exists between St. Landry Parish, Baton Rouge, and the Delta Parishes, which are united in Mr. Cooper’s illustrative maps.

123. Charles Cravins is the former St. Landry Parish District Attorney, a former congressional staffer responsible for constituent services in St. Landry Parish’s old congressional district, the host of a Zydeco and public affairs radio program, and a lifelong resident of St. Landry Parish. GX-5 ¶¶ 1-2; May 9 Tr. 237:13-17; 238:7-239:5. The Court credits Mr. Cravins’s testimony that St. Landry Parish and Baton Rouge share close ties and finds that the two areas together represent a community of interest. GX-5 ¶ 3.

124. Specifically, St. Landry Parish and Baton Rouge share educational ties relating to the long tradition of students from St. Landry Parish attending college or university in Baton

Rouge, May 9 Tr. 239:14-240:18; economic ties reflecting the area's similar dependence on the petrochemical industry and sugar crops, *id.* at 240:19-241:22; media ties arising from shared newspapers, radio stations, and television stations, *id.* at 242:1-13; and social and cultural ties including common familial histories, French and Spanish influences, culinary styles, Catholic traditions, and entertainment interests, *id.* at 242:14-243:10.

125. The Court credits Mr. Cravins's testimony that these ties and connections between St. Landry Parish and Baton Rouge result in common political interests. For example, residents of St. Landry Parish and Baton Rouge share interests in federal policies related to offshore oil drilling, air and water pollution, hurricane relief, flood mitigation, and price supports for sugar cane. May 9 Tr. 245:18-248:2. Residents of St. Landry Parish do not share these interests with residents of Shreveport or other parishes in northwest Louisiana that are paired with St. Landry Parish in the enacted congressional map. *Id.*

126. Thus, Mr. Cooper's illustrative maps, but not the enacted congressional map, assign St. Landry Parish to a congressional district that maintains its community of interest. GX-5 ¶ 6; May 9 Tr. 255:14-20. Similarly, each of the *Robinson* illustrative plans also assigns St. Landry Parish to a congressional district that maintains its community of interest. *See* PR-15 at 20; PR-86 at 23.

127. Christopher Tyson testified that in his view, as a lifelong Louisianian and professor at LSU Law, linking Baton Rouge with the Delta Parishes made sense because of the historical, educational, economic, and familial connections between the two areas. May 9 Tr. 281:14-282:10.

128. Mr. Tyson testified that many families in the Delta Parishes migrated to Baton Rouge for better educational opportunities, such as attending McKinley High School—the only high school that would educate Black people in Baton Rouge during the first half of the 20th

century. May 9 Tr. 282:11-283:7. He also testified that two historically Black colleges, Leland College and Southern Agricultural and Mechanical University, were located in Baton Rouge, and that many Delta Parish natives seeking higher education attending these schools, which were critical to Black Louisianians' ability to have increased economic mobility. *Id.* at 283:8-17.

129. Further, Mr. Tyson testified that Baton Rouge is the cradle of the petrochemical industry that supplies many jobs for Delta Parish residents. May 9 Tr. 284:2-22.

130. From an historical perspective, Mr. Tyson explained that history shows that the pre-Reconstruction plantation economy along the Mississippi River is indicative of a shared experience between the communities in Baton Rouge and in the Delta Parishes. May 9 Tr. 285:3-9.

131. More pointedly, Mr. Tyson testified that continuing to link Baton Rouge and New Orleans in a single congressional district—like the enacted plan's Congressional District 2—“runs the risk of subordinating the issues of Black voters in Baton Rouge” with those of Black voters in New Orleans, even though Black Baton Rouge voters “live in a decidedly different urban context than those in New Orleans.” May 9 Tr. 286:24-287:14.

132. Mr. Cooper's illustrative maps, but not the enacted congressional map, assign East Baton Rouge Parish—either in whole or in part—to a congressional district that maintains its community of interest. May 9 Tr. 143:22-144:4. Defendants do not meaningfully dispute that Mr. Fairfax's and Mr. Cooper's illustrative maps preserve communities of interest, and they offered no expert evidence to suggest otherwise. Indeed, Defendants called no expert witness at the hearing to testify about communities of interests, despite arguing in their pre-hearing briefs that Plaintiffs' illustrative maps “ignore any conception of communities of interest.” Rec. Doc. No. 10 at 10.

133. The Court finds that Plaintiffs' illustrative plans take into account and preserve communities of interest to the extent practicable and concludes that the illustrative plans adhere to this districting principle.

f. Respect for Political Subdivisions

134. The Court finds that Mr. Fairfax's and Mr. Cooper's illustrative congressional maps respect Louisiana's political subdivisions.

135. The Court finds that the main political subdivisions in Louisiana are parishes and VTDs, which are also referred to as precincts. PR-15 at 13, 21; PR-79 (Joint Rule No. 21).

136. Mr. Fairfax's report explains that *Robinson* Illustrative Plan 1 splits 14 parishes and *Robinson* Illustrative Plans 2 and 2A split 12 parishes; the enacted congressional plan, by contrast, splits 15 parishes. PR-14 at 21; PR-90 at 5, Table 1. None of Defendants' experts disputed this conclusion.

137. Joint Rule 21 states that congressional plans should minimize VTD splits "to the extent practicable." GX-20.

138. Mr. Fairfax testified that he analyzed the enacted plan and determined that the Legislature prioritized eliminating VTD splits. In accordance with the Legislature's apparent priority, Mr. Fairfax also developed the *Robinson* illustrative plans to eliminate VTD splits. As such, both the enacted plan and the illustrative plans split no VTDs. Defendants do not dispute that the *Robinson* illustrative plans splits no VTDs.

139. The following table compares the number of political subdivision splits in Mr. Cooper's illustrative plans to those in HB 1:

Plan	Parish Splits	Populated Municipal Splits	Single-Parish Populated Municipal Splits	Core Based Statistical Area Splits
HB 1	15	30	25	18
Illustrative Plan 1	10	24	18	14
Illustrative Plan 2	11	30	22	16
Illustrative Plan 3	10	29	23	17
Illustrative Plan 4	10	30	21	14

GX-1 Figure 20; GX-29 Figure 3.

140. Each of Mr. Cooper's plans splits fewer parishes than HB 1. GX-1 Figure 20; GX-29 Figure 3; May 9 Tr. 100:8-16.

141. Each of Mr. Cooper's plans contains equal or fewer populated municipality splits than HB 1. GX-1 Figure 20; GX-29 Figure 3; May 9 Tr. 100:17-101:13.

142. Each of Mr. Cooper's plans contains fewer single-parish populated municipality splits than HB 1. GX-1 Figure 20; GX-29 Figure 3; May 9 Tr. 102:24-103:3.

143. Each of Mr. Cooper's plans splits fewer CBSAs than HB 1. GX-1 Figure 20; GX-29 Figure 3; May 9 Tr. 105:16-21.

144. It is undisputed that *Galmon* Illustrative Plan 4 does not split a single VTD. GX-29 ¶ 14. In *Galmon* Illustrative Plans 1, 2, and 3, Mr. Cooper split a VTD only when necessary to achieve perfect population equality among the districts. GX-1 ¶¶ 50, 53.

145. When it was necessary to split a VTD to achieve perfect population equality, Mr. Cooper followed municipal boundaries, census block group boundaries, or census block boundaries. GX-1 ¶ 50. Mr. Cooper also drew an illustrative map with zero VTD splits. GX-29 ¶ 12.

146. The Court finds that Mr. Fairfax’s and Mr. Cooper’s illustrative maps split fewer parishes and VTDs than the enacted plan and otherwise respect political subdivision boundaries.

g. Compactness

147. The Court finds that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps contain reasonably compact districts.

148. Mr. Fairfax evaluated the enacted congressional plan and his illustrative plans using the Reock, Polsby-Popper, and Convex Hull measures, three widely used statistical measures of a district’s compactness. PR-15 at 14, 22. Each test measures compactness on a scale from 0 to 1; the closer the value is to 1, the more compact the district. PR-15 at 14, 22.

149. The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. PR-15 at 14 nn. 31-32.

150. The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter. PR-15 at 14 n. 32.

151. The Convex Hull test computes a ratio of the area of the district to the area of the convex hull of the district, without regard to population within the areas. Convex Hull is routinely referred to as a “rubber-band” enclosure or polygon. PR-15 at 14 n. 32.

152. As Mr. Fairfax explained in his first report, the mean compactness score—averaging the compactness score for each district—is the primary way to compare compactness between different plans. PR-15 at 31; May 9 Tr. 184:6-14.

153. The mean compactness measures for the *Robinson* Illustrative Plan 1 are .42 (Reock), .18 (Polsby-Popper), and .69 (Convex Hull). The mean compactness scores for *Robinson* Illustrative Plans 2 and 2A are .39 (Reock), .20 (Polsby-Popper), and .71 (Convex-Hull). By

contrast, the mean compactness measures for the enacted congressional plan are .37 (Reock), .14 (Polsby-Popper), and .62 (Convex Hull). May 9 Tr. 185:16-20; PR-15 at 31, Table 10; PR-90 at 5, Table 1.

154. The following table, compiled from Mr. Fairfax's initial and supplemental reports, demonstrates that the *Robinson* illustrative plans are more compact than the enacted congressional plan on the three measures of compactness analyzed by Mr. Fairfax:

Table 1 - Illustrative Plan and HB 1 Mean Compactness Measurements

District	Reock	Polsby-Popper	Convex Hull	Performed Best
Illustrative Plan Mean	.42	.18	.69	3 of 3
Illustrative Plan 2 Mean	.39	.20	.71	3 of 3
Illustrative Plan 2A Mean	.39	.20	.71	3 of 3
HB1 Plan Mean	.37	.14	.62	0 of 3

155. Mr. Cooper used two metrics to evaluate the compactness of the districts in his illustrative plans: Reock and Polsby-Popper. The Reock score measures the ratio between the area of the minimum enclosing circle for that district. The Polsby-Popper score measures the ratio of the district's area to that of a circle with the same perimeter. Both measurements produce a score between zero and one, with one being the most compact. GX-1 ¶ 73 n. 26; May 9 Tr. 106:5-107:11.

156. The following table compares the compactness scores of the districts in Mr. Cooper's illustrative plans to those in HB 1.

Plan	Reock		Polsby-Popper		
		Low	High	Low	High
HB 1					
Mean of All Districts	.37	.18	.50	.16	.34
CD 2	.18			.06	
Illustrative Plan 1					
Mean of All Districts	.36	.23	.53	.19	.27
CD 2	.23			.15	
CD 5	.33			.09	
Illustrative Plan 2					
Mean of All Districts	.41	.23	.53	.19	.27
CD 2	.23			.12	
CD 5	.33			.09	
Illustrative Plan 3					
Mean of All Districts	.38	.23	.52	.18	.31
CD 2	.23			.15	
CD 5	.30			.08	
Illustrative Plan 4					
Avg. of All Districts	.37	.23	.56	.18	.29
CD 2	.23			.15	
CD 5	.35			.09	

GX-1 Figure 18; GX-29 Figure 4.

157. All four of Mr. Cooper's illustrative plans have a higher average Polsby-Popper compactness score than HB 1. GX-1 Figure 18; GX-29 Figure 4; May 9 Tr. 107:12-108:19.

158. All of Mr. Cooper's illustrative plans have a higher average Reock compactness score than HB 1 except for *Galmon* Illustrative Plan 1, which scores just .01 lower than HB 1. GX-1 Figure 18; GX-29 Figure 4; May 9 Tr. 107:12-108:19.

159. Under each of Mr. Cooper's illustrative plans, the two majority-Black districts—Congressional Districts 2 and 5—have a higher Reock and Polsby-Popper compactness score than that of HB 1's sole majority-Black district, Congressional District 2. GX-1 Figure 18; GX-29 Figure 4.

160. In addition, the Court has visually reviewed Plaintiffs' illustrative plans and concludes that the districts in those plans appear to be more compact than those in the enacted plan.

161. Defendants' experts at no point disputed that Plaintiffs' illustrative plans are more compact than the enacted congressional plan on the three measures of compactness.

162. Testimony from Dr. Christopher Blunt, discussed in greater detail below, does not call into question the compactness of Plaintiffs' illustrative plans. Dr. Blunt testified that his simulated plans had an average compactness score of .25, compared to an average compactness score of .18 for Plaintiffs' illustrative plans. May 12 Tr. 39:13-21. But the mere fact that the plans generated by Dr. Blunt's simulations had greater compactness scores by these mathematical measures than the illustrative plans does not call into question the overall compactness of the illustrative plans presented by Plaintiffs' experts. *See* May 9 Tr. 184:1-5 (Mr. Fairfax's testimony indicating that there is no one dispositive measure of compactness). This is particularly true where the average compactness score of .37 (Reock) and .16 (Polsby-Popper) for the enacted congressional plan falls below the average scores of Plaintiffs' illustrative plans and Dr. Blunt's simulated plans.

163. Any comparison between the illustrative plans and Dr. Blunt's simulations is unilluminating. Dr. Blunt testified that he generated his simulations without reference to the enacted congressional plan. May 12 Tr. 108:21-23. Mr. Fairfax testified without dispute by any of Defendants' experts that mapmakers normally "do [not] start from scratch . . . developing a plan anywhere"; instead, mapmakers "start with a baseline and usually that's the previously enacted plan." May 9 Tr. 181:9-14. Thus, the plans generated by Dr. Blunt's simulations shed no light on whether the illustrative plans are compact.

164. In addition, Dr. Blunt used only one statistical measure of compactness—Polsby-Popper—whereas Mr. Fairfax and Mr. Cooper relied on multiple different statistical measures. LEG_03; PR-15 at 114, n.32. As Mr. Fairfax testified, no single test is dispositive, and the three statistical measures assess compactness in different ways. May 9 Tr. 184:1-5. The Court concludes that the three measures together provide a more robust assessment of compactness than using one test alone, and does not credit Dr. Blunt’s testimony regarding compactness.

165. The Court also disregards the expert report and testimony of Dr. Alan Murray to the extent that it relates to compactness. Dr. Murray used spatial clustering analysis to determine that Black and white residents do not reside in the same areas in the state of Louisiana. LAG_04. Dr. Murray admitted that he did not review any congressional redistricting plan in drafting his report, and he expressed no opinion about whether the Black population in Louisiana is sufficiently numerous or compact to make up two majority-minority congressional districts that are otherwise consistent with traditional redistricting principles. May 13 Tr. 24:11-16.

166. In his expert report, Dr. Murray stated that he was “engaged by the Louisiana Attorney General’s office to assess the characteristics of five Congressional redistricting plans.” LAG_04 at 5. But on cross-examination, Dr. Murray testified that he did not review any of Plaintiffs’ illustrative plans and in fact has no basis to disagree with any of the opinions offered by Plaintiffs’ experts in this case. May 13 Tr. 24:15-23; 24:24-25:6.

167. Dr. Murray’s conclusion that the Black and white populations in Louisiana are not distributed heterogeneously is also irrelevant to the question of compactness. Dr. Murray admitted on cross-examination that he has previously analyzed the distribution of Black and white voters in other states, and in every case found that the Black and white populations were distributed heterogeneously. May 13 Tr. 25:7-15. Dr. Murray’s findings amount to a general observation about

distributions of Black and white populations everywhere and offer no specific insight into the question of whether any actual congressional district in Louisiana—either in the enacted plan or any of Plaintiffs’ illustrative plans—is sufficiently compact. The Court thus finds that Dr. Murray’s report and testimony are irrelevant to the question whether Black voters in Louisiana are sufficiently compact to make up a second majority-minority congressional district.

168. Even if Dr. Murray did purport to offer an opinion on the compactness of any congressional district under the enacted plan or any of Plaintiffs’ illustrative plans, his report and testimony would not be credible. Dr. Murray admitted on cross-examination that he has no background in redistricting, and he is not aware of any court having considered spatial analysis of the type he conducted here in the context of a Section 2 case. May 13 Tr. 22:4-21; 25:16-26:15.

169. The Court also credits Mr. Fairfax’s response to Dr. Murray’s report. Mr. Fairfax testified that spatial clustering analysis is not the way to determine whether a plan is compact; statistical measures of compactness are the traditional way to determine whether a map or population therein is compact. May 9 Tr. 203:11-204:5.

170. After reviewing the compactness measures submitted in this case and listening to the expert testimony provided at the preliminary injunction hearing, the Court concludes that the districts in Mr. Fairfax’s and Mr. Cooper’s illustrative plans are reasonably compact.

171. The Court finds that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional plans are consistent with the traditional districting principle of compactness.

h. Fracking

172. The Court finds that Mr. Fairfax’s illustrative congressional maps reasonably avoid fracking.

173. According to testimony from Mr. Fairfax, fracking occurs when a district boundary splits a jurisdiction into two or more noncontiguous areas, and is considered a form of gerrymandering. May 9 Tr. 193:20-194:1; PR-15 at 15.

174. Mr. Fairfax's report identified eight instances of fracking in the enacted congressional plan, whereas his illustrative plan has only five instances of fracking. PR-15 at 22; PR-90 at 5, Table 1; *see also* May 9 Tr. 194:20-25.

175. None of Defendants' experts disputed that the *Robinson* illustrative maps had fewer instances of fracking.

176. The Court concludes that the *Robinson* illustrative plans exhibit less evidence of fracking.

i. Core Retention

177. Neither Mr. Fairfax nor Mr. Cooper could avoid drawing illustrative districts with lower core retention scores than the districts in the enacted congressional plan in light of their objective of determining whether it is possible to create a second majority-Black district while complying with traditional redistricting principles. GX-29 ¶ 33; May 9 Tr. 204:14-23; PR-86 at 7-10.

178. Indeed, as Mr. Fairfax testified and his reports explained, when developing a plan to analyze whether it is possible to draw an additional majority-minority district to satisfy the first precondition of Gingles, it is "expected" that the new plan may deviate significantly from the previous plan. May 9 Tr. 204:6-23; PR-86 at 7-10 .

179. Defendants' expert Dr. Hood testified that the core retention scores for Plaintiffs' illustrative plans are lower than those for the enacted plan. May 12 Tr. 213:7-25. Dr. Hood conducted a core retention analysis to assess how much of the 2011 congressional plan's

population and geography was retained, or unchanged, under the enacted plans and Plaintiffs' illustrative plans. LEG_01; LEG_78.

180. While Dr. Hood concluded that the enacted plan retains more of the district cores than the illustrative plans, the Court concludes that his analysis is largely unhelpful and wholly irrelevant. Dr. Hood reviewed none of the opening reports prepared by Plaintiffs' expert witnesses. May 12 Tr. 10-19. He testified that he was unaware of the prioritized redistricting principles in Louisiana, and thus, he did not know whether the illustrative plans here complied with such principles. May 12 Tr. 223:19-224:5. In fact, he agreed that he "offer[e]d no opinion as to the compliance of plaintiffs['] illustrative maps here with the principles that were outline by the Louisiana legislature for this redistricting process." May 12 Tr. 234:18-25.

181. Moreover, Dr. Hood conceded that "as a general matter . . . core retention does not trump the Voting Rights Act." May 12 Tr. 233:3-21.

182. Notably, core retention was not one of the principles for congressional redistricting prioritized by the Legislature in Joint Rule No. 21. GX-20. Indeed, a comparison of Joint Rule 21(D)—which governs redistricting for the Legislature and other state government bodies—and Joint Rule 21(E)—which governs congressional redistricting—shows that the omission of any reference to core retention with respect to congressional redistricting was intentional. While Joint Rule 21(D) requires that "[d]ue consideration" be given to "traditional district alignments to the extent practicable," Joint Rule 21(E) includes no reference to retaining traditional district alignments or core retention. *Id.* As Mr. Fairfax explained in his supplemental report, "[w]hen a criterion is not explicitly listed as a guideline to follow, it is usually treated as a lower priority than the other criteria that are specifically listed by the jurisdiction." PR-86 at 8.

183. The Court does not credit Defendants’ efforts to misconstrue the legislative record to emphasize core retention as a legislative priority. Defendants asked Plaintiffs’ expert Dr. Traci Burch to explain a comment from Senate President Patrick Page Cortez during a February 2 Senate Governmental Affairs Committee hearing, where Senate President Cortez emphasized “continuity of representation.” May 10 Tr. 144:8-146:4, PR-52 at 7. Dr. Burch clarified that the complete transcript of the hearing demonstrated that continuity of representation was articulated as the “third” districting priority and that Senate President Cortez’s statement was made in reference to state legislative redistricting, not congressional redistricting. May 10 Tr. 145:9-17, 154:16-155:13.

184. In any event, even if core retention were a relevant redistricting principle in this context, all but one of the districts in Mr. Cooper’s illustrative plans maintain at least 50% of the 2020 population that resided in the district under the 2011 congressional plan. GX-29 ¶¶ 34-35.

j. Incumbent Pairing

185. The Court finds that Mr. Cooper’s maps and *Robinson* Illustrative Plan 2A demonstrate that it is possible to draw a second majority-Black district in Louisiana’s congressional map that adheres to the districting principle of incumbent pairing.

186. Notably, incumbent pairing was not one of the Legislature’s articulated priorities for congressional redistricting. GX-20.

187. Under each of Mr. Cooper’s illustrative plans, all of Louisiana’s six current congressional incumbents reside in the district in which they currently live. GX-1 ¶ 56

188. Similarly, *Robinson* Illustrative Plan 2A was developed with the goal of avoiding incumbent pairing. Mr. Fairfax’s second supplemental report explained that he made slight adjustments to *Robinson* Illustrative Plan 2 to avoid pairing incumbents. PR-90 at 2-6.

189. Defendants’ experts offered no more than cursory references to incumbent pairing and did not present the Court with any empirical analysis on incumbent pairing. *See* May 11 Tr.

148:19-22 (Mr. Bryan stated that he looked at the “location of the incumbents and confirmed that . . . in all of the plans all of the incumbents were in their own districts” but did not include any empirical analysis in his report); May 12 Tr. 205:2-9 (Dr. Hood testified that he concluded that it would be harder for people to vote for incumbents under the illustrative plans based on his core retention analysis); May 12 Tr. 65:15-18 (Dr. Blunt testified that he did not analyze incumbent pairing at all and that he did not know how often incumbents were paired in his simulations).

190. The Court concludes that it is possible to adhere to the districting principle of protecting incumbents under an illustrative plan with two majority-Black districts.

k. Racial Considerations

191. The Court concludes that neither Mr. Fairfax nor Mr. Cooper subordinated traditional districting principles in favor of race-conscious considerations.

192. Mr. Fairfax was asked to “analyze and determine whether it is possible to draw an illustrative plan that adheres to state and federal redistricting criteria and satisfies the first precondition of *Thornburg v. Gingles*.” PR-15 at 4.

193. Mr. Fairfax’s reports and testimony clearly explain that he considered myriad relevant factors in developing his maps, including compactness, equal population, parish splits, socioeconomic data and roadshow testimony. PR-15 at 13-15; PR-86 at 12. Mr. Fairfax repeatedly reiterated that he did not subordinate any districting principles to race in developing his three illustrative plans. May 9 Tr. 202:5-11; 204:24-205:4; PR-86 at 12.

194. Mr. Fairfax’s reports and testimony provide significant insight into this mapmaking process and support his assertions that race did not predominate over other neutral districting principles. Starting with Congressional District 2, Mr. Fairfax explained that he developed *Robinson* Illustrative Plan 1 to “lessen the presence of District 2 in Baton Rouge and create a more sing[ular] metro[politan] district” centered around New Orleans. PR-15 at 26 n.48. During his

testimony, Mr. Fairfax explained: “The design or goals that I had [in drawing the illustrative plans] from the beginning was to make [Congressional District 2] more compact, split less political subdivisions . . . specifically parishes and remove a portion from the Baton Rouge region. And so what I did was there were river parishes that were split, I made them whole. The district was made more compact just by the shape added to it and moved a portion out of East Baton Rouge, brought that district down and made it more compact that way as well.” May 9 Tr. 234:6-234:18; *see also* PR-15 at 24-25 (explaining that Congressional District 2 in his illustrative plans “follows the same route as the enacted . . . plan,” except that he drew the district to be “significantly more compact” and to include “mostly whole parishes of multiple River Parishes”); May 9 Tr. 190:12-191:1 (“This is that data set that I said the census bureau created from ACS and others called the community resilience estimates where what they did was they came up with an index, if you will, of the risk for a disaster for a particular community. This is at the census [tract] level as well. And so this actually maps out once again in those quintiles that I said, the top two quintiles for those areas that had greater than three risk factors. And so, once again, you can actually see and visually see how this somewhat actually creates and maps out the boundaries really for District 5.”).

195. In his supplemental report, Mr. Fairfax described his process for drawing Congressional District 5 as a “Delta centered” district, encompassing the northern region of the Delta Parishes and expanding to include “additional parishes and cities with similar socioeconomic” indicators. PR-86 at 12. Again, some of his decisions were driven by considerations for districting principles such as compactness and communities of interest. Mr. Fairfax explained in his report that he did not include Caldwell Parish in Congressional District 5 “to make District 5 more compact.” Likewise, La Salle Parish was “not included [in Congressional District 5] since it did not match the district’s socioeconomic commonalities.” PR-86 at 13.

196. Mr. Fairfax described how he considered roadshow testimony “either to modify or at least validate the process that [he] was going through” in developing his illustrative plans. May 9 Tr. 195:10-196:1. Mr. Fairfax testified that he relied on roadshow “testimony about keeping the [D]elta parishes intact . . . keeping the Florida parishes whole, there was testimony, for example, about the [R]iver [P]arishes where they were split before but could you make them whole. And so they all fit into the design if you will of the congressional districting plan.” *Id.* at 195:19-196:1.

197. Mr. Fairfax similarly considered socioeconomic data from “the beginning,” overlaying maps of socioeconomic data at an early stage in his process because it “allow[ed him] to actually see and visually see commonalities amongst different geographic areas in the state or even in a particular city.” May 9 Tr. 186:17-187:1; 189:5-15; 190:12-192:11.

198. Notably, Mr. Fairfax clarified that none of the socioeconomic indices he considered throughout his mapmaking process was broken down or aggregated by race. May 9 Tr. 193:11-14.

199. The Court finds Mr. Fairfax’s testimony about his map-making process reliable and credible and concludes that he was guided by districting principles and neutral considerations other than race.

200. Mr. Cooper was asked to determine whether it was possible to draw a second majority-minority district that was consistent with traditional redistricting principles. May 9 Tr. 80:22-81:10. As he explained, drawing two majority-Black districts “was not [his] goal because when developing a plan you have to follow traditional redistricting principles; so I—I did not have a goal to under all circumstances create two majority-[B]lack districts.” May 9 Tr. 122:15-25.

201. When drawing his illustrative plans, Mr. Cooper was aware of race because he was trying to determine whether it was possible to draw a second majority-Black district consistent with traditional redistricting principles, but he did not prioritize race over any other redistricting

principle. May 9 Tr. 113:11-14 (“Q. . . . Was any one factor a predominant factor in drawing your illustrative maps? A. No. I made a real effort to try to balance all the factors.”); *id.* at 156:8-12 (“Q. . . . [W]ould you consider race an important factor that you consider when drawing your illustrative plan districts? A. It is one of several redistricting principles. I try to balance them all.”).

202. In his rebuttal expert report, Mr. Cooper maintained that “race did not predominate in the drawing of any of [his] illustrative plans.” GX-29 ¶ 6.

203. Although Defendants’ expert Mr. Bryan suggested that Mr. Cooper’s illustrative maps segregated Black and white Louisianians, Mr. Cooper explained that this is a consequence of the segregation that already exists in cities like Baton Rouge. May 9 Tr. 114:11-115:24; *see also id.* at 137:22-138:10 (Mr. Cooper’s testimony explaining that majority-Black neighborhoods were included in his illustrative districts not because of their demographic composition but because they are “very clearly defined neighborhoods that are overwhelmingly black in some cases,” and thus that “[t]hey are compact areas and easy to join to other compact [] black populations”).

204. The Court finds Mr. Cooper’s testimony about his map-making process reliable and credible and concludes that he was guided by districting principles and neutral considerations other than race.

205. The Court rejects Defendants’ attempts to conflate Plaintiffs’ illustrative maps with the maps struck down in the *Hays* cases following the 1990 census. Defendants contended that the illustrative plans were comparable to maps struck down in the *Hays* cases because both the illustrative maps and the *Hays* maps connected the northern Delta Parishes with East Baton Rouge Parish in a single congressional district. *See, e.g.,* May 9 Tr. 222:1-24.

206. Mr. Fairfax and Mr. Cooper both credibly testified that their maps were distinguishable from the *Hays* maps. Mr. Fairfax testified that the maps at issue in *Hays* were

“extremely non compact” and that he “would never draw a plan that looks like that.” May 9 Tr. 222:12-19. Mr. Cooper similarly testified that the map had the “lowest Polsby-Popper score” he had “seen in [his] life” and it was “not surprising” that it was struck down by the court. May 9 Tr. 141:17-23. The Court finds that Mr. Fairfax and Mr. Cooper’s testimony about the compactness of their illustrative plans—as more compact on three measures of compactness than the enacted map—undermines any comparison to the *Hays* maps. The Court’s visual comparison of the maps at issue in *Hays* and Plaintiffs’ illustrative maps in this case confirm that finding.

207. Defendants also put forth several experts who testified that racial considerations predominated in the drawing of Plaintiffs’ illustrative maps. *See* LEG_03; LAG_02. The Court, however, does not find their analyses persuasive. Instead, the Court finds their conclusions unfounded and their methodology unsound. The Court also finds that the exceedingly narrow focus of each of the defendants’ experts renders their testimony generally less helpful to the Court than the testimony of Plaintiffs’ experts. In addition, as discussed further below, based upon the Court’s assessment of the demeanor of the respective experts at trial and their responses to questions posed to them on cross-examination, the Court finds Defendants’ experts generally less credible than Plaintiffs’ experts.

i. Thomas Bryan

208. Defendants offered the testimony of Mr. Bryan, who also testified earlier this year against illustrative maps submitted in a challenge to Alabama’s enacted congressional districting plan. May. 11 Tr. 55:14-23. In that case, the court placed very little weight on Mr. Bryan’s testimony, finding his analysis to be “selectively informed” and “poorly supported.” *Id.* at 150:19-151:4, 151:23-152:1. Mr. Bryan’s Alabama testimony about the appropriate metric for determining who is Black caused the court to question Mr. Bryan’s credibility, *id.* at 151:5-10, and the court expressed concern about the numerous instances in which Mr. Bryan offered an opinion without a

sufficient basis, or, in some instances, any basis, *id.* at 151:11-15. The Alabama court also criticized Mr. Bryan for opining on the alleged racial considerations motivating illustrative plans without examining all of the traditional districting principles set forth in the legislature’s guidelines. *Id.* at 151:16-22. The Court shares these same concerns here.

209. First, the Court finds that Mr. Bryan’s demeanor on the stand demonstrated a lack of credibility. For example, Mr. Bryan was offered as an expert in demographics, May 11 Tr. 51:4-9, and he testified extensively about the various metrics for calculating the single-race and mixed-race Black population, *id.* at 61:18-69:7. And yet Mr. Bryan disclaimed any familiarity with the notorious “one-drop rule” that historically has been used as an expansive definition of who is Black. *Id.* at 108:8-109:5. Mr. Bryan’s deportment on the witness stand during this line of questioning appeared to reflect insincerity and detracted from his general credibility.

210. The Court further finds that Mr. Bryan’s methodologies—and therefore the conclusions he reached—are unreliable. Mr. Bryan’s analysis turned on the significance that he attributed to the manner in which Mr. Cooper’s illustrative congressional plans split various Louisiana localities. May 11 Tr. 114:8-11. Mr. Bryan, however, did not dispute that Mr. Cooper’s illustrative plans split fewer parishes and municipalities than the enacted congressional plan. *Id.* at 115:6-13. Mr. Bryan also admitted that his analysis does not provide the Court with any basis to determine whether the racial distribution in the illustrative congressional plans reflects underlying segregation rather than the map-drawer’s racial considerations. *Id.* at 125:17-25, 128:16-22. And Mr. Bryan’s analysis concededly did not take account of multiple traditional redistricting criteria, including compactness, contiguity, incumbent protection, and the maintenance of communities of interest. *Id.* at 147:19-150:18. Finally, Mr. Bryan acknowledged that he did not review *Robinson Illustrative Plans 2 and 2A* or do any analysis of those plans. *Id.* at 153:9-25.

211. Finally, Mr. Bryan used an “index of misallocation” to reach his conclusions that several cities, including Baton Rouge, are split along racial lines. LAG_02 at 23. But he admitted to the Court that he had not used the index of misallocation in his only other case as an expert and he did not know whether any court had ever credited a similar misallocation analysis. May 11 Tr. 116:12-17. The Court declines to do so here

212. Accordingly, the Court declines to credit Mr. Bryan’s testimony and conclusions.

ii. Dr. Christopher Blunt

213. Defendants offered the testimony of Dr. Blunt, who was asked “to analyze and determine whether a race blind redistricting process following the traditional districting criteria would or would not be likely to produce a plan with two majority-minority districts.” May 12 Tr. 25:2-12. Although the Court accepted Dr. Blunt as an expert “in political science with an emphasis in quantitative political science and data analysis,” *id.* at 9:7-14, it does not credit his testimony as to simulations analysis for several reasons.

214. First, although Dr. Blunt has a PhD in political science, May 12 Tr. 16:13-17, he is the owner and president of a public opinion consulting practice and focuses on public opinion studies and voter turnout modeling, *id.* at 17:15-18:12. His prior experience has nothing to do with simulations analysis, and he had never undertaken a simulations analysis before this case. *Id.* at 22:25-23:3 (“Q. Now, have you performed an analysis using the redistricting simulations in your prior work? A. No. I had not before this.”); *see also id.* at 20:10-21:19, 53:21-24, 54:15-17, 55:13-51:1. Dr. Blunt also confirmed that he has neither published on simulations analysis or redistricting (in a peer-reviewed journal or otherwise) nor taught or even taken a course on these topics. *Id.* at 53:25-54:14, 54:18-55:12. When asked if he is an expert in simulations analysis, Dr. Blunt responded that he is “an expert in data analysis,” but acknowledged that “this is the first simulation that [he had] produced.” *Id.* at 60:5-13.

215. Second, although Dr. Blunt claimed to have sufficient familiarity with computer simulations to undertake his analysis, May 12 Tr. 24:2-14, his testimony betrayed his unfamiliarity with the specific details and nuances of simulations analysis. Dr. Blunt indicated that he began work on his report—his first actual experience undertaking a simulations analysis—on April 22, just one week before his report was filed. *Id.* at 52:16-24. He did not write the code that he employed for his analysis, instead downloading publicly available code and “wr[iting] the instructions that executed the underlying algorithm.” *Id.* at 56:16-58:9. Dr. Blunt noted that he had never run this code before and was unable to answer questions about its functionality. *Id.* at 58:10-59:1 (“Q. . . . Do you have any reason to disagree if I told you Dr. Imai’s code. . . is using a Metropolis-Hastings algorithm? A. I wouldn’t have any particular knowledge to contest that.”); *id.* at 63:11-64:11 (Dr. Blunt’s testimony admitting that he is “not sure entirely” whether all relevant redistricting criteria could be programmed into code he used); *id.* at 88:3-10 (“Q. . . . So the algorithm that you’ve used, you’ve testified that it doesn’t allow you to set up a particular number of split parishes or parish splits? A. Not that I was aware of. Without going . . . under the hood to do something that I, you know, was not familiar with or comfortable with, yeah.”); *id.* at 94:1-23 (Dr. Blunt’s testimony admitting that he was unsure as to maximum weight compactness could be assigned in algorithm). When asked if he could explain that algorithm contained within the code he used, Dr. Blunt responded that he had “read the article that is under review that Dr. Imai and [his] collaborators have submitted where he explains the algorithm, and [] got a sense for what it was doing,” but could not otherwise reproduce it. *Id.* at 59:17-25.

216. Third, Dr. Blunt indicated that simulations “should run according to what the . . . stated legal criteria are.” May 12 Tr. 63:1-3; *see also id.* at 64:18-65:2 (“Q. And if a simulation’s algorithm is not programmed with sort of the same set of redistricting criteria, then that wouldn’t

serve as an appropriate comparison, right? It would be sort of like comparing apples to oranges?

A. To some extent, yes. That's why when you set this up, you try to get it as close as you can. You may not be able to get a hundred percent, but you, you know, you program in the constraints that you can."); *id.* at 67:1-7 (similar). And yet, by his own description, his simulations did not reflect the Legislature's criteria as adopted in Joint Rule No 21 or the principles applied by Mr. Fairfax and Mr. Cooper when they drew their illustrative maps. Instead, Dr. Blunt's simulations took into account only four criteria: population equality, contiguity, compactness, and minimization of parish splits. *Id.* at 67:8-15. He conceded that these were not all of the relevant criteria and referred to these four as "among the most important"—without providing any explanation for how he reached this judgment. *Id.* at 68:2-11.

217. Dr. Blunt's simulations did not take into account preservation of political subdivisions other than parishes, May 12 Tr. 68:19-69:17, even though Joint Rule No. 21 prioritized the preservation of VTDs, GX-20.

218. Dr. Blunt's simulations did not take into account preservation of communities of interest beyond subdivision boundaries, May 12 Tr. 29:19-30:2, 71:2-15, even though he acknowledged that this was a paramount criterion adopted by the Legislature, GX-20; May 12 Tr. 67:20-23 ("Q. Joint Rule 21 actually says that communities of interest are more important than parish boundaries; is that right? A. I believe it says that."). Dr. Blunt's explanation for why he did not consider this factor—the difficulty of defining the concept and his concern that such communities might serve "as a proxy for race," May 12 Tr. 29:3-32:7, are not persuasive given that Mr. Fairfax and Mr. Cooper did consider communities of interest like CBSAs when drawing their illustrative maps.

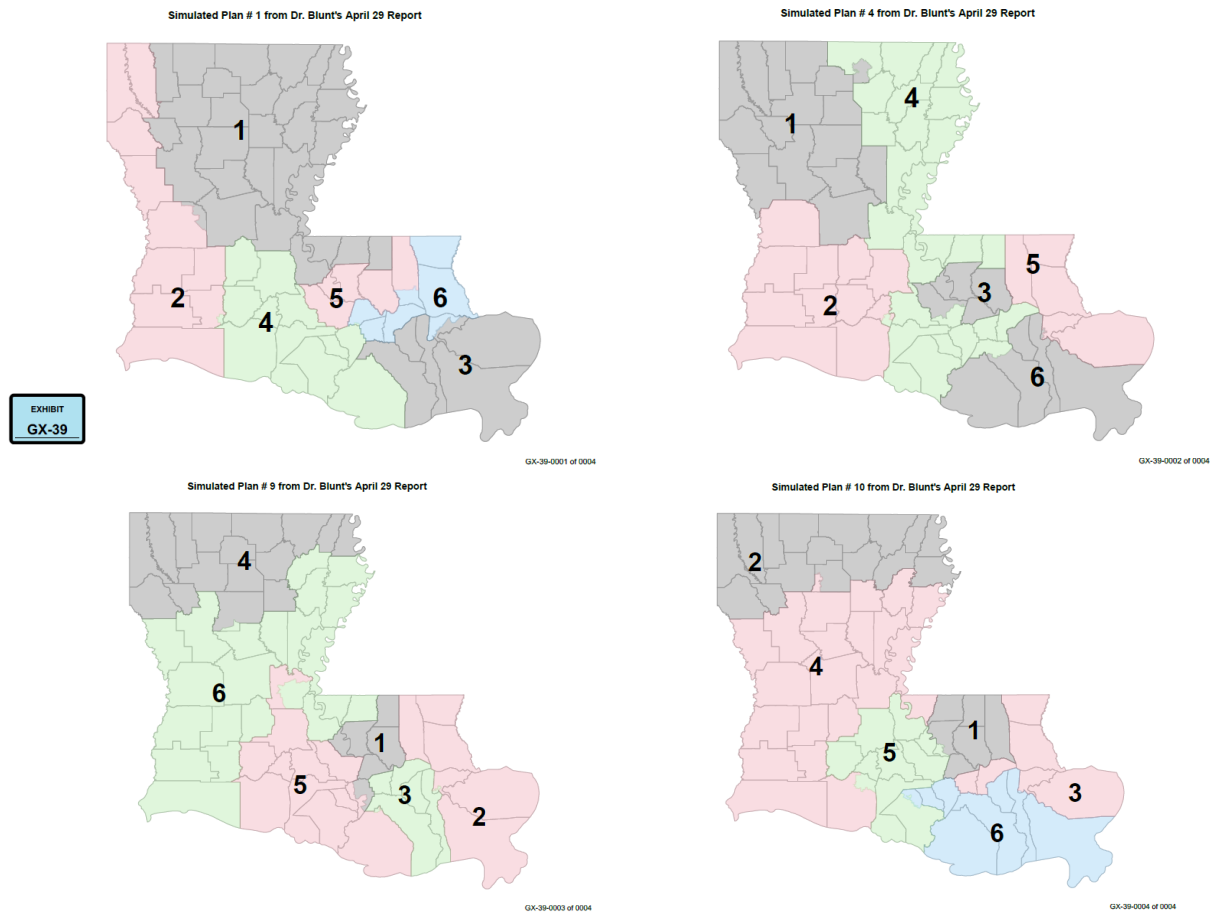
219. Dr. Blunt’s simulations did not take into account incumbency protection, even though he acknowledged that this “is often a consideration” in redistricting, May 12 Tr. 69:18-70:18, or fracking, *id.* at 72:24-73:21.

220. Dr. Blunt conceded that his analysis showed only that “it would be extremely unlikely for [a] Louisiana redistricting plan that included two MMDs to emerge in a process that followed *only the redistricting criteria that I used.*” May 12 Tr. 38:2-6 (emphasis added). He further conceded that he could not state whether two majority-minority districts might have been drawn had his algorithm incorporated the omitted criteria and reflected the full slate of traditional redistricting principles, *id.* at 73:22-70:10, and that making adjustments to the considered criteria could change this result, *id.* at 104:10-105:6. Because the list of redistricting criteria that Dr. Blunt used in his simulations was incomplete, his conclusions are entitled to little weight.

221. Moreover, several of the criteria that Dr. Blunt’s simulations did incorporate were improperly configured. His simulated districts had an average Polsby-Popper score higher than the averages score of both the enacted congressional map and Mr. Cooper’s and Mr. Fairfax’s illustrative plans. May 12 Tr. 80:16-81:12. And his simulated maps features, on average, either five split parishes or 30 splits parishes. *Id.* at 84:1-15. Dr. Blunt acknowledged that he was unaware of any actual Louisiana congressional maps or any illustrative maps in this case that split only five or as many as 30 parishes. *Id.* at 84:20-86:6. And for each split parish in his simulations, Dr. Blunt was unable to determine how many times the parish was split. *Id.* at 90:20-91:23.

222. Dr. Blunt eventually confirmed the disparities between his simulated maps, the enacted congressional map, and Plaintiffs’ illustrative maps—when showed images of four of his

simulated maps, he conceded that they did not resemble any maps he had seen, either enacted by the State of Louisiana or submitted by Plaintiffs in this case. May 12 Tr. 98:9-100:17.



GX-39.

223. Finally, Dr. Blunt conceded that he did not examine whether consideration of race as a non-predominant factor might have produced two majority-minority districts, and could not conclude that such a result was impossible. May 12 Tr. 100:24-105:20.

224. In short, because Dr. Blunt's maps were the product of imperfect inputs and failed to reflect the actual criteria that guided both the Legislature's and Plaintiffs' experts' map-drawing efforts, his conclusion that two majority-Black districts would not occur absent predominant racial consideration is neither persuasive nor credible.

225. Ultimately, the Court finds that race did not predominate in the drawing of Mr. Fairfax's and Mr. Cooper's illustrative congressional plans.

B. Racially Polarized Voting

226. The Court credits the evidence of Plaintiffs' racially polarized voting experts, Dr. Lisa Handley and Dr. Maxwell Palmer.

227. The Court finds Dr. Handley to be a credible and reliable expert witness. May 10 Tr. 7:8-8:7. Dr. Handley has over 30 years of experience working in in the areas of redistricting and voting rights, and has testified about redistricting and polarized voting numerous times. *See* PR-12 at 16; May 10 Tr. 12:6-12. The Court finds that she is qualified to testify as an expert in redistricting, with a focus on racially polarized voting.

228. The Court finds Dr. Handley's analysis methodologically sound and her conclusions reliable. The Court gives weight to Dr. Handley's testimony and conclusions.

229. Dr. Handley undertook an analysis of voting patterns by race by relying on aggregate data from election precincts combining demographic composition with election results. PR-12 at 3. Dr. Handley employed three accepted statistical measures to reliably analyze racially polarized voting patterns in Louisiana: Homogeneous Precinct analysis, Ecological Regression analysis, and Ecological Inference analysis. *Id.* These statistical measures are widely accepted methods for estimating racial polarization. *Id.* From her analysis, she derived the likely percentages of Black and white voters in Louisiana that voted for each candidate in recent election contests in Louisiana, looking at both statewide and congressional elections. PR-12 at 5-6; PR-87 at 6-11.

230. The Court has also accepted Mr. Palmer in this case as qualified to testify as an expert in redistricting with an emphasis in racially polarized voting and data analysis. May 9 Tr. 305:10-15. Mr. Palmer has provided racially polarized voting analysis in eight prior cases, and courts have previously credited and relied on his analysis. *Id.* at 307:25-308:5. The Court finds

Mr. Palmer's analysis methodologically sound and his conclusions reliable. In addition, based upon his demeanor at the hearing, and in particular his straightforward and candid responses to questions posed to him by defendants' counsel on cross-examination, the Court finds Mr. Palmer to be highly credible. The Court credits Mr. Palmer's testimony and conclusions.

231. The Court finds Dr. Palmer credible, his analysis methodologically sound, and his conclusions reliable. The Court credits Dr. Palmer's testimony and conclusions.

232. Dr. Palmer conducted a racially polarized voting analysis of all six of Louisiana's congressional districts as a region and individually. May 9 Tr. 311:16-20.

233. Dr. Palmer employed the statistical technique of "ecological inference," also known as "EI," which "estimates the percentage of voters of each racial or ethnic group supporting each candidate on a particular election" to determine if the analyzed voting group has a candidate of choice and whether the candidate of choice for that group is the same for voters of the other group, or whether they are in opposition to one another. May 9 Tr. 310:17-311:4.

234. Using the EI analysis, Dr. Palmer analyzed 22 statewide elections from 2012 through 2020, looking at the final round of voting for each race and the runoff rounds for each election that went to a runoff. May 9 Tr. 311:21-312:6; GX-2 ¶¶ 13-14. Dr. Palmer's EI analysis derived estimates of the percentage of Black and white voters who voted for each candidate in statewide elections for U.S. President, U.S. Senate, Governor, Lieutenant Governor, Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, and Commissioner of Insurance from 2012 to 2020. May 9 Tr. 705:8-22.

235. In particular, Dr. Palmer first examined each racial group's support for each candidate to determine if members of the group vote cohesively in support of a single candidate in each election. GX-2 ¶ 15. If a significant majority of the group supported a single candidate, he

then identified that candidate as the group's candidate of choice. *Id.* Dr. Palmer next compared the preferences of white voters to the preferences of Black voters. *Id.* Evidence of racially polarized voting is found when Black voters and white voters support different candidates. *Id.*

236. The Court finds based on the robust and undisputed analysis conducted by Plaintiffs' experts using well-established statistical methods that voting is racially polarized throughout Louisiana because Black and White voters tend to vote cohesively in support of different candidates and the white majority bloc usually defeats the Black-preferred candidate.

1. Second *Gingles* Precondition: Political Cohesion

237. Both Dr. Handley and Dr. Palmer demonstrated that Black voters in Louisiana vote cohesively for the same candidates.

238. The Court finds that Dr. Handley established that Black voters in Louisiana are politically cohesive—in other words, that Black voters usually support the same candidate in statewide elections and in congressional elections. PR-12; PR-87.

239. Dr. Handley concluded that voting in recent statewide elections in Louisiana is starkly racially polarized. In each of the fifteen statewide contests she examined, Black voters supported Black-preferred candidates and the average percentage of Black voter support for their preferred candidates was 83.8%. When contests with only two candidates were considered, the level of support from Black voters reached 93.5%. PR-12 at 8.

240. Dr. Handley found that voting was racially polarized in most congressional districts. PR-87 at Revised Appendix B. Although there was more support from white voters of the Black-preferred candidates in enacted Congressional District 2, the voting in enacted Congressional Districts 3, 4, 5, and 6 was polarized—Black voters supported different candidates than white voters. May 10 Tr. 24:8-13.

241. Dr. Handley also undertook a district-specific analysis of the likely voting patterns of voters the enacted map's Congressional Districts 2, 3, 4, 5, and 6, as these districts are likely to contribute voters to an additional majority-Black district. PR-12 at 13; PR-92, Corrected Appendix C-G. In all congressional districts examined by Dr. Handley, Black voters almost always vote in support of the Black-preferred candidate. *Id.*; May 10 Tr. 28:15-22.

242. The Court finds that these results establish that Black voting in all enacted congressional districts is politically cohesive.

243. The Court finds that Dr. Handley's evidence demonstrates that Black voters are cohesive and tend to support the same candidate at both the statewide and congressional level. PR-12, Appendix A and PR-87, Revised Appendix B.

244. Dr. Palmer also demonstrated that Black voters in Louisiana are politically cohesive across the state of Louisiana and in each of the congressional districts, as evidenced by the fact that Black and white generally support different candidates. He also found that candidates preferred by Black voters are generally unable to win elections. May 9 Tr. 308:20-309:3.

245. Dr. Palmer found that Black voters cohesively supported Joe Biden in the 2020 presidential election as their "clear candidate of choice," with 89.3% of Black voters statewide supporting Biden. GX-2 ¶ 16. Similarly, Dr. Palmer found that 82.2% of white voters supported Donald Trump as their candidate of choice. *Id.*

246. In 18 of the 22 elections analyzed, where there was a clear Black candidate of choice, Dr. Palmer found that the 18 Black candidates of choice received an estimated 91.4% of the vote from Black voters. GX-2 ¶ 18. Similarly, in 21 of the 22 elections analyzed where there was a clear white candidate of choice, Dr. Palmer found that the white candidate of choice received 81.2% of the vote from white voters. *Id.*

247. Defendants’ racially polarized voting expert Dr. Tumulesh Solanky does not dispute these conclusions as to the second *Gingles* precondition. May 11 Tr. 51:3-7, 55:6-11.

248. Another of Defendants’ racially polarized voting experts, Dr. John Alford, identified no errors in either Dr. Palmer’s or Dr. Handley’s methodology or application of ecological inference. May 12 Tr. 152:6-18. Indeed, Dr. Alford replicated selected results from their analyses, which matched their results very closely. LAG_1 at 2-3; May 12 Tr. 152:19-153:6.

249. Ultimately, Dr. Alford agreed that, in general, Black Louisianians cohesively vote for the same candidates. LAG_1 at 9 (“White Democratic candidates draw cohesive support from Black voters just as Black Democratic candidates do.”); May 12 Tr. 153:7-10.

250. Based on the expert reports and testimony provided in this case, the Court concludes that Black voters in Louisiana, including in the area where Mr. Fairfax and Mr. Cooper have proposed to draw an additional majority-Black congressional district, are politically cohesive.

2. Third *Gingles* Precondition: Bloc Voting

251. The Court finds that Dr. Handley and Dr. Palmer established that white voters in Louisiana vote sufficiently as a bloc to usually defeat Black-preferred candidates.

252. The Court finds that white voters have been highly cohesive in voting as a bloc to usually defeat the Black-preferred candidate in Louisiana. The average percentage of white voter support for Black-preferred candidates across the prior statewide contests was just 11.7%. PR-12 at 8; Appendix A. “No Black candidate preferred by Black voters was elected to statewide office” in the fifteen elections examined by Dr. Handley. *Id.*

253. Per Dr. Handley’s analysis, the Court also finds that in congressional contests, white voters were highly cohesive in voting as a bloc to defeat Black-preferred candidates in every district except the majority-Black Congressional District 2. PR-87, Revised Appendix B. In the congressional elections examined in all districts other than Congressional District 2, the Black-

preferred candidate was defeated by the white-preferred candidate despite obtaining strong support from Black voters. PR-12 at 8-9.

254. The Court finds that support among white voters for the Black-preferred candidate in past congressional elections has been very low. In the past two elections examined in Congressional District 5, the support of white voters for the Black preferred candidate in past Congressional elections was 4.8% and 4.5%, respectively. PR-87, Revised Appendix B.

255. Dr. Handley also analyzed racial bloc voting patterns under the enacted plan, HB 1. Apart from Congressional District 2, which remains the only majority-Black district under the enacted plan, average white support for the Black-preferred candidate did not rise above 15% for any election contest evaluated, including those with only two candidates. PR-12 at 14; PR-92 at Corrected Table 7. Moreover, the probability of a Black-preferred candidate winning a two-candidate election was 0% for every district under the Legislature's enacted plan except Congressional District 2. PR-12 at 11; PR-92 at Corrected Table 4.

256. Likely support among white voters for the Black-preferred candidate in the enacted map in all congressional districts is very low. PR-92 at Corrected Table 7. The average white support for Black-preferred candidates in enacted Congressional District 5 ranged from 7.7% to 9.9%. *Id.*

257. Per Dr. Handley's analysis, the Court finds that in the any future contests under the enacted plan, white voters will vote as a bloc to defeat the Black-preferred candidate in all congressional districts but Congressional District 2. PR-12 at 11; PR-92 at Corrected Table 4. The Court concludes that none of the districts in HB 1 other than Congressional District 2 would allow Black voters the opportunity to elect the candidate of their choice.

258. By contrast, under *Robinson* Illustrative Plan 1, Dr. Handley concluded that the Black-preferred candidate is likely to win or advance to a runoff in 80% of all election contests and likely to win 77.8% of all two-candidate contests in illustrative Congressional District 5. PR-12 at 13. Under *Robinson* Illustrative Plans 2 and 2A, Dr. Handley similarly concluded that the Black-preferred candidate is likely to win or advance to a runoff in 86.7% of all election contests conducted in the proposed District 5, and likely to win 77.8% of all two-candidate contests. PR-87 at 6; PR-91 at 3.

259. Dr. Palmer independently reached similar conclusions based upon a review of different (but equally appropriate) past elections. In the 18 elections where there was a clear, Black-preferred candidate, white voters had a different candidate of choice and were highly cohesive in voting in opposition to the Black candidate of choice in those races. On average, Dr. Palmer found that white voters supported Black-preferred candidates with 20.8% of the vote. GX-2 ¶ 18. And in 17 of the 18 elections where there was a clear Black-preferred candidate, white voters strongly opposed Black voters' candidates of choice; only 17.1% white voters supported the Black-preferred candidate. *Id.* ¶ 19, Figure 2.

260. The same was true even in elections without a clear Black-preferred candidate of choice. In three of the four elections without such a candidate, the white-preferred candidate of choice defeated their opponents in the primary. GX-2 ¶ 20.

261. Dr. Palmer also found that in all congressional elections, Black-preferred candidates were generally unsuccessful in every district except for Congressional District 2, Louisiana's only majority-Black congressional district. May 9 Tr. 309:4-13.

262. Based on the expert reports and testimony provided in this case, the Court concludes that white voters in Louisiana, including in the area where Mr. Fairfax and Mr. Cooper

have proposed to draw an additional majority-Black congressional district, vote as a bloc to usually defeat Black-preferred candidates, and that Black voters in Plaintiffs' illustrative Congressional District 5 would be able to elect their candidates of choice.

263. Dr. Alford did not dispute that, in general, Black and white Louisianians prefer different candidates and that white-preferred candidates defeat Black-preferred candidates except in majority-Black districts. May 12 Tr. 153:19-154:7.

264. Although Defendants put forth several experts to challenge Plaintiffs' evidence as to *Gingles* Three, the Court finds their testimony not credible, their conclusions unfounded, and their methodology unsound.

i. Dr. Tumulesh Solanky

265. The Court finds that the *Gingles* Three analysis undertaken by Dr. Solanky is not credible or reliable. Dr. Solanky has no experience in analyzing racially polarized voting patterns, nor did he conduct an ecological inference analysis of voting patterns in this case. May 11 Tr. 210:8-211:6. Ecological inference is the standard accepted statistical methodology used to predict racially polarized voting in a given district. *See* May 12 Tr. 152:15-18 (Dr. Alford testified that ecological inference is the "gold standard" for analyzing racially polarized voting). Dr. Solanky limited his analysis to East Baton Rouge Parish, and, to a limited extent, eighteen other parishes. He did not analyze any congressional districts in the enacted map or any of the Plaintiffs' illustrative maps. *See generally* SOS_4; May 11 Tr. 215:22-216:17.

266. The Court further finds that Dr. Solanky's analysis is not a reliable predictor of racially polarized voting at the congressional district level. Per the unrefuted evidence of Dr. Handley, the population of East Baton Rouge Parish is too small to be predictive of election results at the congressional district level. May 10 Tr. 35:9-37:13. East Baton Rouge Parish is not wholly contained in any congressional district of the enacted map or any of the congressional districts in

Plaintiffs' illustrative maps. PR-15; PR-16; PR-86; PR-90; GX-1; GX-29; May 10 Tr. 29:13-24. Dr. Solanky himself concedes that East Baton Rouge Parish would need to be joined by up to 18 other parishes to form a congressional district under any of the illustrative plans. PR-87 at 1; SOS_4 at 9-11; May 11 Tr. 222:14-24.

267. There is no evidence that the voters in East Baton Rouge Parish make up a majority of voters in any of the congressional districts in either the enacted map or any of Plaintiffs' illustrative plans, whether looking at voting-age population, the population of registered voters, or the past observed populations of actual voters. PR-15; PR-16; PR-86; PR-90; SOS_4 at 5, 7.

268. The Court further finds that voting patterns in East Baton Rouge Parish are not representative of voting patterns in Congressional District 5 as it exists in either the enacted plan or any of Plaintiffs' illustrative plans. Dr. Solanky's own analysis demonstrates that East Baton Rouge Parish is an outlier when compared to the surrounding parishes it would be grouped with in Congressional District 5, either in the enacted plan or any of Plaintiffs' illustrative plans. SOS_4 at 12; PR-87 at 1.

269. The Court therefore agrees with Plaintiffs' expert Dr. Handley and finds that Dr. Solanky's testimony and reports are irrelevant because his analysis was limited to voting patterns in East Baton Rouge Parish and such voting patterns are not representative of voting patterns at the congressional district level. May 10 Tr. 35:9-37:13. Dr. Solanky confirmed that he offered no opinion about majority bloc voting in any congressional district under either the enacted or the illustrative plans, nor did he dispute any of Dr. Handley's conclusions, including that a Black-preferred candidate would win 0% of election contests in the enacted plan's Congressional District 5. May 11 Tr. 215:12-216:4, 218:16-219:25.

270. The Court finds that Dr. Solanky's testimony and reports are not relevant to the question of whether there is racially polarized voting in any congressional district in the enacted map or any of Plaintiffs' illustrative plans, including Congressional District 5.

271. The Court therefore finds that Dr. Solanky's testimony and reports are not relevant to the question of whether there is sufficient white bloc voting to usually defeat the Black candidate of choice.

272. The Court finds the same with respect to the declaration evidence of Joel Watson, Jr., which also discusses voting patterns in East Baton Rouge Parish. SOS_2 at ¶¶ 8-9.

ii. Dr. Jeffrey Lewis

273. The Court declines to credit the testimony of Dr. Jeffrey Lewis for several reasons.

274. First, Dr. Lewis's hypothetical about the voting patterns in illustrative Congressional Districts 2 and 5 is flawed in assuming that all white crossover voters would vote for the white-preferred candidate if they did not support the Black preferred candidate. GX-30 ¶¶ 6-7; May 9 Tr. 326:25-328:18 (Dr. Palmer's testimony critiquing Dr. Lewis's hypotheticals). Therefore, his calculations about the percentage of Black votes needed for the Black candidate of choice to prevail in these illustrative plans are not reliable.

275. Second, Dr. Lewis offers conclusions about the percentage of Black votes needed to elect Black candidates of choice in illustrative Congressional Districts 2 and 5 based on his analysis of just one exogenous election. LEG_02. All experts, including Dr. Lewis, agreed that analysis of voting patterns in more than one election is needed form a complete and reliable opinion voting patterns in Louisiana. LEG_02 at 6; May 12 Tr. 192:13-193:3; May 10 Tr. 35:18-24; May 9 Tr. 326:9-20.

276. Dr. Lewis explicitly attested that he did not complete a fulsome analysis that would be capable of generally predicting the degree to which Black-preferred candidates could prevail in

the absence of white crossover voting in Plaintiffs' illustrative plans. LEG_02 at 5; May 12 Tr. 184:18-185:8.

277. The Court finds that the evidence from Dr. Lewis's report and testimony has no relevance to the inquiry before it, which is to ascertain whether white voters in Louisiana currently vote sufficiently as a bloc so as to usually defeat Black-preferred candidates.

278. Based on the expert reports and testimony provided in this case, the Court concludes that white voters in Louisiana, including in the area where Mr. Fairfax and Mr. Cooper have proposed to draw an additional majority-Black congressional district, vote as a bloc to usually defeat Black-preferred candidates, and that Black voters in Mr. Fairfax's and Mr. Cooper's illustrative Congressional District 5 would be able to elect their candidates of choice.

C. Totality of Circumstances

279. The Court finds that each of the relevant Senate Factors—which inform Section 2's totality-of-circumstances inquiry—points decisively in Plaintiffs' favor. This finding is supported by the testimony of the three experts Plaintiffs presented on these issues, as well as testimony by relevant fact witnesses. Defendants offered no experts who addressed the Senate Factors and largely did not dispute the findings of Plaintiffs' experts.

280. Plaintiffs presented the expert report, expert rebuttal report, and testimony of Dr. Allan Lichtman to address the Senate Factors. GX-3; GX-31. Dr. Lichtman has been a professor in American politics at American University for the last 50 years. May 10 Tr. 147:23-148:24. His principal areas of research are American politics, American political history, voting rights, and qualitative and quantitative social sciences. *Id.* Notably, Dr. Lichtman has served as an expert in around 100 cases, his testimony and conclusions being accepted and credited in many of them. *Id.* Of particular note, Dr. Lichtman's testimony was cited authoritatively in the U.S. Supreme Court's decision in *LULAC v. Perry*, 548 U.S. 399 (2006). GX-3 at 4; May 10 Tr. 149:22-150:6. Dr.

Lichtman has previously testified in Louisiana-specific litigation, including *Terrebonne Parish Branch NAACP v. Jindal*, 274 F. Supp. 3d 395 (M.D. La. 2017), in which the Court credited his Senate Factors analysis. The Court has accepted Dr. Lichtman as qualified to testify as an expert in the fields of American politics, American political history, voting rights, and qualitative and quantitative social sciences. May 10 Tr. 144:24-145:5. The Court finds Dr. Lichtman credible, his analysis methodologically sound, and his conclusions reliable. The Court credits Dr. Lichtman's testimony and conclusions.

281. Plaintiffs also presented the expert report and testimony of Dr. Burch. PR-14. The Court has accepted Dr. Burch as qualified to testify as an expert in the fields of political behavior, political participation, and barriers to voting. May 10 Tr. 94:15-23. Dr. Burch has been a professor of political science for nearly 15 years, and has previously testified in four other court cases. *See* PR-14 at 61, 69-70; May 10 Tr. 103:8-12. The Court finds Dr. Burch credible, her analysis methodologically sound, and her conclusions reliable. The Court credits Dr. Burch's testimony and conclusions.

282. Plaintiffs also presented the expert report and testimony of Dr. Gilpin. PR-13. The Court has accepted Dr. Gilpin as qualified to testify as an expert in the field of Southern history. May 10 Tr. 205:24-206:6. Dr. Gilpin has been a professor for over 10 years and has written chapters and volumes that have covered the history of voter registration in Louisiana. PR-13 at 53; May 10 Tr. 218:18-24. The Court finds Dr. Gilpin credible, his analysis methodologically sound, and his conclusions reliable. The Court credits Dr. Gilpin's testimony and conclusions.

1. Senate Factor One: History of Voting-Related Discrimination

283. The Court finds that Louisiana has an extensive and well-documented history of discrimination against its Black citizens that has touched upon their right to register, vote, and otherwise participate in the political process. Discriminatory voting practices in Louisiana "have

been extensively documented by historians and plainly admitted to by Louisiana’s lawmakers across its 210-year statehood.” PR-13 at 2. As demonstrated by Dr. Gilpin in his expert report and trial testimony, these practices are “the defining characteristics of Louisiana politics.” May 10 Tr. 216:8-14. Defendants do not challenge this history, *see generally* Rec. Doc. No. 101, 108, and Legislative-Intervenors concede Louisiana’s “sordid history of discrimination.” Rec. Doc. No. 109 at 20.

284. This history has been well documented by other federal courts. *See generally Clark v. Roemer*, 777 F. Supp. 445 (M.D. La. 1990) (acknowledging racially polarized voting patterns in multimember judicial districts statewide and finding that the multimember system minimized or canceled out Black voters’ ability to elect their preferred candidates); *Major v. Treen*, 574 F. Supp. 325, 339-41 (E.D. La. 1983) (“Louisiana’s history of racial discrimination, both de jure and de facto, continues to have an adverse effect on the abilities of its black residents to participate fully in the electoral process.”); *Clark v. Edwards*, 725 F. Supp. 285, 295 (M.D. La. 1988) (taking judicial notice of Louisiana’s history of racially polarized voting, official acts of discrimination, racial campaign appeals, the low number of Black lawyers elected to judgeships, and other racial disparities in Black voters’ ability to participate in the democratic process); *Chisom v. Edwards*, 690 F. Supp. 1524, 1534 (E.D. La. 1988) (taking judicial notice of state-implemented stratagems designed to “suppress black political involvement,” including “educational and property requirements for voting, a ‘grandfather’ clause, an ‘understanding’ clause, poll taxes, all-white primaries, anti-single-shot voting provisions, and a majority-vote requirement,” and recognizing modern-day racially polarized voting); *Terrebonne Parish NAACP v. Jindal*, 274 F. Supp. 3d 395, 442 (M.D. La. 2017) (“[i]t is indisputable that Louisiana has a long history of discriminating against black citizens.”).

a. Racial Hierarchies and Suppression of the Franchise in Antebellum Louisiana

285. Voter discrimination in Louisiana took root in and stems from the imposition of racial hierarchies in antebellum Louisiana. May 10 Tr. 208:3-19.

286. In pre-American and antebellum Louisiana, the government within the state sought to consolidate and maintain white supremacy in an effort to bolster the economy premised on subjugation and slavery. PR-13 at 3. Antebellum Louisiana built a “hermetic seal of laws differentiating between racial and ethnic categories.” *Id.* at 4; PR-88 at 1. Louisiana’s white elites sought to define and restrict the freedoms of the state’s sizable population of free Black people, and regulations were imposed forbidding free people of color from holding meetings without the presence of a white person. PR-13 at 11; PR-88 at 1.

287. While Black voting remained an impossibility until the enactment of the Reconstruction Amendments, the 1840s and 1850s saw the state’s first experiments with voter disenfranchisement more broadly. In response to “a perceived flood of immigrants that would shift the political status quo,” populations that white elites found undesirable, the state created hurdles—including taxpaying and residency requirements—while eliminating requirements for white voters in order to expand the size of the white voting population. PR-13 at 10. As Dr. Gilpin discussed in his report and on the stand, “[t]hese were the exact methods (refashioned for Black voters) Louisianan leaders would revisit and revive two decades later when the fearsome potential of Black voting power threatened white political control.” *Id.*; *see also* May 10 Tr. 208:3-19 (“[P]roperty requirements, poll taxes, and things like this, literacy tests, were actually developed in the 1840 and ’50s and then repurposed later.”).

b. Targeted Efforts Against Black Voters in Reconstruction Louisiana

288. The Court finds that the institutions of racial categorization and voter discrimination established in the antebellum period were “carried through . . . intentionally in the Postbellum period” in order to impede the ability of Black citizens to vote. May 10 Tr. 208:20-209:7. Following Reconstruction, however, Louisiana ratified a new Constitution explicitly aimed at establishing “the supremacy of the white race.” GX-3 at 9. The first effort to maintain some of the racial hierarchies that white Louisiana had established in the antebellum period was the Black Codes, which were designed explicitly to establish *de facto* slavery by restricting the rights of Black Louisianians to travel within parishes without special permits or be fined and conscripted into forced labor. May 10 Tr. 209:12-21; PR-13 at 15.

289. Political terrorism and violence in service of white supremacy perpetrated by the Ku Klux Klan and its many imitators, including the Knights of the White Camelia, also plagued Reconstruction Louisiana. PR-13 at 17. And yet, these concerted efforts to intimidate and disenfranchise went through almost two decades of sustained failure. PR-13 at 26. Black voting in Louisiana reached its highest in the state’s history in 1896, when Black voters made up nearly 45% of registered voters in the state. PR-13 at 28.

290. In response, the state turned to legislative voter disenfranchisement to accomplish what it could not do so through violence alone. The introduction of poll taxes, literacy tests, and other measures introduced nearly seven decades of extreme voter disenfranchisement for nearly all Black citizens in the state. PR-13 at 26-27. Among these modes of voter disenfranchisement, perhaps the most blatant was the Grandfather Clause, which was created by Louisianians in 1898 [and] establishe[d] a rule where Black voters had to establish that either their father or grandfather had voted before January 1, 1867. May 10 Tr.223:2-14; GX-3 at 9. In justifying this and other

restrictions, the president of the constitutional convention at which they were enacted said, “Doesn’t it let the white man vote, and doesn’t it stop the negro from voting, and isn’t that what we came here for?” GX-3 at 9-10.

291. Dr. Gilpin testified that the Grandfather Clause alone rendered Black voting virtually impossible, as no Black citizen had the right to vote prior to that date. May 10 Tr.223:2-14. As a result, Black voting numbers plummeted from 130,000 to fewer than 5,320 in just two years. PR-13 at 29; May 10 Tr.223:18-22; GX-3 at 10. Though the Grandfather Clause was struck down in *Guinn v. United States*, 238 U.S. 347 (1915), by that time Louisiana had developed and instituted myriad strategies to disenfranchise voters, ranging from the Understanding Clause to registration purges to denying access to the ballot if a Black voter “could not count the number of jelly beans in a jar that was at the polling station.” May 10 Tr.224:10-12.

292. The Understanding Clause required an applicant to “‘give a reasonable interpretation’ of any section of the federal or state constitution in order to vote.” *Bossier Par. Sch. Bd. v. Reno*, 907 F. Supp. 434, 455 (D.D.C. 1995) (three-judge court) (Kessler, J., concurring in part and dissenting in part), *vacated on other grounds*, 520 U.S. 471 (1997). It was enforced until 1965, when it was invalidated by the U.S. Supreme Court in *Louisiana v. United States*, 380 U.S. 145 (1965).

293. As a result of the State’s innumerable and successful efforts to restrict the franchise, the Court finds that the Black vote was all but eliminated during the first half of the 20th century. “From 1910 until 1948, less than 1% of Louisiana’s voting-age African American population was able to register to vote.” PR-13 at 30. By the time the Voting Rights Act of 1965 was enacted, only one-third of Louisiana’s Black population was registered to vote. GX-3 at 10.

c. Official Discrimination after the Voting Rights Act

294. Although the Voting Rights Act alerted both Louisianians and the federal government to attempts to disenfranchise Black voters, official efforts to disenfranchise Black voters remained just as dogged after 1965. May 10 Tr. 224:13-24; PR-13 at 36. Dr. Gilpin testified that the Voting Rights Act's supervision of state practices made the citizens of Louisiana and the federal government aware of these attempts to disenfranchise Black voters and provided a permanent threat of action to combat the continued effort to mute Black Louisianians' political power. May 10 Tr. 22:13-225:5; PR-13 at 36. From 1965 to 1989, the U.S. Attorney General issued 66 objection letters nullifying over 200 voting changes, and, from 1990 until the preclearance regime was struck down in 2013, the U.S. Attorney General issued an additional 79 objection letters in response to voting related changes in the state. PR-13 at 36. Indeed, by any measure, attempts to dilute Black voting strength in Louisiana remained widespread. PR-13 at 39.

295. In July 1968, following increased Black voter registration due to the Voting Rights Act, Louisiana newly authorized the use of at-large elections for parish police juries—where they had been previously disallowed. GX-3 at 11. At-large elections continue to pose problems for Black Louisianians into the modern day. May 10 Tr. 166:22-167:7.

296. Following the U.S. Supreme Court's decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), which invalidated the preclearance formula under Section 5 of the Voting Rights Act, there “has been a pronounced shift to 21st century versions of jelly-bean counting, poll taxes, and literacy tests of the 1910s and 1920s.” PR-13 at 47. Voter suppression laws now focus on identification requirements and registration drive bans, but have also expanded to other strategies to impede Black voters. PR-13 at 47. In Louisiana, restricting access to polling places, early voting, and electoral information have all emerged in the last decade as strategies for Black disenfranchisement. *Id.* As recently as 2021, the Justice Department settled with the City of West

Monroe over Voting Rights Act violations related to the West Monroe Board of Alderman employing an at-large voting system that had been proven to disenfranchise Black voters. May 10 Tr. 229:14-230:2; PR-13 at 47.

297. Taken as a whole, Louisiana's history underscores a sustained hostility to the freedoms of Black people and a continued effort to impose one of the most severe, adaptive, and violent histories in discrimination in voting. PR-13 at 47-48. In sum, Dr. Gilpin's testimony confirmed that official acts to disenfranchise Black Louisianians has been a through-line in the state's history. May 10 Tr. 230:3-9.

d. Redistricting-Related Discrimination

298. Redistricting in Louisiana has repeatedly been characterized by racially discriminatory maps. After the 1981 redistricting cycle, a federal court found that the state's congressional plan, which included no majority-Black districts, violated Section 2 by diluting Black voting strength. *See Major*, 574 F. Supp. at 331.

299. The post-1990 round of redistricting was also tainted by Voting Rights Act violations. PR-13 at 44. The Department of Justice objected to the State's legislative redistricting plan and stated that it had "examined the 1991 House redistricting choices in light of a pattern of racially polarized voting that appears to characterize elections at all levels in the state." PR-84 at 2. The Justice Department found that "[i]n seven areas . . . the proposed configuration of district boundary lines appears to minimize black voting strength, given the particular demography of those areas." *Id.* Just two years later, in the *Chisom v. Roemer* cases, five Black voters in Orleans Parish filed a class action suit on behalf of all Black voters registered in the parish alleging that electing two at-large supreme court justices from Orleans, St. Bernard, Plaquemines, and Jefferson Parishes violated the Voting Rights Act. PR-13 at 43. The state eventually settled the litigation in

1992, creating a majority-Black district in the state’s supreme court plan, which to date is the only district from which a Black justice has been elected. *Id.*

300. Local jurisdictions in the state have repeatedly been the subject of Section 5 objections and findings of liability under Section 2 of the Voting Rights Act. PR-13 at 43-45.

301. In June 2018, the U.S. Commission on Civil Rights found that an analysis of polling places in Louisiana showed that there were fewer polling locations per voter in an area with more Black residents. GX-3 at 14. Caddo Parish, the fourth-most populated parish in the state with the third-highest Black population, had only one polling location for its 260,000 residents. *Id.*

302. “Taken as a whole, the two halves of the history of Louisiana underscore a profound and sustained hostility to the freedoms of Black people. . . . Since the *Shelby County* ruling in 2013, Louisiana has continued in the part established after 1898, ‘having one’ of the most severe, adaptive, and violent histories of discrimination in voting.” PR-13 at 49-50.

e. Discrimination in Areas Related to Voting

303. Dr. Lichtman also testified about state-sponsored discrimination in areas that impact voting for Black Louisianians—including and especially felon-disenfranchisement laws.

304. During the 1898 constitutional convention, Louisiana established a split-verdict law in criminal trials that prevailed in the state until 2018, with slight modifications. Under this rule, a defendant did not need a unanimous verdict of 12 jurors to be convicted of a crime—only nine votes for conviction were necessary. The purpose of this rule was to ensure that the votes of Black jurors would be insignificant. GX-3 at 19.

305. In 1973, the rule was modified to require a vote of 10 jurors out of 12, rather than the former nine. GX-3 at 20. Dr. Lichtman points out that a study by *The Advocate* of 933 cases over six years found that Black defendants were more adversely impacted by this rule: 43% of

convictions with Black defendants occurred in split-verdict cases, compared to 33% of convictions with white defendants. *Id.* The rule was finally eliminated by referendum in November 2018. *Id.*

306. Dr. Lichtman also found that, in 2016, 108,035 felons and former felons were disenfranchised in Louisiana, 68,065 of whom (63%) were Black. Some 6% of the Black adult population in Louisiana was disenfranchised. In 2018, the state modified this law to authorize voting by persons who have been under parole or probation for five years or more. GX-3 at 16.

307. As Dr. Lichtman explained at the hearing, felon-disenfranchisement laws have lingering effects: in addition to denying the vote to incarcerated individuals and those on parole or probation, there is no automatic restoration of voting rights in Louisiana, requiring former prisoners to navigate a complex process to ensure reintegration into political participation. May 10 Tr. 165:17-23.

308. Dr. Lichtman's report also demonstrates that six out of nine Louisiana metropolitan areas were above the national median for Black-white segregation; those six areas—including New Orleans and Baton Rouge—contain about 85% of the state's Black population. GX-3 at 26. Similarly, most of Louisiana's public schools remain segregated. *Id.* at 26-27.

2. Senate Factor 2: Racially Polarized Voting

309. The Court finds that voting in Louisiana is starkly polarized on racial lines. Indeed, this conclusion is not disputed by Defendants' experts.

310. "Racially polarized voting is when voters of different racial or ethnic groups prefer different candidates such that a majority of Black voters vote one candidate and a majority of white voters vote the opponent." May 9 Tr. 309:23-310:2.

311. As discussed above, *see supra* Part IV.B-C, voting in Louisiana is racially polarized because Black and white voters vote consistently support different candidates. There is no factual dispute about the existence of general racial polarization in Louisiana.

312. Defendants have not demonstrated that partisanship, as opposed to race, is responsible for polarized voting patterns in Louisiana. Defendants’ evidence on this point ignores the showing made by Dr. Handley and Dr. Burch that partisan affiliations in Louisiana are strongly driven by race and racial attitudes. *See generally* PR-87; PR-89; GX-31. Dr. Alford testified that polarized voting in Louisiana is attributable to partisanship and not race. May 12 Tr. 160:6-161:12. But he simply looked at the results reported by Drs. Palmer and Handley and drew a different inference. *Id.* at 162:20-164:12. In his expert report, Dr. Alford concluded, “The [polarized] voting may be correlated with race, *but whatever accounts for the correlation*, the differential response of voters of difference races to the race of the candidate is not the cause.” LAG_1 at 9 (emphasis added). This conclusion reveals that Dr. Alford does *not* know what precisely causes the polarized voting in Louisiana—and he conceded on the stand that voters might be motivated by various factors, including race. May 12 Tr. 165:5-12. Dr. Alford did *not* conduct any sort of inquiry into the reasons Black voter support Democratic candidates or otherwise assess the degree to which race and party are intertwined, *id.* at 160:17-161:18. Nor did Dr. Alford rebut or even address Dr. Lichtman’s findings regarding racially polarized voting and the inextricability of race and party. *Id.* at 156:22-157:9.

313. Moreover, while Dr. Alford claims that voters did not respond differently based on the race of the candidates, Dr. Palmer testified that this was not the case: he found that “[a]cross the 18 elections where there’s a black preferred candidate, in 9 of those elections the black preferred candidate is black and in 9 of those elections the black preferred candidate is white. And if you average across that full sample, I find that white voters support white [] black preferred candidates by about 10 percent more of the vote than they support the black preferred candidate when that candidate is black.” May 9 Tr. 325:13-22. Similarly, Dr. Palmer found that “black voters

also support the black preferred candidate with a slightly higher voter share, about 4 or 5 percentage points when the candidate is black than when the black preferred candidate is white.” *Id.* at 325:23-326:2. Accordingly, Dr. Alford’s assertion that Louisiana voters did not respond differently based on the race of candidates is incorrect.

314. Other courts have discounted Dr. Alford’s analyses for similar reasons. *See, e.g., Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, Nos. 1:21-CV-5337-SCJ, 1:21-CV-5339-SCJ, 1:22-CV-122-SCJ, 2022 WL 633312, at *57 (N.D. Ga. Feb. 28, 2022) (“The Court cannot credit [Dr. Alford’s] testimony. . . . The basis for his testimony was only Dr. Alford’s conclusion that Black voters overwhelmingly prefer Democratic candidates and white voters overwhelmingly support Republican candidates. But Dr. Alford did not perform his own analyses of voter behavior In fact, there is no evidentiary support in the record for Dr. Alford’s treatment of race and partisanship as separate and distinct factors affecting voter behavior. Nor is there any evidence—aside from Dr. Alford’s speculation—that partisanship is the cause of the racial polarization identified by Dr. Palmer. Dr. Alford himself acknowledged that polarization can reflect both race and partisanship, and that ‘it’s possible for political affiliation to be motivated by race.’ All this undermines Dr. Alford’s insistence that partisanship rather than race is the cause of the polarization.” (citations omitted)); *NAACP, Spring Valley Branch v. E. Ramapo Cent. Sch. Dist.*, 462 F. Supp. 3d 368, 381 (S.D.N.Y. 2020) (“[Dr. Alford’s] testimony, while sincere, did not reflect current established scholarship and methods of analysis of racially polarized voting and voting estimates.”), *aff’d sub nom. Clerveaux v. E. Ramapo Cent. Sch. Dist.*, 984 F.3d 213 (2d Cir. 2021); *Texas v. United States*, 887 F. Supp. 2d 133, 181 (D.D.C. 2012) (three-judge court) (“[T]he fact that a number of Anglo voters share the same political party as minority voters does not remove those minority voters from the protections of the VRA. The statute makes clear that this

Court must focus on whether minorities are able to elect the candidate of their choice, no matter the political party that may benefit.”), *vacated on other grounds*, 570 U.S. 928 (2013); *see also Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 709-13 (S.D. Tex. 2017) (finding in favor of plaintiffs as to second and third *Gingles* preconditions, contrary to Dr. Alford’s testimony on behalf of defendant jurisdiction); *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1401-07 (E.D. Wash. 2014) (similar); *Benavidez v. Irving Indep. Sch. Dist.*, No. 3:13-CV-0087-D, 2014 WL 4055366, at *11-13 (N.D. Tex. Aug. 15, 2014) (similar); *Fabela v. City of Farmers Branch*, No. 3:10-CV-1425-D, 2012 WL 3135545, at *8-13 (N.D. Tex. Aug. 2, 2012) (similar); *Benavidez v. City of Irving*, 638 F. Supp. 2d 709, 722-25, 731-32 (N.D. Tex. 2009) (similar).

315. Given the lack of substantive analysis on Dr. Alford’s part, and the conclusions of previous courts, the Court does not credit Dr. Alford’s racially polarized voting analysis. Neither his analysis nor the reports of any of Defendants’ other witnesses change the Court’s finding that voting in Louisiana is racially polarized.

316. By contrast, Plaintiffs’ experts provided strong evidence that polarization in Louisiana can be explained in large part by racial identity and racial attitudes. For example, Dr. Gilpin documents the historical alliance of Black Louisianians with the Republican Party prior to the Civil Rights Era. PR-13 at 71-21. In or around 1865, the Louisiana Democratic Party platform explicitly set out that “people of African descent cannot be considered as citizens of the United States and that there can, in no event, nor under any circumstances, by any equality between the white and other races.” *Id.* at 16. In 1868, the Ku Klux Klan served deliberately as the paramilitary wing of the Democratic Party. *Id.* at 18. By contrast, it was the Louisiana Republican Party that championed Black suffrage and, consequently, earned Black political support. *Id.* at 18-19, 22-23; GX-3 at 28. Dr. Lichtman found much the same, explaining that during Reconstruction, Black

voters were overwhelmingly Republican while white voters were overwhelmingly Democratic. GX-3 at 28.

317. In her supplemental report, Dr. Burch explains that this historical alliance began to dissolve in the post-New Deal party system, as Democrats became identified with racial liberalism while Republicans became associated with racial conservatism. PR-89 at 2. Dr. Burch examines voter registration data and notes that research shows that the exodus of southern white voters from the Democratic Party from 1958 to 1980 was a reflection of racial attitudes. *Id.* Louisiana's voting patterns were consistent with this larger pattern of white voters defecting from the Democratic Party during and immediately after the Civil Rights era. *Id.* at 3-4. Dr. Burch concludes that "[t]he most important trend in voter registration in the South during the last 25 years has been the defection of White voters from the Democratic party" because of the party's association with racial liberalism and Black candidates. *Id.*

318. Dr. Lichtman similarly charted this realignment to the mid-20th century, explaining that the bipartisan enactment of the Voting Rights Act of 1965 was the catalyst to a political party realignment based on race that began brewing nearly 30 years prior. Dr. Lichtman explained that "the parties reversed their traditional roles in [Louisiana] with Democrats now associated with racial values, policies, and attitudes appealing to Blacks and Republicans the reverse." GX-3 at 29. As he concluded, "party identification is conjoined with race, although party labels had come to mean the opposite of what they once were." *Id.* In essence, he explained, "[p]arty labels by themselves are meaningless. They are just labels. What matters is what those labels represent." May 10 Tr. 167:18-21.

319. Dr. Handley also provided evidence of the "Southern realignment," or "the shift of white voters from overwhelming support for the Democratic party to nearly equally strong support

for the Republican party.” PR-87 at 4. Dr. Handley noted this shift is directly traceable to the Democratic party’s support for civil rights legislation beginning in the 1960s. *Id.* Dr. Handley cites several studies demonstrating that the increasing divide between Black and white voters and their support for the Democratic and Republican Parties, respectively, is linked to racial attitudes and the parties’ positions on race-related issues. *Id.* at 4 n.7. Dr. Alford also acknowledged during his testimony that the Democratic and Republican Parties in Louisiana are currently “dug into their opposition to each other,” including on issues related to race. May 12 Tr. 164:12-22.

320. Dr. Lichtman further explained that the party realignment along racial lines is buttressed by the attitudes and beliefs held by Democratic and Republican elected officials and voters. GX-3 at 31. Dr. Lichtman noted that reports from civil rights organizations indicate “that there is extreme polarization between the positions taken by Republican leaders, legislators in the Congress and [] position[s] taken by Democrats.” May 10 Tr. 168:9-21. Moreover, Dr. Lichtman reported survey results indicating that 16% of Republicans believe that Black people are treated less fairly than whites in the workplace, compared to 77% of Democrats who believe the same. GX-31 at 4. Similarly, 12% of Republicans believe that Blacks are treated less fairly when applying for a mortgage or other loan, compared to 71% of Democrats, *id.*, while 77% of Louisiana Democrats believe that white people have certain societal advantages because of the color of their skin, compared to only 6% of Louisiana Republicans who believe the same, GX-3 at 32.

321. Ultimately, Dr. Lichtman explained that Black and white voters in Louisiana largely vote the way they do *because* of race, not in spite of it. May 10 Tr. 170:22-171:1. He concluded that race is the “driving mechanism” of polarized voting in Louisiana and that party, by itself, explains nothing. *Id.* at 170:12-21.

322. In essence, partisan affiliation in Louisiana among Blacks and whites is not static; it has historically inversed along racial lines depending on the relative positioning of the major political parties on issues pertaining to Black Louisianians. This evidence undercuts Defendants' argument that partisanship in Louisiana can be examined in isolation as the sole driver of racial bloc voting patterns. Plaintiffs' expert evidence establishes that racial attitudes motivate racially polarized voting patterns in Louisiana and that this divide has only been strengthening in recent years.

323. Plaintiffs' fact witnesses also provided evidence that voting patterns in Louisiana are driven by race and racial attitudes. For example, Ashley Shelton testified that, in her experience as President and CEO of an organization that works to civically engage voters of color, Black voters regularly vote for Democrats not "because they are Democrats" but because Democrats more often take positions favorable to Black Louisianians on the issues that matter to them. May 10 Tr. 251:19-252:7.

324. Election results in Louisiana, as documented by the experts in this case, also demonstrate that voting patterns are motivated by race. Dr. Handley noted the much higher level of white support for Governor Edwards than for any Black Democrat running for statewide office in Louisiana. PR-87 at 3 n.4. Moreover, Dr. Lichtman reported that, in the 2008 Louisiana Democratic presidential primary, 86% of Black voters voted for former President Barack Obama compared to 13% of Black voters for former Secretary of State Hillary Clinton. GX-3 at 32-33. By contrast, 30% of white Democratic voters voted for President Obama while 58% of white voters voted for Secretary Clinton. *Id.* at 33; *see also* May 10 Tr. 172:13-19.

325. Dr. Palmer testified that white voters in Louisiana who vote for Democrats are 10% more likely to vote for white Democratic candidates than for Black Democratic candidates, indicating that racial polarization exists within interparty contests. May 9 Tr. 325:13-326:2.

326. Dr. Solanky's analysis of East Baton Rouge Parish, which Defendants suggest is an anomalous example of white support for minority-preferred candidates, is consistent with this conclusion. Dr. Solanky's analysis shows that, of the eight elections he reviewed, white candidates prevailed in all but one. SOS_5; PR-87 at 2; May 11 Tr. 50:8-20, 57:3-11, 58:25-59:5, 64:22-65:4. And Black candidates lost in East Baton Rouge Parish in three out of the four elections in which they ran. *Id.*

327. The Court finds that partisanship in Louisiana cannot be examined in a vacuum and that racial bias influences racially polarized voting patterns among Black and white voters in the state.

328.

3. Ultimately, the Court concludes that Defendants have not adduced facts to displace the evidence of racial bias in Louisiana voting patterns. Senate Factor 3: Discriminatory Voting Procedures

329. The Court finds that Louisiana has historically enacted a wide variety of discriminatory voting procedures that have burdened Black Louisianians' right to vote, including an open primary system with a majority-vote requirement that is still in force today.

330. Under this system, if a Black candidate wins a plurality of the vote in a white jurisdiction, they will have to face a white-preferred candidate head-to-head in a runoff contest. GX-3 at 34. In such situations, Black candidates rarely win. *Id.*; *see also* May 10 Tr. 161:1-14.

331. Louisiana's majority-vote requirement was put in place in 1975 to protect white incumbents from significant electoral challenges. GX-31 at 7.

332. Dr. Lichtman’s report provides three examples of this phenomenon at work in the last seven years—the 2015 race for Lieutenant Governor, when Democrat Melvin Holden advanced to the runoff and lost the election to Republican Billy Nungesser; the 2017 race for Treasurer, when Democrat Derrick Edwards advanced to the runoff and lost the election to Republican John Schroeder; and the 2018 election for Secretary of State, when Democrat Gwen Collins-Greenup won a near plurality in the primary but lost to the Secretary. GX-3 at 34-35; *see also* May 10 Tr. 173:21-174:9.

4. Senate Factor Four: Candidate Slating

333. There is no slating process involved in Louisiana’s congressional elections.

334. However, Dr. Lichtman “found something rather interesting, that the way Louisiana set up its congressional redistricting plan, it kind of made slating irrelevant and unavailing for black candidates; that is in District two, which is overwhelmingly packed with black[voters] and Democrats, slating is irrelevant. I[t’s] going [to elect a] black [representative]; whereas, the other five districts that are overwhelmingly white and Republican [slating] is equally irrelevant because a black candidate has no chance essentially to win.” May 10 Tr. 175:2-175:12.

5. Senate Factor Five: Contemporary Socioeconomic Disparities

335. The Court finds that Black Louisianians bear the effects of discrimination and are socioeconomically disadvantaged relative to white Louisianians across multiple metrics of well-being, including education, economic standing, health, housing, and criminal justice. These disparities hinder the ability of Black Louisianians to participate effectively in the political process.

336. Mr. Cooper provided un rebutted data demonstrating these inequities. The Court finds that Black per-capita income (\$19,381) is barely half of white per-capita income (\$34,690) in Louisiana, while the Black child-poverty rate (42.7%) is nearly triple the white child-poverty rate (15.0%). GX-1 ¶ 84. White Louisianians are more likely than Black Louisianians to have

finished high school, much more likely to have obtained a bachelor's degree, more likely to be employed, and much more likely to be employed in management or professional occupations. *Id.* Fewer than half of Black Louisianians live in houses they own, compared to 76.6% of white residents, and the average white-owned home is worth above \$50,000 more than the average Black-owned home. *Id.* The inequities extend to vehicle access (16.4% of Black households in Louisiana lack access to a vehicle, compared to only 4.7% of white households), computer access (84.3% of Black households have a computer, compared to 91.6% of white households), and internet access (72.6% of Black households enjoy broadband internet connections, compared to 84.3% of white households). *Id.* Mr. Cooper confirmed that white Louisianians enjoy higher levels of socioeconomic well-being than Black Louisianians “across almost every single category.” May 9 Tr. 119:5-9.

337. Dr. Burch testified that Black Louisianians are disadvantaged relative to white Louisianians with respect to educational access and attainment. May 10 Tr. 110:21-111:4 (“I concluded that there were still great disparities in education and educational attainment between [B]lack and white Louisianians, not [just] related to these factors that I state here, but also with respect to persistent segregation in education as well[,] and those factors, those disparities are given by both historical and contemporary discrimination in the education realm.”).

338. It is indisputable that educational outcomes in Louisiana vary among students by race. For example, Black eighth graders score on average 30 points lower in math and 26 points lower in reading than white eighth graders. PR-14 at 11; May 10 Tr. 109:17-110:6.

339. As recently as 2017, 50% of traditional school districts in Louisiana for which data was available demonstrated high levels of racial segregation within the district. PR-14 at 10; May 10 Tr. 110:21-111:4. School segregation has been shown to detrimentally affect the academic

performance of minority students. Black and Latino students who grew up under conditions of segregation were less academically prepared for college and had been exposed to more violence and social disorder than students coming from majority-dominant settings. *Id.*

340. According to the 2019 1-Year Estimates from the American Community Survey, white and Asian Louisiana adults are far more likely than Black and Latino adults to have earned a bachelor's or postgraduate degree. PR-14 at 7-8; May 10 Tr. 110:9-14.

341. Individual plaintiffs also testified about their own personal experiences with disparate access to education in Louisiana. *See, e.g.*, PR-9 at 3 (“I was one of only a few Black students to graduate from Louisiana State University in 1973”); PR-1 at 2 (“In the 1980s, I was the first Black person to be elected to the East Baton Rouge School Board.”); May 9 Tr. 280:5-16 (“My mother was in the third class to integrate to Baton Rouge high school. My father was one of the first black graduates of the LSU law center . . . I grew up here in the '80s and '90s the year I started first grade was the year first year of forced busing in Baton Rouge 1981”).

342. There are also “significant socioeconomic disparities that exist today, and [] those disparities relate to contemporary and historical disparities between Black and white Louisianians.” May 10 Tr. 112:13-17. According to data from the 2019 American Community Survey, Black Louisianians are nearly twice as likely to be unemployed as white Louisianians. PR-14 at 12-13.

343. Racial gaps in poverty rates are also large and persistent over time in Louisiana. The Black and Latino poverty rates are more than 2.8 times as high as the white poverty rate. PR-14 at 13, May 10 Tr. 111:23-25; PR-10 at 7 (“[P]overty rates are disproportionately high in Black communities[.]”). And the median income for Black Louisiana households is about \$29,000 less than that of white Louisiana households. PR-10 at 7; May 10 Tr. 112:1-4.

344. Dr. Burch wrote and testified regarding the disparities in housing between white and Black Louisianians. “Black Louisianians have been subject to racial residential segregation for generations,” including housing policies implemented by the Federal Housing Administration to “redline” Black neighborhoods and prevent lending to Black families. PR-14 at 15-19; May 10 Tr. 113:6-18. “[M]any of the most populous cities and metropolitan areas in Louisiana still are highly segregated by race.” *Id.*; *see also* May 10 Tr. 113:19-114:2 (“[T]here is still metro areas and cities in Louisiana that are highly [] segregate[ed] by race and that includes New Orleans, the New Orleans-Metairie metro area, Baton Rouge, the Shreveport-Bossier City and Lake Charles.”).

345. Furthermore, contemporary government policies continue to shape where Black and white Louisianians live. For example, neighborhoods damaged by Hurricane Katrina were disproportionately Black, and the delayed timing of disaster relief and rebuilding efforts made it more difficult for Black residents of New Orleans to return to their old homes. PR-14 at 15-19; May 10 Tr. 114:5-19.

346. Dr. Burch testified that Black Louisianians have worse health outcomes than white Louisianians. For instance, 17.7% of Black Louisiana adults have been diagnosed with diabetes, compared with 10.8% of white adults. PR-14 at 8-19. The mortality rate for cardiovascular disease in Louisiana is 260.5 per 100,000 white adults versus 321.5 per 100,000 Black adults. *Id.* And, although rates of invasive cancer are similar across Black and white Louisianians (487.9 per 100,000 adults versus 478.7 per 100,000 adults), there is a significant disparity in the mortality rate from invasive cancers (211.2 deaths per 100,000 adults for Black Louisianians versus 173.6 deaths per 100,000 adults for white Louisianians). *Id.* Furthermore, white Louisianians are more likely to have health insurance than Black Louisianians. PR-14 at 21. These disparities in health translate into disparities in life expectancy. In Louisiana, Black men live on average seven years

less than white men, and Black women live on average five years less than white women. May 10 Tr. 115:3-21. Infant and child mortality is higher for Black Louisianians as well. PR-14 at 20; May 10 Tr. 115:19-20.

347. Dr. Burch reported that environmental factors contribute to these racial health disparities. For example, Black mortality rates during Hurricane Katrina were significantly higher than white mortality rates in Orleans Parish across all age group categories 30 years and older. PR-14 at 21; May 10 Tr. 115:25-116:4. The siting of chemical plants and other environmental hazards near heavily Black residential areas also exposes residents to high levels of air pollution and other dangers. In the area widely known as Cancer Alley, which stretches between New Orleans and Baton Rouge, studies have linked high levels of air pollution to increased risk of cancer, COVID-19, and asthma. PR-14 at 21; May 10 Tr. 116:6-13. Cancer Alley includes numerous unincorporated, predominantly Black neighborhoods that have little say in the decisions to locate factories and refineries near their homes.

348. Black Louisianians are keenly aware of the disparate impacts of the petrochemical industry in Louisiana on their health. Michael McClanahan, President of the Louisiana NAACP, wrote in his declaration that “Louisiana is home to Cancer Alley, where petrochemical plants running along the Mississippi River between Baton Rouge and New Orleans have caused high rates of cancer and respiratory diseases. The rates of illness are disproportionately higher for Black people living in Cancer Alley than for white people.” PR-10 at 7. In his testimony, Mr. McClanahan explained that “[t]hose chemical plants, they set up shop in Black neighborhoods where they poison and kill people, every day. . . . They don’t live to grow old.” May 9 Tr. 35:7-11.

349. The Black incarceration rate in Louisiana is 3.7 times higher than the white incarceration rate. PR-14 at 23. Black Louisianians constitute about two-thirds of Louisiana's prisoners despite constituting only about one-third of the total population, a rate double their presence in the population. *Id.*; May 10 Tr. 117:2-9. Dr. Burch testified that "there are dramatic disparities in the involvement with the criminal justice system between Black and white Louisianians, with Black Louisianians being much worse off and these [] disparities can't be explained by just crime rates alone." May 10 Tr. 117:14-22.

350. The Court finds that the educational, socioeconomic, housing, health, and criminal justice disparities discussed above are a cause of lower political participation rates by Black Louisianians. As Dr. Burch explained in her expert report, there is extensive academic literature demonstrating that education, employment, and other elements of socioeconomic status are leading predictors of voting.

351. For example, data from the data from the 2020 Current Population Survey Voting and Registration Supplement reveals that differences in educational attainment can explain some of the racial gap in voter turnout in Louisiana. PR-14 at 8-9. Several studies have associated poor health with lower voter turnout. PR-14 at 19. The existing literature demonstrates that racial segregation in housing detrimentally affects voting. *Id.* And research has shown that contact with the criminal justice system—from police stops, to arrest, to incarceration—directly decreases voter turnout. PR-14 at 22.

352. Dr. Burch testified that political scientists think about the decision to participate in politics as a function of rational choice, and explained that these disparities "tend to make voting much more costly" for Black Louisianians. May 10 Tr. 118:21-23. For example, "it's much more difficult for someone having to navigate bureaucracies and the like if they have lower educational

attainment. It's difficult for people to get to a polling place if they don't have access to a vehicle. . . . People aren't allowed to vote if they are serving a sentence in prison, for instance, and so all of these factors are interrelated, but also definitely have an effect on political participation and the literature shows that quite clearly." May 10 Tr. 118:24-13; *see also id.* 240:24-241:3 ("Q. So is it fair to say that lack of access to transportation makes it harder for black Louisianians to participate in the political process? A. Yes.").

353. As a result, Black Louisianians participate in the political process at substantially lower rates than white Louisianians. According to the 2020 Current Population Survey Voting and Registration Supplement, 64% of white Louisianians reported that they voted in the 2020 general election, compared with only 58% of Black Louisianians. PR-14 at 8-9.

354. Dr. Lichtman confirmed these findings, noting that lack of vehicle access makes it more challenging to travel to polling places; the transience that results from lack of home ownership results in changing polling locations; and lower levels of education and internet access make it more difficult to learn and navigate voting procedures. GX-3 at 36-37.

355. Dr. Lichtman further explained that reduced political participation by Black Louisianians is demonstrated not only by lagging voter turnout, but also reduced lobbying of public officials and reduced political contributions. May 10 Tr. 177:14-178:18.

356. The Court credits these experts and agrees with Dr. Lichtman's finding that "[p]erpetuated and solidified racial segregation, which is evident in Louisiana, magnifies the effects of discrimination on the socioeconomic standing of minorities, which impacts their ability to participate fully in the political process and elect candidates of their choice." GX-3 at 37. Defendants offered no evidence to the contrary.

6. Senate Factor Six: Racial Appeals in Louisiana Campaigns

357. The Court finds based on the undisputed evidence at the hearing that Louisiana’s political campaigns have been characterized by both overt and subtle racial appeals.

358. Louisiana has a long and sordid history of racial appeals in political campaigns that continues to this day. Dr. Burch’s and Dr. Lichtman’s expert reports discuss some of the most egregious racial appeals in Louisiana politics, including that of David Duke, a former Grand Wizard of the Ku Klux Klan who ran for statewide election multiple times on platforms that openly appealed to white racial fears. PR-14 at 26. Duke won a strong majority of Louisiana’s white vote in a 1990 U.S. Senate race, a 1991 gubernatorial open primary, and a 1991 gubernatorial runoff. *Id.*; GX-3 at 39. Duke also endorsed other Louisiana political candidates, such as Governor Mike Foster, who received 84% of the white vote and only 4% of the Black vote. *Id.*

359. In the state’s 1995 gubernatorial race, Governor Foster—who defeated then-Congressman Cleo Fields, the first Black Louisiana gubernatorial candidate in more than a century—noted that the predominantly white Jefferson Parish “is right next to the jungle in New Orleans and it has a very low crime rate.” GX-3 at 39-40. Scholars found that “symbolic racism was an important determinant of vote choice in the 1995 Louisiana gubernatorial election, even after controlling for partisanship and ideology.” *Id.* at 40.

360. In 2011, Lieutenant Governor candidate Billy Nungesser ran an ad called “Sleepless in Louisiana,” in which he attacked his opponent for failing to protect Louisianians from having their jobs stolen by illegal immigrants. GX-3 at 41. And in 2014, Congressman Steve Scalise—the U.S. House Republican whip—admitted that, while serving as a Louisiana state representative in 2002, he had addressed a white supremacist group founded by David Duke. *Id.*

361. Racial appeals were also featured in Louisiana’s two most recent gubernatorial elections. In 2015, Republican gubernatorial candidate David Vitter released a campaign ad that,

as Dr. Lichtman observes, was “reminiscent of the notoriously racist Willie Horton ad.” GX-3 at 42. The ad pictured now-Governor Edwards alongside former President Barack Obama and warned that “Edwards joined Obama” in promising to release “[f]ifty-five hundred dangerous thugs, drug dealers, back into our streets.” *Id.*

362. In the 2019 gubernatorial race, Eddie Rispone, the Republican candidate, produced a campaign ad that began with a prominent display of mugshots of Black men and other men of color in which he blamed Governor Edwards for crimes committed by people after early release from prison. PR-14 at 26. The images were juxtaposed with all-white images of Rispone with his constituents. *Id.*; May 10 Tr. 121:9-21.

363. In that same campaign, Edwards’s supporters ran ads targeting Black voters, arguing that Rispone supported Donald Trump and calling Trump a racist. PR-14 at 27. In response, Rispone and the Louisiana Republican Party accused Edwards of racism and argued that he was taking part in a “family tradition” of taking advantage of Black Louisianians. *Id.*

364. Dr. Burch’s report shows that messages like these are designed to demobilize Black voters by portraying their chosen candidate or party as insensitive to the group’s needs. PR-14 at 27. She further testified at the preliminary injunction hearing that, based on the numerous elections she examined, “there are still racial appeals that characterize [] political campaign[s]” in Louisiana. May 10 Tr. 122:2-4.

7. Senate Factor Seven: Underrepresentation of Black Louisianians in Elected Office

365. The Court finds based on the undisputed evidence at the hearing that Black Louisianians have been historically underrepresented in elected office—a trend that continues to this day.

366. As Dr. Lichtman and Dr. Burch report, not a single Black candidate has been elected to statewide office in Louisiana since Reconstruction. GX-3 at 46-47; PR-14 at 6. Since 1991, only four Black Louisianians have represented the state in Congress, and only once—from 1993 to 1997—have two Black Louisianians served in Congress at the same time. *Id.* at 47. A Black Louisianian has never been elected to Congress from a non-majority-Black district. *Id.*

367. Since 1990, the percentage of Black members of the Legislature has remained relatively constant. GX-3 at 47. Despite comprising one-third of the state's population, Black legislators constitute only 23.1% of the Louisiana State Senate and 22.9% of the Louisiana House of Representatives. *Id.* Currently, all Black members of the Legislature were elected from majority-Black districts. *Id.* at 47-48.

368. Black Louisianians are also underrepresented among elected officials at other levels of government, including among executives (such as Governor, Lieutenant Governor, and mayors) and judges. PR-14 at 6; May 10 Tr. 123:2-14. Indeed, less than 25% of Louisiana mayors are Black. PR-14 at 28; May 10 Tr. 123:8-11.

369. Black Louisianians are also underrepresented in the state's judiciary. GX-3 at 48. According to a 2018 study by researchers at the Newcomb College Institute of Tulane University, Black Louisianians comprised just 23.4% of the state's judges. *Id.* Only one Black justice sits on the Louisiana Supreme Court. *Id.* at 48-49. Of the 42 district courts in the state,

8. Senate Factor Eight: State Nonresponsiveness

370. The Court finds based on the undisputed evidence at the hearing that there is a significant lack of responsiveness on the part of elected officials to the particularized needs of Black Louisianians.

371. Dr. Burch's expert report demonstrated that Black Louisianians disproportionately suffer from the effects of racial discrimination across many areas, including health, housing,

employment, education, and criminal justice. PR-14 at 7-25. In each of these areas, racial disparities are indicative of a failure on the part of elected officials to address the needs of Black residents. Persistence of these severe racial disparities over time demonstrates that public officials are not responsive to the needs of Louisiana's minority communities. Dr. Lichtman similarly found that Louisiana has failed its Black citizens in the areas of public education, healthcare, the environment, economic opportunity, and criminal justice. GX-3 at 50.

372. Despite ranking last in the nation for public secondary and higher education, Louisiana cut its higher education budget by 44.9% from 2008 to 2017—the second highest in the nation. GX-3 at 52. This is only further exacerbated by the fact that private charter schools—which are predominantly white—are being funded by monies allotted for public education. *Id.* at 51.

373. In the area of healthcare, Dr. Lichtman explained that the United Health Foundation and United Health Care ranked Louisiana 48 out of 50 among the states for the health of its senior citizens. GX-3 at 53. Further, Louisiana was one of the last five states to expand Medicaid despite being tied with the state of California for the largest population percentage of citizens eligible for Medicaid or the Children's Health Insurance Program—and having a disproportionately high number of Black citizens who receive Medicaid. *Id.*

374. Dr. Lichtman also noted that Louisiana's dismal response to Black Louisianians' needs for better environmental policy is indicative of official policy that fosters environmental injustice. GX-3 at 56-60. Plaintiffs Michael McClanahan and Dr. Dorothy Nairne each testified to what is known as "Cancer Alley," the strip of petrochemical plants that operate in and around Black neighborhoods—residents there have a 50% higher chance of contracting cancer and dying than those who live in a healthy environment. *Id.* at 57; May 9 Tr. 35:3-36:1; May 10 Tr. 89:9-17.

375. Economically, Louisiana’s Black population is predominantly low-income and has the third-lowest average household income among low-income households in the nation. GX-3 at 53-54. Louisiana also has the second-largest wage gap between Black and white workers. *Id.* at 54.

376. As Dr. Lichtman noted, these findings are neither limited nor subjective: “These are areas of fundamental importance to a vulnerable group like African-Americans.” May 10 Tr. 184:15-185:5.

377. Dr. Burch highlighted in her report and during her testimony the ways in which voters explicitly connected the lack of responsiveness of officials to race during last year’s redistricting roadshows. PR-14 at 29-32; May 10 Tr. 125:13-125:18 (“Based on the policies and the persistent gaps that I found with respect to Senate factor five, as well as based on voices of black Louisianians themselves, that black Louisianians publicly elected officials were not responsive.”).

378. For instance, at a meeting in Lake Charles, Lydia Larse, a Black resident, said: “We’re one-third of the state, and I’m not being represented . . . Our voices are not being heard. At all.” PR-14 at 30. At the same roadshow, Jacqueline Germany stated, “I’m sick and tired of a congressman overlooking my district.” *Id.* at 31. Voters at the roadshows consistently expressed the opinion that, of Louisiana’s current congressional delegation, only Congressman Troy Carter, the congressman representing a majority-minority district, is responsive to the needs of Black Louisianians. For example, at the Baton Rouge roadshow, Melissa Flournoy stated, “We have five hardcore Republican Congressmen, and we have one African-American Congressman who for all intents and purposes, is expect[ed] to represent the voices of African-American voters in Caddo

Parish, in East Baton Rouge Parish, in Tallulah, Richland, Tensas, Concordia Parish. Because he's the only congressman that will return the calls, okay?" *Id.*

379. Similarly, at the Alexandria roadshow, Herbert Dixon said of the federal Build Back Better bill, "there should be a Congress person that understand[s] the importance of a \$1.2 trillion infrastructure bill that would create vast opportunities for central Louisiana and our state. . . . [Under the bill,] \$6 billion would be allocated to Louisiana for roads and bridges. . . . Think what this would mean for Gilchrist Construction Company, Diamond B Construction Company, TL Construction, Madden Construction Company and all other local contractors in our area. . . . Every Louisiana U.S. House Congressional member voted against the \$1.2 trillion infrastructure bill, except [the one who] represented a majority-minority congressional district." *Id.* at 29-30.

380. Plaintiffs underscored this message in their declarations and testimony. *See, e.g.*, PR-3 at 4 (Dr. Nairne: "I do not get equal access to my Congressional representative when compared to other voters in my district . . . This is not fair, and at times it feels debilitating."), PR-4 at 2-3 (Mr. Soulé: "I have previously met with my Congressperson, Representative Steve Scalise, at a town hall meeting, approximately four years ago. . . . I remember he interrupted me and dismissed what I had to say before I could finish my remarks. He was not responsive to my concerns and did not treat me like a constituent that he represents.").

381. Plaintiffs also noted that they are not alone in feeling their representatives are not responsive to their needs, and that this is a common sentiment in Louisiana's Black community. *See, e.g.*, PR-9 at 3 (Mr. Sims: "I know I am not the only one who feels frustrated. My community is under-served and always has been, and folks understandably feel apathetic."), PR-8 at 3 (Ms.

Davis: “A lot of people I know feel there is no point in voting because they believe it does not make a difference.”).

382. The Court further finds that the dilution of Black voting power in the challenged congressional plan only exacerbates this official nonresponsiveness. Cracking Black voters into districts with significant numbers of competing interests increases the likelihood that elected officials tasked with representing Black voters will be pulled in different directions and consequently less responsive to the particularized needs of the Black community.

383. Matthew Block, who serves as Governor Edwards’s executive counsel, testified that the incumbent governor has been responsive to the needs of the state’s Black community, supporting Medicaid expansion and criminal justice reform and appointing Black officials to high-ranking positions in the state government. May 11 Tr. 29:23-31:20, 32:15-38:14. But Governor Edwards’s responsiveness to Black Louisianians does not change the Court’s conclusion as to this Senate Factor. As Mr. Block testified, Governor Edwards’s predecessors did not demonstrate similar responsiveness to the Black community. May 11 Tr. 44:11-45:15. And Governor Edwards is not the only elected official responsible for crafting the state’s policies on healthcare and other issues. *Id.* at 46:3-9. If anything, Governor Edwards’s departures from his predecessors’ policies and his commitment to the Black community confirms that Black citizens benefit when allowed to elect their candidates of choice to office.

9. Senate Factor Nine: Tenuousness of Justification for Enacted Map

384. The Court finds that any proffered justifications for HB 1 are tenuous. The Court notes that Defendants called no legislator to testify about the basis for the enacted plan, although, in successfully moving to intervene, the Legislative Intervenors stated that they wished to explore ‘the policy considerations underpinning’ the enacted plan. Rec. Doc. No. 10 at 10.

385. Dr. Burch's expert report showed that, although the sponsors of HB 1 argued that the map was justified by the importance of population equality, these same sponsors downplayed the importance of this factor once it was shown that a redistricting scheme allowing for two majority-minority districts was created with lower absolute and relative deviations in population. PR-14 at 33; May 10 Tr. 127:7-128:10.

386. Dr. Burch's expert report also demonstrated that arguments in support of HB 1 based on the favorability of the shape of the districts were based on subjective notions of appearance and eyeball tests, instead of the standard measures of compactness used by courts and demographers. PR-14 at 34-36. These standard measures of compactness showed that, despite the observations of the legislators who supported HB 1, redistricting plans containing two majority-minority districts created districts that were more compact than the districts created by HB 1 but were not supported by these legislators. *Id.*

387. Similarly, Dr. Burch's expert report demonstrates that, while HB 1 does not split any precincts, other redistricting plans, including plans allowing for two majority-minority districts, also keep all precincts intact but were not supported by the supporters of HB 1. PR-14 at 31. The legislature also passed HB 1 over the objections of members of various communities of interest, and the bill's supporters did not provide any rationale for how they determined which communities of interest were prioritized over others. Dr. Burch noted in her report that several maps were introduced that managed to draw two majority-minority districts while splitting fewer parishes and communities of interest than HB 1. PR-14 at 36-40.

388. Dr. Lichtman explained why core retention is not a compelling justification for HB 1: In Louisiana, prioritizing core retention "freezes in the existing packing and cracking under the previous plan. . . . They are freezing in the inequities that you had previously established. In fact,

if core retention was the fundamental talisman for redistricting as opposed to other requirements, then there never would have been a remedy for a discriminatory redistricting plan. You would just be replicating that plan over and over and over again like you are doing here.” May 10 Tr. 185:18-186:11. Dr. Lichtman further explained that the preclearance of Louisiana’s 2011 congressional plan does not indicate the absence of a Section 2 violation; “[i]t simply means that the plan was not [retrogressive] with respect to the previous plan.” *Id.* 186:22-24.

389. Dr. Lichtman also demonstrated that HB 1 cannot be justified by compactness, as Congressional District 2’s packing of Black voters results in a meandering, unusual shape. May 10 Tr. 187:2-188:25. Nor can that district be justified by an interest in ensuring Black representation, since the district’s BVAP is “way beyond what is necessary for black[voters] to elect candidates of choice.” *Id.* 188:12-14.

10. Proportionality

390. The Court finds that Black representation in HB 1 is not proportional to the Black share of the statewide population. Defendants do not dispute this fact.

391. Even though Black Louisianians make up 33.13% of the state’s total population and 31.25% of the state’s voting-age population, they constitute a majority of the total and voting-age populations in just 17% of the state’s congressional districts. GX-1 Figures 1- 2, 10.

392. Under HB 1, only about 31% of Black Louisianians live in majority-Black congressional districts, while 91.5% of white Louisianians live in majority-white districts. May 9 Tr. 116:5-18, 117:23-118:8.

393. By contrast, under Mr. Cooper’s illustrative maps, approximately 50% of Black Louisianians would live in majority-Black congressional districts, while approximately 75% of white voters would live in majority-white districts. May 9 Tr. 117:5-14, 117:23-118:8.

V. Irreparable Harm

394. The Court finds that, because the enacted congressional plan dilutes the voting strength of Plaintiffs, conducting the 2022 midterm elections under this plan would cause Plaintiffs irreparable harm.

395. This Court has no power to provide any form of relief to Plaintiffs with respect to the 2022 elections once those elections have passed.

396. There are no “do-overs” in elections. As such, the harm Plaintiffs identify in this case is, by definition, irreparable once an election is held under an unlawful congressional plan.

397. The testimony presented at the hearing underscores the extent to which an election held under an unlawful map would threaten voters’ fundamental rights.

398. Power Coalition President Ashley Shelton testified that voter confidence would be diminished if the 2022 elections were conducted using unlawful district maps. According to Ms. Shelton, “being able to elect a candidate of choice drives voter interest and voter excitement.” May 10 Tr. 249:24-25. If HB 1 stays in place for the 2022 elections, the Power Coalition and similarly situated groups would be forced to do “double work” to address “deflated and disconnected” groups that “do not feel like they have a voice in power.” *Id.* at 249:15-22.

399. Louisiana NAACP President Michael McClanahan testified that proceeding under maps that lacked a second minority-opportunity district would be seen as discriminatory. As Mr. McClanahan explained, the current congressional maps “show us that we can eat together, but we cannot share power together. . . . They basically told me as a black person in the State of Louisiana that your sons and daughters can play football at LSU . . . but when it comes to making laws, when it comes to making policy, stay [in] your place on the porch.” May 9 Tr. 32:19-33:8. Mr. McClanahan further explained that the Louisiana NAACP will “be forced to divert resources from its broader statewide voter registration and community empowerment initiatives to ensure that its

constituents and members in the affected districts are able to engage in the political process on equal footing with those in other districts.” PR-10 at 4.

VI. Balance of Harms and Public Interest

400. The Court finds that the irreparable harm that Plaintiffs would suffer absent an injunction far outweighs any inconvenience an injunction will cause Defendants, and that a preliminary injunction would serve the public interest by vindicating Black Louisianians’ fundamental voting rights.

A. Implementation of New Congressional Map

401. The Court finds that a remedial congressional plan can be feasibly implemented in advance of the 2022 midterm elections without significant cost, confusion, or hardship.

402. The 2022 congressional primary election is scheduled for November 8, 2022, nearly six months from now. GX-24. The congressional runoff election is scheduled for December. PR-80. Early voting for the Congressional primary will take place from October 25, 2022, through November 1, 2022. *Id.* Early voting for the Congressional election will take place from November 26, 2022 through December 3, 2022. *Id.*

403. The Court finds that none of the proffered reasons why a new map cannot be feasibly implemented before the elections this year is persuasive.

404. Sherri Hadskey, the state’s Commissioner of Elections, testified that the State would need to “back out the work that was done and then re-enter all of the new work required for the plan so that voters are informed and are given the correct districts that they need to have a ballot for.” May 13 Tr. 36:24-37:3. She further stated that a new round of notices would have to go out to voters, and referenced a paper shortage. *Id.* 39:23-40:11.

405. The Court finds that a national paper shortage does not heavily weigh against granting a preliminary injunction. Ballots cannot be printed until the candidate qualifying process

concludes on July 29, 2022, and the process for preparing absentee ballot envelopes does not begin until August 1, 2022. May 13 Tr. 48:16-19, 49:10-50:2. Further, the number of ballots and absentee ballot envelopes needed for the state's November 8, 2022, primary election is not contingent on the shape of Louisiana's congressional districts. *Id.* at 48:20-24, 50:6-13.

406. The Court similarly finds that Louisiana's practice of mailing voter cards that inform voters of their congressional district does not heavily weigh against granting a preliminary injunction. Louisiana provides other methods for voters to confirm their congressional district, including through the Geaux Vote mobile app and the Secretary's website. May 13 Tr. 52:20-53:3, 53:22-24.

407. The Court also finds that the Secretary does not send mailings to all voters in Louisiana in response to the creation of new election districts. Mailings are only sent to voters whose election districts actually change. May 13 Tr. 42:16-20. The Court finds that once the congressional districts are re-drawn implementing this limited mailing would not impose a burden on the Secretary. Per the testimony of Ms. Hadskey, the Secretary was recently able to update their records and send out these mailings to all impacted voters in less than three weeks. May 13 Tr. 42:16-43:2.

408. Moreover, because the Secretary chose to mail out voter cards during the pendency of this litigation, May 13 Tr. 31:9-15, any resulting cost or burden resulting from the need to circulate new voter cards is of the Secretary's own making.

409. Ms. Hadskey ultimately agreed that she would seek to fulfill her responsibility to administer the election on schedule, and would rely on her 30 years of experience in election administration to do so. May 13 Tr. 56:20-57:2.

410. The Court finds that Louisiana is properly equipped for implementing election changes, even on timeframes much shorter than the one presented here. Mr. Block, Governor Edwards’s executive counsel, explained that there have been several recent instances where the State has changed election dates and pre-election dates, often close in time to an election, in order to respond to emergencies. May 11 Tr. 21:7-10, 22:6-21. For example, he testified that (1) the “May elections in the spring of [20]22 were moved twice . . . as a result of the raging COVID outbreak”; and (2) following Hurricane Ida, the “the Secretary of State and the governor worked together on moving the . . . October, November elections to November, December last year.” *Id.* at 18:17-22:21. Ms. Hadskey likewise testified that her office has “had to move state elections due to emergencies, due to hurricanes, due to things like that.” May 13 Tr. 56:24-57:7.

411. Mr. Block further testified that even when deadlines have been altered and other changes made, the State was still able to successfully administer elections. May 11 Tr. 22:22-23:15. The Secretary’s office was able to inform voters of changes, Louisianians were able to cast ballots, and electoral chaos did not result. *Id.* at 23:16-24:3. Mr. Block agreed that Louisiana has an election system that is able to adjust when things change. *Id.* at 24:4-7. While there might be some challenges, the State has “a lot of experience” adjusting election details, dates, and deadlines. *Id.* at 22:22-23:11; *see also* May 13 Tr. 57:2-7.

412. The Court further finds that there is sufficient time for the Legislature (or, if necessary, this Court) to draw a congressional map that complies with Section 2 of the Voting Rights Act for use in the state’s November 8, 2022, primary election.

413. Due to the temporal gap between the candidate qualifying period and the primary election, this Court can extend the filing deadline without creating any need to alter the primary

election date. Indeed, as noted, the Legislative Intervenors so acknowledged in the prior State court proceedings. GX-32 at 8.

414. The Legislature is currently in session, and the date for final adjournment of that session is June 6, 2022, at 6:00 p.m. May 11 Tr. 24:8-13. It is feasible for the Legislature to draw a remedial map while in session during the next few weeks. May 11 Tr. 24:14-23. And even if a new map were not adopted during this legislative session, either Governor Edwards or the Legislature itself could call an extraordinary session to undertake remedial redistricting. *Id.* at 25:20-26:2.

415. As a comparison, North Carolina law provides that when a court invalidates a redistricting plan, it can give the legislature as few as 14 days to craft a new plan. *See* N.C. Gen. Stat. § 120-2.4(a). Although not bound by that rule, federal courts have followed the practice. After invalidating a congressional plan on February 5, 2016, the U.S. District Court for the Middle District of North Carolina gave the legislature until February 19 to enact a new plan. *See Harris v. McCrory*, 159 F. Supp. 3d 600, 627 (M.D.N.C. 2016) (three-judge court). Similarly, after invalidating a congressional plan on January 9, 2018, the same court gave the legislature until January 24 to enact a new plan. *See Common Cause v. Rucho*, 279 F. Supp. 3d 587, 691 (M.D.N.C.) (three-judge court), *rev'd on other grounds*, 138 S. Ct. 823 (2018). And after state courts invalidated North Carolina's congressional and state legislative plans in 2019, the legislature drew a new congressional plan in less than three weeks and new state legislative plans (involving nearly 80 districts) in even less time. *See Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Ct. Oct. 28, 2019); *Common Cause v. Lewis*, No. 18-CVS-014001, 2019 WL 4569584 (N.C. Super. Ct. Sept. 3, 2019).

416. As another example, after invalidating Ohio’s legislative plans, the Ohio Supreme Court ordered that new plans be drawn in just ten days. *See League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, Nos. 2021-1193, 2021-1198, 2021-1210, 2022 WL 110261, at *28 (Ohio Jan. 12, 2022).

417. Other federal courts have ordered similarly abbreviated timelines. *See, e.g., Larios v. Cox*, 300 F. Supp. 2d 1320, 1357 (N.D. Ga. 2004) (three-judge court) (ordering legislature to enact new legislative plans within two-and-a-half weeks).

418. A number of factors present in this case would allow for the expeditious adoption of a new, lawful congressional map, including the advanced notice of potential liability afforded by Governor Edwards’s veto message, which specifically mentioned that HB 1 fails to comply with the Voting Rights Act, GX-17, GX-18; the introduction during the legislative process of alternative congressional maps that included two minority-opportunity districts, GX-12; and the half-dozen illustrative maps prepared by Mr. Fairfax and Mr. Cooper during these proceedings.

419. The Court further finds that it retains the power to move the candidate qualification period or even the primary election itself as necessary to afford relief. *See, e.g., Sixty-Seventh Minn. State Senate v. Beens*, 406 U.S. 187, 201 n.11 (1972) (“[T]he District Court has the power appropriately to extend [election-related] time limitations imposed by state law.”); *United States v. New York*, No. 1:10-cv-1214 (GLS/RFT), 2012 WL 254263, at *2 (N.D.N.Y. Jan. 27, 2012) (moving primary date to ensure UOCAVA compliance); *Quilter v. Voinovich*, 794 F. Supp. 760, 762 (N.D. Ohio 1992) (three-judge court) (noting that court ordered rescheduling of primary election to permit drawing of remedial legislative plans); *Busbee v. Smith*, 549 F. Supp. 494, 519 (D.D.C. 1982) (adopting special election calendar).

420. Thus, if necessary, it would be feasible to move election deadlines here. As the Legislative Intervenors stated less than two months ago before a state court: “[T]he candidate qualification period could be moved back, if necessary, as other states have done this cycle, without impacting voters.” GX-32 at 8.

421. Indeed, just this cycle, Kentucky moved its candidate filing date by 18 days because of redistricting delays; this action did not impact the commonwealth’s normally scheduled primary date. *See* Ky. H.B. 172 (2022).

422. Finally, the Court observes that counsel for Defendants previously represented to Judge Donald R. Johnson of the Nineteenth Judicial District Court that a new congressional map could be feasibly adopted and implemented in the coming weeks and months. The Secretary argued that the Legislature could override Governor Edwards’s veto of another plan passed during its regular session “in a veto session[] before [the] fall elections.” GX-26 at 3; *see also* GX-28 at 3 (similar); GX-27 at 4 (Legislative Intervenors representing that “[e]ven if the Governor vetoes a congressional redistricting bill from the 2022 Regular Session, the Legislature has an opportunity to override the veto in a veto session, or to call into session another Extraordinary Session, before the fall elections.”). Counsel for the Secretary made similar representations during oral argument before Judge Johnson, indicating that “[e]ven if the Governor ends up vetoing a bill” passed in the Legislature’s regular session, the Legislature could still “override” or “call themselves into another session,” thus pushing enactment of a new congressional map well into the summer. GX-33 at 35:26-31; *see also id.* at 14:3-8 (noting that Legislature “ha[s] the ability to go into a[n] override session” to pass new congressional map); *id.* at 30:21-32 (claiming that judicial redistricting deadline of June 17 would allow court to “substitute [its] judgment . . . with regard to . . . a clearly legislative function”); *id.* at 32:3-20 (observing that Louisiana does not have “a hard deadline for

redistricting” and that “the Legislature . . . can also amend the election code if necessary to deal with congressional reapportionment”); *id.* at 37:5-22 (similar).

423. Because the Legislature’s regular session is scheduled to end on June 6, 2022, GX-25; May 11 Tr. 24:8-13, Defendants’ prior representations in state court indicate that a new map could be passed and implemented after June 6.

424. Moreover, the Legislative Intervenors previously represented that

the candidate qualification period could be moved back, if necessary, as other states have done this cycle, without impacting voters. . . .

The election deadlines that actually impact voters do not occur until October 2022, like the deadlines for voter registration (October 11, 2022, for in-person, DMV, or by mail, and October 18, 2022 for online registration) and the early voting period (October 25 to November 1, 2022). . . .

Therefore, there remains several months on Louisiana’s election calendar to complete the [redistricting] process.

GX-32 at 8.

425. Given the timing of the primary election and preceding deadlines, the limited impact a new map would have at this point in the election calendar, the responsiveness of Louisiana’s elections system, and the representations made by Defendants in prior litigation, the Court finds that the State can “easily . . . make the change” to Louisiana’s congressional map “without undue collateral effects.” *Merrill v. Milligan*, 142 S. Ct. 879, 881 n.1 (2022) (Kavanaugh, J., concurring).

B. Harm to Voters and Candidates and Public Interest

426. The Court finds that a preliminary injunction would serve the public interest by vindicating Black Louisianians’ fundamental voting rights. *See, e.g.*, May 10 Tr. 253:4-9 (Ms. Shelton: “[P]acking us all into one district . . . minimize[s] the ability of [B]lack voters to elect candidates of choice.”); PR-1 at 3 (Dr. Robinson: “The enacted map deprives me of the opportunity to elect a candidate who represents by needs and the needs of my community”); PR-4 at 3 (Mr.

Soulé: “I do not believe that my vote counts and is given equal weight as the vote of white Louisianians.”); PR-5 at 3 (Ms. Washington: “I believe that the enacted map does not give equal weight to all votes because it dilutes Black voting strength[.]”).

427. The Court further finds that the risk of hardship or confusion for Louisiana voters and candidates would be low if a new, lawful congressional map were implemented in advance of the 2022 midterm elections.

428. Voters do not yet have certainty about who will appear on the ballot, and will not have certainty until after the July 20-22 qualifying period. PR-80.

429. As the Legislative Intervenors stated in the state court litigation that preceded this action: “*The election deadlines that actually impact voters do not occur until October 2022*, like the deadlines for voter registration (October 11, 2022, for in-person, DMV, or by mail, and October 18, 2022 for online registration) and the early voting period (October 25 to November 1, 2022).” GX-32 at 8 (emphasis added).

430. In any event, organizations like the Louisiana NAACP and Power Coalition have procedures and networks in place to keep voters informed about elections. May 9 Tr. 57:14-58:7 (discussing Louisiana NAACP’s “souls to the polls” program”); May 10 Tr. 241:7-15 (discussing PCEJ’s network of “about 500,000 people”).

431. In addition, the Secretary’s office has several procedures in place for keeping voters informed, including an outreach program, a mobile application that provides voters with information about upcoming elections, and a website that provides similar information. May 13 Tr. 43:10-44:11, 45:11-46:4, 52:20-53:3, 53:22-24.

432. Moreover, absentee ballots to overseas service members and residents are not due to be mailed until September 24, 2022, and early voting for certain state residents is not scheduled to begin until October 18, 2022. SOS_1 at 4.

433. As for congressional candidates, the earliest deadline related to congressional elections identified by Defendants is June 22, 2022, when candidates filing by nominating petition must submit their petitions. *Id.* But it is extremely rare for Louisiana congressional candidates to file by nominating petition. May 13 Tr. 58:8-59:2. Instead, congressional candidates regularly file by paying a \$600 qualifying fee, which is not due until July 22, 2022. *Id.* at 58:2-4. Thus, the adoption of a remedial congressional map will not impose any significant harm even if the period for gathering petition signatures is reduced.

434. The public interest will be served by an order prohibiting the Secretary from enforcing, implementing, or conducting elections using a congressional map that violates Section 2. By contrast, the Court finds that any harm caused to Defendants and the State will be minimal.

PROPOSED CONCLUSIONS OF LAW

1. Plaintiffs have satisfied each of the four elements of a preliminary injunction by showing that: (1) they are substantially likely to succeed on the merits; (2) there is a substantial threat that Plaintiffs and other Black Louisianians will face irreparable harm in the absence of an injunction; (3) the irreparable harm to Plaintiffs far outweighs any harm an injunction would cause to Defendants; and (4) a preliminary injunction will serve the public interest. *See Speaks v. Kruse*, 445 F.3d 396, 399-400 (5th Cir. 2006).

I. Plaintiffs are substantially likely to succeed on the merits of their Section 2 claims.

2. Plaintiffs have satisfied all elements of their textbook Section 2 claims.

3. Section 2 of the Voting Rights Act renders unlawful any state “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a).

4. A single-member congressional district plan that dilutes the voting strength of a minority community may violate Section 2. *See LULAC v. Perry*, 548 U.S. 399, 423-42 (2006) (plurality opinion).

5. “Dilution of racial minority group voting strength” in violation of Section 2 “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters or from the concentration of blacks into districts where they constitute an excessive majority.” *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

6. Dilution of a minority community’s voting strength violates Section 2 if, under the totality of the circumstances, the “political processes leading to nomination or election in the State. . . are not equally open to participation by members of [a racial minority group] . . . 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.” 52 U.S.C. § 10301(b).

7. “The essence of a Section 2 claim . . . is that certain electoral characteristics interact with social and historical conditions to create an inequality in the minority and majority voters’ ability to elect their preferred representatives.” *City of Carrollton Branch of NAACP v. Stallings*, 829 F.2d 1547, 1554-55 (11th Cir. 1987).

8. “[P]roof that a contested electoral practice or mechanism was adopted or maintained with the intent to discriminate against minority voters[] is not required under Section 2 of the Voting Rights Act.” *Carrollton Branch*, 829 F.2d at 1553.

9. Rather, the question posed by a Section 2 claim is “whether as a result of the challenged practice or structure plaintiffs do not have an equal opportunity to participate in the political processes and to elect candidates of their choice.” *Gingles*, 478 U.S. at 44 (cleaned up); *see also, e.g., Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1342 (11th Cir. 2015) (“A discriminatory *result* is all that is required; discriminatory intent is not necessary.”); *LULAC v. Abbott*, Nos. 3:21-CV-259-DCG-JES-JVB, 1:21-CV-991-LY-JES-JVB, 2022 WL 1410729, at *8 (W.D. Tex. May 4, 2022) (three-judge court) (“The Supreme Court interpreted that new language in *Thornburg v. Gingles*, to mean that Section 2, unlike the Constitution, could be violated even if a state did not act with a racial motive. The Court also took a broad view of discriminatory effect, such that Section 2 generally requires the creation of legislative districts where a racial minority is (1) large and geographically compact, (2) politically cohesive, and (3) otherwise unable to overcome bloc voting by the racial majority.” (citation omitted)).

10. While “federal courts are bound to respect the States’ apportionment choices,” they must intervene when “those choices contravene federal requirements,” such as Section 2’s prohibition of vote dilution. *Voinovich v. Quilter*, 507 U.S. 146, 156 (1993).

11. A Section 2 plaintiff challenging a districting plan as dilutive must satisfy three criteria, first set forth by the Supreme Court in *Gingles*.

12. The three *Gingles* preconditions are: (1) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the minority group must be “politically cohesive”; and (3) the white majority must “vote[] sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” 478 U.S. at 50-51.

13. “The ‘geographically compact majority’ and ‘minority political cohesion’ showings are needed to establish that the minority has the potential to elect a representative of its own choice in some single-member district. And the ‘minority political cohesion’ and ‘majority bloc voting’ showings are needed to establish that the challenged districting thwarts a distinctive minority vote by submerging it in a larger white voting population.” *Grove v. Emison*, 507 U.S. 25, 40 (1993).

A. Plaintiffs have satisfied the first *Gingles* precondition because a second compact, majority-Black congressional district can be drawn in Louisiana.

14. To satisfy the first *Gingles* precondition, Plaintiffs must show that the Black population in Louisiana is “sufficiently large and geographically compact to constitute a majority in a single-member district.” *LULAC*, 548 U.S. at 425 (quoting *Johnson v. De Grandy*, 512 U.S. 997, 1006-07 (1994)).

15. Although “[p]laintiffs typically attempt to satisfy [the first *Gingles* precondition] by drawing hypothetical majority-minority districts,” *Clark v. Calhoun County (Clark II)*, 88 F.3d 1393, 1406 (5th Cir. 1996), such illustrative plans are “not cast in stone” and are offered only “to demonstrate that a majority-[B]lack district is feasible,” *Clark v. Calhoun County (Clark I)*, 21 F.3d 92, 95 (5th Cir. 1994); *see also Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (same).

16. “When applied to a claim that single-member districts dilute minority votes, the first *Gingles* condition requires the possibility of creating more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice.” *De Grandy*, 512 U.S. at 1008.

17. The Court concludes that Plaintiffs have shown that Louisiana’s Black population is sufficiently numerous and geographically compact to support the creation of an additional majority-Black congressional district.

1. Louisiana’s Black population is sufficiently numerous to form an additional majority-Black congressional district.

18. Plaintiffs have shown that Louisiana’s Black population is sufficiently large to constitute a majority in a second congressional district.

19. Under the first *Gingles* precondition, the Court must answer an objective, numerical question: “Do minorities make up more than 50 percent of the voting-age population in the relevant geographic area?” *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality opinion).

20. The burden of proof is “a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.” *Bartlett*, 556 U.S. at 19-20.

21. When a voting rights “case involves an examination of only one minority group’s effective exercise of the electoral franchise[,] . . . it is proper to look at all individuals who identify themselves as black” when determining a district’s BVAP. *Georgia v. Ashcroft*, 539 U.S. 461, 474 n.1 (2003); *see also, e.g., Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 118 F. Supp. 3d 1338, 1343 n.8 (N.D. Ga. 2015) (“[T]he Court is not willing to exclude Black voters who also identify with another race when there is no evidence that these voters do not form part of the politically cohesive group of Black voters in Fayette County.”). Indeed, “[t]he irony would be great if being considered only ‘part Black’ subjected a person to an extensive pattern of historical discrimination but now prevented one from stating a claim under a statute designed in substantial part to remedy that discrimination.” *Singleton v. Merrill*, Nos. 2:21-cv-1291-AMM, 2:21-cv-1530-AMM, 2022 WL 265001, at *56 (N.D. Ala. Jan. 24, 2022) (per curiam) (three-judge court).

22. Accordingly, the AP BVAP metric is appropriate when establishing the first *Gingles* precondition in a Section 2 case. *See, e.g., Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 419-20 (M.D. La. 2017), *rev'd on other grounds sub nom. Fusilier v. Landry*, 963 F.3d 447 (5th Cir. 2020); *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, Nos. 1:21-CV-5337-SCJ, 1:21-CV-5339-SCJ, 1:22-CV-122-SCJ, 2022 WL 633312, at *16 (N.D. Ga. Feb. 28, 2022); *Singleton*, 2022 WL 265001, at *12 n.5; *Ga. State Conf. of NAACP*, 118 F. Supp. 3d at 1343; *Covington v. North Carolina*, 316 F.R.D. 117, 125 n.2 (M.D.N.C. 2016) (three-judge court), *aff'd*, 137 S. Ct. 2211 (2017); *Mo. State Conf. of NAACP v. Ferguson-Florissant Sch. Dist.*, 201 F. Supp. 3d 1006, 1033 (E.D. Mo. 2016).

23. Mr. Fairfax and Mr. Cooper drew illustrative plans that contain a second majority-Black congressional district. These additional districts were drawn while balancing traditional redistricting criteria.

24. For these reasons, the Court concludes that Plaintiffs have shown that Louisiana's Black population is large enough to constitute a majority in a second congressional district.

2. Louisiana's Black population is sufficiently compact to form a second majority-Black congressional district.

25. Plaintiffs have shown that Louisiana's Black population can form a second majority-Black congressional district that is reasonably compact.

26. Under the compactness requirement of the first *Gingles* precondition, Plaintiffs must show that it is "possible to design an electoral district[] consistent with traditional districting principles." *Davis v. Chiles*, 139 F.3d 1414, 1425 (11th Cir. 1998).

27. It is important to emphasize that compliance with this criterion does not require that the illustrative plans be equally or more compact than the enacted plan; instead, this criterion requires only that the illustrative plans contain reasonably compact districts. An illustrative plan

can be “far from perfect” in terms of compactness yet satisfy the first *Gingles* precondition. *Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d 1297, 1326 (M.D. Ga. 2018), *aff’d*, 979 F.3d 1282 (11th Cir. 2020).

28. “The first *Gingles* precondition does not require some aesthetic ideal of compactness, but simply that the black population be sufficiently compact to constitute a majority in a single-member district.” *Houston v. Lafayette County*, 56 F.3d 606, 611 (5th Cir. 1995) (quoting *Clark I*, 21 F.3d at 95).

29. “While no precise rule has emerged governing § 2 compactness,” *LULAC*, 548 U.S. at 433, plaintiffs satisfy the first *Gingles* precondition when their proposed majority-minority district is “consistent with traditional districting principles.” *Davis*, 139 F.3d at 1425.

30. These traditional districting principles include “maintaining communities of interest and traditional boundaries,” “geographical compactness, contiguity, and protection of incumbents. Thus, while Plaintiffs’ evidence regarding the geographical compactness of their proposed district does not alone establish compactness under § 2, that evidence, combined with their evidence that the district complies with other traditional redistricting principles, is directly relevant to determining whether the district is compact under § 2.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1307 (N.D. Ga. 2013) (citations omitted), *aff’d in part, rev’d in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

31. “[T]here is more than one way to draw a district so that it can reasonably be described as meaningfully adhering to traditional principles, even if not to the same extent or degree as some other hypothetical district.” *Chen v. City of Houston*, 206 F.3d 502, 519 (5th Cir. 2000).

32. The remedial plan that the Court eventually implements if it finds Section 2 liability need not be one of the maps proposed by Plaintiffs. *See Clark I*, 21 F.3d at 95-96 & n.2 (“[P]laintiffs’ proposed district is not cast in stone. It [is] simply presented to demonstrate that a majority-black district is feasible in [the jurisdiction]. . . . The district court, of course, retains supervision over the final configuration of the districting plan.”).

33. The Court concludes that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps satisfy the criteria of population equality and contiguity. There is no factual dispute on these issues.

34. The Court concludes that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps satisfy the criterion of compactness. Indeed, their illustrative plans have compactness scores comparable to—and, in some cases, better than—the enacted congressional plan.

35. The Court concludes that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps preserve political subdivision boundaries. Neither Defendants nor their experts have meaningfully suggested that Mr. Cooper’s illustrative maps fail to comply with this principle.

36. The Court concludes that Mr. Fairfax’s and Mr. Cooper’s illustrative congressional maps preserve communities of interest. Unlike the enacted congressional map—which contains a Congressional District 2 that packs Black voters into a single district without regard to communities of interest and cracks the state’s remaining Black population among predominantly white districts—the illustrative Congressional District 5 in Plaintiffs’ illustrative maps unite communities that share historic, familial, cultural, economic, and educational ties.

37. Finally, the Court concludes that race did not predominate in the drawing of the illustrative congressional maps. Mr. Fairfax and Mr. Cooper testified that no single criterion predominated when they drew their illustrative maps, and the maps’ compliance with neutral

redistricting criteria confirm this. Defendants failed to establish that race predominated in the drawing of any of the illustrative districts.

38. Moreover, that “some awareness of race likely is required to draw two majority-Black districts” “is unremarkable, not stunning.” *Singleton v. Merrill*, Nos. 2:21-cv-1291-AMM, 2:21-cv-1530-AMM, 2022 WL 272636, at *5 (N.D. Ala. Jan. 27, 2022) (three-judge court) (cleaned up). “[T]he first Gingles factor is an inquiry into causation that *necessarily classifies voters by their race*.” *Clark II*, 88 F.3d at 1407 (emphasis added). Because courts “*require* plaintiffs to show that it is possible to draw majority-minority voting districts,” “[t]o penalize [Plaintiffs] . . . for attempting to make the very showing that *Gingles*[and its progeny] demand would be to make it impossible, as a matter of law, for any plaintiff to bring a successful Section Two action.” *Davis*, 139 F.3d at 1425-26; *accord Singleton*, 2022 WL 272636, at *7 (“[A] rule that rejects as unconstitutionally race-focused a remedial plan for attempting to satisfy the *Gingles* I numerosity requirement would preclude any plaintiff from ever stating a Section Two claim.”). Consideration is not the same as predominance, and none of Defendants’ arguments or expert analyses provide any compelling evidence that race predominated in Mr. Fairfax’s or Mr. Cooper’s illustrative districts.

39. At any rate, Defendants’ focus on racial predominance constitutes a misapplication of the racial gerrymandering doctrine, an independent area of law wholly distinct from the claims that Plaintiffs raise here. The Fifth Circuit has previously rejected attempts to conflate these doctrines—for example, by applying *Miller v. Johnson*, 515 U.S. 900 (1995), in the *Gingles* context—concluding that “we do not understand *Miller* and its progeny to work a change in the first *Gingles* inquiry into whether a sufficiently large and compact district can be drawn in which the powerful minority would constitute a majority.” *Clark II*, 88 F.3d at 1407.

40. Even if racial predominance were a relevant consideration in a Section 2 case (it is not), and even if race did predominate in Plaintiffs' illustrative plan (it did not), Plaintiffs are still likely to succeed on the merits of their claim because their illustrative plan is motivated by an effort to comply with the Voting Rights Act and is sufficiently tailored to achieve that end. *See Miller*, 515 U.S. at 916 (explaining in racial gerrymandering cases that it is "plaintiff's burden . . . to show . . . that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district[s]," after which state must "satisfy strict scrutiny" by demonstrating that plan "is narrowly tailored to achieve a compelling state interest").

41. The U.S. Supreme Court has "assume[d], without deciding, that . . . complying with the Voting Rights Act was compelling." *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 801 (2017). Indeed, the redistricting guidelines adopted by the Legislature confirm that compliance with the Voting Rights Act is a compelling state interest. *See GX-20*.

42. In this context, narrow tailoring does not "require an exact connection between the means and ends of redistricting," but rather just "'good reasons' to draft a district in which race predominated over traditional districting criteria." *Ala. Legis. Black Caucus v. Alabama*, 231 F. Supp. 3d 1026, 1064 (M.D. Ala. 2017) (three-judge court) (quoting *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015)).

43. In other words, even if racial predominance were relevant here, Plaintiffs' compliance with Section 2 of the Voting Rights Act constitutes "good reason" to create a race-based district, and the remedy would be narrowly tailored even if it were not the only manner in which to draw the additional majority-Black congressional district. Accordingly, even if strict scrutiny applied here (which it does not), Plaintiffs' illustrative plan satisfies it.

44. In light of this precedent, Defendants’ insistence that faithful application of U.S. Supreme Court caselaw produces an “unconstitutional” result would require the Court to find that Section 2 of the Voting Rights Act is itself unconstitutional. But this Court may not ignore controlling precedent. The Fifth Circuit has squarely held that Section 2’s is a proper exercise of Congress’s enforcement authority under the Fourteenth and Fifteenth Amendments. *See Jones v. City of Lubbock*, 727 F.2d 364, 373-35 (5th Cir. 1984). Sitting en banc just a few years ago, the court reaffirmed this conclusion. *See Veasey v. Abbott*, 830 F.3d 216, 253 & n.47 (5th Cir. 2016) (en banc) (*Jones*’s holding that Section 2 is constitutional “still binds us”).

45. Applying controlling Section 2 caselaw, the Court concludes that Plaintiffs have demonstrated that the Black population in Louisiana is sufficiently large and geographically compact to support a second majority-Black congressional district.

B. Plaintiffs have satisfied the second *Gingles* precondition because Black Louisianians are politically cohesive.

46. The second *Gingles* precondition requires that “the minority group [] be able to show that it is politically cohesive.” 478 U.S. at 51.

47. “A showing that a significant number of minority group members usually vote for the same candidates is one way of proving the political cohesiveness necessary to a vote dilution claim, and, consequently, establishes minority bloc voting within the context of § 2.” *Gingles*, 478 U.S. at 56 (cleaned up).

48. Courts rely on statistical analyses to estimate the proportion of each racial group that voted for each candidate. *See, e.g., Gingles*, 478 U.S. at 52-54; *Nipper v. Smith*, 39 F.3d 1494, 1505 n.20 (11th Cir. 1994); *Citizens for Better Gretna v. City of Gretna*, 834 F.2d 496, 500-03 (5th Cir. 1987); *see also League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 986 F.2d 728, 743 (5th Cir.), *on reh’g*, 999 F.2d 831 (5th Cir. 1993).

49. Courts have recognized ecological inference (“EI”) as an appropriate analysis for determining whether a plaintiff has satisfied the second and third *Gingles* preconditions. *See, e.g., Alpha Phi Alpha Fraternity*, 2022 WL 633312, at *56-64; *Caster v. Merrill*, No. 2:21-cv-1536-AMM, 2022 WL 264819, at *27, *38, *68-70 (N.D. Ala. Jan. 24, 2022); *Rose v. Raffensperger*, No. 1:20-CV-02921-SDG, 2022 WL 205674, at *11 (N.D. Ga. Jan. 24, 2022); *Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 691 (S.D. Tex. 2017); *Benavidez v. City of Irving*, 638 F. Supp. 2d 709, 723-24 (N.D. Tex. 2009); *Bone Shirt v. Hazeltine*, 336 F. Supp. 2d 976, 1003 (D.S.D. 2004), *aff’d*, 461 F.3d 1011 (8th Cir. 2006).

50. In fact, Dr. Alford recently agreed that EI is the “gold standard for experts in this field doing a racially-polarized voting analysis.” *Alpha Phi Alpha*, 2022 WL 633312, at *61.

51. The second *Gingles* precondition is satisfied here because Black voters in Louisiana are politically cohesive. *See* 478 U.S. at 49. “Bloc voting by blacks tends to prove that the black community is politically cohesive, that is, it shows that blacks prefer certain candidates whom they could elect in a single-member, black majority district.” *Id.* at 68. The analyses conducted by Dr. Handley and Dr. Palmer clearly demonstrate high levels of cohesiveness among Black Louisianians in supporting their preferred candidates throughout the state, including in the area where Mr. Fairfax and Mr. Cooper have proposed to draw an additional majority-Black congressional district. Neither Dr. Alford nor any of Defendants’ other expert witnesses seriously contest this conclusion, and Dr. Alford confirmed Dr. Handley’s and Mr. Fairfax’s methodology and calculations.

C. Plaintiffs have satisfied the third *Gingles* precondition because white Louisianians engage in bloc voting to defeat Black-preferred candidates.

52. The third *Gingles* precondition requires that “the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” 478 U.S. at 51.

53. As to the third *Gingles* precondition, “a white bloc vote that normally will defeat the combined strength of minority support plus white ‘crossover’ votes rises to the level of legally significant white bloc voting.” 478 U.S. at 56.

54. No specific threshold percentage is required to demonstrate bloc voting, as “[t]he amount of white bloc voting that can generally ‘minimize or cancel’ black voters’ ability to elect representatives of their choice . . . will vary from district to district.” *Gingles*, 478 U.S. at 56.

55. The Court concludes that Dr. Handley’s and Dr. Palmer’s analyses demonstrate high levels of white bloc voting throughout the state, including in the area where Mr. Fairfax and Mr. Cooper have proposed to draw an additional majority-Black congressional district. The Court also finds that candidates preferred by Black voters are almost always defeated by white bloc voting except in those areas where they form a majority.

56. The Court additionally concludes that Plaintiffs presented evidence establishing that their illustrative maps do not rely on crossover districts. The evidence from Plaintiffs’ experts is undisputed that voting throughout Louisiana is highly polarized and, as such, that white voters engage in bloc voting to defeat Black-preferred candidates. The Black-opportunity districts in Plaintiffs’ illustrative maps are required by Section 2 because of this stark polarization.

57. The Court concludes that Defendants did not present any relevant or credible evidence to refute the findings of Dr. Handley and Dr. Palmer as to the third *Gingles* precondition. Dr. Alford agreed with the conclusion that white voters generally engage in bloc voting to defeat

Black-preferred candidates, and further confirmed Dr. Handley’s and Dr. Palmer’s methodology and calculations. The Court did not find the analysis of Dr. Lewis credible, and Dr. Solanky’s findings as to bloc voting in East Baton Rouge Parish are irrelevant because the Court’s “redistricting analysis must take place at the district level,” and cannot look at “only one, small part of the district” like a single parish. *Abbott v. Perez*, 138 S. Ct. 2305, 2331-32 (2018).

58. The Court further concludes that Dr. Handley and Dr. Palmer established that Black voters would have an opportunity to elect their candidates of choice in each of Plaintiffs’ illustrative iterations of Congressional District 5.

D. The totality of circumstances demonstrates that HB 1 denies Black Louisianians an equal opportunity to elect their preferred candidates to Congress.

59. The Court concludes that the totality of circumstances confirms what Plaintiffs’ satisfaction of the *Gingles* preconditions indicates: HB 1 dilutes the voting strength of Black Louisianians and denies them an equal opportunity to elect their congressional candidates of choice.

60. Because each of the relevant considerations discussed below weighs in favor of a finding of vote dilution, Plaintiffs have demonstrated that the enacted congressional plan violates Section 2 of the Voting Rights Act.

61. Once plaintiffs satisfy the three *Gingles* preconditions, courts consider whether “under the ‘totality of the circumstances,’ plaintiffs do not possess the same opportunities to participate in the political process and elect representatives of their choice enjoyed by other voters.” *Patino*, 230 F. Supp. 3d at 713 (quoting *Perez v. Pasadena Ind. Sch. Dist.*, 958 F. Supp. 1196, 1201 (S.D. Tex. 1997)).

62. “[I]t will be only the very unusual case in which the plaintiffs can establish the existence of the three *Gingles* [preconditions] but still have failed to establish a violation of § 2

under the totality of circumstances.” *Clark I*, 21 F.3d at 97 (quoting *Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir. 1993)); see also *Ga. State Conf. of NAACP*, 775 F.3d at 1342 (same).

63. In cases where plaintiffs have satisfied the *Gingles* preconditions but a court determines the totality of the circumstances does *not* show vote dilution, “the district court must explain with particularity why it has concluded, under the particular facts of that case, that an electoral system that routinely results in white voters voting as a bloc to defeat the candidate of choice of a politically cohesive minority group is not violative of § 2 of the Voting Rights Act.” *Jenkins*, 4 F.3d at 1135.

64. The determination of whether vote dilution exists under the totality of circumstances requires “a searching practical evaluation of the past and present reality,” which is an analysis “peculiarly dependent upon the facts of each case and requires an intensely local appraisal of the design and impact of the contested” district map. *Gingles*, 478 U.S. at 79 (cleaned up).

65. To determine whether vote dilution is occurring, “a court must assess the impact of the contested structure or practice on minority electoral opportunities on the basis of objective factors. The Senate Report [from the 1982 amendments to the Voting Rights Act] specifies factors which typically may be relevant to a § 2 claim.” *Gingles*, 478 U.S. at 44 (cleaned up).

66. These “Senate Factors” include: (1) “the history of voting-related discrimination in the State or political subdivision”; (2) “the extent to which voting in the elections of the 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”; and (7) “the extent to which members of the minority group have been elected to public office in the jurisdiction.” *Gingles*, 478 U.S. at 44-45.

67. “The [Senate] Report notes also that evidence demonstrating that elected officials are unresponsive to the particularized needs of the members of the minority group and that the policy underlying the State’s . . . use of the contested practice or structure is tenuous may have probative value.” *Gingles*, 478 U.S. at 45.

68. The Senate Report’s “list of typical factors is neither comprehensive nor exclusive.” *Gingles*, 478 U.S. at 45. Ultimately, Section 2 requires “a flexible, fact-intensive inquiry predicated on ‘an intensely local appraisal of the design and impact of the contested electoral mechanisms,’” “a searching practical evaluation of the ‘past and present reality,’” and a “‘functional’ view of political life.” *NAACP v. Fordice*, 252 F.3d 361, 367 (5th Cir. 2001) (first quoting *Magnolia Bar Ass’n v. Lee*, 994 F.2d 1143, 1147 (5th Cir. 1993); and then quoting *LULAC, Council No. 4434 v. Clements*, 999 F.2d 831, 860 (5th Cir. 1993) (en banc))).

69. The Senate Factors are not exclusive, and “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Gingles*, 478 U.S. at 45 (quoting S. Rep. No. 97-417, pt. 1, at 29 (1982)); see also *Westwego Citizens for Better Gov’t v. City of Westwego*, 946 F.2d 1109, 1120 (5th Cir. 1991).

1. Senate Factor One: Louisiana has an ongoing history of official, voting-related discrimination.

70. Louisiana’s history of voting-related discrimination is so deeply ingrained that “it would take a multi-volumed treatise to properly describe the persistent, and often violent, intimidation visited by white citizens upon black efforts to participate in Louisiana’s political process.” *Citizens for Better Gretna v. City of Gretna*, 636 F. Supp. 1113, 1116 (E.D. La. 1986), *aff’d*, 834 F.2d 496 (5th Cir. 1987); *see also United States v. Louisiana*, 225 F. Supp. 353, 363 (E.D. La. 1963) (three-judge court) (extensively cataloging Louisiana’s “historic policy and the dominant white citizens’ firm determination to maintain white supremacy in state and local government by denying to [Black citizens] the right to vote”), *aff’d*, 380 U.S. 145 (1965).

71. The history described above and recounted by Dr. Lichtman and Dr. Gilpin demonstrates that voting-related discrimination is not a vestige of the past and persists to this day. The first Senate Factor thus weighs heavily in Plaintiffs’ favor.

2. Senate Factor Two: Louisiana voters are racially polarized.

72. “Evidence of racially polarized voting is at the root of a racial vote dilution claim because it demonstrates that racial considerations predominate in elections and cause the defeat of minority candidates or candidates identified with minority interests.” *Citizens for a Better Gretna*, 636 F. Supp. at 1133 (quoting *Johnson v. Halifax County*, 594 F. Supp. 161, 170 (E.D.N.C. 1984)).

73. Courts have found that voting in Louisiana is racially polarized. *See, e.g., Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 436-37 (recognizing racially polarized voting in Terrebonne Parish); *St. Bernard Citizens for Better Gov’t v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *9 (E.D. La. Aug. 26, 2002) (recognizing racially polarized voting in St. Bernard Parish); *Clark v. Edwards*, 725 F. Supp. 285, 298-99 (M.D. La. 1988) (concluding that “across Louisiana and in each of the family court and district court judicial

districts as well as in each of the court of appeal districts, there is consistent racial polarization in voting”), *vacated on other grounds*, 750 F. Supp. 200 (M.D. La. 1990); *Citizens for Better Gretna*, 636 F. Supp. at 1124-31 (recognizing racially polarized voting in City of Gretna); *Major v. Treen*, 574 F. Supp. 325, 337-39 (E.D. La. 1983) (three-judge court) (recognizing racial polarization in Orleans Parish).

74. Black and white Louisianians consistently support opposing candidates. Dr. Handley and Dr. Palmer provided clear evidence that this is the case, which Defendants’ expert witnesses did not meaningfully contest.

75. Defendants are wrong to suggest that Plaintiffs must affirmatively prove the subjective motivations of voters as part of this inquiry. “It is the *difference* between the choices made by blacks and whites—not the reasons for that difference—that results in blacks having less opportunity than whites to elect their preferred representatives. Consequently, . . . under the ‘results test’ of § 2, only the correlation between race of voter and selection of certain candidates, not the causes of the correlation, matters.” *Gingles*, 478 U.S. at 63.

76. The Fifth Circuit has concluded that a district court “err[ed] by placing the burden on plaintiffs to disprove that factors other than race affect voting patterns” as part of the *Gingles* analysis. *Teague v. Attala County*, 92 F.3d 283, 290 (5th Cir. 1996). This is consistent with the position of the *Gingles* plurality, which held that racially polarized voting “refers only to the existence of a correlation between the race of voters and the selection of certain candidates.” 478 U.S. at 74.

77. A showing that party and not race is the source of polarization “is for the defendants to make.” *Teague*, 92 F.3d at 290. Here, all Dr. Alford demonstrated is the mere existence of a

partisan divide, which reveals nothing about why Black and white voters support candidates from different parties—and is therefore not enough to shift the burden to Plaintiffs.

78. Putting caselaw aside, requiring courts to inquire into the reasons why Louisianians vote in a racially polarized manner would directly contradict Congress’s explicit purpose in turning Section 2 into an entirely effects-based prohibition. That purpose was to avoid “unnecessarily divisive [litigation] involv[ing] charges of racism on the part of individual officials or entire communities.” S. Rep. No. 97-417, at 36. It would also erect an evidentiary burden that “would be all but impossible” for Section 2 plaintiffs to satisfy. *Gingles*, 478 U.S. at 73 (describing “inordinately difficult burden” this theory would place on plaintiffs (cleaned up)). “To accept this theory would frustrate the goals Congress sought to achieve by repudiating the intent test of *Mobile v. Bolden*, 446 U.S. 55 (1980), and would prevent minority voters who have clearly been denied an opportunity to elect representatives of their choice from establishing a critical element of a vote dilution claim.” *Id.* at 71.

79. At any rate, in support of their assertion that political ideology and not race explains Louisiana’s polarized voting, Defendants and their expert offer the simple fact that Black voters prefer Democrats and white voters prefer Republicans. But as Plaintiffs have shown, that fact tells us nothing about whether race and issues inextricably linked to race impact the partisan preferences of Black and white voters. Indeed, Plaintiffs offered substantial evidence that issues of race and racial justice *do* play a critical role in shaping those preferences today.

80. In sum, the Court concludes both that voting in Louisiana is polarized on racial lines and that race is the functional cause of this polarization.

81. The second Senate Factor thus weighs heavily in Plaintiffs’ favor.

3. Senate Factor Three: Louisiana’s voting practices enhance the opportunity for discrimination.

82. This Senate Factor examines “the extent to which the State . . . 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.” *Gingles*, 478 U.S. at 44-45.

83. As discussed above and throughout Dr. Lichtman’s expert report, Louisiana’s history is marked by electoral schemes that have enhanced the opportunity for discrimination against Black voters—some of which, including and especially the majority-vote requirement, *see City of Port Arthur v. United States*, 459 U.S. 159, 167 (1982), persist to this day.

84. This factor thus weighs in Plaintiffs’ favor.

4. Senate Factor Four: Louisiana has no history of candidate slating for congressional elections.

85. Although Louisiana uses no slating process for its congressional elections, Dr. Lichtman explained that the packing of some Black voters into the enacted Congressional District 2 and the cracking of the remaining Black voters among the state’s five other congressional districts renders candidate slating unnecessary. As a result, this factor weighs in Plaintiffs’ favor or is simply irrelevant to this case.

5. Senate Factor Five: Louisiana’s discrimination has produced severe socioeconomic disparities that impair Black Louisianians’ participation in the political process.

86. This factor examines “the extent to which minority group members bear the effects of past discrimination in such areas as education, employment, and health, which hinder their ability to participate effectively in the political process.” *Gingles*, 478 U.S. at 45. “To establish this factor, a plaintiff must prove two elements—(1) socioeconomic disparities in areas such as education, income level, and living conditions which arise from past discrimination, and (2) ‘proof

that participation in the political process is in fact depressed among minority citizens,’ which can be shown by evidence of reduced levels of registration or lower turnout among minority voters.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 442 (quoting *LULAC*, 999 F.2d at 867). “Where the minority group presents evidence that its members are socioeconomically disadvantaged and that their level of participation in politics is depressed, the group need not prove any further causal nexus between its members’ disparate socioeconomic status and the depressed level of political participation.” *LULAC*, 986 F.2d at 750 (cleaned up).

87. “[D]epressed levels of income, education and employment are a consequence of severe historical disadvantage. Depressed levels of participation in voting and candidacy are inextricably involved in the perception of futility and impotence such a history engenders.” *Citizens for Better Gretna*, 636 F. Supp. at 1120; *see also St. Bernard Citizens for Better Gov’t*, 2002 WL 2022589, at *9 (“Both Congress and the Courts have recognized the effect lower socioeconomic status has on minority participation in the political process.”); *Major*, 574 F. Supp. at 340-41 (similar).

88. Courts have recognized that “Blacks in contemporary Louisiana have less education, subsist under poorer living conditions and in general occupy a lower socio-economic status than whites” and that these socioeconomic factors “are the legacy of historical discrimination in the areas of education, employment and housing.” *Major*, 574 F. Supp. at 341. In addition, Plaintiffs have offered extensive evidence that Black Louisianians suffer socioeconomic hardships stemming from centuries-long racial discrimination, and that those hardships impede their ability to participate in the political process.

89. As discussed above and throughout Dr. Lichtman’s and Dr. Burch’s expert reports, Louisiana’s Black residents experience stark socioeconomic disadvantages across all areas of life:

employment, education, poverty, health, housing, and exposure to the criminal justice system. These inequities inhibit their participation in the political process, resulting not only in reduced voter turnout, but also diminished lobbying and campaign contributions.

90. Defendants do not meaningfully dispute that Louisiana’s current and historical discrimination has produced striking disparities between the state’s Black and white citizens in almost every area that is relevant to quality of life.

91. This Court finds that socioeconomic disparities in areas such as education, income level, and living conditions persist in Louisiana; these disparities arise from past discrimination; and they impair Black Louisianians’ participation in the political process. Defendants offered no evidence to dispute this conclusion.

92. This factor thus weighs heavily in Plaintiffs’ favor.

6. Senate Factor Six: Both overt and subtle racial appeals are prevalent in Louisiana’s political campaigns.

93. This factor examines whether there is a “use of overt or subtle racial appeals in political campaigns” in Louisiana. *Gingles*, 478 U.S. at 45.

94. This Court has previously recognized the use of racial appeals in Louisiana’s political campaigns. *See, e.g., Clark v. Roemer*, 777 F. Supp. 445, 458 (M.D. La. 1990) (crediting testimony of Sylvia Cooks, who ran in two judicial elections in Louisiana in 1980s, regarding “the overt and covert racial appeals in both elections by candidates and the public”).

95. As discussed above and throughout Dr. Lichtman’s and Dr. Burch’s expert reports, both overt and subtle racial appeals remain commonplace in Louisiana politics.

96. Defendants do not meaningfully dispute that overt and subtle racial appeals continue to mark the state’s political campaigns.

97. This factor thus weighs in Plaintiffs’ favor.

7. Senate Factor Seven: Black candidates in Louisiana are underrepresented in office and rarely succeed outside of majority-minority districts.

98. This factor examines “the extent to which members of the minority group have been elected to public office in the jurisdiction.” *Gingles*, 478 U.S. at 45. “Where members of the minority group have not been elected to public office, it is of course evidence of vote dilution.” *Citizens for a Better Gretna*, 636 F. Supp. at 1120. “The extent to which minority candidates are elected to public office also contextualizes the degree to which vestiges of discrimination continue to reduce minority participation in the political process.” *Veasey*, 830 F.3d at 261.

99. This Court has held that “[t]he lack of black electoral success is a very important factor in determining whether there is vote dilution.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 444. The Court had noted that “[s]tatewide, blacks have [] been underrepresented in the trial and appellate courts. While the . . . black population comprises about 30.5% of the voting-age population in Louisiana, black people only account for about 17.5% of the judges in Louisiana.” *Id.* at 445.

100. Plaintiffs’ evidence, including Dr. Lichtman’s and Dr. Burch’s expert reports, demonstrate that Black Louisianians are underrepresented in statewide elected offices and rarely succeed in local elections outside of majority-Black districts.

101. Defendants do not meaningfully dispute that Black Louisianians are underrepresented in public office.

102. This factor thus weighs in Plaintiffs’ favor.

8. Senate Factor Eight: Louisiana has not been responsive to its Black residents.

103. This factor examines “evidence demonstrating that elected officials are unresponsive to the particularized needs of the members of the minority group.” *Gingles*, 478 U.S.

at 45. “The authors of the Senate Report apparently contemplated that unresponsiveness would be relevant only if the plaintiff chose to make it so, and that although a showing of unresponsiveness might have some probative value[,] a showing of responsiveness would have very little.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1572 (11th Cir. 1984).

104. As discussed above and throughout Dr. Lichtman’s and Dr. Burch’s expert reports, the severe socioeconomic inequities borne by Black Louisianians have not been adequately addressed by—and, in some cases, are the direct results of—government action.

105. This factor thus weighs in Plaintiffs’ favor.

9. Senate Factor Nine: The justifications for HB 1 are tenuous.

106. This factor examines evidence “that the policy underlying the State’s . . . use of the contested practice or structure is tenuous.” *Gingles*, 478 U.S. at 45.

107. Defendants have offered no compelling justifications for the Legislature’s refusal to draw a second congressional district where Black Louisianians can elect their candidates of choice. Mr. Fairfax’s and Mr. Cooper’s illustrative plans demonstrate that it is possible to create such a plan while respecting traditional redistricting principles—just as the Voting Rights Act requires.

108. The Legislature’s purported discretionary decision to best serve the interests of Black voters through the enacted Congressional District 2 rings hollow given that Black voters are packed into that district far beyond what would be needed for them to elect their preferred candidates.

109. Nor does preservation of communities of interest justify the enacted map given that Congressional District 2 links disparate communities with little regard for the commonalities and differences between voters in the district.

110. Moreover, core retention is not a compelling justification given that it was *not* one of the Legislature’s adopted criteria for congressional redistricting and serves only to perpetuate past discriminatory effects.

111. This factor thus weighs in Plaintiffs’ favor.

10. Proportionality further supports a finding of vote dilution.

112. In addition to analyzing the Senate Factors, the Court may also consider the extent to which there is a mismatch between the proportion of Louisiana’s population that is Black and the proportion of congressional districts in which they have an opportunity to elect their candidates of choice. *See De Grandy*, 512 U.S. at 1000. While the Voting Rights Act does not expressly mandate proportionality, *see* 52 U.S.C. § 10301(b), this inquiry “provides some evidence of whether the political processes leading to nomination or election in the State or political subdivision are not equally open to participation” by a minority group. *LULAC*, 548 U.S. at 438 (cleaned up).

113. Though not dispositive, disproportionality is relevant to the totality-of-circumstances analysis. *See, e.g., Bone Shirt*, 336 F. Supp. 2d at 1049; *Arbor Hill Concerned Citizens Neighborhood Ass’n v. County of Albany*, 281 F. Supp. 2d 436, 455-56 (N.D.N.Y. 2003).

114. The *De Grandy* proportionality inquiry requires the Court to consider the number of enacted congressional districts where Black voters constitute an effective voting majority of the population. *See, e.g., Mo. State Conf. of NAACP*, 894 F.3d at 940 n.12; *Fairley v. Hattiesburg*, 584 F.3d 660, 673 (5th Cir. 2009); *Black Pol. Task Force v. Galvin*, 300 F. Supp. 2d 291, 312 (D. Mass. 2004) (three-judge court).

115. Under the enacted congressional map as drawn by HB 1, only one district has a BVAP that exceeds 50%—less than 17% of Louisiana’s six congressional districts.

116. Moreover, under HB 1, only about 31% of Black Louisianians live in majority-Black congressional districts, while 91.5% of white Louisianians live in majority-white districts.

117. Given that Louisiana’s statewide population exceeds 33 percent, the present disproportionality in the congressional map weighs in favor of a finding of vote dilution. *See Singleton*, 2022 WL 265001, at *73-74 (assessing comparable proportionality figures, “consider[ing] the proportionality arguments of the plaintiffs as part and parcel of the totality of the circumstances, and [] draw[ing] the limited and obvious conclusion that this consideration weighs decidedly in favor of the plaintiffs”). This is especially true given that Black Louisianians were significantly responsible for the state’s population growth over the past 10 years. *See Bone Shirt*, 336 F. Supp. 2d at 1049 (accepting evidence from Mr. Cooper showing that minority group’s population “rapidly increase[ed in] both their absolute numbers and share of the population” and finding that plaintiffs “presented evidence of disproportionality”).

* * *

118. Because Plaintiffs have satisfied the three *Gingles* preconditions, and because each of the considerations relevant to the totality-of-circumstances inquiry in this case indicates that the state’s new congressional map as drawn by HB 1 dilutes the voting strength of Black Louisianians and denies them an equal opportunity to elect their candidates of choice to the U.S. House of Representatives, Plaintiffs have shown a substantial likelihood of proving that HB 1 violates Section 2 of the Voting Rights Act.

E. Defendants’ additional legal arguments lack merit.

119. Defendants raise additional legal arguments, none of which has merit.

1. Plaintiffs have standing to bring their Section 2 claim.

120. “[S]upported allegations that Plaintiffs reside in a reasonably compact area that could support additional [majority-minority districts] sufficiently prove[] standing for a Section 2

claim for vote dilution.” *Pope v. County of Albany*, No. 1:11-cv-0736 (LEK/CFH), 2014 WL 316703, at *5 (N.D.N.Y. Jan. 28, 2014).

121. Plaintiffs, as Black Louisianians, have suffered the injury of vote dilution, either because they have been cracked into an area where a Black-performing district should have been drawn under Section 2 or because they have been packed into a majority-Black district that prevents that required district from being drawn.

122. Defendants’ theory that Plaintiffs must represent every district that might be impacted by a remedial districting plan is inconsistent with the standing doctrine in the redistricting context. *See, e.g., United States v. Hays*, 515 U.S. 737, 744-45 (1995) (only voters in racially gerrymandered districts have standing to challenge map); *Fairley v. Patterson*, 493 F.2d 598, 603 (5th Cir. 1974) (voters in underpopulated districts lack standing to challenge malapportionment).

123. Plaintiffs thus have standing to bring their Section 2 claim.

2. Section 2 confers a private right of action.

124. In *Morse v. Republican Party of Virginia*, a majority of the U.S. Supreme Court agreed that “the existence of the private right of action under Section 2 . . . has been clearly intended by Congress since 1965.” 517 U.S. 186, 232 (1996) (Stevens, J.) (plurality opinion on behalf of two justices) (quoting S. Rep. No. 97-417, at 30); *accord id.* at 240 (Breyer, J., concurring) (expressly agreeing with Justice Stevens on this point on behalf of three justices); *see also, e.g., Ga. State Conf. of NAACP v. Georgia*, 269 F. Supp. 3d 1266, 1275 (N.D. Ga. 2017) (three-judge court) (citing *Morse* and concluding that “Section 2 contains an implied private right of action”).

125. Where “a precedent of [the Supreme] Court has direct application in a case,” courts “should follow the case which directly controls, leaving to [the Supreme] Court the prerogative of

overruling its own decisions”—even if it “appears to rest on reasons rejected in some other line of decisions.” *Rodriguez de Quijas v. Shearson/Am. Express, Inc.*, 490 U.S. 477, 484 (1989).

126. *Morse* has not been overruled, and the Court has given no indication that a majority of justices intends to revisit its conclusion; indeed, it has repeatedly heard private cases brought under Section 2 without questioning this predicate foundation. *See, e.g., Abbott*, 138 S. Ct. at 2331-32 (2018); *LULAC*, 548 U.S. at 409; *see also Shelby County v. Holder*, 570 U.S. 529, 537 (2013) (“Both the Federal Government *and individuals* have sued to enforce § 2.” (emphasis added)); *cf. Brnovich v. DNC*, 141 S. Ct. 2321, 2350 (2021) (Gorsuch, J., concurring) (two justices suggesting that whether or not Section 2 furnishes private right of action is “an open question” without citing *Morse* or any post-*Morse* Section 2 cases).

127. In just the last five months, seven federal judges on three district courts have expressly rejected the argument that Section 2 confers no private right of action. *See Pendergrass v. Raffensperger*, No. 1:21-CV-05339-SCJ, slip op. at 17-20 (N.D. Ga. Jan. 28, 2022); *Singleton*, 2022 WL 265001, at *78-79; *LULAC v. Abbott*, No. EP-21-CV-00259-DCG-JES-JVB, 2021 WL 5762035, at *1 (W.D. Tex. Dec. 3, 2021) (three-judge court); *see also* Statement of Interest of the United States at 1, *LULAC v. Abbott*, No. 3:21-cv-259 (DCG-JES-JVB) (W.D. Tex. Nov. 30, 2021) (“Private plaintiffs can enforce Section 2 as a statutory cause of action[.]”).

128. Consistent with this precedent, the Court concludes that Section 2 confers a private right of action.

II. Plaintiffs and other Black Louisianians will suffer irreparable harm absent a preliminary injunction.

129. “Courts routinely deem restrictions on fundamental voting rights irreparable injur[ies].” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *see also, e.g., Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (similar); *Williams v.*

Salerno, 792 F.2d 323, 326 (2d Cir. 1986) (similar). That is certainly the case for Section 2 violations. *See, e.g., Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986) (concluding that Section 2 vote-dilution violation was “clearly” irreparable harm).

130. “Casting a vote has no monetary value. It is nothing other than the opportunity to participate in the collective decisionmaking of a democratic society and to add one’s own perspective to that of his or her fellow citizens.” *Jones v. Governor of Fla.*, 950 F.3d 795, 828-29 (11th Cir. 2020). Accordingly, “[t]he denial of the opportunity to cast a vote that a person may otherwise be entitled to cast—even once—is an irreparable harm.” *Id.*

131. The Section 2 violation found here will irreparably damage Plaintiffs’ right to participate in the political process. Accordingly, the Court finds that, absent preliminary injunctive relief, Plaintiffs will suffer irreparable harm if they are forced to vote under Louisiana’s unlawful congressional plan.

III. The balance of equities and the public interest favor injunctive relief.

132. The balance of the equities and the public interest “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

133. Vindicating voting rights is indisputably in the public interest. *See, e.g., Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1355 (11th Cir. 2005). “Ultimately,” the Court’s “conclusion that the plaintiffs have a substantial likelihood of success on the merits disposes of this question in short order. The public, of course, has every interest in ensuring that their peers who are eligible to vote are able to do so in every election.” *Jones*, 950 F.3d at 831; *see also Husted*, 697 F.3d at 437 (“The public interest . . . favors permitting as many qualified voters to vote as possible.”); *Ga. State Conf. of NAACP*, 118 F. Supp. 3d at 1348-49 (“[T]he public interest is best served by ensuring not simply that more voters have a chance to vote but ensuring that all citizens . . . have an equal opportunity to elect the representatives of their choice.”).

134. Moreover, “[i]t is clear that it would not be equitable or in the public’s interest to allow the state . . . to violate the requirements of federal law, especially when there are no adequate remedies available.” *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in original) (quoting *United States v. Arizona*, 641 F.3d 339, 366 (9th Cir. 2011)); *see also Bank One, Utah v. Gutttau*, 190 F.3d 844, 848 (8th Cir. 1999) (“[T]he public interest will perforce be served by enjoining the enforcement of the invalid provisions of state law.”). Accordingly, the public interest would most assuredly be served by enjoining implementation of a congressional districting plan that violates Section 2

135. The Court further concludes, based on the findings of fact above, that implementation of a remedial congressional map would be feasible in advance of the 2022 midterm elections. Any “inconvenience” or administrative cost the State and candidates might bear in remedying Louisiana’s unlawful congressional plan thus “does not rise to the level of a significant sovereign intrusion” to tilt the equities against vindicating Plaintiffs’ voting rights. *Covington v. North Carolina*, 270 F. Supp. 3d 881, 895 (M.D.N.C. 2017) (three-judge court).

136. Under *Purcell v. Gonzalez*, federal courts should avoid last-minute changes to election rules that “result in voter confusion and consequent incentive to remain away from the polls.” 549 U.S. 1, 4-5 (2006) (per curiam). Here, the primary election is nearly six months away, and there is no evidence in the record that implementing a new congressional map would cause voter confusion—let alone undue hardship for the State or candidates. Therefore, *Purcell* does not foreclose preliminary injunctive relief. *See, e.g., Self Advoc. Sols. N.D. v. Jaeger*, 464 F. Supp. 3d 1039, 1055 (D.N.D. 2020) (granting preliminary injunctive relief where *Purcell* concerns were not present and there was “the countervailing threat of the deprivation of the fundamental right to vote”); *Mi Familia Vota v. Abbott*, 497 F. Supp. 3d 195, 221-22 (W.D. Tex. 2020) (similar).

137. Just recently, on March 23, 2022, the U.S. Supreme Court summarily reversed a judgment of the Wisconsin Supreme Court approving maps for that state’s 2022 legislative elections. *See Wis. Legislature v. Wis. Elections Comm’n*, 142 S. Ct. 1245, 1248 (2022) (per curiam). The Court concluded that its ruling “g[ave] the court sufficient time to adopt maps consistent with the timetable for Wisconsin’s August 9th primary election,” *id.*—approximately four-and-a-half months later.

138. Federal courts that have invalidated congressional districting plans during election years have given the corresponding state legislatures two weeks to enact new plans. *See Harris v. McCrory*, 159 F. Supp. 3d 600, 627 (M.D.N.C. 2016) (three-judge court); *Common Cause v. Rucho*, 279 F. Supp. 3d 587, 691 (M.D.N.C.) (three-judge court), *rev’d on other grounds*, 138 S. Ct. 823 (2018). State courts have required new maps to be drawn in even less time. *See, e.g., League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, Nos. 2021-1193, 2021-1198, 2021-1210, 2022 WL 110261, at *28 (Ohio Jan. 12, 2022) (ordering new state legislative plans to be drawn within 10 days).

139. To the extent the State needs more time to implement a remedial plan, the Court may “extend the time limitations imposed by state law” related to its election deadlines. *Sixty-Seventh Minn. State Senate v. Beens*, 406 U.S. 187, 201 n.11 (1972).

IV. Any remedial plan must contain an additional congressional district in which Black voters have a demonstrable opportunity to elect their candidates of choice.

140. Having concluded that Louisiana’s enacted congressional map is substantially likely to violate Section 2 and that a preliminary injunction is therefore appropriate under the circumstances, the Court turns to the question of what a proper remedial plan must contain.

141. Where, as here, Plaintiffs have established a Section 2 violation based on the failure to create an additional district in which Black voters have an opportunity to elect their preferred

candidates, a plan containing an additional congressional district in which Black voters have a demonstrable opportunity to elect their preferred candidates would remedy their injury.

PROPOSED ORDER GRANTING INJUNCTIVE RELIEF

1. Because all four of the preliminary injunction factors support relief, the Court GRANTS Plaintiffs' motions for preliminary injunction.

2. The Court ENJOINS Defendant, as well as his agents and successors in office, from using the enacted congressional map in any election, including the 2022 primary and general elections.

3. Having found it substantially likely that the enacted congressional map violates Section 2 of the Voting Rights Act and that an injunction is warranted, the Court now addresses the appropriate remedy.

4. The Court is conscious of the powerful concerns for comity involved in interfering with the State's legislative responsibilities. As the U.S. Supreme Court has repeatedly recognized, "redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to pre-empt." *Wise v. Lipscomb*, 437 U.S. 535, 539 (1978) (plurality opinion). As such, it is "appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet" the requirements of Voting Rights Act "by adopting a substitute measure rather than for the federal court to devise . . . its own plan." *Id.* at 540.

5. The Court also recognizes that Plaintiffs and other Black Louisianians whose voting rights have been injured by the violation of Section 2 of the Voting Rights Act have suffered significant harm. Those citizens are entitled to vote as soon as possible for their representatives under a lawful districting plan. Therefore, the Court will require that a new congressional plan be drawn forthwith to remedy the Section 2 violation.

6. In accordance with well-established precedent, the Court allows the Legislature until final adjournment of its regular session on Monday, June 6, 2022, to adopt a remedial congressional plan. The Court retains jurisdiction to determine whether any new congressional plan adopted by the Legislature remedies the Section 2 violation by incorporating an additional district in which Black voters have a demonstrable opportunity to elect their candidates of choice.

7. In the event that the Legislature is unable or unwilling to enact a remedial plan that satisfies the requirement set forth above before final adjournment of its regular session, this Court will proceed to draw or adopt a remedial plan for use during the 2022 primary and general elections.

8. Because time is of the essence, the Court will undertake a concurrent process to ensure that a remedial congressional map is timely adopted. To that end, the Court will hold a status conference within three business days of this order to discuss the remedial process.* Additionally, the Court orders the parties to submit five days after entry of this order, by 11:59 p.m. CT, proposed remedial maps in either shapefile or block-equivalency file format with accompanying memoranda in support. The parties may submit memoranda in response to the map submissions due five days thereafter, also by 11:59 p.m. CT.

* Defendant is further ordered to inform the Court at the status conference whether any alterations to the election calendar are needed in order to implement a remedial congressional map.

Dated: May 18, 2022

By /s/ Darrel J. Papillion

Darrel J. Papillion (Bar Roll No. 23243)

Renee C. Crasto (Bar Roll No. 31657)

Jennifer Wise Moroux (Bar Roll No. 31368)

WALTERS, PAPILLION,

THOMAS, CULLENS, LLC

12345 Perkins Road, Building One

Baton Rouge, Louisiana 70810

Phone: (225) 236-3636

Fax: (225) 236-3650

Email: papillion@lawbr.net

Email: crasto@lawbr.net

Email: jmoroux@lawbr.net

Respectfully submitted,

Abha Khanna*

Jonathan P. Hawley*

ELIAS LAW GROUP LLP

1700 Seventh Avenue, Suite 2100

Seattle, Washington 98101

Phone: (206) 656-0177

Facsimile: (206) 656-0180

Email: akhanna@elias.law

Email: jhawley@elias.law

Lalitha D. Madduri*

Olivia N. Sedwick*

Jacob D. Shelly*

ELIAS LAW GROUP LLP

10 G Street NE, Suite 600

Washington, D.C. 20002

Phone: (202) 968-4490

Facsimile: (202) 968-4498

Email: lmadduri@elias.law

Email: osedwick@elias.law

Email: jshelly@elias.law

Counsel for the Galmon Plaintiffs

*Admitted *pro hac vice*

By: /s/ John Adcock
John Adcock
Adcock Law LLC
L.A. Bar No. 30372
3110 Canal Street
New Orleans, LA 70119
Tel: (504) 233-3125
Fax: (504) 308-1266
jnadcock@gmail.com

Leah Aden (admitted *pro hac vice*)
Stuart Naifeh (admitted *pro hac vice*)
Kathryn Sadasivan (admitted *pro hac vice*)
Victoria Wenger (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund,
Inc.
40 Rector Street, 5th Floor
New York, NY 10006
Tel: (212) 965-2200
laden@naacplef.org
snaifeh@naacpldf.org
ksadasivan@naacpldf.org
vwenger@naacpldf.org

R. Jared Evans (admitted *pro hac vice*)
Sara Rohani (admitted *pro hac vice*)[†]
NAACP Legal Defense and Educational Fund,
Inc.
700 14th Street N.W. Ste. 600
Washington, DC 20005
Tel: (202) 682-1300
jevans@naacpldf.org
srohani@naacpldf.org

Robert A. Atkins (admitted *pro hac vice*)
Yahonnes Cleary (admitted *pro hac vice*)
Jonathan H. Hurwitz (admitted *pro hac vice*)
Daniel S. Sinnreich (admitted *pro hac vice*)
Amitav Chakraborty (admitted *pro hac vice*)
Adam P. Savitt (admitted *pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP
1285 Avenue Of The Americas, New York,
NY 10019
Tel.: (212) 373-3000
Fax: (212) 757-3990
ratkins@paulweiss.com
ycleary@paulweiss.com
jhurwitz@paulweiss.com
dsinnreich@paulweiss.com
achakraborty@paulweiss.com
asavitt@paulweiss.com

Nora Ahmed (admitted *pro hac vice*)
Megan E. Snider
LA. Bar No. 33382
ACLU Foundation of Louisiana
1340 Poydras St, Ste. 2160
New Orleans, LA 70112
Tel: (504) 522-0628
nahmed@laaclu.org
msnider@laaclu.org

Tracie Washington
LA. Bar No. 25925
Louisiana Justice Institute
Suite 132
3157 Gentilly Blvd
New Orleans LA, 70122
Tel: (504) 872-9134
tracie.washington.esq@gmail.com

T. Alora Thomas (admitted *pro hac vice*)
Sophia Lin Lakin (admitted *pro hac vice*)
Samantha Osaki (admitted *pro hac vice*)
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
athomas@aclu.org
slakin@aclu.org
sosaki@aclu.org

Sarah Brannon (admitted *pro hac vice*)
American Civil Liberties Union Foundation
915 15th St., NW
Washington, DC 20005
sbrannon@aclu.org

† Admitted in California only. Practice limited to matters in United States federal courts.

Counsel for the Robinson Plaintiffs

/s/ Stephen M. Irving

Stephen M. Irving (7170) T.A.

Steve Irving, LLC

111 Founders Drive, Suite 700 Baton Rouge, LA 70810-8959

Telephone: (225) 752-2688

Facsimile: (225) 752-2663

Email: steve@steveirvingllc.com - AND

ERNEST L. JOHNSON #07290

Attorney at Law

3313 Government Street

Baton Rouge, LA 70806

(225) 413-3219

ernestjohnson@lacapfund.com

Counsel for Intervenor-Plaintiff

Louisiana Legislative Black Caucus

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been filed electronically with the Clerk of Court using the CM/ECF filing system. Notice of this filing will be sent to all counsel of record via operation of the Court's electronic filing system.

Baton Rouge, Louisiana, this 18th day of May, 2022.

s/ Darrel J. Papillion
Darrel J. Papillion

EXHIBIT 1

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

3

4 PRESS ROBINSON, et al, CASE NO.
5 Plaintiffs, 3:22-cv-00211-SDD-SDJ
6 v

7 KYLE ARDOIN, in his
8 official capacity as c/w
9 Secretary of State for
10 Louisiana,
11 Defendant.

12
13 EDWARD GALMON, SR., et
14 al, CASE NO.
15 Plaintiffs, 3:22-cv-00214-SDD-SDJ
16 v

17 R. KYLE ARDOIN, in his
18 official capacity as
19 Louisiana Secretary of
20 State,
21 Defendant.

22

23 PROCEEDINGS

24 INJUNCTION HEARING

25 Held on Monday, May 9, 2022

Before The

HONORABLE SHELLY DICK

Judge Presiding

Baton Rouge, Louisiana

26

27 REPORTED BY:CHERIE' E. WHITE
28 CCR (LA), CSR (TX), CSR (MS), RPR
29 CERTIFIED COURT REPORTER

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4

5 ABHA KHANNA, ESQUIRE

6 JONATHAN P. HAWLEY, ESQUIRE

7 LALITHA D. MADDURI, ESQUIRE

8 OLIVIA N. SEDWICK, ESQUIRE

9 JACOB D. SHELLY, ESQUIRE

10 SAMANTHA OSAKI, ESQUIRE

11 SARAH BRANNON, ESQUIRE

12 JOHN ADCOCK, ESQUIRE

13 STUART NAIFEH, ESQUIRE

14 KATHRYN SADASIVAN, ESQUIRE

15 VICTORIA WENGER, ESQUIRE

16 SARA ROHANI, ESQUIRE

17 JONATHAN H. HURWITZ, ESQUIRE

18 AMITAV CHAKRABORTY, ESQUIRE

19 ADAM P. SAVITT, ESQUIRE

20 DARREL J. PAPILLION, ESQUIRE

21 JENNIFER WISE MOROUX, ESQUIRE

22

23

24

25

1 Representing the Defendant:

2 PHILLIP J. STRACH, ESQUIRE

3 THOMAS A. FARR, ESQUIRE

4 ALYSSA M. RIGGINS, ESQUIRE

5 JOHN C. WALSH, ESQUIRE

6

7 Representing the Legislative Intervenors, Clay

8 Schexnayder, in his Official Capacity as Speaker

9 of the Louisiana House of Representatives, and of

10 Patrick Page Cortez, in his Official Capacity as

11 President of the Louisiana Senate:

12 MICHAEL W. MENGIS, ESQUIRE

13 PATRICK. T. LEWIS, ESQUIRE

14 KATHERINE L. MCKNIGHT, ESQUIRE

15 E. MARK BRADEN, ESQUIRE

16 ERIKA DACKIN PROUTY, ESQUIRE

17

18 Representing the Defendant/Intervenor, State of

19 Louisiana, through Jeff Landry in his Official

20 Capacity as Attorney General:

21 ANGELIQUE DUHON FREEL, ESQUIRE

22 CAREY TOM JONES, ESQUIRE

23 JEFFERY M. WALE, ESQUIRE

24 JASON B. TORCHINSKY, ESQUIRE

25 PHILLIP M. GORDON, ESQUIRE

1	I N D E X	
2	Plaintiffs' Witness:	PAGE
3	MICHAEL MCCLANAHAN	
4	Direct Examination by Mr. Naifeh	22
5	Cross-Examination by Mr. Wale	39
6	WILLIAM SEXTON COOPER	
7	Direct Examination by Ms. Khanna	74
8	Cross-Examination by Mr. Lewis	120
9	ANTHONY FAIRFAX	
10	Direct Examination by Ms. Sadasivan	164
11	Cross-Examination by Mr. Strach	204
12	Redirect Examination by	232
13	Ms. Sadasivan	
14	CHARLES CRAVINS	
15	Direct Examination by Mr. Shelly	236
16	Cross-Examination by Mr. Wale	255
17	CHRISTOPHER TYSON	
18	Direct Examination by Ms. Sedwick	275
19	Cross-Examination by Mr. Walsh	289
20	DR. MAXWELL PALMER	
21	Direct Examination by Ms. Madduri	304
22	Cross-Examination by Ms. McKnight	335
23	Redirect Examination by Ms. Madduri	348
24		
25		

1 EXHIBIT INDEX

2 Plaintiffs' Exhibits:

3

4

5 Defendants' Exhibits:

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 THE COURT:

3 Okay. Call the case, please.

4 THE BAILIFF:

5 This is Civil Action No. 22211
6 consolidated with 22214 Chris Robinson and
7 others versus Kyle Ardoin and others and
8 Edward -- Edward Galmon, Senior and others
9 versus Kyle Ardoin and others.

10 THE COURT:

11 Okay. Counsel, before we get
12 started, I'm going to ask you to make
13 appearances momentarily, but before we do
14 that, let me just make -- make a couple of
15 comments. As a reminder, the court's
16 general order is that masks are -- are
17 optional, but if you are unvaccinated,
18 masks are mandatory. If the court should
19 learn that someone in this audience or
20 someone that comes in is unmasked and
21 unvaccinated, they will be in contempt of
22 court. I don't need to explain it to you
23 what that means.

24 We have agreed previously that we
25 will have one lawyer per witness for the

1 plaintiff or whoever's perpetuating that
2 testimony and one on cross-examination. I
3 want to confirm that the parties are going
4 to be keeping their own time clocks and I
5 registered stipulations obviously. So
6 what we will do at the beginning of court
7 every morning, we will just take a survey
8 to make sure that you are in agreement as
9 to what time was used and what time is
10 remaining, so that we cannot have an issue
11 at the end of the week with respect to
12 some dispute. 4.

13 With respect to today, we will break
14 at 11:45. The court has a 12:00 o'clock
15 obligation. I have every anticipation of
16 being back on the record by 1:15, so 11:45
17 to 1:15. Those are the few little
18 housekeeping matters. We will have a few
19 little other housekeeping matters, but let
20 me ask the parties to make their
21 appearances.

22 First, let me start with counsel for
23 the Robinson plaintiffs.

24 MR. NAIFEH:

25 Your Honor, this is Stuart --

1 THE COURT:

2 Okay. Stand when you address the
3 court.

4 MR. NAIFEH:

5 This is Stuart Naifeh.

6 THE COURT:

7 I'm sorry. Your last name, sir?

8 MR. NAIFEH:

9 It's N-A-I-F-E-H, Naifeh, with the
10 NAACP.

11 THE COURT:

12 Let's make sure that the mics are
13 on. Hold on a second.

14 MR. NAIFEH:

15 The light is on.

16 THE COURT:

17 Okay. You might adjust it. Can you
18 adjust it a little bit?

19 MR. NAIFEH:

20 (Complied.)

21 THE COURT:

22 Okay. Thank you, sir. One more
23 time.

24 MR. NAIFEH:

25 Stuart Naifeh.

1 THE COURT:

2 Naifeh.

3 MR. NAIFEH:

4 With the NAACP Legal Defense Fund.

5 THE COURT:

6 And as you introduce yourselves, if
7 you will tell me who you kind of think is
8 going to be taking the lead on things.

9 MR. NAIFEH:

10 I will be taking the lead and I have
11 our first examination.

12 THE COURT:

13 Okay. Great. Thank you. Next?

14 MR. ADCOCK:

15 Good morning, Your Honor.
16 John Adcock on behalf of the Robinson
17 plaintiffs.

18 THE COURT:

19 Okay. What kind of role will you be
20 taking, sir?

21 MR. ADCOCK:

22 I don't think I'll be speaking. We
23 have witnesses later.

24 THE COURT:

25 Great. Let me just ask this,

1 counsel, because there's a lot of you.
2 I'm reasonably good with names and faces,
3 but there's a lot of moving parts in this
4 thing; but more importantly, it's going to
5 be important that the court reporter knows
6 who's speaking so when you get the
7 transcript, your official transcript of
8 these proceedings, you'll -- you'll be
9 appropriately acknowledged.

10 Okay. Yes, ma'am?

11 MS. SADASIVAN:

12 I'm Kathryn Sadasivan with the NAACP
13 Legal Defense Fund.

14 THE COURT:

15 Last name again, ma'am?

16 MS. SADASIVAN:

17 It's S-A-D-A-S-I-V-A-N.

18 THE COURT:

19 NAACP. And what kind of role will
20 you be taking, ma'am?

21 MS. SADASIVAN:

22 I'll be the Robinson plaintiffs.

23 THE COURT:

24 All right.

25 MS. ROHANI:

1 Good morning, Your Honor. Sarah
2 Rohani with the NAACP Legal Defense Fund
3 on behalf of the Robinson plaintiffs.

4 THE COURT:

5 And the last name, please, ma'am?

6 MS. ROHANI:

7 Rohani, R-O-H-A-N-I.

8 THE COURT:

9 Okay. Thank you.

10 MS. WENGER:

11 Good morning, Your Honor.
12 Victoria Wenger with the Robinson
13 plaintiffs for the NAACP Legal Defense
14 Fund.

15 THE COURT:

16 And the last name is?

17 MS. WENGER:

18 Wenger, W-E-N-G-E-R.

19 THE COURT:

20 Okay.

21 MS. KHANNA:

22 Good morning. I'm on behalf of
23 plaintiffs. My name is Abha Khanna,
24 A-B-H-A, K-H-A-N-N-A. I'll be taking the
25 lead regarding the Edward Galmon

1 plaintiffs. With me is Darrel Papillion
2 and Lali Madduri. I have several other
3 colleagues for certain witnesses. Would
4 you like each of them to individually
5 present?

6 THE COURT:

7 Why don't we just do that as we move
8 forward. Unless you feel it necessary to
9 make appearances, as we move forward, you
10 can introduce yourself and I am going to
11 assume that you are not enrolled if you
12 are not telling me that, so we can get you
13 enrolled if we need to do that.

14 MS. KHANNA:

15 Thank you, Your Honor.

16 THE COURT:

17 All right. Anybody else? That's
18 it? Can I hear from the Ardoin or
19 actually lead defendant?

20 MR. STRACH:

21 Good morning, Your Honor,
22 Phil Strach, S-T-R-A-C-H. I'll be the
23 lead counsel for secretary of the state.
24 I have a couple of colleagues. They will
25 be with me later in the week and I'll be

1 crossing the witnesses today.

2 THE COURT:

3 Okay. Good morning. Yes, ma'am?

4 MS. MCKNIGHT:

5 Good morning, Your Honor. Kate

6 McKnight on behalf of legislative

7 intervenors. I will be taking the lead on

8 matters related to legislative intervenors

9 in this case. One of my colleagues today

10 will be questioning, examining a witness.

11 His name is Patrick Lewis.

12 THE COURT:

13 Okay.

14 MS. LEWIS:

15 Thank you, Your Honor.

16 MR. WALE:

17 And good morning, Your Honor.

18 Jeffrey Wale on behalf of the state

19 through the attorney general. I'll be

20 handling a couple of witnesses today. In

21 the seat next to me is Phillip Gordon. He

22 will be taking the lead for the attorney

23 general's office. Also representing the

24 attorney general's office is Angelique

25 Freel.

1 THE COURT:

2 And the person next to you? I
3 didn't catch the name.

4 MR. WALE:

5 I'm sorry. That's Phil Gordon. He
6 will be taking the lead today.

7 THE COURT:

8 All right. Anybody else for the
9 defendants and the intervenors?

10 MR. JOHNSON:

11 Okay. May it please the court,
12 Earnest Johnson representing -- we have
13 one more intervenor.

14 THE COURT:

15 You can use this front -- you can
16 either borrow theirs or use this front
17 one, whatever makes you comfortable. Mr.
18 Johnson, you said Earnest Johnson?

19 MR. JOHNSON:

20 Yes, ma'am. Good morning. I'm
21 joined today with co-counsel
22 representative, Vincent Pierre, the
23 chairman of the Louisiana Legislative
24 Black Caucus. The trial attorney in this
25 matter will be Mr. Steve Irving, who will

1 be in court tomorrow.

2 THE COURT:

3 Okay. I'm going to ask,
4 Mr. Johnson, since you are late
5 intervening, to coordinate with your other
6 colleagues who are either intervenors or
7 the plaintiffs, however you want to
8 coordinate with respect to your role, and
9 as you don't have any witnesses that you
10 are going to put on and we are going to
11 try to stream cross-examination and I'm
12 not assuming that you haven't already done
13 this, but I know that you are late in the
14 game. So if you'll coordinate with the
15 plaintiffs, in particular with respect to
16 what witnesses you-all are going to take.
17 MR. JOHNSON:

18 Thank you, Your Honor.

19 THE COURT:

20 All right. Yes, sir.

21 Okay. Anybody else that needs to
22 make an appearance as we move forward? If
23 you have not made an appearance, if you
24 are speaking for the first time, if you'll
25 tell the court who you are so the court

1 reporter, like I said, can note -- can
2 note that for the record.

3 All right. Let's go over your
4 stipulation. I have a few things that I
5 want to talk about with respect to
6 stipulations. First, let me just say
7 the -- the parties' decision to present
8 all of the experts with respect to one
9 subject matter congregated or in sequence
10 is a very good -- very, very good idea and
11 the court thanks you for that. I think it
12 will help move things along tremendously.

13 Again, the parties will monitor the
14 clock, and at the beginning of every
15 morning, if I don't -- if I don't
16 remember, I'll be happy for one of you to
17 prod me. We will figure out where we are
18 in the clock so that we don't get to the
19 end of the week with any surprises.

20 There is a question that the court
21 has about the expert witnesses what you've
22 stipulated is that the expert witnesses
23 may testify clearly okay. That's great.
24 Reserving the right to cross-examine
25 experts on any matter, including 702. So

1 I take it that this will be
2 traditionally -- the traditional way we do
3 experts. You'll make a tender, they will
4 be crossed on the tender. Is that what I
5 understand? Yes? I'm seeing yeses.
6 Okay. If there is a stipulation as to
7 expertise, it will be helpful if you would
8 make that before, and then we will just
9 have a stipulation to expertise and we can
10 move directly into the subject matter; but
11 otherwise, I will expect that there will
12 be a tender you are articulating to the
13 court the field in which you are tendering
14 the expert and then they will be one
15 person, one lawyer who will cross on
16 tender. Are we in agreement? Okay. Head
17 nods all around.

18 All right. The Court will admit the
19 following into evidence. The parties have
20 stipulated that the following declarations
21 can be admitted requiring testimony. So
22 for the record -- and you-all may want to
23 follow along just to make sure that I
24 don't misstate one of these record
25 document numbers -- the declaration as of

1 the following: Edward Galmon Record
2 Document 150-1; Ciara Hart Record
3 Document 50-3; Tramelles Howard, I hope I
4 said that right, Record Document 50-4.
5 The other declarations as to the Robinson
6 plaintiffs, Press Robinson Record
7 Document 41-3, Exhibit 5; Edgar Cage
8 Record Document 41-3, Exhibit 6; Dorothy
9 Nairne Record Document 41-3, Exhibit 7;
10 Renée Soule Record Document 41-3,
11 Exhibit 8; Alice Washington Record
12 Document 41-3, Exhibit 9; Clee Lowe Record
13 Document 41-3, Exhibit 10; Devante Lewis
14 Record Document 41-3, Exhibit 11;
15 Martha Davis Record Document 41-3,
16 Exhibit 12; Ambrose Sims Record
17 Document 41-3, Exhibit 13;
18 Michael McClanahan Record Document 41-3,
19 Exhibit 4; Ashley Shelton Record
20 Document 41-3, Exhibit 5.

21 Those stipulations are admitted into
22 evidence and considered submitted for the
23 purposes of the record of this case.

24 The parties -- oh, I'm sorry.
25 Defendants' witness, Joel Watson Record

1 Document 101-3. Likewise, that
2 declaration is admitted into evidence.

3 Okay. The parties have stipulated
4 that publicly available copies of the
5 legislative materials are admitted and
6 that certified copies, when received, will
7 be substituted into the record; is that
8 correct?

9 COUNSEL:

10 (Indicated.)

11 THE COURT:

12 Those will be admitted.

13 The following exhibits will come in
14 without objection and argument:
15 Edward Galmon Exhibits 4-28, 32-, I'm
16 sorry, Exhibit Nos. 4 through 28 and
17 Exhibit Nos. 32 through 38. Those are at
18 Record Document 121. Robinson Exhibits 1
19 through 11 and 16 through 85 at Record
20 Document 133; defendants' Exhibits Nos. 1
21 and 2, Record Document 99; Legislative
22 Intervenor, Exhibits 4 through 76, Record
23 Document 138; state intervenor defendants'
24 numbers, Exhibit Nos. 5 through 30, Record
25 Document 140.

1 All right. There are some hearsay
2 objections. As you offer those -- as you
3 offer those exhibits, make your objection
4 and the court will rule on those
5 objections.

6 The legislative record transcripts,
7 the parties have indicated that they will
8 stipulate and may use transcripts of the
9 legislative road show hearings and Florida
10 Bates PR-38 to PR-78, and the parties have
11 agreed to allow the court or that they
12 will use those in their proposed findings
13 of fact and conclusions and law and will
14 cite to page and line numbers for purposes
15 of the record. It is best practice that
16 those be introduced into evidence, so I'm
17 going to count on you.

18 P-38, I'm sorry, PR-38 to PR-78 will
19 be admitted into evidence. They should
20 comprise part of the record, so do need to
21 be uploaded into the jurisdiction at your
22 convenience. If you are not going to
23 refer to them in the hearing, we don't
24 need them right now, just use them in your
25 findings of fact and conclusions of law.

1 Okay. The stipulated facts that are
2 contained on Record Document 143 at
3 page -- pages 6 -- 6 through 11 are noted
4 as stipulated.

5 All right. Are there any other
6 housekeeping matters before we call our
7 first witness?

8 COUNSEL:

9 (Indicated.)

10 THE COURT:

11 All right. Who's starting? Call
12 your first witness.

13 MR. NAIFEH:

14 Good morning, Your Honor.
15 Stuart Naifeh for the Robinson plaintiffs.
16 Robinson plaintiffs call
17 Michael McClanahan.

18 THE COURT:

19 Sir, if you'll step right up here,
20 there is one other thing for the record.
21 There is a second court reporter in the
22 courtroom, so this is on the record. The
23 only certified record of this matter is
24 the court's official record. The parties
25 have agreed and I assume shared the costs

1 for another certified court reporter so
2 that you can get daily transcripts. The
3 daily transcripts you may certainly use
4 them in briefing, but they are not
5 constituted from the official court
6 record.

7 All right. Yes, sir?

8 MICHAEL MCCLANAHAN,
9 after having first been duly sworn by the
10 above-mentioned court reporter, did testify as
11 follows:

12 DIRECT EXAMINATION BY MR. NAIFEH:

13 Q. Good morning, Mr. McClanahan. Can
14 you please state and spell your name for the
15 record?

16 A. Good morning. My name is
17 Mike McClanahan. My last name is spelled
18 M-C-C-L-A-N-A-H-A-N.

19 Q. And how long have you lived in
20 Louisiana, Mr. McClanahan?

21 A. I'm born and raised in Louisiana.
22 All my life.

23 Q. And where in Louisiana do you
24 currently live?

25 A. Baton Rouge.

1 Q. And what part of Baton Rouge?

2 A. I stay in the area by called Cortana
3 Mall, Villa Del Rey area.

4 Q. Okay. And, Mr. McClanahan, what is
5 your role in this case?

6 A. Well, I'm a plaintiff with NAACP.

7 Q. And so are you a plaintiff in your
8 individual capacity?

9 A. No. As the state president of the
10 NAACP.

11 Q. And so the Louisiana NAACP is a
12 plaintiff in this case?

13 A. Yes.

14 Q. And how long have you been a state
15 president of the Louisiana NAACP?

16 A. For probably about five years.

17 Q. Okay. And are you also a member of
18 the NAACP?

19 A. I'm a proud member, life member of
20 the NAACP.

21 Q. And how long have you been a member?

22 A. I've been a member probably about
23 over ten years. I've been a life member about
24 two years.

25 Q. Okay. Can you tell us what is the

1 Louisiana NAACP?

2 A. The Louisiana NAACP is called the
3 NAACP Louisiana State Conference. It's a
4 coalition of all of the branches and units
5 throughout the State of Louisiana. I coordinate
6 activities amongst what you call the branches and
7 the youth and college chapters.

8 Q. Is the Louisiana NAACP a partisan
9 organization?

10 A. No.

11 Q. What is the Louisiana NAACP's
12 mission?

13 A. Well, in a nutshell, we're fighting
14 against the racism, bigotry, hatred, you know,
15 discrimination, anything that, you know, we deem
16 is below the mark of character and dealt
17 adversely effecting people of color like myself.

18 Q. And does the NAACP's mission include
19 a mission in the area of voting rights?

20 A. Oh, I believe.

21 Q. Can you explain that?

22 A. Well, we believe that in this
23 Democratic society everyone should have an
24 opportunity to participate in it; and we know
25 that the only way you can participate is through

1 vote, and so we are always doing what you call
2 registering, doing voting recommendations, voting
3 training, that type of stuff.

4 Q. And you mentioned the local branches
5 of the Louisiana NAACP. How many local branches
6 do you have?

7 A. It varies, but we have -- basically
8 always basically have about 40.

9 Q. Forty.

10 A. And dove branches and about 16 youth
11 and college chapters.

12 Q. Where are they located?

13 A. All over Louisiana.

14 Q. And do you have branches in every
15 parish?

16 A. Yeah. We have members in every
17 parish and we have branches -- every branch may
18 be able to represent two parishes, but we pretty
19 much cover the whole State of Louisiana.

20 Q. Okay. And does the -- you mentioned
21 members. Does the Louisiana NAACP have members?

22 A. Yes.

23 Q. And who are the members of the
24 Louisiana NAACP?

25 A. People who -- who want to see the

1 State of Louisiana do better in terms of however
2 it effects the black people of Louisiana, and so
3 those that want to fight, they want to advocate
4 for what's right in terms of how black and brown
5 people are shown respect in Louisiana. They
6 become a member of the NAACP.

7 Q. Okay. And does your membership
8 include black Louisianians?

9 A. Black Louisianians.

10 Q. And does it include registered
11 voters?

12 A. Registered voters.

13 Q. And about how many members do you
14 have in the State of Louisiana?

15 A. That varies somewhere between 5,
16 5,000 or so.

17 Q. Okay. Okay. Mr. McClanahan, do you
18 know people in Louisiana who might have one black
19 grandparent and three white grandparents?

20 A. Oh, yeah. It's called Louisiana.

21 Q. And do you consider those people
22 black?

23 A. They are black. You know, I
24 remember when I was in school, I'm from a little
25 town of called Zwolle, so in northwest Louisiana;

1 and we were taught if we had one drop of black
2 blood, no matter what you look like on the
3 outside, you considered black.

4 Q. Okay. And has the NAACP been
5 involved in the redistricting process for the
6 congressional plan in this redistricting cycle?

7 A. Very much so, but we got involved
8 not only in the redistricting act, because we
9 realized in order to get to the redistricting
10 part, you got to get in the census part, so we
11 are very much involved in the onset of getting
12 bias counted.

13 Q. And did -- during the redistricting
14 process, did the Louisiana legislature take
15 public input -- input from members of the public?

16 A. Yeah. They have what you call town
17 hall. They would have redistricting town hall
18 meetings throughout the State of Louisiana.

19 Q. And are those commonly referred to
20 as road shows?

21 A. Road shows, yeah, road shows.

22 Q. And did the NAACP play a role in the
23 road shows?

24 A. We did, you know, because I realized
25 and understood that in order to let the

1 legislature know and understand what the people
2 think, the people had to go to the road shows.
3 And so I would have calls every Monday, Monday
4 night with members throughout the NAACP state
5 conference and chapters and we talk about getting
6 people to the road shows so they can tell the
7 legislature what they expect them to do, how they
8 feel about the redistricting aspect of the
9 process.

10 Q. And did you offer testimony at any
11 of the road show meetings?

12 A. Happily. I did happily.

13 Q. And what did you testify about?

14 A. I told the legislature, you know,
15 because redistricting only happens every -- every
16 ten years, that there's a shift, and so we want
17 that the legislature would have got back to the
18 session to let the lives reflect the make up of
19 the State of Louisiana, we make up at least a
20 third of the population and so in their -- in
21 their deliberations of drawing these maps, they
22 should take careful consideration as to the make
23 up of the State of Louisiana so they could
24 adequately reflect what it looks like in
25 Louisiana.

1 Q. And did you feel that the
2 legislatures listened to the testimony that you
3 offered?

4 A. If they did, they must have been
5 listening with deaf ears.

6 Q. Okay. And did they act on what they
7 heard from you and your members?

8 A. They must have been asleep because
9 they didn't.

10 Q. Okay. And was a map ultimately
11 passed by the legislature?

12 A. Yes. It was a map that, you know,
13 if you would have closed your eyes, you could
14 have drawn it because it did not reflect nothing
15 that was said at the road shows. It did not
16 reflect what the data has shown. It did not
17 reflect what was said, even in the -- the
18 community hearings at the legislature session.

19 Q. And what did that map look like?

20 A. Well, you know, in your eyesight, in
21 our minds, the recollection of the map would have
22 been two majority-minority congressional seats,
23 two. What it looks like now is only one kept --
24 it keeps power within that one, you know, the
25 make up of six white congressmen and only one

1 black.

2 Q. And when you say six white, do you
3 mean there are six districts in total?

4 A. Seven, six. Yeah. Five. No. I'm
5 sorry.

6 Q. And after that congressional plan
7 was passed by the legislature, what did you and
8 your members do?

9 A. Well, I know the process because
10 I've been, you know, down to the legislature for
11 a minute and I realized that once it passed
12 through the state house that means the Senate and
13 the state representatives going to the governor's
14 desk, it only will become you law if he did
15 nothing or he signed it into law. And so our
16 strategy was to get to the governor to veto those
17 maps, and we did all in our power to get to him
18 in terms of calling him. We had a rally, we had
19 -- we had persons operating social media, we
20 contacted legislators to let him know what he
21 thought about those maps.

22 Q. And what did he ultimately do, the
23 governor of Louisiana, with the congressional
24 maps passed by the legislature?

25 A. Well, the governor, in his infinite

1 wisdom, he vetoed that map.

2 Q. And how did you feel when you heard
3 about the veto?

4 A. Well, I understand the process, so I
5 was optimistic but skeptical because we knew that
6 the legislature previously -- the previous
7 legislature session tried to override one of his
8 vetoes then, and we know that there was a ground
9 square for them to come and override this
10 particular veto. But I'm a praying man. We went
11 to God first and then we started working the
12 phones and the polls, you know, to ensure that
13 the governor veto -- the veto was sustained.

14 Q. And was the veto sustained?

15 A. No, as you would have it. I'm from
16 Louisiana. I do understand how it works. No, it
17 was not.

18 Q. And were you -- did the legislature
19 convene a veto session to consider an override?

20 A. Yeah. During the legislative
21 session, they -- they brought in a veto session
22 to override that particular bill.

23 Q. And were there NAACP members in
24 attendance during the vote on the override of the
25 veto of the congressional planning?

1 A. Oh, yes. We were -- we were in the
2 chambers of both houses and we were walking
3 throughout the entire building to ensure that our
4 voices were heard.

5 Q. And were you personally there?

6 A. I was.

7 Q. And what was the reaction of you and
8 your members when the legislature voted to
9 override the veto?

10 A. Well, you know, it was a lot of my
11 members, they just knew that the governor's veto
12 was going to be sustained. They were -- they
13 were hurt. They were dejected because the
14 members of the legislator -- you know,
15 Louisiana's full of festivals and so we love to
16 get together and we talk and go to the crawfish
17 festival and go to the catfish festival and we
18 hang out together, but in the house, the state
19 house, it's separate. They show us that we can
20 eat together, but we cannot share power together.

21 That's what it meant to me, that we
22 could not share power. They basically told me as
23 a black person in the State of Louisiana that
24 your sons and daughters can play football at LSU,
25 play football at Nicholls State, play football at

1 ULM and that's good, but your parents cannot
2 share power in the State of Louisiana. I don't
3 want you to do it. You can do whatever you want,
4 but when it comes to having a voice, when it
5 comes to operating here in the State of
6 Louisiana, when it comes to making laws, when it
7 comes to making policy, stay your place on the
8 porch.

9 Q. Okay. What was the reaction of the
10 legislators who voted in favor of overriding the
11 veto of the congressional house?

12 A. It's just as though they were
13 outside of their can bringing trash and partying
14 and drinking. It was a party affair. They
15 partied off the history. They were high fiving,
16 jumping up in the air like they scored a
17 touchdown, a home run. You know, it was absurd.
18 It was a slap in the face of everybody who came
19 up through history to make it better. The State
20 of Louisiana went back 40 years, 50 years
21 basically on that vote. That one vote took us
22 back 40 years.

23 Q. What would it mean to the NAACP if
24 Louisiana were redistricted to have two majority
25 black congressional seats?

1 A. It's history. It's history. It
2 would be historical for us to get another voice
3 in Congress because, you know -- you know, I'm
4 black. I don't know if you noticed or not, I'm
5 black, no matter what I have on. When I go into
6 stores, I'm black; and so to have somebody
7 understand my plight that would come to my side
8 of town, pull up a chair and play cards and
9 dominoes or we could talk from any part black you
10 want to, but understand it's my plight.

11 We need that, and I was sharing with
12 somebody the other day -- I have a lot of
13 friends, Democrat, Republicans, what have you,
14 right, but to have somebody look me in the eye
15 and know how I feel, that's what we need. We
16 were hoping to get that with another seat.

17 Q. Mr. McClanahan, did you file an
18 affidavit in this litigation, a declaration?

19 A. I did.

20 Q. And in your declaration, you
21 state -- state that you have personally witnessed
22 the effects of institutional racism in Louisiana.

23 Can you describe some of the effects
24 that you personally have witnessed?

25 A. How much time do I have? I live it.

1 I'm 57. I've lived it every day all of my life.

2 I lived -- this -- Louisiana is full of stuff.

3 This is called cancer alley. It's a strip of

4 towns and zone in the parish that runs from --

5 from New Orleans up to Baton Rouge, all points in

6 between.

7 Those chemical plants, they set up

8 shop in black neighborhoods where they poison and

9 kill people every day, poison school kids every

10 day, senior citizens every day. They don't live

11 to grow old. If they do, they will have -- they

12 don't have a quality of life. They are being

13 poisoned up and down the Mississippi River where

14 their way of life is off the bayou blowing that

15 poison. Now, they are poisoning the water.

16 I had a hearing before the committee

17 a while back in St. James. The Corps of

18 Engineers was there because they have to give us

19 permission to operate in coastal -- a navigable

20 body of water. I said take this plant and let it

21 operate on Pennsylvania Avenue, get it out of our

22 neighborhoods, stop killing our people because

23 black lives do matter, black lives matter. Who

24 wants their loved one to die and you can't do

25 anything about it because he got 20 or 30 forms

1 of cancer? It's ridiculous.

2 I live in Louisiana. Most of the --

3 most of the police departments and fire

4 departments operate up under the consent decree.

5 We couldn't even get that right.

6 The police department is there to

7 serve and protect. How can they serve and

8 protect because they want to beat me up first,

9 throw me on the ground? If I'm lucky, I'll

10 escape alive. Captain Reeves said he was killed.

11 Ronald Green was murdered by the state police.

12 This is Louisiana. I testified before the

13 legislature last year. I'm on the committee with

14 LSU dealing with racism, the extent of racism.

15 We talked about the extent of racism in one of

16 the -- one of the --

17 MR. WALE:

18 Your Honor, I have an objection.

19 The question calls for an area -- I

20 apologize I didn't object earlier, but the

21 I find that under all four maps, black

22 candidates of choice are generally able to

23 win elections in the majority black

24 district.

25 In the 2nd Congressional District,

1 under all four maps, black preferred
2 candidates won 17 of the 18 elections and
3 averaged about 69 percent of the votes.

4 In CD5, black preferred candidates
5 won 15 of the 18 elections under maps 1
6 through 4 and 14 of the elections under
7 Map 2 averaging in the mid to high
8 50 percent range. The witness is in an
9 area --

10 THE COURT:

11 Overruled.

12 THE WITNESS:

13 They -- you know, I testified about
14 a -- about a church -- about a church,
15 black -- a white church in Baton Rouge,
16 the older population. And so one of my
17 friends told the church I see we have an
18 older population, no members, what do you
19 want to do. Well, the back part of the
20 church was a black and brown community.
21 He said we can go out and fellowship, get
22 the members in and keep the church open.

23 I can tell you the church is closed,
24 it was sold. Instead of them going out
25 and evangelizing to the black and brown

1 people behind them, they chose to close
2 the church down. This is Louisiana.
3 Gemco laws were instituted right here.
4 The black codes were right here in
5 Louisiana. The Plessy versus Ferguson,
6 right here in Louisiana.

7 BY MR. NAIFEH:

8 Q. Mr. McClanahan, did you work on the
9 governor's task force concerning the impacts of
10 COVID?

11 A. Healthcare, I did healthcare,
12 quality healthcare. You know, we realized when
13 COVID first came on there was an inordinate
14 number of blacks dying. We said everybody
15 catches COVID. Looked like why are so many of us
16 dying because it was found out access to quality
17 healthcare was limited in the black communities.
18 You know, either we went to the doctor, the
19 doctors couldn't see us or it's found out this is
20 documented, that they -- they had a choice: Let
21 me save the life of a white person or a black
22 person. Our numbers went up, the deaths went up
23 because the doctors even in their mission failed
24 to carryout and provide quality healthcare to all
25 of the citizens of the State of Louisiana.

1 Q. And in your role as the president of
2 the Louisiana NAACP, did you hear from members
3 who were effected by the chemical contamination
4 in the area called cancer alley?

5 A. I live it. We would march and
6 protest all the time, and I was sharing with some
7 members it's sad. I get all the calls. You
8 know, I understand sometimes it's long at the top
9 because all the calls come up and to -- there's
10 an area called Moss Field. It's right outside of
11 Lake Charles. And, you know, you get to know
12 these people. You get to know them. You get to
13 know their families. You get to know them. You
14 see their kids grow up. And so Marksville is no
15 longer Marksville. It's called Sasaw -- Sasaw.
16 The entire town has been wiped out.

17 I get a call about last year, Mike,
18 you got to come see me, when you going to come
19 see me. I said why. She said because we are
20 still fighting, but my husband has died. Come on
21 now, my husband died, cancer. Black lives
22 matter, and I'm telling you brother, black lives
23 matter and we going to fight those chemical
24 plants because they need to take that -- those
25 plants somewhere else.

1 There's a whole lot of Texas out
2 there. Take it to Odessa, because they should
3 come out of our communities and we going to fight
4 it until they are no longer there.

5 MR. NAIFEH:

6 Thank you. No more questions.

7 THE COURT:

8 Any cross? Counsel, make an
9 appearance.

10 MR. WALE:

11 Hi, Jeffrey Wale on behalf of the
12 state intervenor defendant, Your Honor.

13 CROSS-EXAMINATION BY MR. WALE:

14 Q. Hi, Mr. McClanahan. My name is
15 Jeffrey Wale. I have a few questions for you.

16 You testified earlier that you are
17 familiar with the legislative process, correct?

18 A. Yes.

19 Q. And so do you agree that the
20 Louisiana House of Representatives is controlled
21 by the Republicans?

22 A. I don't know who they controlled by.

23 All I know is --

24 Q. I'm sorry. I'll rephrase that. Is
25 the majority of the house representatives

1 Republican in Louisiana?

2 A. Right.

3 Q. And is the Senate in Louisiana also
4 majority Republican?

5 A. I think so.

6 Q. And is the governor a Democrat?

7 A. I really don't know that process.

8 If you say he is, he is.

9 Q. If I say the governor is a Democrat,
10 you would believe me?

11 A. I have no reason to discredit you.

12 Q. Thank you.

13 So Mr. McClanahan, as president of
14 the NAACP, you serve on a variety of committees
15 and task forces and the like for the State of
16 Louisiana; is that correct?

17 A. Correct.

18 Q. That includes we mentioned earlier
19 the Louisiana governor's COVID health task force?

20 A. That's correct.

21 Q. I'm sorry. We just need the volume
22 for the -- for the transcript. I know you were
23 nodding. I'm sorry.

24 A. Okay.

25 Q. So you were also on the legislative

1 and police training and screening police task

2 force?

3 A. That's correct.

4 Q. And the Access to Justice committee

5 created by the Louisiana Supreme Court?

6 A. That's correct.

7 Q. And the Closed Primary committee?

8 A. Yes.

9 Q. Which I work with. And would you

10 say this is because the state values the opinion

11 of the NAACP?

12 A. We believe so.

13 Q. All right. And you mentioned that

14 in your declaration that you texted the governor

15 regarding the congressional plan; is that

16 correct?

17 A. Yes.

18 Q. So you have the governor's cell

19 phone number?

20 A. No. This is what we do. We text

21 his office, whatever is going on in the office,

22 we text and e-mail.

23 Q. Who do you text in the office?

24 A. There's a main switchboard that

25 those things go there and we have a deal. We

1 call it a texting campaign, and so we have the
2 numbers on their office and everybody gets on
3 their phone and texts.

4 Q. I'm generally interested. The
5 governor has a number you can text?

6 A. Someone told me we have a Monday
7 call that you call and text these numbers, e-mail
8 these numbers, that stuff goes to -- goes to his
9 office. As a matter of fact, they shut his
10 office down.

11 Q. You shut his office down?

12 A. We shut the switchboard down.

13 Q. Shut the switchboard down. Does
14 that include phone calls and text messages?

15 A. I know that includes when you text
16 and e-mail and all that. That's what we did.

17 Q. So you don't remember who in the
18 governor's office you texted?

19 A. No. Because what I do is I send
20 out -- you know, we have them call and say we
21 need to let the governor know our displeasure and
22 so they start doing that.

23 Q. All right. Did you speak to the
24 governor personally regarding the NAACP's
25 position?

1 A. I did not.

2 Q. You never or did any of your members
3 speak to him?

4 A. Not that I'm aware of.

5 Q. So you're not aware that you do not
6 have a complaint to the governor one way or the
7 other regarding the veto?

8 A. No.

9 Q. Or regarding any position on
10 redistricting?

11 A. No.

12 Q. All right. And you mentioned
13 earlier in your testimony that you had a rally.
14 What was the rally regarding?

15 A. The rally was regarding do you want
16 the governor to veto the -- the congressional
17 map.

18 Q. And where was that rally held?

19 A. From front of his house.

20 Q. At the governor's mansion?

21 A. Governor mansion.

22 Q. All right. And who did you contact
23 to arrange that rally?

24 A. Nobody. We went there.

25 Q. Nobody?

1 A. (Shook head negatively.)

2 Q. Is the governor's mansion not
3 secured by a gate?

4 A. We didn't go inside the gate.
5 There's public parking in front of the governor's
6 mansion and we held it there.

7 Q. Oh, I'm sorry. You were outside the
8 gate?

9 A. Right.

10 Q. Outside the mansion?

11 A. Right.

12 Q. In paragraph 17 of your declaration,
13 you said that you supported every map that the
14 legislature proposed that included a second
15 majority black district; is that correct?

16 A. Correct.

17 Q. And was that regardless of whether
18 the map adhered to traditionally redistricting
19 principles?

20 A. What are traditional redistricting
21 principles?

22 Q. Well, again, I believe you mentioned
23 that -- that the maps in paragraph 18, you say
24 the maps also adhered to traditional
25 redistricting principles, so I'd like you to tell

1 me --

2 A. Well, if you going to say that --

3 Q. I didn't say it, sir. You said it
4 in your declaration.

5 A. Yes, sir. My thought process is
6 since Louisiana's made up of a third of
7 African-Americans, that all maps should reflect
8 that and so --

9 Q. So -- I'm sorry.

10 A. So that should be some traditional
11 redistricting principles, that they should
12 reflect the make up of that particular area.

13 Q. So you are saying that Louisiana
14 should have proportional representation?

15 A. I didn't say proportional. I said
16 it should reflect the make up.

17 Q. And what is the current make up
18 of -- of the black population of Louisiana at the
19 moment?

20 A. 30 some odd percent.

21 Q. Okay. And what -- and how many
22 congressional seats do we have?

23 A. I think we have six.

24 Q. And you are seeking a second
25 majority district, correct?

1 A. Yes.

2 Q. So that would bring us to 206?

3 A. 206.

4 Q. And that would be one-third?

5 A. One-third.

6 Q. So what you were saying is not like
7 proportional records you mentioned?

8 A. I -- I would think one-third would
9 be good. That means that the people in
10 Louisiana, the black folk would have another
11 voice to speak for our issues.

12 Q. All right. In paragraph six of your
13 declaration, you state that under the enacted map
14 black voters in Louisiana are packed into
15 Congressional District 2 because they constitute
16 a disproportionate majority. Black voters are
17 disbursed or cracked across the other five
18 congressional districts. Do you see that in your
19 declaration?

20 A. I don't have it before me.

21 Q. You don't have your declaration in
22 front of you?

23 MR. WALE:

24 Can you get that pulled up, please?

25 And that will be exhibit -- I believe it's

1 Exhibit 10 of the plaintiffs. And so I
2 believe that can pop up in the screen in
3 front of you, if I understand the
4 technology correct.

5 TRIAL TECH:

6 (Complied.)

7 THE WITNESS:

8 You said 10?

9 MR. WALE:

10 I'm sorry. It's Exhibit PR-10.
11 It's at the bottom of the screen. I don't
12 know if the screen in front of you is on.

13 THE WITNESS:

14 Yes, it is. I see it.

15 BY MR. WALE:

16 Q. But we are looking at No. 6. And so
17 if I -- and so, again, I -- I can repeat it if
18 there's no objection.

19 Under the enacted map, black voters
20 in Louisiana are packed at the CD2, which I
21 believe is Congressional District 2, because they
22 constitute a disproportionate majority. Black
23 voters were disbursed or cracked across the other
24 five congressional districts, which comprise
25 positions for our -- to elect our candidates,

1 etc. So you do see that now?

2 A. I see it.

3 Q. That is your declaration, right?

4 A. It is my declaration.

5 Q. Do you believe that every voter
6 should be placed into a majority black district?

7 A. No.

8 Q. You do not. Okay. So you would
9 agree that at least some black voters in
10 Louisiana cannot be in a majority black district?

11 A. Right. I do.

12 Q. Are those voters not cracked?

13 A. Well, I don't know what you mean
14 by -- by black voters and crack. Only thing I
15 know is that --

16 Q. Again, I'm sorry. In paragraph six,
17 you said black voters are disbursed or cracked
18 across the other five congressional districts.

19 THE COURT:

20 Mr. Wale --

21 BY MR. WALE:

22 Q. Is that where I'm getting that from?

23 THE COURT:

24 Mr. Wale, you are going to have to
25 slow down a tad.

1 MR. WALE:

2 I apologize.

3 THE COURT:

4 I'm having trouble hearing you.

5 MR. WALE:

6 I apologize to the court and the

7 private court reporter as well, so I'm

8 sorry. Let's go back.

9 BY MR. WALE:

10 Q. No. 6, the second sentence, black
11 voters are disbursed or cracked across the other
12 five congressional districts which comprise of
13 black people of main representation and
14 opportunity to elect our preferred candidates.

15 So my question is, are black voters
16 that cannot be in a majority district wherever
17 they are drawn, are those voters cracked?

18 A. Yes. They are disbursed, right.

19 Q. All right. Thank you.

20 And so you had mentioned earlier
21 that you had provided or that you used all
22 available means -- I forget your exact words, but
23 you used every available mean to convince the
24 legislature to adopt the second majority
25 district, correct?

1 A. Correct.

2 Q. And so did the NAACP perform any
3 studies relative to the performance of a second
4 majority-minority congressional district?

5 A. We did not.

6 Q. You did not do that.

7 MR. WALE:

8 All right. So can we pull up
9 legislative Exhibit No. 9, please? Can we
10 go to page 2 of this exhibit, please? I'm
11 sorry. We are going to look at the letter
12 attached to this e-mail, which is page 2,
13 and this is legislative Exhibit No. 2.

14 TRIAL TECH:

15 (Complied.)

16 MR. WALE:

17 I'm sorry. Can we go to the next
18 page on this exhibit, please?

19 TRIAL TECH:

20 (Complied.)

21 MR. WALE:

22 All right. Nope. Here we go.

23 BY MR. WALE:

24 Q. Let's see. In the -- it looks like
25 the second full paragraph, it starts with "Chair

1 Stefanski's concerns are unfounded and reflect an
2 incomplete analysis of Coalition maps. We
3 conducted an analysis of recompiled election
4 results and determined that these two proposed
5 black majority districts in the Coalition maps
6 (CD2 and CD5) would reliably perform to provide
7 an opportunity for a candidate preferred by black
8 voters to prevail." Do you see that?

9 A. Yes, I do.

10 MR. WALE:

11 Can you scroll to the bottom of this
12 exhibit, please?

13 TRIAL TECH:

14 (Complied.)

15 MR. WALE:

16 All right. Stop there.

17 BY MR. WALE:

18 Q. On page 7, is that your name that
19 appears at the top, towards the top of the page?

20 A. Yes, it is.

21 Q. So you wrote this letter?

22 A. Yes, I did.

23 Q. All right. So now that we are --

24 now that we have refreshed your memory, did the

25 NAACP perform any studies relative to performance

1 of the second majority-minority congressional
2 district?

3 A. Our lawyers did.

4 Q. Your lawyers did?

5 A. Yes, the lawyers.

6 Q. Okay. All right. And those were
7 the lawyers for the -- was that the NAACP legal
8 defense fund?

9 A. There you go. That's right.

10 Q. Okay. I'm just asking. I mean,
11 your name is on the letter, so I'm just
12 wondering.

13 So on page 2, you discuss the
14 analysis and about recompiling the election
15 results. Do you know when the studies were
16 performed?

17 A. I don't remember.

18 Q. You don't remember. Okay. And do
19 you know why weren't these studies provided to
20 the legislature?

21 A. I'm quite sure they were. I'm quite
22 sure. I don't know why they were, but I'm quite
23 sure they were.

24 Q. You're sure they probably were? My
25 understanding is they were not provided, so, I

1 mean, do you have any records of when you would
2 have sent that to the legislature?

3 A. No, I don't.

4 Q. So you don't know what format you
5 would have sent it to them in?

6 A. No. Because it's been a while.

7 Q. Okay. All right. So you attended
8 the road shows conducted by the legislature,
9 correct? And when I say "road shows," I think we
10 discussed that earlier --

11 A. Correct.

12 Q. -- the town halls across the state.
13 Do you remember attending a road show on or
14 around December 16th, 2021?

15 A. Yeah.

16 Q. You do. Okay.

17 MR. WALE:

18 So I want to draw your attention,
19 it's an exhibit that's already been
20 admitted into evidence. It's PR-42. If
21 we can pull up PR-42 and if we go to
22 page 86 of that, looking for page 86 of
23 PR-42.

24 TRIAL TECH:

25 (Complied.)

1 BY MR. WALE:

2 Q. All right. We are going to look
3 on -- let's see. All right. We are going to
4 start on -- on line 11. On line 11, it says "I
5 got something called the law on my side and I
6 like to tell people how to organize, immobilize,
7 agitate and litigate. Literally, we have the
8 best, largest side of heaven, and if I talk to
9 you, don't win out and I know it will. I'm from
10 Louisiana, from Zwolle, but if it doesn't work,
11 I'm going to sue you and I can tell you now, if
12 we sue, we win, end quote.

13 MR. NAIFEH:

14 Objection. No foundation for this
15 question.

16 MR. WALE:

17 I -- Your Honor, I believe I laid
18 the foundation. I said he attended the
19 road shows and he's looked at it.

20 THE COURT:

21 Objection overruled.

22 MR. WALE:

23 Thank you, Your Honor.

24 MR. NAIFEH:

25 Your Honor, if I may, that he hasn't

1 established that these are

2 Mr. McClanahan's words.

3 MR. WALE:

4 I'm sorry.

5 BY MR. WALE:

6 Q. Mr. McClanahan, do you recall

7 stating these words?

8 A. They written there. I'm from

9 Zwolle.

10 Q. Okay. Thank you.

11 Do you feel like you had a better
12 chance of obtaining your goals in court than in
13 the legislature?

14 A. No. I said that we were going to go
15 through the process. In the end, if the process,
16 what we started at first didn't work, then we
17 would continue until we got some resolution.

18 Q. All right. I understand. So I want
19 to turn to a little bit of the work of the NAACP.
20 And I know that you had stated earlier in your
21 declaration, particularly in No. 12, you had
22 talked about, you know, one of your big goals is
23 to registered voters in the State of Louisiana;
24 is that correct?

25 A. That's correct.

1 Q. And that -- that this litigation or
2 it seems like the redistricting process is for --
3 is causing you to divert your resources away from
4 those goals; is that correct?

5 A. That's correct.

6 Q. So are you not encouraging people to
7 register to vote right now?

8 A. We are, but our focus has also been
9 to make sure that this process here is seen
10 through.

11 Q. But you did encourage -- but you do
12 continue to encourage people to register to vote?

13 A. We do.

14 Q. To hold the events across the state,
15 all right. And one of the things I'm interested
16 in is the Souls to the Polls program. The
17 Louisiana NAACP participates in that, correct?

18 A. Correct.

19 Q. All right. And can you explain a
20 little more what that does? My understanding is
21 that it -- you encourage people to go vote, and
22 is that faith based?

23 A. It's not -- it's not particularly
24 faith based. You know, what we do is get your
25 church and your pastor to get you and your

1 congregation to the polls on a particular date,
2 but it doesn't have to be your church as long as
3 a pastor talks about a person, he sees your choir
4 members while they are practicing their songs,
5 they going to sing on a Sunday, while they are
6 leaving, we want to get people to the Souls to
7 the Polls.

8 Q. Got it. And that's part of a
9 national movement, right, or a national
10 organization, the Souls to the Polls?

11 A. Well, I know - I know we do it here
12 in Louisiana.

13 Q. Okay. And what election do you-all
14 do it at? I mean, is it every election? I know
15 we just had one on April 30th. I mean, is it
16 every single election or just kind of the big
17 ones?

18 A. When you say "we," what are you
19 talking about?

20 Q. The State of Louisiana held an
21 election on April 30th --

22 A. Okay.

23 Q. -- and before that in March.

24 A. Okay.

25 Q. And we have at least four different

1 elections every year.

2 A. Yeah.

3 Q. So my question for you is what
4 election does -- what elections does Souls to the
5 Polls participate in?

6 A. Well, I do know we -- we chose to do
7 it a couple years ago and we don't do it at every
8 election.

9 Q. Okay. Were -- were you-all active
10 in the last governor's election?

11 A. We were.

12 Q. And do you think that the souls to
13 the polls effort was successful?

14 A. I know we got Souls to the Polls, so
15 that increased the voter turnout, the voter
16 participation. We were successful.

17 Q. Would you say that was steadily
18 increasing the black voter turnout?

19 A. Well -- well, when I go out, most of
20 the time I wear voting shirts because I
21 understand the voting, so I want people to vote
22 all the time and often. I want them to become
23 primary voters.

24 Q. Right. But my question is do you
25 feel like that increased the number of black

1 voters that participated?

2 A. I think it had something to do with
3 it.

4 Q. All right. And when you say that,
5 in the 2019 election, that -- that would have
6 been pivotal in electing Governor John Bel
7 Edwards?

8 A. I don't know pivotal, but I know we
9 got them to vote.

10 Q. Okay. So you -- you participated in
11 that election. All right. And so do you think
12 if Governor Edwards was the candidate of choice
13 for -- for many of the voters participating in
14 the Souls to the Polls?

15 A. I don't know. I didn't -- I
16 didn't -- I just wanted them to go out and vote.

17 Q. Okay.

18 A. So whoever they voted for, that was
19 their choice.

20 Q. All right. And so -- so there's
21 been a lot of talk about the second
22 majority-minority district. Do you know who's
23 interested in running for that second
24 majority-minority?

25 A. No. They don't come tell me.

1 Q. They don't come tell you, so you are
2 not familiar with that.

3 A. No.

4 Q. So you said you are from Zwolle, but
5 you live in the Baton Rouge area?

6 A. Correct.

7 Q. So you live here in Baton Rouge?

8 A. Correct.

9 Q. So obviously with the changes over
10 the years with hurricanes, you have experience
11 dealing with hurricane relief; is that correct?

12 A. Correct.

13 Q. And so does that include working
14 after Hurricane Katrina?

15 A. Right.

16 Q. And so you're aware that many people
17 moved to Baton Rouge and to the Baton Rouge area
18 following Hurricane Katrina --

19 A. True.

20 Q. -- is that correct? And then for a
21 while, Baton Rouge became the largest city in
22 Louisiana; is that right?

23 A. I think we are still now.

24 Q. Yeah. I believe they are the
25 largest parish. So you would admit that a lot of

1 people living in Baton Rouge live here now, they
2 once lived in New Orleans?

3 A. I don't know where they came from
4 because, you know, Hurricane Katrina affected
5 almost all of Louisiana.

6 Q. Sure.

7 A. They could have come from this. I
8 don't know where they came from.

9 Q. Sure. But you can see that some
10 people did move from New Orleans to Louisiana?

11 A. I don't know.

12 MR. NAIFEH:

13 Objection. Asked and answered.

14 MR. WALE:

15 I apologize, Your Honor. I'll move
16 on.

17 BY MR. WALE:

18 Q. And so --

19 THE COURT:

20 Folks, if you are going to make
21 objections, make them and either let me
22 rule on them or, I mean -- okay. Go
23 ahead.

24 MR. WALE:

25 Yes, Your Honor. I apologize.

1 I'll -- I'll move on.

2 BY MR. WALE:

3 Q. So would you say that -- that
4 New Orleans and Baton Rouge have a lot in common
5 with each other as far as voting areas?

6 A. No.

7 Q. You would not. In your declaration,
8 you do state that New Orleans and Baton Rouge are
9 distinct cities with distinct needs.

10 A. Distinct. They have their own --
11 New Orleans has its own and Baton Rouge has its
12 own.

13 Q. Right. And so for that reason, you
14 think they should be in different congressional
15 districts, right?

16 A. Yeah.

17 Q. And so my question for you is, don't
18 all the congressional districts have cities that
19 are very distinct from each other? For example,
20 Monroe and Bogalusa are in the same congressional
21 area, but they have very distinct needs; would
22 you agree to that?

23 A. Yeah.

24 Q. And would you agree about
25 Lake Charles and Lafayette having distinct needs?

1 A. Uh-huh (affirmatively).

2 Q. And then also, you know, like

3 Shreveport and Minden up -- up in north

4 Louisiana?

5 A. Right.

6 Q. So you would agree with that. I was

7 interested that you had stated in your

8 declaration, I do forget where, that you said

9 that feel like Baton Rouge has a slower pace than

10 New Orleans?

11 A. Correct.

12 Q. Isn't New Orleans nicknamed the "Big

13 Easy"?

14 A. Big Easy.

15 Q. All right. I was just wondering.

16 It seems like that's a thing, but Baton Rouge and

17 New Orleans, they have been -- you know,

18 Baton Rouge and New Orleans seems like they are

19 having more and more in common together.

20 Are you familiar with the rail

21 project the governor is pushing to link

22 Baton Rouge and New Orleans?

23 A. I'm -- I'm -- I'm from -- I've been

24 in Baton Rouge for 40 years.

25 Q. Yes, sir.

1 A. You know, so when I go to the Big
2 Easy, I go to the Big Easy because Baton Rouge is
3 a little slower, so I don't know what they have
4 in common other than I-10.

5 Q. But in addition to I-10, are you
6 familiar with the rail project that the
7 governor's pushing?

8 A. That's another I-10.

9 Q. That's another I-10?

10 A. That's another way to get from
11 Baton Rouge to New Orleans.

12 Q. Right. But why are people going
13 between Baton Rouge and New Orleans? Isn't it
14 because they work and live there, some people
15 work in New Orleans and live in Baton Rouge and
16 vice versa?

17 A. That may -- that's true. That --
18 that could be true in any area, though, you know,
19 build the highways and byways in the State of
20 Louisiana for the people to travel for work,
21 play, church, to go to the football game, see
22 Southern University beat up on our quarterback
23 for Grambling, right.

24 Q. Right. And so I'm just making sure
25 that Baton Rouge and New Orleans have a lot of

1 common. So you said you would go to New Orleans
2 for a good time. That's a normal part of what
3 Baton Rouge people do?

4 MR. NAIFEH:

5 Objection. These questions are
6 testimony. They are not questions.

7 THE COURT:

8 Rephrase. Sustained.

9 BY MR. WALE:

10 Q. All right. So, Mr. McClanahan, do
11 you think that Baton Rouge and New Orleans have
12 at least some things in common as far as -- as
13 far as people traveling to and from them?

14 A. I've been in Baton Rouge for
15 40 years. You tell me when.

16 Q. Okay. About the NAACP, it is my
17 understanding that the NAACP opposes candidates,
18 but they don't endorse candidates at any level;
19 is that correct?

20 A. All I know is we get people out to
21 vote. We support issues, but we don't support or
22 oppose candidates. You know, we are -- that's
23 what we do, so we want people to vote. I wear a
24 voting shirt all the time. I have one up under
25 here that's called vote, go vote.

1 Q. So it's your position that NAACP
2 will not -- will not oppose a candidate for any
3 reason?

4 A. All I know is we get people out to
5 vote. Our mission is voting, voting engagement,
6 voting participation.

7 Q. So NAACP will not be endorsing a
8 candidate of choice for the second congressional
9 district?

10 A. We get people out to vote, vote for
11 participation, voting registration, voting
12 engagement, voter training. That's what we do.

13 Q. And so if there -- there is no
14 candidate of choice, you don't have any
15 candidates of choice, the NAACP doesn't have
16 candidates of choice in an election, correct?

17 MR. NAIFEH:

18 Objection. He's using a legal term
19 asking a question about candidates of
20 choice of the NAACP. It's a legal
21 question.

22 THE COURT:

23 Sustained.

24 BY MR. WALE:

25 Q. All right. And so the NAACP does

1 not endorse or oppose candidates at any level,

2 correct?

3 A. We are -- we voter engagement, voter
4 participation. You got to vote. That's what we
5 do.

6 MR. WALE:

7 I -- I didn't hear an answer, Your
8 Honor.

9 THE COURT:

10 Restate your answer, sir.

11 THE WITNESS:

12 We do voting engagement, voting
13 participation, just get people to vote.
14 We don't -- we don't endorse anybody.

15 MR. WALE:

16 My question is more of a yes or no,
17 Your Honor.

18 BY MR. WALE:

19 Q. Does the NAACP --

20 MR. NAIFEH:

21 It's already been asked and
22 answered.

23 MR. WALE:

24 At any level was my clarification,
25 Your Honor. I previously asked about

1 endorsing candidates generally. I wanted
2 to confirm it was at any level.

3 THE COURT:

4 At any level?

5 MR. WALE:

6 Endorsing a candidate.

7 THE COURT:

8 He just said no.

9 MR. WALE:

10 All right. Thank you, Your Honor.

11 BY MR. WALE:

12 Q. And so if there -- so there's no
13 record of the NAACP supporting or opposing
14 candidates; is that correct?

15 A. Not at the state levels since I have
16 been the state president.

17 Q. Okay. And then the last thing I
18 want to talk to you, you had -- you had recently
19 discussed talking environmental racism at
20 chemical plants, and you had discussed in your
21 declaration and in your testimony about cancer
22 alley. Is that -- can you describe that area,
23 what you are talking about cancer alley?

24 A. When you talk about describe, what
25 do you mean by "describe"?

1 MR. WALE:

2 Well, let's go -- if we could pull
3 up your declaration again at paragraph 26,
4 if we could do that.

5 BY MR. WALE:

6 Q. In your declaration at paragraph 26,
7 and it says "Another example of Louisiana's long
8 history of racism includes environmental racism,
9 Louisiana cancer alley where petrochemical
10 plants" --

11 THE COURT:

12 Slow down.

13 BY MR. WALE:

14 Q. -- "where petrochemical plants
15 running along the Mississippi River between
16 Baton Rouge and New Orleans have caused high
17 rates of cancer and respiratory diseases."

18 The area running along Mississippi
19 River between Baton Rouge and New Orleans, are
20 you familiar with that?

21 A. Uh-huh (affirmatively).

22 Q. Is that currently near Congressional
23 District 2?

24 A. Repeat your question.

25 Q. Does the area you're describing

1 between the Mississippi River between Baton Rouge
2 and New Orleans, does that mirror Congressional
3 District 2?

4 A. You said -- mirror is the word you
5 used, mirror?

6 Q. Right. Similar district?

7 A. I -- I don't know.

8 Q. You don't --

9 A. I don't know.

10 Q. All right. So you don't -- you
11 don't have any information?

12 MR. WALE:

13 All right. Your Honor, can I
14 consult for a second with my co-counsel?

15 THE COURT:

16 You may.

17 (A short recess was taken.)

18 BY MR. WALE:

19 Q. All right. Mr. McClanahan, just a
20 couple more questions. Does the Louisiana NAACP
21 have a website, correct?

22 A. The state conference, we have one.

23 Q. All right.

24 A. We built -- we built one.

25 Q. And there's a biography, your

1 biography is on that website, correct?

2 A. I haven't had a chance to look at
3 it.

4 Q. You haven't had a chance to look at
5 it. So would you disagree if I represented to
6 you that -- that in your biography online the
7 Souls to the Polls is -- you state "Souls to the
8 Polls is instrumental in electing the only
9 Democratic governor in the deep south"?

10 A. I have to see it. I don't know.

11 MR. WALE:

12 All right. No further questions,
13 Your Honor.

14 THE COURT:

15 All right. Any -- anything further,
16 sir?

17 MR. NAIFEH:

18 No, Your Honor.

19 THE COURT:

20 Okay. You may step down. Thank
21 you, sir.

22 Counsel and folks in the gallery,
23 how's the air-conditioner? I have on a
24 lot of clothes and it feels cold to me,
25 but I'm not -- but I'm fine. So by a show

1 of hands, is it too cold?

2 Okay. We will roll it up or down or
3 whatever it needs to be. Next?

4 MS. KHANNA:

5 And, Your Honor, Abha Khanna for the
6 Galmon plaintiffs. We call
7 Mr. Bill Cooper.

8 THE COURT:

9 Will there be a stipulation as to
10 Mr. Cooper's expertise?

11 MR. LEWIS:

12 Your Honor, I -- I just asked
13 plaintiffs' counsel to --

14 THE REPORTER:

15 Can you state your name?

16 Mr. LEWIS:

17 Oh, I'm sorry. I'm sorry.
18 Patrick Lewis on behalf of the legislative
19 intervenors. If plaintiffs' counsel could
20 identify the subject matter with regard to
21 his expertise?

22 THE COURT:

23 Well, there's a Cooper that's --
24 that's an expert. Do I have the wrong
25 Cooper here? Oh, I have the wrong Cooper.

1 MS. KHANNA:

2 No, no. You're okay. You have the
3 right one. He's the expert.

4 THE COURT:

5 Okay. He's their illustrative map
6 expert; is that correct?

7 MS. KHANNA:

8 Yes, Your Honor.

9 THE COURT:

10 What would the tender be? What
11 would -- in what field?

12 MS. KHANNA:

13 We are offering him as an expert in
14 redistricting, demographics and census
15 data.

16 THE COURT:

17 Redistricting, demographics and
18 census data.

19 MR. LEWIS:

20 We have no objection, Your Honor.

21 THE COURT:

22 All right. So there's a stipulation
23 to the tender. Dr. -- is it Doctor, sir?

24 THE WITNESS:

25 Mister.

1 THE COURT:

2 Mister, Mr. Cooper will be permitted
3 to give opinion testimony in the field
4 of -- one more time, Ms. Khanna?

5 MS. KHANNA:

6 Redistricting, demographics and
7 census data.

8 THE COURT:

9 Okay. Please swear in the witness.

10 THE DEPUTY:

11 Raise your right hand, please.

12 WILLIAM SEXTON COOPER,
13 after having first been duly sworn by the
14 above-mentioned court reporter, did testify as
15 follows:

16 DIRECT EXAMINATION BY MS. KHANNA:

17 Q. Good morning, Mr. Cooper.

18 A. Good morning.

19 Q. Can you please state your full name
20 for the court?

21 A. My name is William Sexton Cooper.

22 Q. And you've been retained as an
23 expert on behalf of the Galmon plaintiffs in this
24 case?

25 A. I have.

1 Q. You prepared two expert reports; is
2 that right?

3 A. I did.

4 Q. And those are marked, just for the
5 court's reference, as Galmon and plaintiff
6 Exhibits 1 and 29, GX-1 and GX-29.

7 Do you actually have a copy of the
8 exhibits in front of you?

9 A. No, I do not.

10 Ms. KHANNA:

11 Your Honor, if I may approach, this
12 is just a copy of his stamped exhibits in
13 case he has trouble reading the screen.

14 MR. LEWIS:

15 No objection.

16 THE COURT:

17 Sir, for the record, you have before
18 you GX-1 and GX-29; is that correct?

19 Those are your two reports, the report and
20 the supplemental report. Mr. Cooper, do
21 you have before you your report and your
22 supplemental report?

23 THE WITNESS:

24 Oh, yes.

25 THE COURT:

1 Is there anything else but those
2 documents in front of you?

3 THE WITNESS:

4 No.

5 THE COURT:

6 All right. Go ahead.

7 MS. KHANNA:

8 Thank you, Your Honor.

9 BY MS. KHANNA:

10 Q. Included with your initial report is
11 your CV; is that correct?

12 A. Yes.

13 Q. And just for the court's records,
14 that's that GX-1-A, Exhibit H-4 is where that
15 begins? Is that a complete and accurate summary
16 of your background and professional experience
17 through March of this year?

18 A. Yes. I did testify in a case a
19 couple of weeks ago in Arkansas.

20 Q. And does that CV involve all of your
21 experience and other experience as well?

22 A. It does. I mean, it lists all the
23 cases that I've been involved in that related to
24 the -- it does not list, for example, cases that
25 I have been involved in relating to school

1 desegregation or a couple of environmental cases
2 in state courts, for example.

3 Q. Mr. Cooper, what is your profession?

4 A. I provide GIS consulting services,
5 mapping census data or other kinds of data that
6 can be displayed with a map on a screen for
7 different varieties of clients, mostly
8 non-profits, occasionally governmental entities
9 or ad hoc requests from individuals.

10 Q. Is it fair to say that you draw maps
11 for a living?

12 A. Yes.

13 Q. And you've been accepted as an
14 expert witness in cases before and undergone
15 fact; is that right?

16 A. Yes. I've testified in federal
17 court in about 52 cases that involved voting and
18 the vast majority of those would have been
19 Section 2 district cases.

20 Q. Have you testified in any Louisiana
21 cases before?

22 A. I have. I think I've testified in
23 four or five trials involving voting in Louisiana
24 and filed declarations in several others and also
25 have been involved in providing maps to community

1 organizations here and there around the state.

2 Q. What regions has that experience
3 covered over the course of years?

4 A. Well, overall, it's pretty much
5 covered the whole state. I -- I was involved in
6 Shreveport area back in the '90s; and also in the
7 '90s and even in the early 2000s in the northeast
8 part of the state, East Carroll Parish, down in
9 Madison Parish and Pointe Coupee and some of the
10 other areas right around Baton Rouge to the north
11 and even extending south all the way to
12 Terrebonne Parish. So I've been in almost the
13 whole state over the course of that time. I
14 don't like to fly from here. I generally drive
15 from southwest Virginia and, because of that,
16 I've criss-crossed the state a number of times.

17 Q. So is it fair to say that you are
18 pretty familiar with Louisiana geography and
19 communities?

20 A. I think so. I have general
21 knowledge. I can't speak to the knowledge that
22 the president of the NAACP has offered, but at
23 least I've been here for a number of trips.

24 Q. Thank you, Mr. Cooper.

25 Can you tell the court a little bit

1 about what you were asked to do in this case?

2 THE COURT:

3 Counsel, let me just interrupt you.

4 There's also been a stipulation as to the

5 tender and the court has accepted him.

6 Can we reach an agreement that record

7 Document 44, which is his CV, will be

8 admitted into evidence?

9 MR. LEWIS:

10 Your Honor, yes, we can.

11 THE COURT:

12 All right. All right. 44 is in

13 evidence. Go ahead.

14 MS. KHANNA:

15 Just to clarify, I believe that's

16 GX-1A at page 4 is where his CV begins.

17 THE COURT:

18 Well, I don't know what that means.

19 It's in the record at Document 44, all

20 right?

21 BY MS. KHANNA:

22 Q. All right. Just to make sure,

23 Mr. Cooper, will you please tell the court what

24 you were asked to do in this case?

25 A. Well, there were two primary

1 requests; one was just to determine whether the
2 black population in Louisiana is sufficiently
3 large and geographically compact to allow for the
4 creation of two majority black congressional
5 districts out of the 6th District plan.

6 Secondarily, I was asked to examine
7 socioeconomic data to identify whether or not
8 there are disparities between the races with
9 respect to socioeconomic well-being statewide as
10 well as at the local level.

11 Q. I'm going to focus in for a moment
12 on that first question. Did you arrive at any
13 conclusion when it came to the first question of
14 whether Africa-Americans in Louisiana are
15 sufficiently numerous and geographically compact
16 to form an additional majority-minority
17 congressional district?

18 A. Yes.

19 Q. And what was your conclusion?

20 A. Unquestionably, the answer is that
21 the black population in the State of Louisiana is
22 sufficiently large and geographically compact to
23 allow for two districts that are majority black.

24 MS. KHANNA:

25 Let's pull up your first report,

1 which is Galmon plaintiffs Exhibit 1; and

2 I want to turn to exhibit page 10,

3 Figure 4. And we can just highlight

4 Figure 4.

5 TRIAL TECH:

6 (Complied.)

7 MS. KHANNA:

8 There we go. Thank you.

9 BY MS. KHANNA:

10 Q. Mr. Cooper, what does this figure
11 indicate about populations growth patterns among
12 the different racial groups in Louisiana between
13 the 2010 and 2020 census?

14 A. This shows that Louisiana gains
15 population between 2010 and 2020, approximately
16 125,000 persons, but the white population, the
17 non-Hispanic white population actually fell by
18 132,182 persons. So all of the gain over that
19 ten-year period can be attributed to growth from
20 the minority population; and of that gain, about
21 half of it related to gains in the black
22 population.

23 Q. So over the course of the last
24 decade, the white population actually fell by a
25 larger amount than the state as a whole

1 population gained?

2 A. Yes.

3 Q. And this is similar to the same kind
4 of trend we see in the previous decade; is that
5 right?

6 A. That's right. There's been an
7 overall decline in the percentage of the white
8 population in the State of Louisiana since the
9 1990 census.

10 Q. And does that comport with a
11 corresponding increase for what has also been an
12 increase in the black population over that time?

13 A. Yes.

14 Q. Mr. Cooper, looking at this chart, I
15 see at the top right two columns, I see the terms
16 SR black and AP black. Can you explain what
17 those are?

18 A. Yes. SR black is -- simply refers
19 to persons who identify as single race black in
20 the 2020 census. Any part black corresponds with
21 persons who identify as single race black or
22 black and some other race.

23 Q. And which metric do you use
24 typically when determining whether the black
25 population is sufficiently numerous and

1 geographically compact in the Gingles 1 analysis?

2 A. Well, I use voting age, and I use
3 the any part black voting age metric to determine
4 whether or not the population at -- in question
5 is -- is in a district that's over 50 percent
6 black voting age.

7 Q. Why do you use the any part black
8 definition?

9 A. That has been accepted, I think, in
10 many cases throughout the country since the
11 Ashcroft v Georgia decision in 2003, and I've
12 testified in cases here in Louisiana even where
13 I've used that metric and other places as well.

14 Q. And the Georgia v Ashcroft position
15 that you mentioned, that's from the U.S. Supreme
16 Court?

17 A. Yes.

18 Q. You also mentioned that you
19 testified in Section 2 cases in which the courts
20 have used the APV app metric; is that right?

21 A. Yes. Specifically in Fayette
22 County, Georgia in 2014, although I think my
23 testimony in Fayette County, Georgia was by way
24 of declaration. And in Ferguson, Missouri in
25 2016, in Terrebonne Parish, Louisiana in 2017;

1 and then in several cases this year, Alabama, the
2 Castor case; in Georgia, the Pendergrass case; in
3 Baltimore County, Maryland, I used the any part
4 black definition. So it's pretty much been a
5 standard that I've relied upon since just before
6 the 2010 census.

7 MS. KHANNA:

8 I'm going to now pull up Figure 1 of
9 your first report, which is going to be on
10 GX-1 exhibit, page 6.

11 TRIAL TECH:

12 (Complied.)

13 BY MS. KHANNA:

14 Q. What does this figure tell us about
15 each racial group's share of the population in
16 2020?

17 A. It shows that at the top, you see
18 non-Hispanic whites now represent 60 -- I'm
19 sorry, 55.75 percent of the overall population.
20 African-Americans in the any part category are
21 about one-third, 33.13 percent.

22 Q. So how has the white population
23 changed over time just looking at this figure?
24 How do we see the effect on white population?
25 You mentioned that there has been a steady

1 decline. Where do we see that in this chart?

2 A. Well, you can see by looking at the
3 left most columns there for 1990, the -- at the
4 time of the 1990 census, the white population
5 comprised almost two-thirds of the population in
6 the state, 55.78 percent, and the black
7 population at the same time would have been about
8 32 percent. So there's been a big drop in the
9 amount of non-Hispanic white population and a
10 modest increase in the portion of the state that
11 is African-American since 1990.

12 MS. KHANNA:

13 I want to turn now to the 2022
14 congressional maps, so if we could pull up
15 GX-29 at page 20.

16 TRIAL TECH:

17 (Complied.)

18 BY MS. KHANNA:

19 Q. Mr. Cooper, this is the
20 congressional map that was just recently enacted
21 over the governor's veto; is that correct?

22 A. Yes.

23 Q. If we could take a closer look at
24 Districts 2 and 6, which we can find at page 29
25 and 27, can you please describe for the court the

1 configuration of the enacted map?

2 A. Well, yes. You can see it's sort of
3 a certain district that stretches from the east
4 end that's Lake Pontchartrain, Orleans Parish.
5 One is all the way through Jefferson and Orleans
6 and into the River Parishes over as far west as
7 Assumption Parish back through Iberville, part of
8 Iberville Parish, and then there are quarters
9 through West Baton Rouge along the river and then
10 into East Baton Rouge Parish.

11 Q. Can you also describe District 6,
12 which is the orange district on this map?

13 A. Yes. District 6 is a wraparound
14 district. It's sort of the inverse of the -- of
15 District 2. So it extends from the Livingston
16 Parish in north and wraps around, goes all the
17 way around to the Terrebonne Parish and the
18 barrier islands and then back up on the other
19 side of District 2. You can see that it's also
20 partly in the River Parishes and extends in on
21 the -- on the west side of Pontchartrain and then
22 narrow peninsula between Lake Pontchartrain and
23 Lake Maurepas. I think that's how you pronounce
24 it.

25 Q. Would you characterize either of

1 these two districts as compact?

2 A. I could not characterize them as
3 compact.

4 Q. How -- you testified in cases across
5 the country. Do you have a sense of how District
6 2 compares in terms of compactness to other
7 districts across the country, other congressional
8 districts across the country?

9 A. Well, there -- there was a report
10 produced by a software firm called -- starts -- I
11 think it's -- I think it's called -- they looked
12 at all the congressional districts in the country
13 and District 2 was the seventh least compact
14 district in the nation out of 435 congressional
15 districts in 2011. I haven't seen a similar
16 report yet for the congressional districts based
17 on the 2020 census, but District 2 is just a
18 carbon copy in the 2020 plan of the 2010 census
19 plan, in other words, the 2011 congressional
20 plan. So it's going to score very low
21 nationwide, guarantee it.

22 MS. KHANNA:

23 If you could pull up GX-29, page 18.

24 This is the -- this is the population data
25 for the enacted plan.

1 TRIAL TECH:

2 (Complied.)

3 BY MS. KHANNA:

4 Q. What is the black voting age
5 population or the BVAP of the new congressional
6 CD2 under the plan?

7 A. It is 58.65 percent.

8 Q. And the surrounding districts?

9 A. All are under 34 percent.

10 District 4 is 33.82 percent, District 5 is
11 32.91 percent, and the others are even lower.

12 Q. Mr. Cooper, you mentioned earlier
13 that the black population in Louisiana now
14 constitutes over a third of the population; is
15 that right?

16 A. Right.

17 Q. What percentage of the congressional
18 districts in the enacted plan are majority black?

19 A. Well, it's just one out of six, so
20 it's a little over 16 percent.

21 Q. You also testified that whites make
22 up 55 percent of the population of Louisiana in
23 2020; is that right?

24 A. Correct.

25 Q. What percentage of the congressional

1 districts in the enacted plan are majority white?

2 A. A little over 91 percent. I'm

3 sorry, 84 percent. Excuse me.

4 Q. So that's the five out of six?

5 A. Right.

6 MS. KHANNA:

7 We can take this down.

8 TRIAL TECH:

9 (Complied.)

10 BY MS. KHANNA:

11 Q. Mr. Cooper, you drew four

12 illustrative plans in this case; is that right?

13 A. Yes.

14 Q. Can you please briefly describe for

15 the court what is an illustrative plan, what is

16 its purpose?

17 A. It's simply to demonstrate to the

18 court that plaintiffs have met the first

19 Gingles 1 prong, which is whether or not the

20 district is comprised of a population that is a

21 majority voting age for the minority community of

22 interest.

23 Q. So what is your general approach

24 when you draw an illustrative map?

25 A. Well, I obtain census data and --

1 and the geographic files for the jurisdiction at
2 issue and then apply traditional redistricting
3 principles. I draw a plan.

4 Q. Can you explain what traditional
5 redistricting principles are generally?

6 A. Well, in general terms, traditional
7 redistricting principles are just the procedures
8 one would use to develop a plan that is
9 acceptable in court; and that would include
10 things like one person would vote, districts that
11 are regionally compact, that to the extent
12 practicable follow political subdivision lines,
13 that did not dilute minority voting districts,
14 districts that are contiguous and that are
15 observants of -- of communities of interest.

16 Q. In these traditional redistricting
17 principles, the map drawers have used them and
18 you have used them both for in court
19 presentations like illustrative maps and in
20 actual maps for drawing jurisdictions; is that
21 right?

22 A. Right.

23 Q. When you draw an illustrative map,
24 do you consider race?

25 A. I am aware of race, exactly, because

1 one of the traditional redistricting principles
2 is to avoid looking at the minority voting
3 strengths.

4 MS. KHANNA:

5 I'd like to call up your
6 Illustrative Plan 1 and I'd like to put it
7 alongside the enacted congressional map.

8 TRIAL TECH:

9 (Complied.)

10 BY MS. KHANNA:

11 Q. So if we are looking at this, you
12 can see GX-1A at page 51 is on the left of the
13 enacted map and GX-29 at page 20, the
14 illustrative plan 1. Great.

15 MS. KHANNA:

16 I think these are actually not -- I
17 think we need to switch these out. It
18 looks like I have the -- two versions of
19 the enacted plan.

20 THE WITNESS:

21 Right. That's not the -- that's not
22 the illustrative plan.

23 MS. KHANNA:

24 Okay. I'm sorry. Can we --

25 Mr. Martinson, can you -- can we put up

1 GX-29, page 20 on the left and then GX-1B,
2 page 13 on the right?

3 TRIAL TECH:

4 (Complied.)

5 MS. KHANNA:

6 There we go.

7 BY MS. KHANNA:

8 Q. Now, we are looking at the enacted
9 plan versus the Illustrative Plan 1. Just
10 looking at the two plans, Mr. Cooper, what are
11 the key differences between the Illustrative Plan
12 1 as you drew it and the enacted map?

13 A. Well, the enacted map, as I
14 discussed, has this really bizarrely shaped
15 District 2 that extends from New Orleans up into
16 parts of Baton Rouge. There's the wraparound
17 District 6, so that's problematic, very
18 problematic, and you can see Illustrative Plan 1
19 does not have that configuration. It has a
20 District 2 that extends from New Orleans to the
21 River Parishes and West Baton Rouge and that's
22 it.

23 District 5, which in the enacted
24 plan covers a very large land area, stretches
25 from around Ruston in the north all the way to

1 Bogalusa and beyond on Alabama and Mississippi
2 border area. And the plan that I developed for
3 illustrative 1, it's a more compact district that
4 extends from the delta northeast, East Carroll
5 and Morehouse Counties (sic) down to the
6 Baton Rouge area and as far east as St. Helena.

7 Q. And District 6 in your illustrative
8 plan?

9 A. That too is a district that is much
10 more compact than District 6 under the existing
11 plan. It includes the Florida Parishes and part
12 of the River Parishes.

13 MS. KHANNA:

14 I'm going to pull up Illustrative
15 Plan 2, GX-1B at page 40.

16 TRIAL TECH:

17 (Complied.)

18 BY MS. KHANNA:

19 Q. What are the defining features of
20 Illustrative Plan 2 in relation to illustrative
21 1? What's the main distinction between the two
22 plans?

23 A. Well, I developed Illustrative Plan
24 2 in an effort to put as much of Acadiana in the
25 District 3 as I could. Acadiana involves 22

1 parishes; and the base population of those 22
2 parishes is too large to go in one district, so
3 Acadiana has to be split.

4 In the end, using this
5 configuration, I was able to create two majority
6 black -- majority black districts, District 2 and
7 District 5, while at the same time keeping about
8 81 percent of Acadiana in District 3, which is
9 about the same percentage that is achieved in the
10 enacted plan where I think the figure is
11 84 percent of Acadiana is in District 3.

12 MS. KHANNA:

13 And let's pull up Illustrative
14 Plan 3, GX-1-Z, at page 7.

15 TECHNICAL SUPPORT:

16 (Complied.)

17 BY MS. KHANNA:

18 Q. What are the defining features of
19 illustrative plan three. How is it different
20 than the other illustrative plans that you drew?

21 A. This plan actually does not change
22 District 2 at all, as it's compared to
23 Illustrative Plan 1, CD2. However, it does
24 change District 5 by making it cover a slightly
25 smaller footprint, excluding some of the parishes

1 in the north that are included in illustrative
2 plans one and two. So it's a -- it's a more
3 eccentric, even though it does include the rural
4 parishes along the Mississippi River.

5 MS. KHANNA:

6 And let's look also at Illustrative
7 Plan 4, which you said that in your
8 supplemental report, that's at GX-29,
9 page 45, so we can go to now.

10 TECHNICAL SUPPORT:

11 (Complied.)

12 BY MS. KHANNA:

13 Q. And what would you say are the
14 distinctive or defining characteristics of this
15 illustrative plan compared to the others?

16 A. Well, this is similar to
17 Illustrative Plan 1. In this particular plan in
18 response to a criticism or assertion by one of
19 the defendants experts, I decided to draw a plan
20 that splits no precincts at all, no VTDs to make
21 the point that that was possible.

22 The other three illustrative plans
23 were drawn to achieve absolutely perfect 0
24 population deviations, so this -- this is a -- a
25 representative map showing how Illustrative Plan

1 1 could be modified to be drawn solely with whole
2 VTDs and the same can be done with illustrative
3 plans two and three.

4 Q. Thank you.

5 Mr. Cooper, you spoke earlier about
6 the traditional districting principles that you
7 considered in drawing your illustrative plans; is
8 that right?

9 A. Yes.

10 Q. You list out in your reports
11 specific principles that you factored that you
12 considered for your references at paragraphs 49
13 and 50 of your report.

14 Can you list for the court what the
15 traditional districting factors that you
16 considered were?

17 A. Well, I balanced them all,
18 specifically one person, one vote requirements,
19 the importance of drawing districts that are
20 reasonably compact and reasonably shaped. I
21 looked at making sure that I was following to the
22 extent practicable political subdivision lines,
23 so I was paying attention to parish lines and
24 municipal lines and precinct lines.

25 Obviously, I needed to also respect

1 communities of interest to the extent possible,
2 and certainly I needed to make sure that I was
3 not diluting minority voting strength, so I
4 balanced all those factors. I didn't weigh one
5 over the other in the sense of the word.

6 Q. You also examined the legislature's
7 adopted redistricting criteria; is that correct?

8 A. I did. Joint Rule 21.

9 Q. So I'd like to touch upon the
10 contributing factors individually as they pertain
11 to your illustrative map. Let's start with one
12 person one vote. How is this principle reflected
13 in your illustrative plan?

14 A. The illustrative plans, all four of
15 them apply to one person one vote in my opinion.
16 Clearly, Illustrative Plans 1, 2 and 3 are the
17 perfect plans from the standpoint of one person
18 one vote because the districts analysis is one
19 person in the 6th District is shown. It's not
20 possible to draw six zero deviations in our
21 figures, but it is possible to draw five and an
22 additional district is minus one.

23 Q. So the first three illustrative
24 plans have exactly equal populations among the
25 six congressional districts, except for one

1 district, which has one fewer person?

2 A. I think that's correct.

3 Q. And what about Illustrative Plan 4?

4 A. Illustrative Plan 4 is drawn to
5 avoid splitting any precincts or any VTDs, so
6 it's zero, zero VTD splits. And so because of
7 that, you can't get to ideal perfect deviation,
8 but that particular plan, I don't have the number
9 in front of me, but it's plus or minus 150 or so.
10 It's about a hundred 50 persons over all
11 deviations, so it for all intents and purposes
12 meets the population requirements.

13 MS. KHANNA:

14 Let's turn now to parish and
15 municipality splits. Let's put up from
16 your report GX-1 exhibit, page 34,
17 Figure 20.

18 TRIAL TECH:

19 (Complied.)

20 BY MS. KHANNA:

21 Q. What was your approach when it comes
22 to parishes and municipalities in drawing the
23 illustrative plans? Let's just focus on those
24 two for now.

25 A. Well, Joint Rule 21 specifically

1 outlines that plan drawers should attempt to keep
2 parishes intact and in one district to the extent
3 practicable and avoid splitting municipalities
4 and VTDs to the extent bracket. So that's what I
5 did again, balancing things, and I was able to do
6 better than the enacted plan in all four
7 illustrative plans across all four categories.

8 Q. So looking at specifically parish
9 splits, your illustrative plans managed to
10 minimize the number of parish splits compared to
11 the enacted map; is that right?

12 A. That's right. The enacted map has
13 15 parish splits and the illustrative plan has
14 one, two, three and four have 10 or 11. I think
15 plan two has 11, so one, three and four have ten
16 parish splits.

17 Q. And when it comes to municipality
18 splits, how do your illustrative plans compare to
19 the enacted plan?

20 A. Again, superior. The 2022 plan --
21 and this is actually showing the arranged chart
22 that I think I have mentioned in my second
23 declaration. The actual number of splits and
24 municipalities in the enacted plan is 38. Two of
25 them are actually a zero population split, so I

1 discount those. So the number I would be using
2 would be 36 because that is actually reflecting
3 pieces not -- not split municipalities in this
4 chart. The numbers that I come up with are 18
5 municipalities are split in the enacted plan and
6 I'd have to go -- well, you can see here that
7 Illustrative Plan 1 was split, I think 12
8 municipalities in Illustrative Plan 2 was split,
9 15 in Illustrative Plan 3 would actually split,
10 16 if you just looked at municipality splits as
11 opposed to pieces of municipalities as clearly
12 superior to the enacted plan across that metric
13 as well as the parish splits. And although it's
14 not superior in terms of VTD splits, that's only
15 because I was seeking to achieve zero population
16 deviation. Clearly, it would be very easy to
17 draw four illustrative plans that are zero VTD
18 splits and within plus or minus 150 people or so,
19 as I've shown in Illustrative Plan 4.

20 MS. KHANNA:

21 And let's take a look at that.

22 Let's look at in your supplemental report

23 GX-29 page 8, Figure 3.

24 TRIAL TECH:

25 (Complied.)

1 BY MS. KHANNA:

2 Q. So this talks about -- can you
3 explain what the -- what happened here when it
4 came to the precinct or the VTD splits?

5 A. Yes. This is the actual HB1 plan
6 instead of my mistake that was SB1, not HB1 in my
7 initial declaration, but the bottom line, it
8 doesn't change my opinion in any way. You see
9 the 2022 plan splits 15 parishes versus
10 Illustrative Plan 4 splits 10 with no precinct
11 splits; whereas, the 2022 plan actually does have
12 a split VTD in West Baton Rouge right along the
13 I-10 bridge area and it has fewer populated
14 municipal splits. And if you discount some of
15 the dozen or so towns and cities in -- in
16 Louisiana that spill over into another parish,
17 both plans then have fewer real splits in the
18 sense that they are -- like Morgan City I think
19 is in two different parishes, and so it's kind of
20 unfair to call that a split when, you know,
21 you're not splitting the parish. You are keeping
22 the parishes intact and, because of that, you're
23 actually splitting a municipality. That really
24 shouldn't count as a strike against you. So
25 single parish populated splits, again, you can

1 see from the Illustrative Plan 4 fewer
2 municipality splits are involved in Illustrative
3 Plan 4.

4 Q. Looking at the same figure on the
5 screen, the last column says CBSA splits. Can
6 you explain for the court what CBSA refers to?

7 A. Yes. CBSAs are defined by the
8 Office of Management and Budget, and they are --
9 most people are familiar with the term
10 metropolitan municipal areas, like -- so like an
11 area of New Orleans would have two or three
12 parishes where there is metropolitan statistical
13 areas.

14 These metropolitan statistical areas
15 are defined by Office of Management and Budget.
16 They reflect commuting patterns that then can be
17 expressed as relationships between parishes and
18 small towns in and around a larger population
19 center. Metropolitan statistical areas have to
20 have at least one urban center that is 50,000
21 people or more.

22 So obviously New Orleans and
23 Baton Rouge are metropolitan statistical areas,
24 but so is Thibodaux and Houma because those areas
25 have smaller cities that are more than 50,000

1 people.

2 And there are nine metropolitan
3 statistical areas in Louisiana, but there are
4 also some areas that are kind of urbanized but
5 smaller cities and they are known as micropolitan
6 statistical areas, and there are ten of those in
7 the state.

8 Q. So --

9 A. And that would include some of the
10 smaller cities. Like Bogalusa I think is
11 actually a micropolitan statistical area.

12 Q. So it's fair to state that the CBSA
13 are government defined regions of -- basically
14 centered on urban centers and their surrounding
15 communities; is that right?

16 A. Right. Based on commuting patterns,
17 so they reflect communities of interest that are
18 centered on commercial activity, journey to work.
19 They are defined in -- in this a neutral way by
20 the Office of Management and Budget in
21 conjunction with the census bureau in the
22 journey-to-work files. So it's a very effective
23 way to define regions, and that's not just in
24 Louisiana but nationwide.

25 Q. And what does the federal government

1 do with the CBSAs? Why is that relevant in terms
2 of federal funds and other things?

3 A. Well, that's exactly it. It effects
4 things like highway funding, medication funds,
5 Medicare reimbursement. I mean, it's amazing all
6 the different federal programs that would be
7 effected as it relates to whether or not a place
8 is in a metropolitan statistical area or in a
9 micropolitan statistical area. And some parts of
10 the state, of course, are not in either. They
11 are part of a rural area, so there would be other
12 funding formulas for those particular parishes,
13 but a lot of areas in northeast Louisiana --
14 northeast Louisiana, for example, would be rural
15 and not in micropolitan or metropolitan areas.

16 Q. How does your Illustrative Plan 4
17 compare to the enacted plan when it comes to
18 division of these CBSA communities?

19 A. There are 14 splits. In other
20 words, 7 CBSAs are split compared to 18 splits in
21 the 2022 plan or 9 CBSAs.

22 MS. KHANNA:

23 I want to turn now to the criterion
24 of compactness. If you could pull up
25 Figure 18 of your first report, GX-1,

1 page 32. A lot of numbers here.

2 TRIAL TECH:

3 (Complied.)

4 BY MS. KHANNA:

5 Q. What are the metrics that are
6 reflected here and what do they say about
7 quantitative compactness?

8 A. Well, these are measures that
9 demonstrate graphs that have been developed over
10 the years to determine whether or not one can
11 objectively measure compactness. And so I'm
12 looking here at two different measures that are
13 probably like the most widely used measures. One
14 is the REOCK that is based on the -- the land
15 area of a district as it relates to a
16 circumscribed circle.

17 So a perfect plan or district would
18 be 1.0 and districts that are not so perfect
19 would drop from that level. Most districts never
20 achieve 1.0 because there are not very many
21 circular cities. So you get a range between zero
22 and 1, and so the right score for the 2022 plan
23 is 3.7. And you can see that CD2 is 0.18 and the
24 illustrative plans are generally in the same
25 range for REOCK, but significantly better on the

1 Polsby-Popper.

2 The Polsby-Popper score, which is
3 the right most column, looks at the perimeter of
4 a district. So if you've got lots of squiggly
5 lines, then you are going to have a low
6 Polsby-Popper score. And, you know, you can see
7 the 2022 plan has a fairly low Polsby-Popper
8 score overall, .16, and the illustrative plan
9 scored higher on that measure. And of particular
10 note is the extraordinary low score for CD2,
11 which is .06 on the Polsby-Popper score.

12 Q. So looking at these metrics, I
13 believe you mentioned that the -- how do your
14 illustrative plans compare overall as an average
15 measure to the enacted plan?

16 A. Better.

17 Q. And what about on the individual
18 district level?

19 A. Again, better, particularly as
20 compared to CD2, which is the majority black
21 district in the 2022 plan.

22 Q. If you could go back to that
23 side-by-side showing the enacted plan on the left
24 and the Illustrative Plan 1 on the right, how do
25 these metrics that we just talked about map onto

1 the visual, the map itself? Just looking at the
2 map, how would you describe where we see those
3 being in compactness?

4 A. Well, the -- you can see that
5 District 2 is just very oddly shaped and so
6 that's -- you don't need to look at compactness
7 scores to see that Illustrative Plan 1 is far
8 superior in terms of compactness scores. If you
9 examine District 2 alone and then -- but because
10 District 6 is the inverse of that and wraps
11 around CD2, it naturally also is going to have a
12 very low compactness score. And you can look at
13 Illustrative Plan 1 and see that District 6 in
14 Illustrative Plan 1 states basically north of
15 Lake Pontchartrain, that is not wraparound, so
16 obviously it's going to score higher. But,
17 again, it's just in the eye of the beholder.
18 Illustrative Plan 1 surely can be that, no
19 reasonable person arguing otherwise.

20 Q. You also mentioned in your report
21 that contiguity is another traditional
22 redistricting principle; is that right?

23 A. Yes.

24 Q. Are your illustrative plans
25 contiguous?

1 A. Yes, they are.

2 Q. And how did the illustrative plans
3 compare to the enacted plan on contiguity?

4 A. The enacted plan is contiguous,
5 technically speaking, but if you look very
6 closely at the enacted plan around East
7 Baton Rouge and West Baton Rouge Parish --

8 MS. KHANNA:

9 I -- I can pull up a map for you.

10 Put up GX-29 at 27.

11 TRIAL TECH:

12 (Complied.)

13 THE WITNESS:

14 Yeah. This is a Zoom on District 2
15 and District 6, and you can see how in the
16 enacted plan District 2 kind of picks up a
17 few VTDs in West Baton Rouge and then when
18 it reaches I-10. And, again, this
19 particular exhibit doesn't zoom in like
20 maybe it could to make this point.

21 MS. KHANNA:

22 Can we zoom in on the area we need?

23 TRIAL TECH:

24 (Complied.)

25 THE WITNESS:

1 Yeah. Okay. You can sort of see
2 the area of concern here where you get to
3 the I-10 bridge; and naturally taking the
4 I-10 bridge, you're going to cross from
5 Port Allen into Baton Rouge. And you can
6 see that going by I-10, it -- District 2
7 is on both sides of I-10, just barely on
8 the other side. So you really leave
9 District 6 and go into District 2. And so
10 there's a little -- a little piece, a
11 little carveout in downtown Baton Rouge
12 around the capital, the federal building
13 here that is in District 6, but it's not
14 really connected other than by water to
15 any other part of District 6. Basically,
16 you have to swim upriver in order to
17 actually get to a point where you could go
18 from that part of downtown Baton Rouge,
19 which is District 6, into the other part
20 of District 6 in East Baton Rouge.

21 BY MS. KHANNA:

22 Q. If we could zoom out back to the
23 original exhibit, are there any other portions
24 that -- of the enacted map that present --
25 presented any continuity concern?

1 TRIAL TECH:

2 (Complied.)

3 THE WITNESS:

4 Yeah. There's another area on the
5 east side. Well, actually really the west
6 side of Lake Pontchartrain, but on the
7 east side of District 6, you can -- you
8 can see how there's a little peninsula
9 kind of between Lake Pontchartrain and
10 Lake Maurepas. I'm not sure if I'm
11 pronouncing that right. I guess you know
12 where I mean, and you can see to get from
13 St. John the Baptist Parish, you either
14 have to swim across Lake Maurepas to
15 Livingston Parish or you have to take I-55
16 and go into Tangipahoa Parish and then
17 pick up another road that would take you
18 back into District 6. So it's contiguous
19 by water but not by land.

20 BY MS. KHANNA:

21 Q. Mr. Cooper, how many majority black
22 districts do your illustrative plans contain?

23 A. Two.

24 Q. And when you say "majority black,"
25 how did you -- what method did you use to measure

1 whether your districts were majority black?

2 A. I used the any part black voting
3 age. Anything over 50 percent black voting age
4 is majority black.

5 Q. Were there any other metrics that
6 you examined when determining whether you had
7 created two majority black districts?

8 A. Yes. I also confirmed that by
9 looking at the registered voter file that the
10 State of Louisiana legislature released in the
11 summer of 2021 for redistricting purposes. And
12 there too, I was able to determine that both
13 Districts 2 and 5 in the illustrative plans have
14 over 50 percent black registered voters. That
15 confirms that it's clearly a situation where both
16 districts are over 50 percent.

17 And then I also looked at the census
18 bureau's special tabulation of citizen voting age
19 population and determined there again that using
20 the most conservative measure possible, which is
21 single race, non-Hispanic citizen voting age,
22 both citizens in all four illustrative plans are
23 over 50 percent black, so there's really no
24 argument. I'm sure the defendants will try and
25 claim otherwise, but these are two majority black

1 districts that were very easy to draw.

2 Q. Mr. Cooper, we discussed a number of
3 factors.

4 MS. KHANNA:

5 You can take that down. Thank you.

6 TRIAL TECH:

7 (Complied.)

8 BY MS. KHANNA:

9 Q. We discussed a number of factors
10 that went into the drawing of the illustrative
11 plans. Was any one factor a predominant factor
12 in drawing your illustrative maps?

13 A. No. I made a real effort to try to
14 balance all the factors.

15 Q. Tried to balance all the factors
16 concurrent?

17 A. Right, right.

18 Q. Could you have increased or
19 maximized the black voting population of one or
20 both of your majority coefficients if you wanted
21 to?

22 A. Sure. I could have split more
23 precincts, more municipalities, maybe more
24 parishes and increased it quite a bit probably.

25 Q. So you could have increased the

1 black composition of the black districts that
2 would have come at the expense of other
3 principles?

4 A. Yes. However, municipalities and
5 precincts in Louisiana take on some very odd
6 shapes.

7 Q. Mr. Cooper, you read a report
8 submitted by Tom Bryan on behalf of the state
9 defendant; is that right?

10 A. Yes.

11 Q. And Mr. Bryan suggests that your
12 illustrative maps segregate black neighborhoods
13 from white neighborhoods in various cities; do
14 you recall that from his report?

15 A. Yes.

16 Q. And that both cities included like
17 Baton Rouge and Alexandria, right?

18 A. Right.

19 MS. KHANNA:

20 I'm going to pull up an exhibit from
21 Mr. Bryan's report looking at state's
22 Exhibit 2, page 81. And, if you could,
23 just zoom in on the figure itself.

24 TRIAL TECH:

25 (Complied.)

1 BY MS. KHANNA:

2 Q. This is the City of Baton Rouge in
3 the enacted plan; and if you could just ignore
4 the district lines and numbers for the moment,
5 are black and white Louisianians uniformly
6 distributed within Baton Rouge?

7 A. No. The black population lives
8 predominantly in the northern part of Baton Rouge
9 and the white population lives in the southern
10 areas and eastern areas.

11 Q. So apart from the way districts are
12 drawn, there is also a segregation between the
13 two division populations within the city?

14 A. Right. There's been historical
15 housing segregation and that's been per graduated
16 into modern times. So yes, there's no question
17 that African-Americans are in a very compact area
18 in Baton Rouge and it's in the north.

19 Q. And that's -- the same patterns are
20 seen in other cities as well?

21 A. Oh, absolutely. Absolutely. You
22 see the same segregated housing pattern, and it's
23 clear that within those cities African-Americans
24 live in very compact, easily definable areas.

25 MS. KHANNA:

1 We can take down this exhibit.

2 TRIAL TECH:

3 (Complied.)

4 BY MS. KHANNA:

5 Q. Mr. Cooper, under the enacted plan,
6 what percentage of the state's black population
7 lives in a majority black district?

8 A. For the black population living in a
9 majority black district, approximately 31 percent
10 live in a majority black district.

11 Q. And that's listed in your report?

12 A. Right.

13 Q. Just for the court's reference,
14 paragraph 42 of your initial report, what about
15 the white population under the enacted plan, what
16 percentage of the white population lives in a
17 majority white district?

18 A. 91.5 percent.

19 Q. Under your illustrative maps,
20 approximately what percentage of the black
21 population would live in a majority black
22 district?

23 A. A little over half.

24 Q. And the other half would be --
25 what -- what racial composition would that be?

1 A. Well -- well, you -- well, about --
2 about half of the black population would live in
3 the majority black district.

4 Q. Okay. Thank you.

5 And approximately what percentage of
6 the white population would live in a majority
7 white district under any of your illustrative
8 plans?

9 A. About three, three-quarters of the
10 white population would live in a majority white
11 district. So this improves over the enacted plan
12 where we see 31 percent of the black population
13 and 91 percent of the white population living in
14 separate or majority white districts.

15 THE COURT:

16 Just a second, Counsel.

17 THE DEPUTY:

18 Why do we keep losing the counsel or
19 is there nothing up there?

20 THE COURT:

21 There's nothing up there.

22 BY MS. KHANNA:

23 Q. Just to make sure, while you
24 described the enacted plan has approximately
25 31 percent of the black population in a majority

1 black district and 9 -- over 90 percent of the
2 white population in a white district, your
3 illustrative plan would make up roughly half of
4 the population in the black majority district and
5 three-quarters of the white population in a
6 majority white district; did I hear that
7 correctly?

8 A. Right, right.

9 Q. So under your illustrative maps, is
10 it fair to say that more white people would live
11 in more racially diverse districts than they do
12 under the enacted map?

13 A. Absolutely.

14 Q. You were also asked to look at
15 various economic data; is that right?

16 A. Yes.

17 Q. And what was the purpose of that
18 analysis?

19 A. Just to determine whether or not the
20 black population and white populations have
21 disparate measures in terms of socioeconomic
22 well-being. It relates to factor five, which I
23 believe another witness may testify on, but I
24 just gathered together the underlying data from
25 the American Community Survey for the year 2019,

1 a one-year survey statewide that is the most
2 current data available from the census bureau.

3 Q. And what did you conclude from your
4 examination of that socioeconomic data?

5 A. Well, I prepared an exhibit with
6 charts to accompany the data set in my
7 declaration, and across almost every single
8 category, you could see that non-Hispanic whites
9 enjoy higher levels of socioeconomic well-being.

10 Q. And is that both statewide and at
11 the parish level?

12 A. Absolutely. I've got a link to a
13 set of files from the 2015, 2019 ACS. The link
14 is in my declaration on the last page; and if you
15 are interested in a particular parish, there's
16 data comparing African-Americans and whites and
17 also included a table -- a -- charts that show
18 the Latino population, and you can get that
19 information for any parish in Louisiana.
20 Guaranteed, you'll see the same patterns. And if
21 you are interested in a municipality, you can get
22 all municipalities in Louisiana; cities, towns
23 villages and even unincorporated places that have
24 at least 10 percent black population; and the
25 same pattern is there.

1 Q. And that pattern is that whites
2 outpace blacks --

3 A. Yes.

4 Q. -- under any socioeconomic map that
5 you looked at?

6 A. Yes.

7 Q. Thank you.

8 MS. KHANNA:

9 Your Honor, I have no further
10 questions at this time, but I would like
11 to move into evidence plaintiffs -- Galmon
12 plaintiffs' Exhibits 1, which includes
13 1-A, 1-B, 1-C, and Galmon plaintiffs'
14 Exhibit 29. Those are Mr. Cooper's
15 reports and all the attachments.

16 THE COURT:

17 Without objection, admitted.

18 MS. KHANNA:

19 Thank you, Your Honor.

20 THE COURT:

21 We still got about 20 minutes on the
22 record. Does the -- would the defense
23 like to come in and cross-examine
24 Mr. Cooper?

25 MR. LEWIS:

1 Yes, Your Honor.

2 THE COURT:

3 Counsel, if you don't mind, state
4 your name, please, sir.

5 CROSS-EXAMINATION BY MR. LEWIS:

6 Q. Good morning, Mr. Cooper. My name
7 is Patrick Lewis. I represent the legislative
8 intervenors in this case.

9 A. Good morning.

10 Q. Mr. Cooper, when were you hired to
11 work on this case?

12 A. Pardon?

13 Q. When were you hired to work on this
14 case?

15 A. I think in early March or February
16 of 2022.

17 Q. Okay. And did you spend the time
18 from -- at March or February until the date of
19 your initial report working on your illustrative
20 maps and other work in this case?

21 A. Yes. I was doing a lot of other
22 stuff; but yes, I was -- that would have been the
23 time period I would have worked on the
24 illustrative maps.

25 Q. Now, Mr. Cooper, I just want to make

1 sure I understand from your -- your direct
2 testimony. Would you agree with me that House
3 Bill 1 is functionally a carbon copy of the 2011
4 congressional plan for Louisiana?

5 A. I stated that in my declaration.
6 There are minor differences, but it's basically a
7 carbon copy, right.

8 Q. Okay. And I believe you testified
9 on direct examination that your assignment in
10 this case was to determine if Louisiana's black
11 population was sufficiently large geographically
12 compact, excuse me, to permit two majority black
13 districts; did I hear that right?

14 A. Yes.

15 Q. Okay. So is it fair to say that
16 your goal from the outset was to draw two
17 majority-minority districts from the get-go,
18 right?

19 A. No. It was not my goal, because
20 when developing a plan, you have to follow
21 traditional redistricting principles; so I -- I
22 did not have a goal to under all circumstances
23 create two majority black districts. I had to
24 balance out the population from peer-reviewed
25 redistricting principles.

1 Q. During your map drawing process, did
2 you ever draw a one majority-minority district?

3 A. I did not because I was specifically
4 asked to draw two by the plaintiffs.

5 Q. Okay. Now, Mr. Cooper, for each of
6 your four illustrative plans, isn't it true that
7 you don't draw a single district that's
8 52 percent or higher that measured with the any
9 part black metric?

10 A. That could be correct. I don't have
11 the numbers in front of me, but that could be
12 correct.

13 Q. Okay. But we could find those
14 numbers in Exhibits J-1, K-1 and L-1 to your
15 report; is that right?

16 A. I think so. I guess. I'm not
17 disagreeing with you. I -- I don't recall
18 drawing a district that was significantly above
19 the low 50s BVAP.

20 MR. LEWIS:

21 Okay. And, in fact, just to -- just
22 to illustrate the plan, if we could pull
23 up Exhibit GX-1B at page 37.

24 TRIAL TECH:

25 (Complied.)

1 MR. LEWIS:

2 There we go.

3 BY MR. LEWIS:

4 Q. I believe this is Exhibit K-1 to
5 your report. Do you recognize this, Mr. Cooper?

6 A. Yes.

7 Q. So this is your Illustrative Plan 2,
8 correct?

9 A. It is.

10 Q. Okay. And so your District 2 has
11 50.65 percent BVAP; is that right?

12 A. That's correct.

13 Q. And District 5 is 50.04 percent,
14 right?

15 A. Right.

16 Q. So, Mr. Cooper, what made you decide
17 to stop right there at that 50.04 percent at
18 District 5?

19 A. Zero deviation. I was attempting to
20 balance out the population so that it was
21 perfect. I've been in some cases where the
22 parties on the other side have insisted that no,
23 it's got to be zero deviation or you haven't
24 prepared an acceptable plan for the court. So
25 yeah, when I hit zero, I stopped because it was

1 still above 50 percent BVAP.

2 Q. Okay. Now, you testified on direct
3 examination, Mr. Cooper, that for your fourth
4 illustrative plan, that rebuttal report, that you
5 no longer attempted to reach perfect population
6 equality; is that right?

7 A. That's correct.

8 MR. LEWIS:

9 Okay. And if we can go to Exhibit
10 GX-29 at page 43.

11 TRIAL TECH:

12 (Complied.)

13 BY MR. LEWIS:

14 Q. Okay. Mr. Cooper, this is Exhibit
15 B-1 to your rebuttal. Do you recognize this?

16 A. Yes.

17 Q. Great. And would you agree with me
18 that District 2 in your Illustrative Plan 4 has a
19 BVAP of 50.06 percent?

20 A. Yes.

21 Q. Okay. So what made you stop at
22 50.06 percent for District 2 in this plan?

23 A. Well, again, I'm not sure I stopped
24 at 50.06 percent. That's where it ended up. I
25 was simply focused on trying to put together a

1 good combination of precincts so that the overall
2 deviation was in the same range as the enacted
3 plan, but I didn't split any VTDs where the
4 enacted plan splits one. So the deviation in
5 this plan is slightly higher than the deviation
6 in the enacted plan, if that matters.

7 Q. Sure. But I believe you testified
8 on direct that you could have drawn higher
9 than -- than a bare 50 percent BVAP majority,
10 correct?

11 A. Oh, I'm confident you could by
12 splitting more VTDs.

13 Q. Okay. Now, Mr. Cooper, did you
14 conduct an analysis to determine if your 50
15 percent BVAP districts in your four illustrative
16 plans would be likely to elect black preferred
17 candidates in Congress?

18 A. No. I did not handle panels two and
19 three. There's another expert in this case.
20 Dr. Palmer who will be testifying on that point.

21 Q. Okay. I'd like to ask you a few
22 questions now about your CD5.

23 MR. LEWIS:

24 So for one example, let's pull up
25 your Illustrative Plan 2, which is GX-1 at

1 page 27.

2 TRIAL TECH:

3 (Complied.)

4 MR. LEWIS:

5 There we go. Sorry about that.

6 It's actually page GX-28. I apologize for
7 that.

8 BY MR. LEWIS:

9 Q. So, Mr. Cooper, you would agree that
10 you drew East Baton Rouge Parish into all four of
11 your illustrative plans District 5, correct?

12 A. That is true.

13 Q. Okay. Would you further agree with
14 me that all four of your plans you drew in the
15 parishes of East Carroll, West Carroll, Madison,
16 Tensas, Concordia and portions of Ouachita,
17 correct?

18 A. Correct.

19 Q. Okay. And those parishes that I
20 just mentioned, those are up in that delta
21 region; is that right?

22 A. Right.

23 MR. LEWIS:

24 Okay. So if we could now turn to
25 Figure 3 on page 8 of your report, which

1 should be page GX-9, GX-1-9. Excuse me.

2 TRIAL TECH:

3 (Complied.)

4 BY MR. LEWIS:

5 Q. Okay. Now, Mr. Cooper, this figure
6 you drew here, it's shaded to show the percentage
7 of BVAP in each of Louisiana's 64 parishes; is
8 that right?

9 A. Yes.

10 Q. All right. Now, those delta
11 parishes have pretty substantially high BVAP;
12 isn't that correct, as a percentage?

13 A. Well, East Carroll and -- and
14 Madison are clearly super majority black. Of
15 course, they are not heavily populated, and then
16 some of the others are in the 40 to 60 percent
17 black category, right.

18 MR. LEWIS:

19 Okay. So just to put some numbers
20 on it, I'd like to turn to Exhibit C-1 to
21 your report, which is Exhibit GX-1A at
22 page 18.

23 TRIAL TECH:

24 (Complied.)

25 BY MR. LEWIS:

1 Q. And, Mr. Cooper, this table reports,
2 among many other variables, the number of any
3 part black population in each of Louisiana's 64
4 parishes, right?

5 A. Yes.

6 Q. All right. Okay. So just to go
7 through very quickly just a few of these, so
8 Concordia has any part black population of 7,725,
9 right?

10 A. Yeah. Correct.

11 Q. All right. East Carroll Parish,
12 5,272, correct?

13 A. Correct.

14 Q. And then Ouachita has 61,217, right?

15 A. I'm not on --

16 Q. Oh. I need to go to the next page.

17 A. I need more.

18 Q. There we go. 61,217, correct?

19 A. Yes.

20 Q. Okay. Now, the ideal population
21 size for a Louisiana congressional district is
22 776,293. Does that sound right?

23 A. That sounds right. I guess I can
24 confirm it. Yes, that's right.

25 Q. Okay. Great. So would you agree

1 then that in order to draw a second
2 majority-minority district in Louisiana, that
3 other than District 2 and District 5, that you
4 needed to include substantial black population
5 from the delta parishes?

6 A. That -- that would be true. I
7 believe that you would have to include part of
8 the delta area in at least part of the delta
9 area. In District 5, it would be majority black.

10 Q. And, in fact, none of the remedial
11 plans or illustrative plans submitted in this
12 case drew a second MMD without including those
13 parishes; is that right?

14 A. That is correct.

15 Q. Did you try to draw a remedial plan
16 that had a second MMD without going up into the
17 delta?

18 MS. KHANNA:

19 Objection, Your Honor. Under
20 Rule 26, we are not allowed to ask about
21 draft reports and other things that are
22 not actually in the expert report.

23 THE COURT:

24 Counsel?

25 MR. LEWIS:

1 I'm asking him -- he's asked to
2 draw -- I'm asking him if he made an
3 attempt. I'm not asking about his draft
4 report did he draw it or not.

5 THE COURT:

6 Well, restate your question.

7 BY MR. LEWIS:

8 Q. Okay. Try this again. Have you
9 drawn -- have you ever drawn --

10 All right. Let's try it this way.
11 None of your reports include a remedial plan that
12 has a second MMD that did not go into the delta;
13 is that right?

14 A. I have not prepared remedial plans.
15 These are simply illustrative plans to --

16 Q. Excuse me.

17 A. -- demonstrate the principles when
18 it's met.

19 Q. But let me restate that. An
20 illustrative plan. None of your illustrative
21 plans contain two MMD districts that go up into
22 the delta, right?

23 A. That's correct.

24 Q. And, as you sit here today, are you
25 aware of a way that you could draw a second

1 majority-minority district without going into the
2 delta?

3 A. I -- I am not. I've never tried to
4 do that.

5 Q. Okay. All right. Now, I believe
6 you've spoken on direct examination about trying
7 to protect core-based statistical areas as a
8 community of interest; is that fair?

9 A. They represent a community of
10 interest, yes, sir.

11 Q. Okay. And did you try to protect
12 those communities of interest in your -- in your
13 plans?

14 A. Well, I believe I did. I was aware
15 of the lines. It's impossible to avoid splitting
16 those metropolitan statistical areas and
17 micropolitan statistical areas because they are
18 comprised generally of more than one parish. So
19 there are splits, but the end result of
20 Illustrative Plans 1, 2, 3 and 4 are that my
21 plans involved fewer splits of core-based
22 statistical areas in the enacted plan.

23 Q. Now, Mr. Cooper, is it fair to say
24 that there is no MSA metropolitan for a
25 core-based statistical area that includes both

1 East Baton Rouge and parishes of the delta such
2 as East Carroll, Morehouse or Ouachita?

3 A. I'd have to look at the map. I
4 don't believe that Baton Rouge metropolitan area
5 would extend into the delta area.

6 Q. Okay. Now, one of the metropolitan
7 statistical areas that you considered was the
8 Monroe metropolitan statistical area; is that
9 correct?

10 A. That would have been one that would
11 have been split.

12 Q. Okay. That's what I mean, split.
13 All right. And, in fact, you split over
14 40 percent of its population to create
15 District 5; is that not correct?

16 A. I'd have to look at the table. What
17 table are you looking at?

18 Q. Sure. Sure. Let's do that.

19 MR. LEWIS:

20 If we could go to exhibit GX-1B at
21 page 35. This looks right.

22 TRIAL TECH:

23 (Complied.)

24 THE COURT:

25 I'm having a hard time seeing it.

1 MR. LEWIS:

2 Yeah. If you could zoom in for us.

3 TRIAL TECH:

4 (Complied.)

5 THE WITNESS:

6 I could probably find it now. It's

7 GX-1B.

8 BY MR. LEWIS:

9 Q. There. Does that help?

10 A. Yeah.

11 Q. If I'm reading this correctly, maybe

12 I'm not, but it looks to me like you've got for

13 District 4, Monroe, Louisiana, 86,424 people of

14 that MSA or CBSA, excuse me, were put into

15 District 4, correct?

16 A. That is correct.

17 Q. Okay. And for District 5 you had

18 120,608 people, right?

19 A. Right.

20 Q. Okay. So I think I -- actually, my

21 question to you, I may have had that number

22 backwards. It looks like about 58 percent of the

23 Monroe MSA or, excuse me, CBSA was put in and

24 assigned to District 5, correct?

25 A. Correct.

1 Q. And do you -- would you agree with
2 me that in the remainder of your plans that that
3 split would be similar?

4 A. Probably is similar.

5 Q. All right.

6 A. I would agree with that.

7 Q. Okay. So I'd like now to turn to
8 the report of Tom Bryan. I believe you testified
9 about that briefly on direct examination.

10 A. Uh-huh (affirmatively).

11 MR. LEWIS:

12 And specifically page 46, so State 2
13 at page 46, please.

14 TRIAL TECH:

15 (Complied.)

16 BY MR. LEWIS:

17 Q. Okay. Have you seen this chart
18 before?

19 A. I have seen the chart. I have not
20 looked at it in great detail.

21 Q. Sure. Okay. And do you see for
22 East Baton Rouge where he's identifying that you
23 divided a certain population between Districts 5
24 and 6 in your Illustrative Plan 2?

25 A. Yes.

1 Q. Okay. Do you have any basis to
2 dispute his calculation that you assigned
3 72.78 percent of the black population of East
4 Baton Rouge Parish into District 5?

5 A. Oh, I have not double checked his
6 figures, but it is not unlikely. It is likely
7 that that's correct.

8 Q. All right. And then if we could
9 look down at Ouachita Parish, I believe Ouachita
10 is in the Monroe MSA, right?

11 A. It is.

12 Q. Okay. And in your review, did you
13 have any basis to dispute his calculation when
14 you divided Ouachita Parish between Districts 4
15 and 5 that you assigned 88.45 percent of
16 Ouachita's black population into District 5?

17 A. Again, I cannot confirm his numbers,
18 but I have no reason to think that they could be
19 correct.

20 Q. Okay.

21 THE COURT:

22 Counsel, I apologize for
23 interrupting you in cross, but we are
24 going to have to take a break until 1:15,
25 so we will be in recess until 1:15 p.m.

1 (A lunch recess was taken at 11:45 a.m.)

2 THE COURT:

3 Mr. Lewis, your witness.

4 BY MR. LEWIS:

5 Q. Good afternoon, Mr. Cooper.

6 A. Good to see you again.

7 Q. So before the break, we were talking
8 briefly about some of the manners in which, you
9 know, you split some of the parishes between
10 Congressional District 5 and other districts. Do
11 you recall that testimony?

12 A. I do.

13 Q. Okay. Good. Is it fair to say that
14 through those moves that you moved a fair amount
15 of BVAP into CD5 through those splits?

16 A. Well, the splits do follow some
17 areas that are segregated. I did a housing
18 segregation going back decades, so the end result
19 is I have put majority black neighborhoods in the
20 second majority black district, not exclusively,
21 but certainly that's -- that's the case.

22 Q. Okay. And is that one of the
23 main -- you know, the fact that those are black
24 majority neighborhoods, is that one of the big
25 drivers why you assigned those to CD5?

1 A. Not necessarily. I have to go back
2 and carefully review the map and my
3 decision-making process at the time, which often
4 is not something that I would record. But the
5 point is that these cities have very clearly
6 defined neighborhoods that are overwhelmingly
7 black in some cases, and that's just the way it
8 is. They are compact areas and easy to join to
9 other compact majority black populations to
10 comprise the second majority black district.

11 Q. Okay. I had one question for you
12 about your testimony about the growth of the
13 population changes in Louisiana, so if you can go
14 to page 5 of your report, GX-1?

15 A. (Complied.)

16 Q. And my question for you relates to
17 Figure 1. And I believe, you know, you offered
18 testimony that since between 2000 and 2020 that
19 the share of non-Hispanic white population
20 decreased in the State of Louisiana; is that
21 right?

22 A. I believe I was talking about
23 between 1990 and 2020. It may have -- I may have
24 referenced the white population in 1990 as being
25 65.8 percent roughly, and as of the 2020 census,

1 it's 55.8 percent roughly.

2 Q. Okay. And is it fair to say that --
3 you know, that there's been a substantial growth
4 in the Latino population in the State of
5 Louisiana since 1990?

6 A. That is fair to say.

7 Q. And that growth would be reflected
8 on Figure 1 --

9 A. Right. Correct.

10 Q. -- from about 2 percent to 7 percent
11 roughly in the state's population?

12 A. Roughly speaking, correct.

13 Q. All right. So, Mr. Cooper, are you
14 aware of any time in the 20th or 21st century
15 when a Louisiana congressional plan combined East
16 Baton Rouge Parish with East Carroll Parish?

17 A. In the 20th century?

18 Q. Yes, sir.

19 A. I actually have maps. I don't think
20 that the 2001 plan did. It's in my report, but
21 allow me to double check. Get my hand on -- yes.
22 The 2001, which was actually a seven district
23 plan, included Iberville in District 5, but it
24 did not include Baton Rouge.

25 Q. Okay. So, and then in the prior,

1 you know, from 1990 to 2000 or, no, 1900 to 2000,
2 are you aware of a district that put East
3 Baton Rouge Parish and East Carroll Parish in the
4 same congressional district?

5 A. I have not reviewed all the maps, so
6 I really -- I really could not -- could not say
7 with any certainty at all --

8 Q. Okay.

9 A. -- one way or the other.

10 Q. All right. Were you familiar with
11 the Hays litigation in Louisiana in 1990?

12 A. I'm aware of it. I have no -- no
13 involvement at all on any level.

14 Q. Okay.

15 A. And actually, I have some maps
16 showing the majority black districts that were
17 drawn during that 1990 to 2000 timeframe.

18 Q. So just to illustrate one of them,
19 if we could just go to -- and I'm only using this
20 for illustrative purposes, but to Dr. Sadow's
21 report, Exhibit SOS_3 at page 6?

22 A. I don't have his report. I have
23 these maps in my declaration. I just have to put
24 my hands on them. I actually prefer to use my
25 maps. They have a little better detail. So we

1 are looking at the original map, which would be
2 Exhibit F-1 in my declaration.

3 Q. Okay. So that's GX-01 at looks like
4 page 38?

5 A. GX-1A.

6 Q. At 38?

7 A. Right.

8 Q. All right.

9 MR. LEWIS:

10 Morris, can you pull it up?

11 TRIAL TECH:

12 (Complied.)

13 BY MR. LEWIS:

14 Q. Okay. So this --

15 A. So that map actually did include
16 East Baton Rouge and District 4.

17 Q. Okay. And that map was struck down
18 as a racial journey member, was it not?

19 A. Yes. I think that map has the
20 lowest Polsby-Popper score I think I've seen in
21 my life at 0.1, so it's not surprising, but I do
22 not know the specifics of the ruling in terms of
23 why it was -- why it was rejected by the court.

24 Q. Okay. And this particular plan also
25 included portions of Ouachita Parish combined

1 with East Baton Rouge; is that right?

2 A. It did apparently, right.

3 Q. Okay. Okay. So, Mr. Cooper, I'd
4 like now turn to some of that -- some of the
5 sociological data that you pulled in this case.

6 My understanding of your report is
7 that you reported on certain economic,
8 educational and other, I'll just say,
9 sociological statistics from Louisiana, both at
10 the state level and at the local level, in East
11 Baton Rouge Parish and Orleans Parish; is that
12 right?

13 A. I do have charts that can be
14 accessed from the 2015, 2019 five-year surveys
15 for East Baton Rouge and all parishes in
16 Louisiana.

17 Q. Okay. And I believe you testified
18 on direct examination that you looked at these
19 statistics to help determine if -- if there were
20 differences between the black population and the
21 white population of Louisiana on those particular
22 factors; is that right?

23 A. Well, I didn't look at all those
24 charts. They were batch produced. I've looked
25 at I think in December of 2020 or maybe it would

1 have been -- I think it would have been December
2 of 2020. I was recently involved in a voting
3 case in Louisiana and filed a declaration where I
4 produced charts from I think the 2015, 2019 ACS
5 or 2014 ACS based on East Baton Rouge. That
6 was -- that was one of the charts that I prepared
7 for that case.

8 Q. And for this particular case, your
9 report doesn't contain any analysis comparing the
10 economic, educational or sort of other
11 sociological differences between the black
12 community of East Baton Rouge Parish and the
13 black community of the delta parishes; isn't that
14 right?

15 A. Well, you could look at those --
16 those similarities. I'm not saying that folks
17 who live in East Carroll Parish where I admit
18 where I've seen that people are in dire economic
19 straights, at least as of the mid 1990s, I'm not
20 saying that those folks necessarily are on the
21 same income level as a typical African-American
22 in Baton Rouge; but I think you've heard very
23 clear testimony from Mr. McClanahan, representing
24 and the president of the state NAACP -- and he's
25 right -- in great detail how the people in the

1 delta area have a great deal of connections to
2 East Baton Rouge. So there's nothing at all
3 unusual about including East Carroll Parish and
4 East Baton Rouge in the same district.

5 Q. Okay. But, in fact, would you agree
6 with me that there are, in fact, significant
7 differences both -- you know, just two examples:
8 You know, median black household income and
9 educational attainment levels between the black
10 community of East Baton Rouge and the black
11 community of East Carroll Parish?

12 A. Well, I think you could also look at
13 the white community in East Carroll Parish and
14 the white community in East Baton Rouge and you
15 can also see there are differences.

16 Q. So the answer to my question is yes,
17 sir?

18 A. My answer is is that you can do
19 that, but it really -- it does not mean much of
20 anything because the -- the key thing to remember
21 in this lawsuit is that African-Americans have a
22 shared interest in a history that they have
23 experienced in Louisiana, and only Mr. McClanahan
24 and other plaintiffs who will follow him can
25 describe that because I'm not black and I didn't

1 grow up in Louisiana.

2 MR. LEWIS:

3 Your Honor, I'd like to move to
4 strike that answer. It goes beyond his --
5 his expertise as an expert in census data
6 and the sociological statistics and stuff.
7 He's speaking about -- he's going into
8 specific factors he didn't get asked for.

9 THE COURT:

10 Denied. Ask the next question.

11 MR. LEWIS:

12 So I'd like to review with you just
13 a few of those numbers. So if we could
14 turn to Exhibit GX-1C at page 88. And,
15 Mr. Cooper, I'll represent this comes out
16 of Exhibit O to your report.

17 TRIAL TECH:

18 (Complied.)

19 THE WITNESS:

20 Yes.

21 BY MR. LEWIS:

22 Q. Okay. All right. Is it fair to say
23 from this report, sir, that approximately
24 50.6 percent of black residents have either some
25 college, an associate's degree or higher level of

1 education?

2 A. This would indicate that that
3 30.8 percent of the black population has some
4 college with an associate's degree as compared to
5 whites in that category, which would be
6 27.2 percent. Although, I remind you that even
7 though there's a gap there, you see that if you
8 look at bachelor's degrees, blacks have
9 19.8 percent of the population under 25 with a
10 bachelor degree versus 31.6 percent. So in some
11 ways, this second-to-the-right column is just a
12 reflection of the big disparity among those who
13 are actually holding -- hold four-year degrees,
14 so there's nothing unusual about this chart.

15 Q. Okay. So if I -- if I just add 30.8
16 and 19.8, I get 50.6. Is it then fair for me to
17 say that 50.6 percent of black residents in the
18 Baton Rouge metropolitan area have some college
19 or greater educational attainment?

20 A. I did not --

21 THE COURT:

22 No.

23 THE WITNESS:

24 I did not add those up myself, but

25 I'll take your word for it, but -- but

1 then I'll remind you that 50 -- 58 percent
2 of -- of whites have some college or a
3 bachelor's degree.

4 THE COURT:

5 And would not the 19.8 be a part of
6 the 30.85 not in addition to? Am I the
7 only one that sees it that way? If -- if
8 the 19. -- I'm sorry, the 30.8, which is
9 some college or associate's degree, then
10 if you have a bachelor's, that is a subset
11 of that, not in addition to. Am I
12 incorrect, Mr. Lewis?

13 MR. LEWIS:

14 I guess I could put that question to
15 the witness.

16 THE COURT:

17 Okay. And I'm sorry.

18 THE WITNESS:

19 And actually --

20 THE COURT:

21 You ask the question. I don't want
22 to -- I don't want to take over your case.
23 I just want to make sure that I
24 understand.

25 MR. LEWIS:

1 Yes, Your Honor.

2 THE WITNESS:

3 Yeah. And, I mean, in this chart,
4 the -- the persons in this category, some
5 college or associate's degree, would be
6 individuals who did not complete the
7 four-year degree, so it's -- it's not
8 really a subset.

9 THE COURT:

10 Okay.

11 THE WITNESS:

12 It's those who went to college maybe
13 for a couple of years but didn't graduate.

14 THE COURT:

15 Okay. Thank you.

16 THE WITNESS:

17 Or graduated with an associate's
18 degree as opposed to four years or higher.

19 MR. LEWIS:

20 Okay. Thank you.

21 If we could turn to page 97 of this
22 document.

23 TRIAL TECH:

24 (Complied.)

25 BY MR. LEWIS:

1 Q. And, Mr. Cooper, would you agree
2 with me that black median household income was
3 reported in this chart for east -- you know, for
4 Baton Rouge area is \$42,643?

5 A. Yes.

6 MR. LEWIS:

7 All right. If we could then turn to
8 page 102.

9 TRIAL TECH:

10 (Complied.)

11 BY MR. LEWIS:

12 Q. And here, Mr. Cooper, would you
13 agree with me that 16.6 percent of black family
14 households in Baton Rouge were below the poverty
15 level in the past 12 months?

16 A. Yes. Except this is Baton Rouge
17 metro area, so I'd -- I'd have to go back and --

18 Q. I understand.

19 A. And it's not -- it's not just the
20 City of Baton Rouge.

21 MR. LEWIS:

22 Okay. So I would like to take a
23 very -- just a very quick look at a couple
24 of those figures you've got on your
25 website, so I'm going to go with -- we

1 will start with East Carroll Parish, and
2 specifically we are going to take -- you
3 can start with page 22.

4 TRIAL TECH:

5 (Complied.)

6 BY MR. LEWIS:

7 Q. First of all, do you recognize this
8 document?

9 A. Yes.

10 MR. LEWIS:

11 Okay. And if we could go to
12 page 22?

13 TRIAL TECH:

14 (Complied.)

15 MR. LEWIS:

16 Yes.

17 BY MR. LEWIS:

18 Q. So would you agree with me then that
19 East Carroll Parish, based on this ACS survey,
20 that 58 percent of black families in East Carroll
21 Parish were below poverty level in the past
22 12 months?

23 A. During that survey period, which
24 went from 2015 to 2019, so it would be a survey
25 at that point in 2017.

1 MR. LEWIS:

2 Okay. So if we could go to page 24?

3 TRIAL TECH:

4 (Complied.)

5 BY MR. LEWIS:

6 Q. All right. And -- and would you
7 agree with me this is reporting that the median
8 household income for black residents of East
9 Carroll Parish was \$14,800 per year within that
10 survey period?

11 A. Yes.

12 MR. LEWIS:

13 All right. If we turn to page --
14 page 18.

15 TRIAL TECH:

16 (Complied.)

17 THE WITNESS:

18 By the way, I ran these charts off a
19 nationwide basis for various uses and so
20 I'm including the Latino population as
21 part of that batch production that went
22 into all like 3,000 counties and I don't
23 know how many municipalities, and the idea
24 was that any place that was at least -- at
25 least had 10 percent black population or

1 10 percent Latino population would be
2 included. I don't have the number
3 percentage of the population in East
4 Carroll Parish that is Latino, but it's a
5 very small number, so you have to take
6 some of these Latino numbers off.

7 BY MR. LEWIS:

8 Q. And, Mr. Cooper, we are
9 unfortunately on a clock, so I just ask that you
10 please confine your answers to the question asked
11 and, if you want to follow up, your counsel can
12 inquire.

13 A. I'm sorry. I didn't know you had a
14 clock.

15 Q. Thank you. So for here again, if
16 we -- if we just sum up this is educational
17 attainment, East Carroll Parish, can you just sum
18 up that 16.8 and 5.4, we get approximately, you
19 know, just slightly -- just slightly over
20 22 percent of black residents have either some
21 college or greater; is that fair?

22 A. Fine.

23 Q. Okay. All right. Same exercise
24 very quickly for Ouachita Parish, which would be
25 Exhibit 2, okay. Once again, you recognize this

1 is one of your charts?

2 A. Yes.

3 Q. Okay. Perfect.

4 MR. LEWIS:

5 All right. If we could go to
6 page 26.

7 TRIAL TECH:

8 (Complied.)

9 BY MR. LEWIS:

10 Q. All right. And this is again that
11 daily household below the poverty line for the
12 past 12 months for Ouachita. The report says
13 38.7 percent of black family households were
14 below the poverty level in that time period,
15 correct?

16 A. In the parish, yes.

17 Q. Okay. Perfect.

18 MR. LEWIS:

19 All right. If we could go to
20 page 32.

21 TRIAL TECH:

22 (Complied.)

23 BY MR. LEWIS:

24 Q. All right. And this -- this sheet
25 is reporting median household income in Ouachita

1 Parish for black households is \$25,644, correct?

2 A. Correct.

3 MR. LEWIS:

4 All right. And then page 22.

5 TRIAL TECH:

6 (Complied.)

7 BY MR. LEWIS:

8 Q. All right. And I won't ask you to
9 add these numbers other than, you know, I added
10 them up, I got about 47.7 percent as educational
11 attainment of black residents in Ouachita Parish
12 black population or greater. Does that look
13 right?

14 A. That looks about right, yes.

15 Q. Thank you. I'd like to turn you --
16 you indicated that in your rebuttal report, you
17 said race did not dominant in any of your
18 illustrative plans; and you've also testified
19 that one of the criteria you attempted to follow
20 was the avoidance of minority voting dilution.
21 Do you recall that testimony?

22 A. Well, along with several other
23 redistricting principles.

24 Q. How does one avoid minority voting
25 dilution in drawing your plan?

1 A. Well, if you have a jurisdiction
2 where it is a significant black population and
3 there is no majority black district, and then if
4 you can create that majority black district while
5 following other traditional redistricting
6 principles, then you've avoided minority vote
7 dilution.

8 Q. And is there a specific target black
9 voting age population that you would look to to
10 assure you were not diluting minority votes?

11 A. No. I -- I am not aiming for a
12 target, but I am aware of the Garner v.
13 Strickland rule that basically acknowledges that
14 50 percent plus 1 is the voting age majority.

15 Q. All right. Now, when you were
16 drawing these districts, you used the map, right?

17 A. I did.

18 Q. And did your computer have the
19 racial breakdown of the voting tabulation
20 districts in Louisiana at the time you drew them?

21 A. Yes. It had the 2020 census for the
22 voting tabulation districts.

23 Q. Okay. And did you ever consult that
24 data while you were drawing?

25 A. I was aware of the data, right.

1 Q. All right. So is the answer to that
2 question yes?

3 A. Yes. To the extent that I -- I knew
4 that parts of Baton Rouge, specifically north
5 Baton Rouge are significantly black, parts of
6 Alexandria are significantly black, that can be
7 obvious when working with Maptitude.

8 Q. Sure. Would you consider race an
9 important factor that you consider when drawing
10 your illustrative plan districts?

11 A. It is one of several redistricting
12 principles. I try to balance them all.

13 Q. But certainly race would have been
14 an important factor that you considered, right?

15 A. It was one of several.

16 Q. Okay. Now, you talked about, you
17 know, looking at certain communities of interest,
18 and I know you mentioned core-based statistics
19 where your report doesn't document any other
20 types of communities of interest that you
21 attempted to preserve, correct?

22 A. Well, I -- in the first part of my
23 declaration, I identified Acadiana and also
24 identified eight parishes that are considered the
25 Acadiana park land; and, as I testified to

1 earlier today, I felt like I should at least try
2 to keep that area relatively intact when I drew
3 Illustrative Plan 2 and I did so. It's -- it's
4 over 80 percent in line with the percentage of
5 Acadiana that is in District 3 under the enacted
6 plan.

7 Q. Sure.

8 MR. LEWIS:

9 All right. Well, let's pull up --
10 I'd like to go back to your first
11 illustrative plan. It's in your report at
12 page 25, Figure 12.

13 TRIAL TECH:

14 (Complied.)

15 MR. LEWIS:

16 Yeah. If you could zoom in on the
17 figure.

18 BY MR. LEWIS:

19 Q. So if -- you mentioned that you
20 looked at joining -- or Joint Rule 21 from the
21 legislature. It's a set of legislative goals
22 that you considered when drawing your plans,
23 right?

24 A. Right.

25 Q. Now, if the legislature identified a

1 particular goal in drawing its enacted plan, for
2 example, pairing a military installation in
3 Vernon Parish, which I believe is Fort Polk, with
4 another military installation near Shreveport,
5 Barksdale Air Force Base, would your illustrative
6 plans have taken those goals into account?

7 A. I did not see anything that
8 indicated those military installations should be
9 joined. Perhaps if I have another opportunity, I
10 will take that into consideration.

11 Q. Okay. And, in fact, in this plan
12 here, Vernon Parish and Shreveport are not drawn
13 under the same district, right?

14 A. Which plan?

15 Q. The one on the screen, Illustrative
16 Plan 1.

17 A. That is true. In this plan, Vernon
18 Parish is in District 3.

19 Q. And would you agree with me that
20 there's no universal definition of community of
21 interest?

22 A. Yes.

23 Q. Okay.

24 MR. LEWIS:

25 Your Honor, I have no further

1 questions.

2 THE COURT:

3 Any redirect?

4 MS. KHANNA:

5 Thank you, Your Honor. Very
6 briefly.

7 REDIRECT EXAMINATION BY MS. KHANNA:

8 Q. Mr. Cooper, you were asked about the
9 extent to which you tried to preserve other
10 communities of interest other than the core-based
11 statistical areas you discussed in your report?

12 A. Yes.

13 Q. Do you consider parishes to be
14 communities of interest in Louisiana?

15 A. They can be.

16 Q. And how about municipalities?

17 A. They can be.

18 Q. Did you make those preserve
19 political subdivision boundaries?

20 A. Yes, I did.

21 Q. Can you tell us again what you were
22 asked to do by counsel when it comes to the
23 Gingles 1 analysis in this case?

24 A. Well, I was asked to prepare plans
25 that adhered to traditional redistricting

1 principles and that would possibly demonstrate
2 the second majority black district could be drawn
3 in Louisiana. I was not told that I had to
4 produce such a plan, but in the process of
5 drawing districts, it was clear to me that it is,
6 in fact, relatively easy and relatively obvious
7 that one can do so and I don't see how anyone
8 could think otherwise.

9 Q. You were asked to determine whether
10 Gingles 1 could be satisfied--

11 A. Exactly. That's --

12 Q. -- is that right?

13 A. That's the point.

14 Q. And part of that question was
15 determine whether the black population in
16 Louisiana is sufficiently numerous to form an
17 additional black majority district; is that
18 correct?

19 A. Yes.

20 Q. The second part of that analysis is
21 to determine whether the black population is
22 sufficiently compact to comprise a
23 majority-minority district; is that right?

24 A. Yes.

25 Q. And in answering that question,

1 whether the black population is sufficiently
2 numerous and geographically compact to form a
3 second majority black district in the -- in the
4 congressional map, what was your answer to that
5 question?

6 A. Yes.

7 Q. Have you been asked that question by
8 other counsel in other Section 2 cases, other
9 plaintiffs' counsel in other Section 2 cases,
10 whether Gingles 1 is satisfied in a particular
11 location?

12 A. Yes. I don't think I can ever
13 recall a Gingles 1 Section 2 case where that
14 question was not answered affirmatively. I've
15 probably in some instances told people that you
16 just cannot draw a district because it doesn't
17 adhere to other redistricting principles, but
18 certainly have done that.

19 Q. Thank you. That anticipated my
20 question. Just to clarify, you've been asked by
21 other counsel in other cases whether it's
22 possible to draw a majority black district
23 consistent with Gingles 1 in other places?

24 A. Yes.

25 Q. And --

1 A. And I told some folks no, can't do.

2 Can't do it.

3 Q. So when you feel you can't do it or
4 whether you determined you can't do it consistent
5 with redistricting principles, you've told
6 counsel the answer to the question is no?

7 A. No. Well, that's -- that's exactly
8 the case and I would never have testified in
9 court in the 1990s supporting the plan that was
10 drawn that created the second majority black
11 district that we just reviewed in Exhibit F-1 or
12 whatever from -- from the early '90s. I mean,
13 that's really a crazy looking plan. There may
14 have been better ways to draw it. Those were
15 days when GIS software was not necessarily
16 available and it could have been developed by
17 people working off of paper maps at the block
18 level and that was the result, and perhaps a
19 better plan could have been drawn.

20 Q. But at the end of the day, whether
21 it was 30 years ago or in recent times, if
22 counsel were to ask you whether you could draw an
23 additional majority black district consistent
24 with traditional redistricting principles, your
25 answer would be yes or no, depending on the

1 demographics and the geographic makeup of the
2 map; is that correct?

3 A. Exactly.

4 MS. KHANNA:

5 Thank you. That's all I have.

6 THE COURT:

7 Thank you. Next witness?

8 MS. SADASIVAN:

9 Your Honor, Kathryn Sadasivan for
10 the NAACP Legal Defense Fund. The
11 Robinson plaintiffs will next call
12 Anthony Fairfax.

13 ANTHONY FAIRFAX,
14 after having first been duly sworn by the
15 above-mentioned court reporter, did testify as
16 follows:

17 MS. SADASIVAN:

18 Your Honor, would you like us to
19 stipulate to the proposed expertise that
20 we are proffering?

21 THE COURT:

22 What are -- what are you tendering
23 this witness in?

24 MS. SADASIVAN:

25 We are tendering Mr. Fairfax an

1 expert witness in demography,
2 redistricting and the census data.

3 THE COURT:

4 All right. Is there a stipulation
5 as to the tender?

6 MR. STRACH:

7 No objection, Your Honor.

8 THE COURT:

9 Do you want to offer his CV into
10 evidence?

11 MS. SADASIVAN:

12 Yes, Your Honor. It's PR-15, his --
13 his report, which includes his full CV.

14 THE COURT:

15 Okay. Well, the report is hearsay,
16 so unless you don't object to the report
17 coming in, sir? I asked if she wanted to
18 offer his CV. Since there's no objection
19 as to his expertise, she says his CV is
20 part of the report. My comment is report
21 is hearsay, unless you want to let it in.

22 MR. STRACH:

23 Your Honor, I believe we have a
24 stipulation of the witness testifying. We
25 won't object to the hearsay.

1 THE COURT:

2 Okay. That's fine then, so what is
3 your exhibit number?

4 MS. SADASIVAN:

5 PR-15.

6 THE COURT:

7 All right. Admitted.

8 MS. SADASIVAN:

9 Thank you, Your Honor.

10 DIRECT EXAMINATION BY MS. SADASIVAN:

11 Q. Good afternoon, Mr. Fairfax.

12 A. Good afternoon.

13 Q. Can you state your full name for the
14 record?

15 A. Yes. Anthony Fairfax,

16 A-N-T-H-O-N-Y, F-A-I-R-F-A-X.

17 Q. And are you here today, Mr. Fairfax,
18 to testify as an expert in Robinson versus
19 Galmon?

20 A. Yes.

21 MS. SADASIVAN:

22 And, Your Honor, can I approach and
23 hand the witness the exhibit?

24 THE COURT:

25 You may.

1 THE WITNESS:

2 Your Honor, can I remove my mic?

3 THE COURT:

4 Are you fully vaccinated, sir?

5 THE WITNESS:

6 I'm -- I'm triple vaccinated. I
7 just didn't have my card.

8 THE COURT:

9 Yes, you may.

10 THE WITNESS:

11 All right. Thank you.

12 BY MS. SADASIVAN:

13 Q. So I handed to you what has been
14 premarked as PR-15. Do you recognize this
15 document?

16 A. Yes, I do.

17 Q. And how do you recognize it? How do
18 you recognize the document?

19 A. Yes. It's the illustrative plan
20 that I wrote, the report for the Illustrative
21 Plan 1.

22 Q. And does this report fairly
23 summarize your qualifications as an expert in
24 this case?

25 A. Yes, it does.

1 Q. And does the report include your
2 most recent curriculum vitae or CV with the
3 exception of maybe a case or two?

4 A. Yes, except for a recent project I
5 started in March.

6 Q. And that's on page 35?

7 A. That's correct.

8 Q. How long have you been a
9 demographer, Mr. Fairfax?

10 A. Approximately 30 years.

11 Q. And could you give the court an
12 overview of your prior redistricting work?

13 A. Sure. I began my involvement in
14 redistricting in the 1990 rounds. I was a GIS
15 consultant, had an office at university. The
16 project goals were to assist nonprofit
17 organizations mostly throughout the south that
18 did not have the wherewithal to draw and develop
19 redistricting plans.

20 The second part was to actually go
21 out and train different universities HBCU on how
22 to actually draw and develop plans.

23 The next decade I was hired as the
24 consulting demographer for a nonprofit, a
25 newly-formed nonprofit called the Congressional

1 Black Caucus Institute, and its goals and
2 objective was to look at different congressional
3 districts throughout the country where
4 African-Americans could elect candidates of
5 choice, analyze, develop plans and alternatives.

6 That next following decade I was
7 rehired as a consultant demographer once again
8 for the congressional black caucus. Along the
9 way, I've done various training, redistricting
10 training sessions, different expert preparation
11 sessions; and ultimately, finally this decade I
12 moved to the level of providing expert witness
13 and testimony.

14 Q. And have you done demographic and
15 redistricting work on behalf of state or local
16 government entities?

17 A. Yes. Recently, I guess a couple
18 years ago, I was hired by the City of Everett,
19 Washington. They were moving from an at-large
20 system to their first districting system and they
21 hired me to I guess shepherd the commission that
22 they had to develop their first plan.

23 Q. So let's now turn to your role in
24 this case, what you describe on page 4 of your
25 initial report, which is PR-15. At a high level,

1 what were you asked to examine?

2 A. I was asked to determine whether I
3 could develop an illustrative congressional
4 district plan for the State of Louisiana that
5 hereto stayed in federal criteria and satisfied
6 the first precondition of Gingles.

7 Q. And how many reports did you submit
8 in this case?

9 A. Three.

10 MS. SADASIVAN:

11 Your Honor, may I approach again?

12 THE COURT:

13 You may.

14 MS. SADASIVAN:

15 (Tendered.)

16 BY MS. SADASIVAN:

17 Q. So, Mr. Fairfax, I just handed you
18 what has been premarked as PR-86. Do you
19 recognize this document?

20 A. Yes.

21 Q. And how do you recognize it?

22 A. It appears to be my second report,
23 my response supplemental report.

24 MS. SADASIVAN:

25 And, Your Honor, can I approach for

1 the last time because this is the last --

2 THE COURT:

3 You may.

4 MS. SADASIVAN:

5 (Tendered.)

6 BY MS. SADASIVAN:

7 Q. And I just handed you what's been
8 premarked as exhibit PR-90. Do you recognize
9 this document?

10 A. Yes, I do.

11 Q. And how do you recognize that?

12 A. It appears to be my third report, my
13 second supplemental report.

14 Q. And why did you submit the two
15 supplemental expert reports in this case?

16 A. The first supplemental report was in
17 response to the defendants' experts, primarily
18 with the issue that they had on using what they
19 considered DOJ formula forces of the majority
20 black districts versus the any part black that I
21 used. In addition, I actually improved the plan
22 and it ended up being a better plan than -- than
23 in many cases in the illustrative plan, the
24 original illustrative plan.

25 The second supplemental report

1 involved including all incumbents within the
2 districts and so there was some slight
3 modifications made on the second illustrative
4 plan to make sure that all incumbents were
5 included. There was one paired incumbent.

6 Q. And so we will come back to the
7 reason and the basis for your second supplemental
8 or your first supplemental report, but before I
9 get there, what were you compensated for your
10 expert opinions in this case?

11 A. My hourly rate is \$200 an hour.

12 Q. And was your compensation in any way
13 contingent upon your findings or the illustrative
14 plans you drew?

15 A. No.

16 Q. Can you please tell me what
17 Gingles 1 is?

18 A. Gingles 1 comes from the court case
19 Thornburg versus Gingles, et al, in 1986; and out
20 of that court case came a three-prong test and
21 what's called the conclusion of what's called the
22 totality of circumstances.

23 The first prong or the first
24 precondition is that you should show that you can
25 create one or more single member

1 majority-minority districts that are sufficiently
2 large -- now they say numerous -- and
3 geographically compact.

4 Q. And how do you determine whether a
5 minority population is sufficiently large for the
6 purposes of G1?

7 A. Usually, you use the voting age
8 population above 50 percent. On occasion, you'll
9 need to look also at the citizen voting
10 population.

11 Q. And the minority population that you
12 considered here is the black population?

13 A. Yes. That's correct.

14 Q. And how did you determine it was
15 black in your assessment of the minority black
16 population?

17 A. I used the any part black.

18 Q. Is that common in your practice?

19 A. Yes.

20 Q. How did you define the black
21 population, the various illustrative plans you
22 alluded to earlier, that you used another
23 definition in later plans?

24 A. How did I define them?

25 Q. Yes.

1 A. Any part black was used for each one
2 of those plans. The -- the second report, as I
3 mentioned before, looked at whether you could use
4 the same metric for non-Hispanic black alone plus
5 black and white combined.

6 Q. And, in general, how do you
7 determine whether a population is geographically
8 compact for the purposes of Gingles 1?

9 A. Compactness is really subjected to
10 the jurisdictional boundaries, the size and shape
11 of the voting tabulation districts, and so the
12 best way to do it is to compare your plan to
13 another plan, for example, the last enacted plan
14 or the just past enacted plan. And that's what I
15 did, I compared it to the 2011 plan as well as
16 the HB1 enacted plan.

17 Q. And when you say the HB1 plan, you
18 mean that's the bill number that established the
19 plan that was vetoed by the governor and
20 subsequently overridden by the legislature?

21 A. That's correct.

22 Q. Did you consider the redistricting
23 criteria in drawing your illustrative plans?

24 A. Yes, I did.

25 Q. What sources did you look at to

1 identify Louisiana redistricting principles?

2 A. What documentation?

3 Q. Any source did you look at?

4 A. Yeah. I looked at the state
5 constitution that had a brief mention, but it
6 mostly came from what's called Joint Rule 21 or
7 the state legislature actually provided a
8 guideline of those that were developing plans.

9 MS. SADASIVAN:

10 Okay. Matthew, could you please
11 pull up PR-79, page 1?

12 TRIAL TECH:

13 (Complied.)

14 MS. SADASIVAN:

15 Thank you.

16 BY MS. SADASIVAN:

17 Q. So let's walk through the
18 redistricting principles that you considered in
19 undertaking your Gingles 1 analysis in this
20 report. Which traditional or state redistricting
21 criteria did you use to evaluate your plans and
22 the HB1 plan on?

23 A. Sure. I looked at five criteria. I
24 looked at people population or what comes from
25 one person one vote; I looked at continuity; I

1 looked at compactness; I looked at political
2 subdivision of splits of parishes as well as
3 voting tabulation districts. I looked at
4 communities of interest, minimizing or preserving
5 communities of interest or census places and
6 landmarks, and something called fracking.

7 Q. And we will get to that in just a
8 second, but how does the census designate census
9 places?

10 A. The census designates a place as a
11 city, a town, a village and something that's
12 called census designated places.

13 Q. And what is a census designated
14 place?

15 A. The census rule has created the
16 statistical areas called census designated
17 places, or CEPs, and these are usually locally
18 recognized. They are named by the area, but they
19 don't have a governmental body. And so the
20 census utilized these areas for statistical
21 purposes.

22 Q. And you read the expert report
23 submitted by the defendants in this case that
24 addressed your illustrative plans?

25 A. Yes.

1 Q. And the Bryan report or one of your
2 reports evaluates some splits of census places,
3 correct?

4 A. That's correct.

5 Q. Does it evaluate all the census
6 places that you evaluated in your report?

7 A. No. It appears that what he did was
8 he removed the census designated places and he
9 evaluated only the city, towns and villages.

10 Q. And why do you consider census
11 places, including census designated places, in
12 your consideration in communities of interest in
13 evaluating the Louisiana congressional map?

14 A. Because census places are actually
15 in some ways more communities of interest than
16 actual cities. These are locally defined areas
17 that the community knows about, the community
18 really has named them, and so they really
19 represent just as much or even sometimes more
20 areas than a city or a town.

21 Q. And how does a census designate
22 landmark areas?

23 A. Landmark areas include dozens of
24 areas, including, say, airports and colleges and
25 universities, parks, cemetery, large industrial

1 areas.

2 Q. And why did you seek to preserve
3 census landmarks?

4 A. Because those are areas many times
5 you just don't want to split and separate.

6 Q. What other sources did you look at
7 to identify communities of interest?

8 A. I looked at reference information of
9 a website called Folk Life, a website that
10 provided me some context to tradition in cultural
11 areas throughout the -- the state as well, and I
12 used socioeconomic data and also some testimony.

13 Q. What kind of testimony?

14 A. Testimony from the road show
15 declarations, the videos that the state
16 legislature had.

17 Q. And what socioeconomic data did you
18 consider?

19 A. I looked at a variety of sort of
20 common standards, socioeconomic indicators like
21 income and education and poverty, renter
22 percentage; and those were the major ones.

23 Q. Going back to communities of
24 interest, can they overlap?

25 A. Yes. Yes.

1 Q. And conflict?

2 A. Yes.

3 Q. How did you prioritize the
4 traditional redistricting criteria that you
5 considered?

6 A. I tried to balance out all of the
7 criteria. So there really wasn't any priority,
8 except for communities of interest. Excuse me.
9 Compactness and fraction -- fracking weren't
10 included in the Joint Rule 21.

11 That said, compactness is part of
12 the component of Gingles, so I had to weigh that
13 a little higher than normally and so I would
14 actually equalize that with the other traditional
15 redistricting criteria. So fracking was really
16 the only one that I probably put at a lower
17 level.

18 Q. Is it possible that different
19 redistricting principles can conflict with one
20 another?

21 A. Oh, absolutely. Yeah. There are
22 trade-offs. There are always trade-offs in
23 redistricting and when you are drawing plans.

24 Just to give you an example, if you
25 are trying to make something more compact, if you

1 will, that means that you may have to split a
2 political subdivision, and if you split a
3 political subdivision, that works against or
4 works for compactness.

5 It also may mean that if you are
6 trying to make something more equally populated,
7 you may also have to split a political
8 subdivision, if you are trying to make something
9 more compact, maybe that you have to adjust the
10 equal population and tolerate a little more in
11 population deviation, so there are always
12 trade-offs that you have.

13 MS. SADASIVAN:

14 Thank you, Matthew. You can take
15 those down. Let's turn now to your map
16 drawing process.

17 TRIAL TECH:

18 (Complied.)

19 BY MS. SADASIVAN:

20 Q. Did you software-develop the
21 illustrative plans?

22 A. Yes, I did.

23 Q. What software did you use?

24 A. I used Maptitude for redistricting.

25 Q. And what kind of data did you

1 consider in drawing the illustrative plans?

2 A. A variety of sources. I used -- the
3 primary source was something called a
4 P.L. 94-171. It's known as redistricting data.
5 It's an extract from the census, the decennial
6 census, in this particular case the 2020 census.
7 It provides you the race and ethnicity down to
8 the block level.

9 Also looked at the American
10 Community Survey, both a one-year and the
11 five-year surveys. Part of that extract from the
12 ACS, they call it, was the CVAP data, which
13 provides you citizen voting age population. The
14 ACS also provided socioeconomic data as well.

15 I also looked at different
16 geographic boundaries, of course, from the 2011
17 boundaries for the previously enacted plan, as
18 well as the HB1 plan. I also accessed the -- the
19 American Community Survey has integrated and
20 created or rather the census bureau has
21 integrated and created from ACS and other sources
22 something called the community resilience
23 estimates, and these are designed really to show
24 where communities are at risk of for a disaster,
25 including COVID, throughout the country. I also

1 accessed plaintiffs' locations and ultimately
2 incumbents' addresses.

3 Q. And did you use any other
4 redistricting plan as the basis for your
5 illustrative plans?

6 A. Yes. Yes. The 2011.

7 Q. And why did you use that 2011 that
8 was the basis for your illustrative plans?

9 A. Oh, in redistricting, normally you
10 don't start from scratch. You don't just start
11 developing a plan anywhere you want. You start
12 with a baseline, and usually that's the
13 previously enacted plan, and then modify from
14 that plan.

15 Q. And there was a majority-minority
16 district in that plan?

17 A. Yes.

18 Q. In which district?

19 A. District 2.

20 Q. So let's now walk through each
21 principle that you considered in your map drawing
22 process and whether your opinion and your opinion
23 that you formed the illustrative plans that you
24 draw adhere to that principle and whether the HB1
25 plan adhere to that principle.

1 MS. SADASIVAN:

2 Matthew, can you please pull up

3 Table 5, PR-15 at page 20?

4 TRIAL TECH:

5 (Complied.)

6 BY MS. SADASIVAN:

7 Q. And what's the ideal district size
8 for a Louisiana congressional district?

9 A. 776,293.

10 Q. And how did you measure population
11 deviation?

12 A. You measure -- and, of course, the
13 software does this, but the population deviation
14 is measured from what's called the ideal
15 population size, and it's calculated by taking
16 the total population of the state residential
17 population and dividing the number of districts
18 into it, and that gives you the ideal population
19 size. And so that deviation from that is how
20 much the deviation district is from that
21 population size; and if you divided the ideal
22 population size by that number, you end up with
23 the deviation percentage.

24 Q. Thank you.

25 MS. SADASIVAN:

1 Matthew, you can take those down.

2 If you wouldn't mind pulling up PR-20 at
3 page 3 and PR-9 at page 5.

4 TRIAL TECH:

5 (Complied.)

6 BY MS. SADASIVAN:

7 Q. Mr. Fairfax, how did your
8 illustrative plans compare to the enacted plans
9 in terms of the equal population standard?

10 A. The Illustrative Plan 1 was only 51
11 or an overall deviation where you look at the
12 lowest populated district from the highest
13 populated district and get the difference, and so
14 there was 51 individuals in that difference. The
15 HB1 plan had 65.

16 Q. And you testified earlier that you
17 took into account mathematically compactness when
18 you developed your illustrative plans in addition
19 to other state and redistricting criteria, right?

20 A. That's correct.

21 Q. And what are the qualitative
22 measures of compactness that you considered?

23 A. I looked at three measures, three
24 popular measures; the REOCK, Polsby-Popper, and
25 Convex Hull.

1 Q. And is a single quantity of measure
2 of compactness dispositive as to whether or not a
3 plan is or is not compact?

4 A. No. No. They all usually measure a
5 particular aspect of the districting plan.

6 Q. So how do you compare plans to
7 determine which is more compact?

8 A. Probably the best way and the most
9 common way is to look at the mean, the mean of
10 all the districts, and so you would calculate or
11 the system calculates what that mean is for each
12 of the districts for the plan and then you
13 compare that number with one plan against another
14 plan.

15 Q. And so how did the mean compactness
16 of your illustrative plans compare to the HB1
17 plan?

18 A. The Illustrative Plan 1, 2 and --
19 and 2A were more compact in all three measures
20 than the HB1 enacted plan.

21 Q. In your opinion, how did your
22 illustrative plans compare to the HB1 plan in
23 terms of the principle of continuity?

24 A. Both plans were contiguous.

25 Q. And you talked earlier about VTD.

1 What is a VTD?

2 A. VTDs are voting tabulation
3 districts, and it's the census bureau's effort to
4 mimic, if you would, precincts. In some cases,
5 they are exactly like precincts; in other cases,
6 they are not. But the census bureau uses census
7 blocks for their basis. Precincts at the
8 locality may not. They may split census blocks.

9 Q. So why did you consider VTD splits
10 in comparing your illustrative plans with the HB1
11 plan?

12 A. They are considered political
13 subdivisions split or political subdivisions.

14 Q. And how did your illustrative plans
15 compare to the HB1 plan in terms of splitting or
16 not splitting VTDs?

17 A. Both of the plans would zero split
18 as far as I could tell.

19 Q. In your opinion, how do your
20 illustrative plans compare to the HB1 plan in
21 terms of adhering to the criteria of preserving
22 political subdivisions?

23 A. In addition to the VTDs, I looked at
24 error splits and so the illustrative plan split
25 14 and the HB1 plan 15.

1 Q. As you were drawing these
2 illustrative plans, you testified earlier that
3 you compared the illustrative plans to the HB1
4 plans in terms of preserving communities of
5 interest and looking at the census landmarks,
6 right?

7 A. Yes.

8 Q. And did your illustrative plan
9 compare to the HB1 plan or splitting census
10 places?

11 A. The illustrative plans were 31 and
12 the HB1 plan split 32.

13 Q. And how about the comparison of your
14 illustrative plans to the HB1 plan in terms of
15 census landmarks?

16 A. Both of them split the same at 58.

17 Q. At what point in your map drawing
18 process did you consider socioeconomic indices in
19 sharing interests?

20 A. In the beginning, many times when I
21 draw plans, I'll draw or develop overlay maps of
22 socioeconomic data and that will allow me to
23 actually see and visually see commonalities
24 amongst different geographic areas in the state
25 or even in a particular city, and so I did this

1 in this plan too.

2 MS. SADASIVAN:

3 Matthew, can you please pull up

4 PR-86 at 98?

5 TRIAL TECH:

6 (Complied.)

7 BY MS. SADASIVAN:

8 Q. And, Mr. Fairfax, can you please
9 describe what this map illustrates?

10 A. This is an example of one of the
11 overlays that I created to overlay during the
12 districting process; and it wouldn't be on all
13 the time, but I would be able to turn it on at
14 certain times, but this represents the census
15 tracts and that depicts the median household
16 income. And the colors represent or are
17 represented by five different, what's called,
18 Quinn tiles. So Quinn tile breaks up equally
19 parts of census tracts into five equally parted
20 areas.

21 When I'm looking at this, the color
22 areas represent the lowest two Quinn tiles. So
23 you may see that in District 5 you can kind of
24 map out, if you will, the shapes or the
25 commonalities amongst the median household

1 income.

2 Q. And when you say "overlay," you
3 meant you overlay the congressional districting
4 plans onto the socioeconomic data?

5 A. Yes. As I'm drawing, I can actually
6 see this same map on my screen, and so I can
7 actually draw and add or remove areas at will
8 using this particular map and the other maps
9 that -- that I created.

10 Q. So, for example, why didn't you add
11 Caldwell Parish into Congressional District 5?

12 A. Right. I looked at Caldwell Parish
13 to be included in District 5, very similar,
14 and -- and -- but I decided once I added it,
15 looked at it, it made the district less compact,
16 so I decided not to include that. But I also
17 realized that you could create an additional
18 majority black district with Caldwell included
19 that satisfied Gingles and adhered to traditional
20 redistricting principles.

21 Q. So this is just one of the maps that
22 you could have drawn?

23 A. That's correct.

24 MS. SADASIVAN:

25 Matthew, could you please pull up

1 PR-86 at page 99?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. SADASIVAN:

5 Q. Mr. Fairfax, what does this figure
6 illustrate?

7 A. This is very similar to the previous
8 one. It's broken down into, again, the five
9 quintiles, if you will, but this shows you really
10 the top two quintiles for no high school
11 education. So the top two shows those census
12 tracking that have a great deal, if you will, of
13 persons that have no high school education and
14 you can see that reflected in the red and
15 brownish colors.

16 Q. Can you give me an example of how
17 you consider this information in drawing the
18 illustrative plans?

19 A. Yes. If you look at it, excluding
20 Caldwell, the census tracks of those highest
21 quintiles tend to draw the Congressional
22 District 3 itself. So it directs you really
23 where the boundary lines actually should be in
24 that particular district.

25 One of the other things is it also

1 lets you know of where the split parishes
2 potentially could be; and so you see in Ouachita
3 and Rapides and Evangeline and Lafayette, even
4 Baton Rouge area, they have that same, similar
5 commonalities, if you will.

6 MS. SADASIVAN:

7 And, Matthew, can you please pull up
8 PR-86 at page 100.

9 TRIAL TECH:

10 (Complied.)

11 BY MS. SADASIVAN:

12 Q. And what does this page of your
13 supplemental report illustrate, Mr. Fairfax?

14 A. This is that data set that I said
15 the census bureau created from ACS and others
16 called the community resilience estimates where
17 what they did was they came up with an index, if
18 you will, of the risk for a disaster for a
19 particular community. This is at the census
20 track level as well. And so this actually maps
21 out once again in those quintiles that I said,
22 the top two quintiles for those areas that had
23 greater than three risk factors. And so, once
24 again, you can actually see and visually see how
25 this somewhat actually creates and maps out the

1 boundaries really for District 5.

2 Q. Thank you.

3 MS. SADASIVAN:

4 And Mr. -- Matthew, sorry, would you

5 please pull up PR-86 at page 101.

6 TRIAL TECH:

7 (Complied.)

8 BY MS. SADASIVAN:

9 Q. What does this page of your

10 supplemental report illustrate, Mr. Fairfax?

11 A. Very similar to the other ones, it

12 shows you the top two quintiles for households

13 that receive food stamps and the SNAP program.

14 This one specifically is designed to show how

15 these areas in Ouachita and Rapides and

16 Evangeline and Lafayette and Baton Rouge all have

17 similar and common amounts amongst cities,

18 including the food stamp percentage.

19 Q. And these are the maps that you were

20 also looking at as you were drawing the

21 illustrative plans?

22 A. Yes. Absolutely.

23 MS. SADASIVAN:

24 And, Matthew, could you please pull

25 up PR-86 at page 102.

1 TRIAL TECH:

2 (Complied.)

3 BY MS. SADASIVAN:

4 Q. And can you describe what this map
5 illustrates, Mr. Fairfax?

6 A. Once again, this is a map of the top
7 or the five quintiles that we are looking at the
8 top percent of persons in poverty. And, once
9 again, you can see how the census tracks tend to
10 define that District 5 as well as the parishes
11 that were split.

12 Q. And how did you consider this data
13 in determining which cities to include within the
14 parishes for District 5?

15 A. When I went about developing the
16 plan, I would look at this and use it as a
17 reference, so where am I going to actually add
18 populations by splitting a parish. And so this
19 let me know that I -- it was okay, if you will,
20 to go into a different parish and split it, add a
21 particular area to that District 5, that CD5.

22 MS. SADASIVAN:

23 Matthew, can you please pull up

24 PR-86 at page 103 now?

25 TRIAL TECH:

1 (Complied.)

2 BY MS. SADASIVAN:

3 Q. And, Mr. Fairfax, what does this map
4 illustrate?

5 A. This is similar to the other one
6 where it's really designed to show how those
7 split parishes in Ouachita, Rapides, Evangeline,
8 Lafayette and East Baton Rouge actually have that
9 commonality, which makes me believe that they
10 belong within that same district.

11 Q. And are any of the socioeconomic
12 indices we just went through in these maps that
13 you considered broken down or aggregated by race?

14 A. No. No.

15 Q. And what is fracking, Mr. Fairfax?

16 MS. SADASIVAN:

17 Matthew, you can take that down.

18 Thank you.

19 THE WITNESS:

20 Fracking is a somewhat of a
21 relatively new criteria; and it's where a
22 district slices through, let's say, a
23 county in two different areas in the
24 county, and within the county those two
25 areas aren't touching each other, they are

1 not contiguous.

2 BY MS. SADASIVAN:

3 Q. And why did you evaluate fracking in
4 considering the illustrative plans in the HB1
5 plan?

6 A. As I mentioned before, fracking is
7 becoming more and more popular. They are
8 including it in or they included it in Maptitude
9 for redistricting's latest version. The special
10 masters included in the Bethune-Hill case and the
11 idea is that it gives an indication of
12 gerrymandering.

13 Q. Thank you.

14 MS. SADASIVAN:

15 And, Matthew, could you please pull
16 up PR-15 at 23 and PR-90 at 5?

17 TRIAL TECH:

18 (Complied.)

19 BY MS. SADASIVAN:

20 Q. And how many instances of fracking
21 occur in your illustrative plans?

22 A. Five.

23 Q. How many instances of fracking occur
24 in the HB1 plan?

25 A. Eight.

1 Q. And so how does your plan compare to
2 the HB1 plan in terms of fracking?

3 A. It performed better.

4 MS. SADASIVAN:

5 And, Matthew, could you please pull
6 up page -- PR-86 at page 23?

7 TRIAL TECH:

8 (Complied.)

9 BY MS. SADASIVAN:

10 Q. Mr. Fairfax, on pages 21 and 22 of
11 your supplemental report, you address testimony
12 you considered from the road show.

13 Can you describe how you use this
14 road show testimony in your illustrative map
15 drawing process?

16 A. Sure. The testimony was used either
17 to modify or at least validate the process that I
18 was going through. So, for example, there were
19 tests or there was testimony about keeping the
20 delta parishes intact, if you will. There was
21 testimony about keeping the Florida Parishes
22 whole, there was testimony, for example, about
23 the River Parishes where they were split before,
24 but could you make them whole. And so they all
25 fit into the design, if you will, of the

1 congressional districting plan.

2 Q. Overall, Mr. Fairfax, how did your
3 illustrative plans compare to the HB1 plan in
4 terms of adhering to those traditional
5 redistricting criteria that we just went through?

6 A. The illustrative plans performed
7 equally or better in eight of the eight
8 redistricting criteria. In five of the criteria,
9 they performed better and in none, in zero, did
10 the HB1 enacted plan perform better.

11 Q. Thank you, Mr. Fairfax.

12 MS. SADASIVAN:

13 You can take that down, Matthew, and
14 if you could, please pull up PR-15 at 5
15 and PR-86 at 27.

16 TRIAL TECH:

17 (Complied.)

18 BY MS. SADASIVAN:

19 Q. So going back to the question you
20 were asked, considering in this case, you
21 testified earlier that you were asked to draw
22 illustrative plans showing it's possible to
23 reorganize state and redistricting criteria while
24 creating two compact black congressional
25 districts in Louisiana.

1 Do you have an opinion as to whether
2 the black voting age population in Louisiana is
3 sufficiently numerous as to constitute a majority
4 in a second congressional district?

5 A. Yes.

6 Q. And why?

7 A. I performed the same analysis
8 looking at the voting age population both for any
9 part black and as well for the non-Hispanic black
10 alone plus the black and white combined. I've
11 looked at the compactness. I've looked at all of
12 the metrics of political subdivision splits and
13 communities of interest and led me to believe
14 that it is sufficiently large.

15 Q. And you drew these two illustrative
16 plans as an example of adhering to those
17 principles?

18 A. Yes.

19 MS. SADASIVAN:

20 Matthew, would you please pull up

21 PR-15 at 74?

22 TRIAL TECH:

23 (Complied.)

24 BY MS. SADASIVAN:

25 Q. What was any part black voting age

1 population of the majority-minority districts in
2 your Illustrative Plan 1?

3 A. For District 2, it was 50.96 and for
4 District 5, it's 52.05.

5 Q. And what was the any part black
6 citizen voting age population of the
7 majority-minority districts in your
8 Illustrative 1?

9 A. For District 2, it was 54.1 and for
10 District 5, it was 52.21.

11 Q. And why did you submit the second
12 illustrative congressional plan?

13 A. Once again, the -- some of the
14 defendants' experts had an issue with the any
15 part black, using any part black, so it -- what I
16 did was I determined you can create a plan that
17 doesn't have to use any part black. It could use
18 the non-Hispanic black alone plus the
19 non-Hispanic black and white combined.

20 Q. Let's talk about that a little bit
21 more.

22 MS. SADASIVAN:

23 Matthew, would you pull up PR-86 at
24 36?

25 TRIAL TECH:

1 (Complied.)

2 BY MS. SADASIVAN:

3 Q. So this was responding to the Bryan
4 expert report regarding the any part black
5 statistics that you used this other metric?

6 A. That's correct. I think it was two
7 experts that brought that up.

8 Q. And does Mr. Bryan's aggregation of
9 restat in his report comport with your
10 understanding of the justice department
11 aggregation of race data for the purpose of
12 allocating individuals' civil rights enforcement?

13 A. Right. I think they only look at
14 the first step involved in the DOJ process
15 guidelines.

16 Q. Can you explain why that is not
17 appropriate in Louisiana?

18 A. Right. The first part that the DOJ
19 guidelines recommend is to use a non-Hispanic
20 black, let's say, minority population, but in
21 this case black alone plus the non-Hispanic black
22 and white combined; but then the next sentence is
23 if there's a significant amount of combined race,
24 then you begin to add that into the iterative
25 process, and so that's the part that's left out.

1 And so when you do that and do so, you'll end up
2 using the any part black or close to any part
3 black.

4 Q. So what is the black voting
5 population percentage, as Mr. Bryan has defined
6 it, in the majority-minority districts in the
7 Illustrative Plan 2?

8 A. It is 50.02 for District 2, and
9 50.96 for District 5.

10 Q. And what's the any part black?

11 A. Any part black for District 2 is
12 51.55, and District 5 is 51.79.

13 MS. SADASIVAN:

14 Matthew, could you please pull up 37
15 of 86, PR-86?

16 TRIAL TECH:

17 (Complied.)

18 BY MS. SADASIVAN:

19 Q. What's the percentage of black
20 registered voters in the majority-minority
21 district of the illustrative plan for District 2?

22 A. For District 2, it is 53. You said
23 registered voters, didn't you?

24 Q. Yes.

25 A. Yes. It is 53.62 and District 5 is

1 53.2.

2 Q. And why did you consider the
3 percentage of black voters in your Illustrative
4 Plan 2?

5 A. It's just another way to determine
6 whether the black population is in the majority.

7 Q. Thank you.

8 MS. SADASIVAN:

9 And if you take that down, Matthew,
10 and pull up the PR-90 at page 8. I
11 promise this is the last time I ask for
12 that.

13 TRIAL TECH:

14 (Complied.)

15 BY MS. SADASIVAN:

16 Q. What is the black voting age
17 percentage population, as Mr. Bryan defined it,
18 of the majority-minority district in Illustrative
19 Plan 2A?

20 A. That's 50.02 for District 2 and
21 51.15 for District 5.

22 Q. And any part black voting age in the
23 majority-minority districts?

24 A. For District 2, it's 51.55 and
25 District 5, it's 51.98.

1 Q. Thank you.

2 MS. SADASIVAN:

3 And you can take that down, Matthew.

4 BY MS. SADASIVAN:

5 Q. So several of the defendants'
6 experts asserted that in drawing your
7 illustrative plans it raised a predominant factor
8 motivating your decision to move communities in
9 or out of particular districts. Do you agree
10 with those statements?

11 A. No. No, I don't.

12 Q. Why?

13 A. Because my primary use is specific
14 to a point that different areas to split was the
15 socioeconomic data, and that's what I used to go
16 into those areas of those parishes, the cities
17 that were inside those parishes as well.

18 Q. And several of the defendants'
19 expert reports asserted that the splits of
20 Lafayette, Alexandria, Monroe and Baton Rouge
21 were on the basis of race. Do you agree with
22 those statements?

23 A. No.

24 Q. And why not?

25 A. The same, same answer, the same

1 answer. I used socioeconomic data during the
2 planned development phase.

3 Q. Your rebuttal report addressed the
4 report submitted by Allan Murray as well, which
5 alleged the geographic distribution of white
6 voters or the white voting age population is
7 fundamentally different from the geographic
8 distribution of the black voting age population
9 and that the black voting age population is often
10 not as close.

11 Did that report have any effect on
12 your conclusion that the black voting age
13 population is sufficiently geographically compact
14 for the purposes of Gingles 1?

15 A. No. No. In fact, it didn't have
16 any impact on the conclusions, and I -- I was a
17 little lost at what the conclusions he was trying
18 to -- to make with that. And so my only
19 inference from that was that I believe he's
20 trying to say that since the clustering of black
21 populations are further apart than white
22 populations, then you cannot naturally create a
23 majority black district without creating
24 something irregularly shaped. And we have
25 something to test that with, and that's called

1 compactness; and I used the three compactness
2 measurements: The REOCK, Polsby-Popper, and
3 Convex Hull; and in three of those, the
4 illustrative plan performed better than the HB1
5 enacted plan.

6 Q. Your rebuttal report also addressed
7 the claim by M. D. Hood that your illustrative
8 plans don't preserve the cores of the prior
9 districts as well as the HB1 plan.

10 Did Dr. Hood's report change your
11 conclusion that your plan better adhered to
12 traditional and state redistricting criteria than
13 the HB1 plan?

14 A. No, not at all. First, district
15 cores were not included as a criteria in Joint
16 Rule 21. That's it. It is a redistricting
17 criteria, a traditional one; but it's --
18 specifically in new or additional
19 majority-minority districts, it's not expected
20 that you are going to stay with the same plan.
21 How can you create a new district, a new minority
22 district by staying with the exact same plan that
23 you did before?

24 Q. Did you have to compromise in the
25 traditional or state redistricting criteria or

1 subordinate that criteria to rank in order to
2 create two congressional districts with a
3 majority black voting age population?

4 A. No, not at all.

5 Q. And, in your opinion, is Louisiana's
6 black population sufficiently large and
7 geographically compact to constitute a majority
8 in two single member congressional districts?

9 A. Yes, it is.

10 Q. Thank you.

11 MS. SADASIVAN:

12 Your Honor, at this time, I'd like
13 to move PR-15, 86 and 90 into evidence.

14 THE COURT:

15 Okay. Any objection?

16 MR. LEWIS:

17 No.

18 THE COURT:

19 So noted. I should say admitted.

20 CROSS-EXAMINATION BY MR. STRACH:

21 Q. Good afternoon, Mr. Fairfax.

22 A. Good afternoon.

23 Q. Good to see you again. It's been a
24 long time.

25 A. Yes. Good afternoon.

1 Q. And it is Mr. Fairfax, right? You
2 do not currently have a PhD?

3 A. No, not yet at least.

4 Q. Okay. And you are not a lawyer,
5 correct?

6 A. That's correct.

7 Q. No legal training?

8 A. No.

9 Q. All right. So you reference some
10 case law in your report, but you are not
11 purporting to give any sort of legal opinions?

12 A. Absolutely not. It only comes from
13 the map/charts perspective.

14 Q. All right. So is it a fair
15 statement that your assignment in this case was
16 to draw a second 50 percent majority black
17 congressional district?

18 A. No. No. It was to analyze whether
19 I could draw an illustrative congressional plan
20 that adhered to traditional redistricting
21 criteria and satisfy that first precondition of
22 Gingles. It could have been three districts; I
23 could have drawn one, if that satisfied it. In
24 this case, it came up to two.

25 Q. All right. And then but you concede

1 in your report that you were only focused on
2 complying with the Gingles first precondition,
3 correct?

4 A. That's correct. And adhering, of
5 course, to traditional state and federal
6 guidelines for redistricting criteria.

7 Q. All right. So you weren't analyzing
8 whether or not the populations that you were
9 putting together in this majority black district
10 would actually, in fact, elect the black
11 candidate of choice, right?

12 A. That is correct.

13 Q. All right. And you were not
14 studying at all whether the black population that
15 you were putting into this new district were
16 subjected to or -- or engaged in racial polarized
17 voting, correct?

18 A. That is correct.

19 Q. And you certainly weren't looking at
20 whether any polarized voting in this new black
21 district was legally significant, right?

22 A. That is correct.

23 Q. So as you were going around pulling
24 in black population for these districts, you had
25 no idea in your mind how they were going to

1 actually vote in an actual election, correct?

2 A. Correct. I'm using that 50 percent
3 voting age population as whatever threshold
4 Gingles brings to it.

5 Q. All right. So you, as a demographer
6 or map drawer, you are just looking at the racial
7 data to make sure you get the number right,
8 correct?

9 A. Right. And, of course, adhering to
10 traditional redistricting criteria and making
11 sure that there's commonality inside the
12 district, yes.

13 Q. Okay. And let me just ask you a
14 practical question. You were using Maptitude,
15 right?

16 A. Yes, that's correct.

17 Q. And in Maptitude, I think you
18 testified you can display the BVAP for each VTD?

19 A. No, I didn't testify to that. Maybe
20 somebody else did that.

21 Q. Okay. All right. Sorry.

22 A. So that --

23 Q. I apologize. Oh, I'm -- I'm likely
24 to get many things wrong, so feel free to correct
25 me.

1 A. No. That's all right.

2 Q. Did you have the ability to display
3 the BVAP of each VTD as you were drawing?

4 A. Yes.

5 Q. Did you do that?

6 A. No. The only time I did that is you
7 have to get an idea where the black population is
8 inside the state in order to begin drawing, but
9 then after that, the socioeconomic data took
10 over.

11 Q. Okay. Thank you. And so -- so let
12 me make sure I understand because we haven't --
13 no one's taken any depositions in this case, so
14 just let me ask a few follow-ups about that so I
15 can kind of straighten my mind.

16 So you did an initial check using
17 the BVAP information in Maptitude to see where
18 the black population was in the state?

19 A. I analyzed where the black
20 population was in the state using a variety of --
21 of levels, if you were, just to see where you
22 need to start. You can't draw a plan in an area
23 where black population doesn't exist.

24 Q. All right. So you wanted to get a
25 sense on the front end of where that black

1 population was, correct?

2 A. Yeah.

3 Q. And you used the display of BVAP
4 information on Maptitude to get that sense early
5 on, correct?

6 A. Yes. Very early on just to get an
7 idea just to understand where the district could
8 exist and inside the state.

9 Q. All right. And then as you were
10 completing the map, did you pull the BVAP
11 percentages back up to check your work?

12 A. Oh, yeah. You have to, yeah.

13 Q. All right. That's how you knew what
14 the actual percentages were, correct?

15 A. That's right. That's right.

16 Q. All right. And so just to be clear,
17 during the map drawing process, after you did
18 this initial view, did you turn the BVAP function
19 off?

20 A. No. It's not a matter -- it's a
21 matter of not looking at it; and I assume you are
22 talking about the data view?

23 Q. Correct.

24 A. It's just a matter of not looking at
25 the data view on a constant basis. Of course,

1 you've got to look at it, but you are not looking
2 at it on a constant basis that you are developing
3 the plan using race. So race doesn't dominant
4 because you are not looking at each map that you
5 actually draw.

6 Q. All right. So, but to know exactly
7 how much you looked at, we would have had to be
8 right there next to your shoulder, right?

9 A. That's true. That's true.

10 Q. All right. Is it fair to say you
11 were looking at it enough to see the BVAP
12 percentage increasing so that you knew when you
13 got to 50 percent you're done?

14 A. No, no. It's not a matter of
15 getting 50 percent increasing. You may be
16 already at 50 percent. And so, you know, in --
17 in redistricting when you are adding areas, you
18 may be at 60 percent and add areas, and -- and so
19 it's not a question -- a question of you add an
20 area, you go from 30 to 40 to 50 percent. It's
21 not like that.

22 Q. All right. So -- so during the map
23 drawing process, you said you would occasionally
24 look at the BVAP information. What were you
25 looking at it for; what was the purpose?

1 A. Well, I mean, you have to. I mean,
2 that's the sufficient large component of Gingles.
3 If you -- if you don't look at it, you'll never
4 know if you reach that.

5 Q. Right. So you -- you need to look
6 at it occasionally to know when the BVAP was
7 approaching 50 percent, right?

8 A. Right. And I'm -- I'm only having
9 issue with -- it sounds as though it's an
10 increasing 30, 40, 50. It's not like that; do
11 you see what I mean? Because you can -- you can
12 start at 60 something percent and so it's not as
13 if you are adding population to get to that
14 50 percent.

15 Q. All right.

16 A. You could add a group and be at
17 70 percent starting and then start to add
18 different areas and then go down.

19 Q. All right. Well, and with regard to
20 the CD5 that you drew, which is the second
21 majority black district, where did you start
22 drawing that district; in the north, in the
23 south, in the middle, where?

24 A. I started with the existing plan.
25 And so then District 5 was the starting and so I

1 began trimming the area to the west to make that
2 northeast delta region a more substantial
3 presence in the northeast, and so I then began to
4 expand down further to add different areas.

5 Q. Okay. So is it fair to say then you
6 started in the north and worked your way down
7 south?

8 A. That's correct.

9 Q. All right. And -- and then --

10 A. And it wasn't exactly like that
11 because there's a back and forth when you are
12 actually drawing plans. It's an -- it's an
13 adding and subtracting here and subtracting
14 there. So it's not necessarily a let's go down
15 south and just complete the district.

16 Q. But it's generally a north to south
17 draw?

18 A. It's -- I don't know if I can accept
19 that, but it is a -- a north to south with
20 different variations on the district.

21 Q. Okay.

22 A. Here and there.

23 Q. Got you. And --

24 A. Right.

25 Q. And so if you were starting in the

1 northern delta parishes and trimming those,
2 obviously you were not at 50 percent at that
3 point in the district, correct?

4 A. That is correct.

5 Q. And so that means as you added
6 districts, you would have been increasing the
7 BVAP as you went along?

8 A. That is correct. But there is a
9 time where I'm above 50 percent, 60, say, because
10 I made some changes. And so at that time, we're
11 not -- we're not increasing now, we are
12 decreasing.

13 Q. Got it. So let me ask you. Yeah,
14 let me be specific about CD5 in your illustrative
15 plan.

16 A. Uh-huh (affirmatively).

17 Q. In -- in the process of drawing that
18 district, did there come a time when that
19 particular district was 60 percent?

20 A. Yes, when I was adding and removing
21 areas just to see. So during the process, I may
22 have removed several particular parishes and the
23 increase went up above 50 percent, let's say, to
24 60 percent, then it's a matter of adding the
25 territory that brings it down.

1 Q. Got it. So once you -- your
2 district obviously ended up around 50 percent,
3 right?

4 A. That's correct.

5 Q. So while you were drawing and you
6 were at or around 60 percent, you obviously made
7 decisions that got that down to closer to
8 50 percent, right?

9 A. That's correct. That's right. And
10 I'm using 60 as just a -- yeah, a split, yes, but
11 it's above 50 percent, more than just 1 or 2
12 percentage.

13 Q. Point being, when you got to
14 60 percent, you didn't stop drawing?

15 A. That's correct.

16 Q. All right. So in your first plan,
17 the numbers I have for CD2.

18 MR. STRACH:

19 And, Forest, let's pull up PR-15 at
20 paragraph 55 where they have a chart. So
21 scroll to the next page. Go back.

22 TRIAL TECH:

23 (Complied.)

24 BY MR. STRACH:

25 Q. Okay. The -- the AP is any part

1 black 52.05 in District 5 in your illustrative --
2 illustrated plan, correct?

3 A. Yes.

4 MR. STRACH:

5 All right. Now, let's go, Forest,
6 to PR-86 at paragraph 14. All right. If
7 you'll scroll to the next page.

8 TRIAL TECH:

9 (Complied.)

10 BY MR. STRACH:

11 Q. All right. Look at Table 2 on
12 page 6 of your supplemental report, Mr. Fairfax.

13 A. Yes.

14 Q. It looks to me like you're -- the
15 DOJ black, not the any part black, the DOJ black
16 in your CD2 is 50.02 percent, correct?

17 A. That's correct.

18 Q. And CD5 is 50.96 percent, correct?

19 A. That's correct.

20 Q. And -- and, as you testified,
21 isn't -- isn't it true that both of these
22 districts could have been well above 50 percent?

23 A. Can you elaborate what --

24 Q. Sure.

25 A. -- do you mean by both of them could

1 be?

2 Q. So when you were drawing, we were
3 talking about CD5 a minute ago, and you said at
4 one point the district got up to 60 percent?

5 A. Got you. During the process, sure,
6 sure. They could have been anywhere, yeah.

7 Q. Okay. All right.

8 A. Yeah.

9 Q. At least we know that the CD5 could
10 have ended up at 50 to 60 percent DOJ black?

11 A. I don't know if it would be that
12 high. Yeah, I don't know if it would be that
13 high.

14 Q. All right.

15 A. But certainly there's a possibility
16 it could be higher than what it is here if that's
17 what you are getting to.

18 Q. Okay. So you consciously drew the
19 district right around 50 percent because that's
20 what you needed for the first Gingles
21 precondition, right?

22 A. That's right. It satisfied -- it
23 satisfied that first precondition.

24 Q. All right. So, and in both of your
25 illustrative plans, you include the northern

1 delta parishes or at least some of them in CD5,
2 correct?

3 A. That's correct.

4 Q. And that's your second majority
5 black district, correct?

6 A. Yes.

7 Q. All right. And you made a point in
8 your report, you said that the Louisiana delta
9 region is characterized by unique communities of
10 interest of culture and tradition. It is
11 commonly represented by the parishes of
12 Morehouse --

13 MR. STRACH:

14 Your Honor, I'm going to have to
15 seek help on a pronunciation.

16 Patrick, Ouachita?

17 MR. LEWIS:

18 Ouachita.

19 MR. STRACH:

20 Ouachita. My apologies to all the
21 Louisianians.

22 BY MR. STRACH:

23 Q. Ouachita, West Carroll, East
24 Carroll, Caldwell, Tensas, Catahoula, Richland,
25 Madison, Franklin, Lasalle and Concordia. Do you

1 remember writing that in your report?

2 A. Yes.

3 Q. And you remember citing a website
4 called louisianafolklife.org for that?

5 A. Yes, yes.

6 Q. All right. And the East Baton Rouge
7 and West Baton Rouge Parishes are not listed in
8 the community of interests that you've cited in
9 that paragraph of the Louisiana delta region, are
10 they?

11 A. It wasn't included as that. And
12 there are other websites that actually mention
13 the delta parishes as well that matched that.

14 Q. All right. But you didn't cite
15 those, correct?

16 A. That's correct.

17 Q. All right. So -- so East
18 Baton Rouge, West Baton Rouge are not part of the
19 Louisiana delta region, correct?

20 A. As far as I know, correct. That's
21 correct.

22 Q. All right. But -- but -- but you
23 know because you've looked at the data
24 additionally that East and West Baton Rouge
25 parishes have a significant number of black

1 residents, correct?

2 A. I would say East Baton Rouge
3 probably would be classified as having a
4 significant black population.

5 Q. All right. And you included East
6 Baton Rouge in your version of CD5, which went up
7 to the delta region, correct?

8 A. That's correct.

9 Q. All right. And isn't it true that
10 you included East Baton Rouge in that CD5 because
11 you needed that -- the black population of East
12 Baton Rouge to have a chance at getting a
13 50 percent district?

14 A. I would say that if I removed East
15 Baton Rouge from that, it would be very difficult
16 to create a majority black district, but
17 that's -- that's just not uncommon in plans like
18 this. It's -- it's probably, what, the second
19 largest metropolitan area in the state, has a
20 significant amount of black population. It's
21 understandable that that's going to have to be
22 part of that second black district.

23 Q. All right. And did you try to draw
24 any second majority black districts that didn't
25 include East -- include East Baton Rouge?

1 A. I might have looked at that. I'm
2 trying to recall. And I believe that I did not
3 come up with any plans. Not to say that it's not
4 possible, but I believe I didn't recall coming up
5 with any plans or I don't recall coming up with
6 any plans that don't include East Baton Rouge.

7 MS. SADASIVAN:

8 Your Honor, I would like to object
9 to the extent that this calls for attorney
10 work product that was developed in ICOR's
11 litigation.

12 MR. STRACH:

13 I'm not asking for work product.
14 I'm just asking whether he tried -- it's a
15 simple question.

16 MS. SADASIVAN:

17 That's our work product that the
18 expert prepared in developing his
19 illustrative plans for this case.

20 MR. STRACH:

21 I don't know how to incorporate it.
22 I'm just asking if he tried or not.

23 THE COURT:

24 Overruled.

25 BY MR. STRACH:

1 Q. Mr. Fairfax, are you aware of any
2 majority black district that's ever been drawn in
3 a Louisiana congressional plan that connects the
4 black population of the northern delta parishes
5 with East Baton Rouge Parish?

6 A. Any black districts?

7 Q. Are you aware of any majority black
8 districts in the past that have been drawn
9 connecting those two populations?

10 A. I think we previously saw some
11 examples of that I believe in the past.

12 Q. Yeah. To your recollection, would
13 that be -- would the only time that occurred was
14 in that -- the plan at issue in the Hayes case
15 when it was struck down?

16 A. Yeah. I believe so, but those were
17 extremely non-compact plans. It's, as another
18 expert says, that I would never draw a plan that
19 looks like that.

20 Q. Understood. Other than that plan,
21 are you aware of any other Louisiana
22 congressional plan that had a majority black
23 district connecting those two populations?

24 A. Not that I know of, no.

25 Q. All right. And speaking of

1 compactness, you use mathematical tests for

2 compactness?

3 A. Correct. They are all mathematical.

4 Q. All right. Well, the -- the eyeball

5 test, that's not mathematical, right?

6 A. They have even got quantified on

7 shape redistricting, so there's some map to

8 calculate that.

9 Q. All right. So those -- those tests

10 compute compactness based on the mathematics of

11 the shape of the district line; isn't that

12 correct?

13 A. Yeah. That's correct. The area and

14 the boundaries.

15 Q. All right. Those mathematical tests

16 don't measure the dispersion of particular

17 populations within the district, do they?

18 A. That's correct.

19 Q. All right. All right. And you

20 have -- you testified at length about the

21 socioeconomic data that you used in drawing the

22 two plans, correct?

23 A. Right. Can I add something to your

24 last comment?

25 Q. Sure.

1 A. I need to say that there's a growing
2 argument over the last 20 or 30 years of whether
3 compactness is geography or is it population in
4 geography and it's still unresolved. I'm
5 resolved that people are more on the geographic
6 side versus the population and geographic side,
7 if you can follow what I'm saying. The
8 dispersion of that population, people looking at
9 it to define compactness was by a geographic area
10 versus a geographic and population area, so I
11 just wanted to say that.

12 Q. Got it. And that debate's among
13 demographers --

14 A. Yeah.

15 Q. -- and experts; is that right?

16 A. Yeah.

17 Q. That's not -- you -- do you know if
18 that's a legal debate or not?

19 A. No, no, no. I think insofar as what
20 my understanding is, that compactness legally
21 relates to the geography, not population and
22 geography.

23 Q. All right. Thank you for that.

24 Let's talk about the socioeconomic
25 data.

1 A. Uh-huh (affirmatively).

2 Q. In your first report, you concluded
3 that Louisiana's white population outpaces the
4 black population in several socioeconomic
5 indications according to 2019 ACS data. Black
6 people had significantly higher percentages of
7 the people with no high school education and
8 lower median household incomes than white people
9 and households. Furthermore, black people had
10 higher poverty rates than white people. Do you
11 recall those findings?

12 A. Yes.

13 Q. And do you still stand by those
14 findings?

15 A. Yes.

16 MR. STRACH:

17 Okay. Let's go to PR-86, and let's
18 go to page 13; and particularly, I'm
19 looking at Figure 5, so you can blow that
20 up for us.

21 TRIAL TECH:

22 (Complied.)

23 BY MR. STRACH:

24 Q. So you talked about this in your
25 direct. This is a map where your illustrative

1 congressional districts overlay on areas with
2 population that has no high school education,
3 correct?

4 A. That's correct.

5 Q. All right. So isn't it true that an
6 area with no high school education, based on your
7 conclusion, these are also areas with a high
8 black population?

9 A. No. No.

10 Q. Had you actually studied that?

11 A. I -- I am just familiar with the --
12 the black area and the white area. You know,
13 remember, I'm looking at areas that -- excuse me.
14 I'm looking at census tracts that don't have a
15 racial component. If I was looking at a census
16 tract that were majority black census tracts that
17 had a certain no high school education
18 percentage, I would agree with you; but these are
19 all population, all races included in here and
20 not just the black population.

21 Q. I understand that. Let me -- let me
22 be clear. That was a bad question. And let's
23 break this down a little bit. The -- the darker
24 the shading, the -- the more concentrated the
25 number of people are with no high school

1 education; is that right?

2 A. That's correct.

3 Q. All right. And -- and you know,
4 based on the -- the look you took at the BVAP
5 data, you know that the -- the northern delta
6 parishes are significantly minority black,
7 correct?

8 A. Right. But there's a white
9 population also.

10 Q. I understand. But those are also
11 areas on this map that are heavily shaded,
12 correct?

13 A. That's correct.

14 Q. So -- so the area, at least in the
15 northern delta parishes where there's a lack of
16 high school education correlate with the black
17 population, correct?

18 A. I disagree, because I believe that
19 there are also white persons included in those
20 areas that don't have high school education in a
21 higher percentage, just like poverty. I'm sure
22 there are white persons that have -- are in
23 poverty at a higher percentage, just like income,
24 white persons that have a higher income in those
25 areas.

1 Q. All right. Let me -- let's take a
2 look at -- when you look at this, the areas with
3 no high school education, and you compare the
4 northern delta region, which is I'll just call it
5 heavily shaded, do you agree with that
6 characterization?

7 A. Yes. Yes.

8 Q. All right. And I compare that with
9 East Baton Rouge and West Baton Rouge, they are
10 not heavily shaded, are they?

11 A. They are shaded in areas.

12 Q. But there's a lot of white there
13 too, which indicated high school educations?

14 A. In this particular atrophy, that's
15 correct.

16 Q. All right. And yet you thought it
17 was appropriate, based on socioeconomic factors,
18 to include those two parishes with the heavily
19 shaded northern delta parishes?

20 A. Remember, I'm using a collection of
21 multiple socioeconomic aspects, not just this one
22 for high school education, so I'm overlaying all
23 of them together. Not only that, when it comes
24 down to the fine tuning of redistricting, I
25 recall this was one of the areas that I also

1 added to equalize that population basically.

2 Q. All right. And in your illustrative
3 plan, your CD5, you don't just include the areas
4 of, say, West Baton Rouge that are shaded. You
5 include all of East Baton Rouge I think. Well,
6 maybe all of West Baton Rouge and a lot of East
7 Baton Rouge, correct?

8 A. I included a portion of East
9 Baton Rouge and all of West Baton Rouge.

10 MR. STRACH:

11 All right. Well, then let's look at
12 Figure 6 on page 15.

13 TRIAL TECH:

14 (Complied.)

15 BY MR. STRACH:

16 Q. So, Mr. Fairfax, this is the chart
17 regarding median household income, correct?

18 A. Correct.

19 Q. And the more the shading there is,
20 the lower the income, correct?

21 A. That's correct.

22 Q. And similarly, the last chart we saw
23 the last map, the areas in the northern delta
24 parish are fairly heavily shaded, correct?

25 A. Yes.

1 Q. All right. And then would you agree
2 with me that if we look at East and West
3 Baton Rouge, there's very little shading in that
4 one?

5 A. You're talking about throughout
6 or --

7 Q. Yeah. I mean, I'm just looking at
8 East and West Baton Rouge and I'm just not seeing
9 very much shading, like I am up in the northern
10 delta?

11 A. Correct.

12 Q. Okay. And -- and there are a lot of
13 parishes to the west of your CD5 that are heavily
14 shaded, right?

15 A. Correct.

16 Q. All right. You show --

17 A. Not a lot, but yeah, I understand
18 there are some.

19 Q. Yeah. I mean --

20 A. Yeah.

21 Q. I look at this map and I guess, to
22 my eye, it would have made more sense to take
23 that west to capture those heavily shaded
24 parishes rather than going south.

25 A. You're talking about in the northern

1 end?

2 Q. In the northern end, yes.

3 A. No, not -- not when you look at all
4 the socioeconomic aspects. It's clear that the
5 western portion of those delta parishes, when you
6 look at totality of the socioeconomic indicators,
7 that there is a difference between the delta
8 parishes and those to the west. You can pick out
9 one or two areas that -- that are different; but
10 overall, that western area is different than --
11 than the eastern area.

12 Q. All right. Let's go back to
13 Figure 5 on page 13 for us. So you're saying,
14 based on the shading that I'm seeing in District
15 4, that it would not have made sense for this
16 district to go west instead of south?

17 A. The only -- excuse me. The only
18 parish that I could see was Caldwell, and I
19 explained that the reason why they used Caldwell,
20 all of these other ones had fractured little
21 pieces, if you will. And so you have to take
22 the -- the totality of the parishes; whereas, you
23 can see on -- on the east side, they have the
24 majority of the -- the parish included in the
25 color.

1 Q. All right. Well, let's go to
2 page 16 and I think, Mr. Fairfax, you have
3 another Figure 6. So I think you duplicated
4 Figure 6, just FYI, in this report. These are
5 the risk factors now, correct?

6 A. That's correct.

7 Q. And there's a lot of heavy shading
8 in the northern delta parishes, correct?

9 A. Yes. But to get to them, you would
10 almost have to form one of these redistricting
11 configurations you talked about in the '90s. You
12 would have almost a Z looking because you grab
13 those areas in the northern end, and if you
14 notice, there aren't a substantial amount in the
15 parishes that are directly west. You have to go
16 to the north or you would have to go right
17 through those parishes that are -- that don't
18 have the same CRE risk factors to get to some of
19 the ones that do.

20 Q. And you'll agree with me, at least
21 in West Baton Rouge, there was almost no shading,
22 correct?

23 A. In West Baton Rouge?

24 Q. Correct.

25 A. That is correct. In this particular

1 example.

2 Q. All right. And that was one -- that
3 was a parish that you have included wholly within
4 your CD5, correct?

5 A. That is correct. But, once again,
6 it's the totality that I'm looking at, not just
7 one of these maps.

8 Q. All right.

9 MR. STRACH:

10 Thank you, Your Honor. Nothing
11 further at this time.

12 THE COURT:

13 Redirect?

14 MS. SADASIVAN:

15 Kathryn Sadasivan for the --
16 representing the plaintiffs again.

17 REDIRECT EXAMINATION BY MS. SADASIVAN:

18 Q. Mr. Fairfax, when you started
19 drawing your illustrative plans, which district
20 did you start in?

21 A. CD2.

22 Q. And why?

23 A. First, it is a convention to start
24 with what's called the Voting Rights Act
25 district, the VRA district. So since CD2 was

1 that, usually you start and I started with that
2 as somewhat protecting that district. If you end
3 up having that last, the district may not end up
4 being configured or may end up with a Voting
5 Rights Act violation.

6 Q. And what did you seek to do in
7 congressional District 2?

8 A. The design or -- or goals that I had
9 from the beginning was to make that district more
10 compact, split less political subdivisions,
11 including -- or specifically parishes, and remove
12 a portion from the Baton Rouge region. And so
13 what I did was there were River Parishes that
14 were split, I made them whole. The district was
15 made more compact just by the shape added to it
16 and I moved a portion out of East Baton Rouge,
17 brought that district down and made it more
18 compact that way as well.

19 Q. And then what district did you go
20 to?

21 A. Then I began in the north and began
22 looking at that 4th and 5th somewhat combined
23 together. I wanted the 5th to be that delta,
24 more of a delta presence in the north area, and I
25 noticed that the socioeconomic makeup of the west

1 District 5 wasn't the same as the east portion.
2 So I began going back and forth removing portions
3 of District 5 and adding them to District 4 and
4 then began, I guess, coming down and recreating
5 sort of that District 5.

6 Q. And when you were talking about
7 congressional District 5 earlier, you were
8 talking about the number of the -- or the black
9 voting age population fluctuating. You weren't
10 trying to achieve any particular racial target --

11 A. No.

12 Q. -- in drawing District 5?

13 A. No, no, no. I'm just trying to
14 satisfy that first precondition, first component
15 precondition of Gingles sufficient in large.

16 MS. SADASIVAN:

17 Thank you, Mr. Fairfax. That's all

18 I have.

19 THE COURT:

20 That concludes your examination?

21 MS. SADASIVAN:

22 Yes, that concludes my examination.

23 Thank you so much, Mr. Fairfax.

24 THE COURT:

25 Okay.

1 MR. SHELLY:

2 Good afternoon, Your Honor. I'll be
3 taking the next witness. Will it be okay
4 to take a quick break first?

5 THE COURT:

6 I was just going to say, we can take
7 a quick break; and I do have something off
8 the record. Okay. We will be in recess
9 for 15 minutes.

10 (A short recess was taken at 3:06 p.m.)

11 THE COURT:

12 Okay. Ladies and gentlemen, we are
13 working on the temperature and I only have
14 one word to say, a word is an acronym,
15 GSA. If you want to go to your car and
16 get a blanket, we will relax our protocols
17 accordingly. We are working on it, so we
18 are going to try to get a little bit more
19 habitable in here. Next witness.

20 MR. SHELLY:

21 Good afternoon, Your Honor. I'm
22 Jacob Shelly, S-H-E-L-L-Y. I represent
23 again the plaintiffs, and we call
24 Mr. Charles Cravins.

25 CHARLES CRAVINS,

1 after having first been duly sworn by the
2 above-mentioned court reporter, did testify as
3 follows:

4 THE COURT:

5 Go ahead, sir.

6 DIRECT EXAMINATION BY MR. SHELLY:

7 Q. Good afternoon, Mr. Cravins. Could
8 you please state your full name for the record?

9 A. Charles Cravins.

10 Q. Where do you live?

11 A. I live in St. Landry Parish outside
12 the Town of Washington, Louisiana.

13 Q. How long have you lived in
14 St. Landry Parish?

15 A. Sixty-six minus three years that I
16 spent in the military.

17 Q. That's, in fact, your entire life?

18 A. Yes.

19 Q. How long has your family lived in
20 the St. Landry Parish area?

21 A. My forebearers came to St. Landry
22 Parish in 1764.

23 Q. Can you briefly describe how that
24 came about?

25 A. They was a Frenchman by the name of

1 Gregoire Guillory and an enslaved woman by the
2 name of Marguerite Guillory. Marguerite
3 subsequently went to court in 1782 under Spanish,
4 while Louisiana was under Spanish authority, and
5 maintained her freedom and the family's been
6 there ever since.

7 Q. Can you briefly describe your
8 professional background for the court?

9 A. Currently, I'm a partner in Cravins
10 Trosclair, A Professional Law Corporation in
11 Opelousas since January of 2021. From January of
12 2020 until January of 2021, I was district
13 attorney of St. Landry Parish. Prior to that, I
14 was first assistant district attorney. Prior to
15 that from -- from 2007, I was an assistant
16 district attorney and chief administrative
17 officer. Prior to that from 1997 to '07, I was
18 only chief administrative officer of the district
19 attorney's office. Before that, I worked for the
20 4th Congressional District in constituent
21 services and government relations. And prior to
22 that, I was in the radio and insurance industries
23 and still have an advocation in radio and doing a
24 radio show since 1986. And that's really the --
25 the bulk of what I've done.

1 Q. What is the subject of that radio
2 program?

3 A. Our radio show is a public affairs
4 and Zydeco music radio program. It's our unique
5 format.

6 Q. Do you consider yourself familiar
7 with St. Landry Parish and surrounding areas and
8 how it fits into the State of Louisiana?

9 A. I do.

10 Q. You mentioned you are a lawyer.
11 Where did you attend law school?

12 A. Southern University Law Center in
13 Baton Rouge.

14 Q. In your experience, is it common for
15 St. Landry residents to attend college or
16 university in Baton Rouge?

17 A. Yes.

18 Q. Do you have any other personal
19 experience with that?

20 A. Yes. We're -- we're nine siblings
21 in my family. Of the nine, five have college
22 degrees or postgraduate degrees. All five of
23 those attended college in Baton Rouge. Also,
24 just a lot -- there are a lot of people I know, a
25 lot of people from St. Landry Parish who attend

1 college in Baton Rouge.

2 Q. What do you attribute that
3 educational connection to?

4 A. Well, I think as far as the
5 African-American community is concerned, that
6 started as the only option because there were no
7 integrated colleges that people could attend.
8 There was Grambling, but Grambling is in
9 northwest Louisiana and virtually inaccessible at
10 that time from St. Landry Parish.

11 And the other college in Lafayette
12 was at the time known as Southern Louisiana
13 Institute, so it was a regional college and just
14 didn't have the prestige that LSU had and
15 continues to have in Louisiana. And so from that
16 necessity, I guess from the segregation and the
17 educational opportunities, it's become sort of a
18 tradition for people to attend in Baton Rouge.

19 Q. In addition to the educational ties,
20 are there other economic ties that link
21 St. Landry Parish with Baton Rouge?

22 A. Definitely.

23 Q. Can you tell us about them?

24 A. All of south Louisiana is very
25 involved and is dependent upon the petrochemical

1 industry, and particularly as it relates to
2 offshore drilling and refining, and so there are
3 a lot of jobs in that industry.

4 My father, for instance, belonged to
5 Baton Rouge Local 1177, which is the laborer's
6 local; and he and a lot of men from St. Landry
7 Parish of his generation rode a bus or hitchhiked
8 every day to Baton Rouge to work. As a matter of
9 fact, those buses weren't commercial buses. They
10 were buses that were set up specifically for that
11 purpose to -- to bring people to work in
12 Baton Rouge. So that and, of course, we have a
13 refinery in St. Landry Parish that's a very
14 strong tie, very strong economic tie.

15 Also, there's agricultural ties.
16 You know, immediately to the west of -- of the
17 City of Baton Rouge. If you are traveling up 190
18 toward Opelousas, you'll see sugar cane fields
19 all throughout that area; and that is a very
20 important row crop in St. Landry Parish and a lot
21 of south Louisiana up in -- as I said, to the
22 border of Baton Rouge proper.

23 Q. Are there social and cultural
24 connections that St. Landry Parish shares with
25 Baton Rouge?

1 A. Well, we do a Zydeco public affairs
2 program so that people listen to in Baton Rouge
3 and, yes, there are. The media, I know media
4 market is a term of art used in that industry,
5 but media -- so St. Landry Parish is not part of
6 the Baton Rouge media market, but there's a great
7 deal of Baton Rouge media consumption in
8 St. Landry Parish. You -- when you subscribe for
9 cable, for instance, you can get the Baton Rouge
10 stations. Baton Rouge newspaper is very widely
11 read in St. Landry Parish. Baton Rouge
12 television stations, radio stations very popular
13 in St. Landry Parish, so there's that connection.

14 There's also family connections that
15 are derived from those economic connections we
16 talked about earlier. People get jobs at the
17 plants, they move there, their families grow up
18 there. I have two daughters who live in
19 Baton Rouge. You also have the historic
20 connection I talked about, Spanish governance of
21 Louisiana. Baton Rouge and St. Landry Parish
22 also both share vestiges of that strong French
23 and Spanish influence in those, both areas in
24 food, just, you know, it's pervasive. Those
25 connections are pervasive.

1 Q. Any connections in religions,
2 sports, anything like that?

3 A. Yeah. The Catholic church is
4 very -- there are a lot of Catholics in south
5 Louisiana, and the church has a lot of influence
6 in the southern part of the state, both -- well,
7 particularly from cultural and that particular
8 standpoint. And as far as sports are concerned,
9 this is Saints country and so, you know, this is
10 where the Saints fans are.

11 Q. Would communities of interest best
12 be maintained by grouping St. Landry Parish with
13 Shreveport or Baton Rouge?

14 A. Definitely Baton Rouge.

15 Q. And when we are thinking
16 specifically about congressional representation,
17 why is it important to keep St. Landry Parish
18 with Baton Rouge?

19 A. St. Landry Parish is not a small
20 parish, you know, in Louisiana, as far as
21 Louisiana parishes go. But it is not a large,
22 heavily populated area, generally mostly rural,
23 13 municipalities, but not dense -- densely
24 populated. In order for St. Landry to have its
25 full political potential, it needs to be paired

1 with what I call some center of influence or
2 centers of influence.

3 And there is traditionally been more
4 densely, three -- three more densely populated
5 areas that St. Landry has been associated with
6 and has aligned with, and those would be
7 Lake Charles, Lafayette and Baton Rouge. And
8 there are no other densely populated areas that
9 where St. Landry can extend and magnify its
10 influence by associating with those areas. If
11 St. Landry is cut off from one of those, you can
12 make it. You still have some voice because you
13 have two remaining. If you cut off from two, you
14 have less of a voice, but you still -- there's
15 still some reason for people to pay attention to
16 you. When you are cut off from all three, you
17 are effectively disenfranchised as far as
18 congressional politics go because nobody cares
19 about you.

20 For instance, right now under the
21 2011 map, St. Landry is divided between the
22 northwestern part of the state and the
23 northeastern part of the state. As far as I
24 know, the congressman from Shreveport has never
25 visited. He has roughly half the geographic area

1 of St. Landry Parish. I don't know that he's
2 visited since he's been elected. Now, I do know
3 that several different Congress people from
4 northwest Louisiana have visited, so I don't know
5 what's the reason for that disparity. Well, I do
6 have some ideas what reasons are for that
7 disparity, but the disparity exists.

8 Q. Just for the record, I think you
9 said people from the northwest have --

10 A. No. Northeast. I'm sorry. I meant
11 to say from the northeast have visited. From the
12 Monroe area, the current congressman is from
13 Stark I believe. I know she's been there, which
14 is in -- in the northeast portion of the state,
15 but the congressman from the northwest who's from
16 Shreveport, as far as I know, has never visited
17 St. Landry.

18 Q. Are there policy interests that
19 residents of St. Landry share with Baton Rouge
20 that they do not necessarily share with
21 Shreveport?

22 A. Absolutely. And let me just -- I'll
23 give you just a couple -- one is the
24 petrochemical industry that I mentioned earlier,
25 particularly as it deals with refining and

1 offshore oil drilling. And, you know, that -- in
2 the northern part of the state, you have natural
3 gas, but that's a different animal from the
4 refinery and oil drilling petrochemical business.

5 In the southern part of the state,
6 you also have the environmental concerns that
7 come with those refineries, and I'm sure you've
8 heard of cancer alley and those types of
9 environmental concerns involved with, you know,
10 air quality, water quality and that type of
11 thing. That would -- that would be common to
12 St. Landry Parish and to Baton Rouge.

13 Also, you have the issue of climate
14 as it relates to the petrochemical industry, but
15 you also have the issue of weather and disaster
16 relief. In south Louisiana, disaster relief,
17 congressional policy on disaster relief is
18 critical, and Baton Rouge and St. Landry Parish
19 would share that; whereas, the northern part of
20 the state, particularly the northwestern part of
21 the state, the northeastern part of the state has
22 the river, Mississippi River. There are some
23 flooding problems. There are some disaster
24 relief issues that would effect that part, but
25 the southern part, hurricanes are the thing and

1 it seems that every year we get hit with one,
2 sometimes multiple hurricanes.

3 You may have seen in the news in the
4 last couple of years there are some Congress
5 people who are opposed to the federal
6 government's aggressive response to disaster,
7 FEMA's response, appropriations dealing with
8 disaster relief.

9 In north Louisiana, you might be
10 able to get away with being opposed to that --
11 those relief efforts. In south Louisiana, you
12 are not going to make it through the next
13 election if you are not supporting your people in
14 that disaster relief.

15 Q. Are the crops the same for --

16 A. I was going to tell you one more.
17 And this one's not as widely known, but I
18 mentioned the sugar cane fields west of
19 Baton Rouge. Sugar cane is an important row crop
20 in south Louisiana and the issue of sugar
21 supports. That's something a lot of people never
22 pay any attention to. It's not as -- as widely
23 known as maybe some of the other issues that
24 I've -- I've mentioned, but the issue of sugar
25 supports, price supports is critical in south

1 Louisiana and unimportant in -- in the
2 northwestern part of the state.

3 Q. Bridging gears slightly, has your
4 voting rights changed recently?

5 A. Yes, it did.

6 Q. How long was that change in place?

7 A. The change was in place from the
8 beginning of 2021. So it was not in effect for
9 the 2020 presidential election and it was in
10 place for the most recent runoff election that
11 occurred in April, but will not be in place for
12 the November elections.

13 Q. Can you describe geographically what
14 that change was?

15 A. The change was that it increased --
16 it decreased the number of precincts in
17 St. Landry Parish.

18 So in my case, my prior polling
19 place was roughly 1.2, 1.3 miles from my home in
20 the town. The -- the polling place was in the
21 Town of Washington. I live right outside the
22 Town of Washington. My polling under the plan
23 that's currently in place until November
24 elections is 17 miles from my home. So
25 fortunately, we have a car so we can do it, but

1 it's really extremely inconvenient.

2 Q. What was the response in the
3 community for this change?

4 A. There was an uproar. That was a lot
5 of -- a lot of people thought that it was -- and
6 I believe it was done for -- to dilute minority
7 votes. So what happened is that small, not
8 small, but precincts that were predominantly
9 African-American were combined with precincts
10 that were majority white into much larger
11 precincts. So it may have taken three precincts
12 that were predominantly African-American,
13 combined them with five that were majority white
14 and those are the precincts.

15 So -- so in my case, for instance,
16 those precincts were used during the
17 redistricting process, and just coincidentally or
18 not, they were in place basically only for during
19 the redistricting process. So now my state
20 representative, current state representative is
21 the person who owns a business. He's a
22 pharmacist -- a nurse practitioner. I'm sorry.
23 He owns a business just a few miles from my home,
24 much closer than my current precinct is, and I
25 went to high school with his parents. And now

1 the center of the -- the state representative
2 district that I'm going to be in, the -- the
3 center of population for that is in Avoyelles
4 Parish and I live a pretty long way from
5 Avoyelles Parish. But that is the effect of --
6 of that precinct change, because in the
7 redistricting process, one of the principles was
8 he don't split precincts. If those precincts
9 hadn't been enlarged, you would have a much
10 different process than -- than what occurred.

11 Q. What do you understand to be the
12 official reason for these precinct changes?

13 A. The asserted reason was that
14 Mike Hefner went to the parish president and the
15 council and told him there was a mandate from the
16 secretary of state to reduce costs. That was the
17 asserted reason. I can't vouch for the -- the
18 truth of that assertion.

19 MR. WALE:

20 Your Honor, I'm sorry. I have to
21 interrupt to Mr. Cravin's actual hearsay.
22 He's responding for others.

23 MR. SHELLY:

24 I am most generously not offering
25 these reasons for the truth of the matter

1 of why these precincts were changing. I
2 wanted Mr. Cravins to testify on what he
3 understood the reason. My next question
4 is whether he found that reason to be
5 credible.

6 THE COURT:

7 Well, your question was what -- I'll
8 paraphrase -- was what was the stated
9 reason for the precinct changes. I'm
10 going to allow the question. It's a bench
11 trial. It did call for previous, but your
12 objection is overruled. Go ahead and ask
13 the question.

14 BY MR. SHELLY:

15 Q. Mr. Cravins, did you find the -- the
16 stated reason to be credible?

17 A. No. I don't find the stated reason
18 to be credible because I was recently at a parish
19 council meeting where that issue was on the
20 agenda and there was no mention of cost and the
21 parish is going back. I think the parish is
22 actually going to wind up with one more precinct
23 than there was before all these changes were
24 made, so there are going to be 99 precincts in
25 the parish I believe, up from 33 and up from the

1 98 before the 30 something precincts.

2 Q. I believe you alluded to this. Do
3 you know who was responsible for the change?

4 A. Mike Hefner was the demographer for
5 that.

6 Q. Are you familiar with Mr. Hefner's
7 role in this case?

8 A. I had read part of a report that was
9 prepared by Mr. Hefner.

10 Q. Submitted on behalf of the state?

11 A. Yes. Submitted on behalf of the
12 attorney general.

13 Q. What is the reaction in the way that
14 he describes the communities of interest?

15 MR. WALE:

16 Excuse me. I'm going to object,
17 Your Honor. He's clearly calling for the
18 opinion of a lay witness. Mr. Hefner has
19 been offered as an expert in this case,
20 not in this case as a fact witness, not --

21 THE COURT:

22 You're calling for opinion. What is
23 your response?

24 MR. SHELLY:

25 Mr. Cravins is testifying about his

1 knowledge of the communities of interest
2 which is the subject of the report. I'm
3 asking if that is consistent with his lay
4 understanding of communities of interest
5 where he lives.

6 THE COURT:

7 Sustained.

8 BY MR. SHELLY:

9 Q. Mr. Cravins, are you familiar with
10 the illustrative maps that the Galmon plaintiffs
11 submitted in this case?

12 A. Yes, I am.

13 Q. Do you believe they have communities
14 of interest?

15 MR. WALE:

16 Again, Your Honor, I'm going to
17 repeat the objection that this witness is
18 a fact witness. He is not an expert and
19 was not tendered in the subject.

20 MR. SHELLY:

21 He -- he testified of his
22 understanding that where St. Landry fits
23 as a community, which -- which communities
24 it shares interest with. His -- I mean,
25 I'm merely asking him to explain what is

1 his understanding as of --

2 THE COURT:

3 Well, but community interest is a
4 legal test for which opinion testimony has
5 been -- has been offered and accepted.
6 You are calling for a legal -- you are not
7 calling for a legal conclusion. You are
8 calling for opinion testimony. It's far
9 beyond lay testimony. Sustained.

10 MR. SHELLY:

11 Okay. I'll try one more time.

12 BY MR. SHELLY:

13 Q. Mr. Cravins, you testified to the
14 educational, cultural and industrial connections
15 that St. Landry shares with Baton Rouge.

16 Do you believe that the illustrative
17 maps that you reviewed, do you believe that --
18 that those would allow residents of St. Landry
19 Parish to have their policy interests heard?

20 MR. WALE:

21 Your Honor, again, I'm going to
22 repeat my earlier objection that's again
23 calling for opinion testimony that an
24 expert should be giving.

25 THE COURT:

1 Well, this is a little different.
2 He's a resident of St. Landry Parish. The
3 question is do the residents of St. Landry
4 Parish look at these maps, do you think
5 the folks in your -- in your parish have a
6 chance at electing representatives. I'm
7 going to overrule. You may answer the
8 question.

9 THE WITNESS:

10 The map, are you asking about the
11 2022 map or the Galmon plan?

12 MR. SHELLY:

13 The Galmon maps.

14 THE WITNESS:

15 The Galmon maps would at least allow
16 us to maintain the connection with
17 Lafayette and Baton Rouge that I spoke of
18 earlier as two of the three centers of
19 influence that are important to St. Landry
20 Parish.

21 MR. SHELLY:

22 I have no more questions at this
23 time.

24 THE COURT:

25 Cross?

1 MR. WALE:

2 All right.

3 THE COURT:

4 Your name, sir?

5 MR. WALE:

6 Jeffrey Wale on behalf of the state,

7 Your Honor.

8 CROSS-EXAMINATION BY MR. WALE:

9 Q. Hi, Mr. Cravins, I'm Jeffrey Wale.

10 I'm going to be asking you a few questions this
11 afternoon.

12 A. Yes, sir.

13 Q. First of all, I have to ask. We
14 prepared a lot for the trial. I did not prepare
15 anything on Zydeco, so you are -- you have a
16 radio show that features Zydeco music?

17 A. Yes, sir.

18 Q. Okay. That's fantastic. What
19 station did that come on? Is it on the radio?

20 A. 105.9 FM.

21 Q. 105.9 FM and --

22 A. Also available online.

23 Q. Also available online. Perfect.

24 Does 105.9 FM, does that carryover into the

25 Baton Rouge media market?

1 A. You -- it can be picked up in
2 Baton Rouge, but we have a lot of online centers.

3 Q. Okay. So it's more online than --
4 than on the radio?

5 A. I wouldn't -- I -- I couldn't say
6 that it's more online than radio. It's both. I
7 just didn't want you to leave with the impression
8 that it was strictly on air as a show.

9 Q. Sure. Sure. Because I -- I had
10 heard some earlier statements about Baton Rouge
11 is in the media market or Baton Rouge and
12 St. Landry Parish share a media market or that it
13 doesn't. Can you clarify whether you think they
14 share a media market?

15 A. Are you referring to testimony
16 before I took the stand?

17 Q. No. Your testimony earlier.

18 A. No. What I said was a media market
19 is a term of art, so these organizations define
20 media markets. St. Landry Parish is not part of
21 the defined Baton Rouge media market, but there
22 is a lot of consumption of Baton Rouge media in
23 St. Landry Parish.

24 Q. I understand. And so just to
25 confirm. Today, Mr. Cravins, you are not being

1 offered as an expert today, correct?

2 A. I'm being offered as a fact witness.

3 Q. Okay. Thank you.

4 And so everything that you are
5 testifying today is based solely on your personal
6 experience as a resident of St. Landry Parish?

7 A. Yes.

8 Q. You were a lawyer in St. Landry
9 Parish and you ran for district attorney?

10 A. Yes, sir.

11 Q. And you ran as a Democrat; is that
12 correct?

13 A. That is correct.

14 Q. So when you ran, you were the acting
15 district attorney, correct?

16 A. No, sir.

17 Q. What was your position?

18 A. I was the district attorney by
19 operation of law.

20 Q. But can you explain --

21 A. Not acting.

22 Q. Can you explain that to me?

23 A. In Louisiana, if you are a sheriff
24 and the sheriff's office is vacated, then by
25 operation of law, the chief deputy sheriff

1 becomes the sheriff. Doesn't become the acting
2 sheriff, they become sheriff.

3 If a district attorney, in the case
4 of a district attorney, the first assistant
5 district attorney in the event of a vacancy in
6 the office of district attorney becomes the
7 district attorney by operation of law.

8 Q. Okay. So you were the assistant
9 district attorney who took over as district
10 attorney on the resignation of the previous?

11 A. The retirement.

12 Q. The retirement -- excuse me -- of
13 the previous district attorney. All right. So
14 you had never been elected to that office
15 previously?

16 A. No.

17 Q. But you did run for the election in
18 2020?

19 A. Yes, sir.

20 Q. And you appeared on the ballot at
21 the same time as the presidential election?

22 A. That is correct.

23 Q. And -- and, at that time,
24 President Trump carried St. Landry Parish by a
25 margin of about 56 percent; is that correct?

1 A. I didn't really pay attention. I
2 know he carried the parish. I couldn't -- I
3 couldn't testify as to the percentage.

4 Q. But would you believe me if I told
5 you that -- that he carried about 56 percent of
6 the parish?

7 A. Yes.

8 Q. And in your result, your opponent, a
9 Republican, received 52 percent of the votes and
10 you received about 48 percent of the votes; is
11 that correct?

12 A. Roughly, 51 point something, 48
13 point something.

14 Q. So as a Democrat, do you believe
15 that you would have received -- based on what I
16 just told you, that you would have received at
17 least some crossover voters from Trump voters
18 representing the plaintiffs again, some crossover
19 voters for the -- representing the plaintiffs
20 again, that people voted for both Trump and
21 yourself?

22 A. Yes.

23 Q. All right.

24 A. Let me -- let me --

25 Q. So let's talk about St. Landry

1 Parish.

2 A. Let me -- let me amend that answer,
3 and the reason I can't tell you, the reason is
4 there was a large disparity between the number of
5 votes cast in those two elections, so I couldn't
6 tell you who voted for who.

7 Q. Okay. But let's discuss St. Landry
8 Parish. There are about 90,000 residents in
9 St. Landry Parish, correct?

10 A. 80 something thousand.

11 Q. 80 something thousand. I apologize.
12 I'm rounding. I'm using rough -- rough numbers
13 here. And is the minority population about
14 45 percent?

15 A. 43 percent.

16 Q. 43 percent. Again, I apologize
17 for -- for rounding.

18 A. Well, when you say "minority," what
19 are you -- what are you -- who are you
20 classifying as minorities?

21 Q. By bare standard using voter
22 registration statistics, black voters and any
23 part black voters.

24 A. Okay. Black voters and any -- and
25 any part black voters you said?

1 Q. Yes.

2 A. Is that on some kind of official
3 registry?

4 Q. I'm sorry. I was using -- I believe
5 I was using percentage of black voters from voter
6 registration statistics.

7 A. Okay. It's not 45 percent.

8 Q. Okay. I apologize. So the
9 majority, but you would say the majority of the
10 parish is white, correct?

11 A. Yes.

12 Q. The majority of the population is
13 white?

14 A. Yes.

15 Q. And what are the major cities of
16 St. Landry Parish; would that be Eunice,
17 Opelousas, Arnaudville, Krotz Springs, etc.; is
18 that correct?

19 A. There are 13 municipalities in
20 St. Landry Parish.

21 Q. Thirteen municipalities, right. And
22 so would you say that Republicans specifically
23 went there to visit the office in St. Landry
24 Parish?

25 A. No.

1 Q. You would not say that?

2 A. No.

3 Q. All right. So --

4 A. Absolutely not.

5 Q. And so -- so as we discussed
6 earlier, had President Trump won in 2020, as we
7 said, it would be carried by a large margin?

8 A. Right.

9 Q. I believe Senator Cassidy, a
10 Republican, carried that by a large margin at
11 that same election, correct?

12 A. If you would allow me to finish
13 answering your last question, the only Republican
14 parish-wide elected official in St. Landry Parish
15 currently is the Republican district attorney who
16 won the race that I was involved in. There is
17 no -- no other Republican was elected prior to
18 him.

19 Q. And so to rephrase my question in
20 another way, Republicans typically win elections
21 held parish wide such as president, such as
22 senator, such as congressman?

23 A. John Bel Edwards carried Louisiana,
24 and to say that Republicans typically carry
25 St. Landry Parish is not correct.

1 Q. Okay. And there are --

2 All right. Let's move on to talk
3 about the congressional districts. What
4 congressional districts are currently included in
5 St. Landry Parish?

6 A. Right now, we have the district that
7 comes up, the -- half of the parish is in the
8 district that comes up the eastern up the delta
9 region represented by Julie Letlow, and we have
10 the -- let's see. That would be the eastern half
11 of the parish. The western half of the parish is
12 the district that is where Mike Johnson from
13 Shreveport is currently congressman.

14 Q. So that's the 4th and the 5th
15 Districts?

16 A. That's correct.

17 Q. All right. And so -- and can you
18 clarify for me, is the 3rd -- the congressional
19 3rd District, is that a region of St. Landry
20 Parish?

21 A. The 3rd --

22 Q. I'm sorry. District?

23 A. The 3rd District -- glad you asked
24 me that question. The 3rd District contains one
25 or two precincts in Cankton area, which is in the

1 southwestern part of the parish, south central to
2 southwestern part of the parish that are in the
3 3rd Congressional District. At least that allows
4 St. Landry Parish and its parish-wide elected
5 officials to still have some voice with those
6 representatives, that representative who
7 represents the 3rd Congressional District. The
8 2022 map takes away that -- that small connection
9 that the parish-wide officials would have to
10 speak for their constituents.

11 Q. So you are familiar with the new
12 parish map that the legislature enacted, correct?

13 A. That 2022 enacted map?

14 Q. The 2022 enacted map, yes sir.

15 A. Yes, sir.

16 THE COURT:

17 The parish map? I'm sorry. You
18 said the new parish map?

19 MR. WALE:

20 Oh, the Congress map. I apologize
21 if I misspoke.

22 BY MR. WALE:

23 Q. But to confirm your earlier
24 testimony, what we just said, currently
25 St. Landry Parish is part of the 3rd, 4th and 5th

1 Congressional Districts. What part are you
2 familiar with, what districts is Baton Rouge
3 currently made up of?

4 A. Baton Rouge is -- at least part of
5 Baton Rouge is represented by the new congressman
6 from New Orleans and I -- I know a Troy Carter.

7 Q. Sure.

8 A. And Garret Graves I think
9 represents -- does he represent part of
10 Baton Rouge?

11 Q. Well, normally we ask the questions,
12 as I'm sure you're aware, but I will represent to
13 you that Congressman Graves represents the 6th
14 District, Congressman Carter represents the 2nd
15 District --

16 A. Uh-huh (affirmatively).

17 Q. -- and both of those congressmen
18 represent Baton Rouge. And my question to you is
19 what part of St. Landry Parish, based on the
20 current map, not the 2022 enacted map, but
21 currently or previous map of this law, based on
22 the map we used after 2011, what part of
23 St. Landry Parish was a shared congressional
24 district with Baton Rouge?

25 A. Although Baton Rouge currently from

1 2011 is not connected to St. Landry, it's not in
2 the same congressional district as St. Landry.
3 What I testified to earlier is that it is
4 critically important for St. Landry Parish to
5 maintain a connection with at least one of those
6 centers of influence that allows St. Landry
7 Parish to have some political voice. Those three
8 centers of influence are Baton Rouge, Lafayette
9 and Lake Charles, not necessarily in that order.

10 Right now, because of that small
11 connection in the 2011 map that we have with the
12 3rd Congressional District, we are connected to
13 Lafayette and Lake Charles. The 2022 enacted map
14 takes away all those connections and goes out of
15 its way because St. Landry Parish has a large
16 African-American population to take St. Landry
17 Parish away from those centers of influence.

18 Q. I'm sorry. I need you to clarify or
19 repeat for me. What did you say the three
20 centers of influence are?

21 A. Lafayette, Lake Charles and
22 Baton Rouge.

23 Q. What are those, the three centers of
24 influence of?

25 A. Of political influence. They also

1 have economic influence, social influence. We
2 have a connection, we have some commonalities
3 with those three areas that residents of the
4 parish use to strengthen their voice as far as --
5 we are in here on a hearing, on an injunction
6 matter, so my focus is about politics; and so
7 from a political standpoint, St. Landry's
8 connection with those areas magnifies
9 St. Landry's influence.

10 Q. Now, are you saying those are the
11 only three centers of influence in the state?

12 A. Excuse me?

13 Q. Are you saying those three cities
14 that you named are the only three centers of
15 influence in the State of Louisiana?

16 A. I don't think I said that.

17 Q. You said those are the three centers
18 of influence.

19 A. That St. Landry Parish has common
20 amounts of interest in.

21 Q. All right. So speaking of -- of
22 commonality --

23 A. St. Landry Parish has no commonality
24 of interest with Shreveport. Shreveport is an
25 influence with the interests of the state.

1 St. Landry Parish has less commonality of
2 interest with New Orleans than it does with
3 Lake Charles and Lafayette.

4 Q. All right. Mr. Cravins, are you
5 familiar with Interstate 49?

6 A. I am.

7 Q. Where does Interstate 49 take you,
8 from where to where?

9 A. It takes you from Shreveport to
10 Thibodaux and on to New Orleans.

11 Q. All right. Does it run through the
12 center of St. Landry Parish?

13 A. It does.

14 Q. And so if I was going -- if I was
15 driving from north Louisiana to the Baton Rouge
16 area, what would be the quickest way for me to
17 get to Shreveport?

18 A. What you would first do, if you knew
19 where you were going and how to get there most
20 expeditiously, is that you go down Highway 190
21 through all those sugar cane farms until you got
22 to -- to Opelousas and then you would take a
23 right and get on the I-49 and you would travel
24 north and you would see those same sugar cane
25 farms that I was talking about earlier on your

1 right and left as you were headed towards

2 Shreveport.

3 Now, if you headed south, if you

4 made a wrong turn to I-49 and you headed south,

5 you would also see those same sugar cane farms

6 and you would see some aspects of the offshore

7 drilling industry. If you continued north on

8 I-49, having made the correct turn, you would no

9 longer see those.

10 Q. All right. So you mentioned in your

11 declaration that St. Landry Parish, to use your

12 exact words, contains a petrochemical plant along

13 the Atchafalaya River in the eastern part of the

14 parish, correct?

15 A. Correct.

16 Q. That's how many -- that's how many

17 it has?

18 A. There's only one in St. Landry

19 Parish.

20 Q. There's only one. And so do you

21 know whether Caddo Parish has any petrochemical

22 plants?

23 A. People in St. Landry Parish, me

24 being one of them, are very unfamiliar with Caddo

25 Parish, so no, I don't.

1 Q. Would you believe me if I told you
2 they did?

3 A. I doubt you would tell me that if it
4 wasn't true.

5 Q. What about Calcasieu Parish?

6 A. Calcasieu Parish has several.

7 Q. And what about St. Charles Parish?

8 A. Yes. St. Charles has some plants.
9 That's part of cancer alley, isn't it?

10 Q. So you would say that several
11 parishes in Louisiana have petrochemical plants
12 more so than St. Landry?

13 A. The petrochemical industry, as I
14 discussed earlier, is not a monolithic industry.
15 In St. Landry Parish, there is a refinery. In
16 Lafayette and Lake Charles, there are refineries.

17 In north Louisiana, the
18 petrochemical industry is more closely related to
19 natural gas. It is not as related to offshore
20 oil production, oil and natural gas production.
21 It's based on land-based natural gas.

22 So those petrochemical plants are
23 normally found on waterways and on the gulf, and
24 you're not talking about the same type of
25 industry or necessarily -- necessarily the same

1 interest either, pro jobs type interests or the
2 same environmental concerns that you have in
3 south Louisiana.

4 Q. Are you familiar with Evangeline
5 Parish at all?

6 A. Yes, I am.

7 Q. How close is Evangeline Parish to
8 St. Landry Parish?

9 A. It's a neighboring parish. It used
10 to be part of St. Landry Parish.

11 Q. Yeah. It used to part of the parish
12 and then it split at some point. Do you remember
13 when that was?

14 A. Neither you or I was alive at that
15 time.

16 Q. Fair enough. And so would you say
17 that those communities have a lot in common
18 between the residents of St. Landry Parish and
19 Evangeline Parish?

20 A. The southern part of Evangeline
21 Parish, you talking about two large geographic
22 parishes. The southern part of Evangeline Parish
23 in Ville Platte, Mamou have a lot of those -- a
24 lot of similarities. For instance, there's a
25 large Mardi Gras celebration in Mamou. When you

1 go up to the northern part of Evangeline Parish;
2 Pine Prairie, Turkey Creek; that is very
3 different country. That's -- you are starting to
4 get -- Pine Prairie, for instance, is because of
5 the pine trees. So then you are starting to get
6 into the area where forestry is an important
7 agricultural item, not so much row crops as they
8 are in southern Louisiana and the southern part
9 of Evangeline Parish, St. Landry Parish and on
10 east to -- to the border of -- to the Mississippi
11 River to Baton Rouge.

12 Q. All right. I understand.

13 MR. WALE:

14 Well, that's all the questions I
15 have. Thank you, Mr. Cravins.

16 THE WITNESS:

17 Thank you.

18 THE COURT:

19 Any redirect?

20 MR. SHELLY:

21 No, Your Honor.

22 THE COURT:

23 All right. Mr. Cravins, thank you
24 for your time. You may step down.

25 THE WITNESS:

1 Thank you.

2 THE COURT:

3 I have more time for another
4 witness.

5 MS. KHANNA:

6 Your Honor, may I make one jury
7 clarification before we call the next
8 witness?

9 THE COURT:

10 If that's going to provoke all kinds
11 of consternation, then please don't wait.

12 MS. KHANNA:

13 I hope it doesn't. I just want to
14 make sure that I understand correctly that
15 the fact that the defendants had purported
16 to offer an expert report on the issue of
17 communities of interest does not prohibit
18 fact witnesses from speaking of their own
19 personal observation of experience with
20 their own community's interest. Is
21 that -- is that a fair clarification?

22 THE COURT:

23 No. The court does not stand
24 admonished. Thank you.

25 MS. KHANNA:

1 I -- I just wanted to make sure we
2 understood going forward. Thank you, Your
3 Honor.

4 THE COURT:

5 Next witness?

6 MS. SEDWICK:

7 Chris Tyson.

8 THE COURT:

9 Would you introduce yourself?

10 MS. SEDWICK:

11 Good afternoon, ladies and gentlemen
12 of the court. My name is Olivia Sedwick,
13 counsel for the Galmon plaintiffs, and my
14 last name is spelled S-E-D-W-I-C-K.

15 THE COURT:

16 And spell your first name for the
17 court reporter, please.

18 MS. SEDWICK:

19 Olivia, O-L-I-V-I-A.

20 THE COURT:

21 Olivia.

22 CHRISTOPHER JORDAN TYSON,
23 after having first been duly sworn by the
24 above-mentioned court reporter, did testify as
25 follows:

1 DIRECT EXAMINATION BY MS. SEDWICK:

2 Q. Good afternoon, Mr. Tyson. Thank
3 you for taking the time to testify for the court
4 today. Can you please state your full name for
5 the record?

6 A. Christopher Jordan Tyson.

7 Q. And where do you live, here in
8 Baton Rouge?

9 A. Here in Baton Rouge.

10 Q. And where did you grow up?

11 A. Baton Rouge.

12 THE COURT:

13 Let me take a second.

14 BY MS. SEDWICK:

15 Q. Mr. Tyson, how do you register and
16 identify?

17 A. Black.

18 Q. And, if you could, please tell me a
19 little bit about your educational background?

20 A. Yes. Born and raised here in
21 Baton Rouge, graduated from University Laboratory
22 School, attended, graduated from Howard
23 University with a bachelor's in architecture,
24 graduated from the Harvard Kennedy School with a
25 master's of public policy and the Georgetown

1 University law center with a JD.

2 Q. And did you have any internships
3 while you were in school?

4 A. Yes. Interned in a number of
5 places. Most notably interned for former Senator
6 Mary Landrieu in her Washington, D.C. office, a
7 position I started the day after Katrina struck,
8 so I was very proud to serve the Senator in the
9 State of Louisiana in those months and years
10 after Hurricane Katrina.

11 Q. What do you currently do for a
12 living?

13 A. I'm currently a law professor at the
14 LSU Law Center.

15 Q. And you've run for an elected
16 office, correct?

17 A. Yes. I was on the ballot in 2015 as
18 secretary of state and spent two years running
19 statewide all around the state in support of that
20 campaign.

21 Q. And during your campaign, what were
22 some of the things that you saw?

23 A. Well, just got to experience the
24 diversity of the State of Louisiana, got to
25 travel around and meet people engaged in -- in

1 politics and just regular issues in their
2 communities. It was truly an eye opening
3 experience and -- and one that I treasure.

4 Q. And, if you could, please tell me
5 about some of your other professional experience
6 in the last ten years?

7 A. Sure. In the last four years, I
8 served as CEO of the -- of the organization
9 called Build Baton Rouge, which is the
10 redevelopment authority in land bank for the
11 city. Prior to that, I was an attorney with the
12 law firm of Jones Walker.

13 Q. And can you tell me a little bit
14 about what is Build Baton Rouge?

15 A. Build Baton Rouge is the
16 redevelopment authority in the land bank for East
17 Baton Rouge Parish. It is a political
18 subdivision of the State of Louisiana that has as
19 its jurisdiction all of East Baton Rouge Parish.
20 It's focused on white remediation core land
21 development, neighborhood urban development.

22 Q. And what's the general demographic
23 of the community that Build Baton Rouge serves?

24 A. All of East Baton Rouge Parish is a
25 jurisdiction, and so that is roughly I think 48,

1 49 black and white with a number of other
2 ethnicities making up the balance.

3 Q. So, Mr. Tyson, how long has your
4 family been in Louisiana and under what
5 circumstances did they arrive here?

6 A. I traced my oldest ancestor to the
7 1860s census here in Baton Rouge. Like many
8 families and many black families in particular in
9 Baton Rouge, my family in -- on most sides
10 migrated here from Wilkinson County, Mississippi
11 in the early part of the 20th century kind of
12 moving down the delta to Baton Rouge as the
13 nearest big city.

14 Q. And, if you could, please tell the
15 court the role that race has played in your
16 family's experience since coming to Baton Rouge?

17 A. Certainly. Well, I think like many
18 black families in Baton Rouge, my family
19 experienced the days of segregation and Jim Crow
20 in this community. We had residents in old south
21 Baton Rouge and the Eden part easy town areas,
22 which were two, I would say, out of the three or
23 four areas prior to integration that -- that you
24 had black residents in -- in the metropolitan
25 area, others being Scotlandville and Valley Park.

1 And so my great-grandparents had a grocery store
2 in old south Baton Rouge that was in the path of
3 the interstate. Like many communities, our
4 interstate system dissected black communities as
5 it moved through Baton Rouge. My mother was in
6 the third class to integrate to Baton Rouge high
7 school. My father was one of the first black
8 graduates of the LSU Law Center, and so just a
9 number of -- of incidents that, you know, kind of
10 track black life in the city.

11 Q. And how has race shaped your life
12 experiences?

13 A. Certainly. I -- I grew up here in
14 the '80s and '90s. The year I started first
15 grade was the year, first year of forced busing
16 in Baton Rouge, 1981 in the kind of long, drawn
17 out school city segregation lawsuit that we had
18 here in Baton Rouge. And -- and when I look back
19 over my life, I don't think I realized it growing
20 up, many of the changes that were happening in
21 the city because of integration in Baton Rouge's
22 kind of long resistance to implementing the
23 mandates of Brown were reflected in my life, and
24 the changes that I would see in the city before
25 leaving for school and then coming back to find

1 really a tale of two cities narrative as we have
2 talked about often at Build Baton Rouge, and I
3 think residents that maybe grapple with the
4 issues of race and class issues are here in
5 Baton Rouge.

6 Q. So I want to shift gears a little
7 bit. Have you had an opportunity to review the
8 Galmon illustrative maps?

9 A. Yes.

10 Q. And, in your view, would it make
11 sense to create a congressional district that
12 connects Baton Rouge and the Delta Parishes?

13 A. Absolutely.

14 Q. At a high level, could you share
15 with us the connections that you see between
16 Baton Rouge and the Delta Parishes?

17 A. Well, Baton Rouge is here on the
18 Mississippi River and Louisiana's history flows
19 through the delta and Louisiana's black history
20 flows through the delta in many ways. Black
21 population is still centered around the river,
22 which we know is the source of the plantation
23 industry. And so we know that those connections
24 exist through family, through faith networks,
25 through cultural experiences, that the connection

1 to Baton Rouge throughout the delta and parts of
2 central Louisiana included I think are felt in
3 family bonds. I've seen it in my family through
4 faith bonds and people travel for revivals and --
5 and other experiences throughout this region.
6 There are strong connections, and I know many
7 others whose families are connected to areas of
8 the delta and spend weekends going home for
9 dinner and can be back to Baton Rouge in the
10 morning, so I think those connections are strong.

11 Q. Let's take a few of those in turn.

12 So first, if you can kind of give us -- you've
13 given us a little bit already, but the -- the
14 familial ties, the educational ties between the
15 Baton Rouge and the -- the delta parishes.

16 A. Yeah. Take those, first of all, the
17 educational ties are strong. My family, as many
18 others' grandparents and great-grandparents
19 received education from McKinley Senior High
20 School when that was the -- the only option for
21 pursuing high school for black students in this
22 region before Capital High School would come
23 online I believe in the 1950s, and then we had
24 slow school integration and other options. So
25 the McKinley Senior High School people may not

1 realize was one of the only places to pursue
2 education after 8th grade for black students, not
3 just in Baton Rouge, but throughout the region;
4 and I've met people who -- elderly who talk about
5 coming to Baton Rouge to go to 9th grade and from
6 the rural areas of the delta, and so that is
7 strong.

8 We also know that Southern
9 University is here and also Leland College used
10 to be here as well, so you had two historically
11 black colleges in the region. Both of my
12 grandmothers attended both institutions, and
13 so -- and they were connected to others who
14 connected to those institutions and rose to
15 higher education and on to the middle class as
16 those institutions were very poor for black
17 access to the middle class in this region.

18 Familial, again, I know so many
19 people, including my own family, and look at
20 funeral programs and you see the connection
21 throughout the delta and many others who still
22 have parents and grandparents throughout the
23 delta that they visit and connect with on a
24 regular basis, even though they reside here in
25 the City of Baton Rouge or in the broader

1 metropolitan area.

2 Q. Now, what about from an economic
3 perspective the connections between Baton Rouge
4 and the Delta Parishes?

5 A. Well, Baton Rouge obviously is the
6 most urbanized area in the delta before you get
7 further down to New Orleans. The petrochemical
8 industry has a strong foothold here and that has
9 grown throughout the 20th century.

10 My great-grandfather was one of the
11 first black employees at Exxon, and so, you know,
12 those jobs provided some opportunities for black
13 people early on in the 20th century and continue
14 to do so today. And those are jobs that not only
15 exist in Baton Rouge but stretch up the river and
16 people who work in those industries live all
17 around and -- and commute from all around the
18 delta. So there's strong economic ties there, to
19 say nothing of the governmental base here in
20 Baton Rouge and the amount of travel that people
21 enjoy when they commute to work from rural areas
22 as -- as we like to do in Louisiana.

23 Q. Now, what about from a historical
24 perspective, you talked about the connection
25 earlier, the connection between Baton Rouge and

1 the Mississippi River. So from a historical
2 perspective, what would you say?

3 A. The history of that again is the
4 delta region, the plantation economy transforming
5 into the petrochemical economy, black communities
6 really never leaving the plantation geography of
7 Louisiana, staying close to the river; and that's
8 where we find population to this day literally
9 throughout Louisiana.

10 Q. Now, shifting gears just a little
11 bit, you've also seen the enacted map, correct?

12 A. Yes.

13 Q. And when viewing the enacted map, it
14 is your understanding that District 2 links
15 Baton Rouge and New Orleans together, correct?

16 A. Yes.

17 Q. And, in your experience, would you
18 say that Baton Rouge and New Orleans are -- make
19 sense as communities joined together?

20 A. No. In the way that it is -- it is
21 constructed in CD -- in the existing CD2, you
22 have in Baton Rouge and New Orleans the two
23 population centers of the state. And while they
24 are an hour and some change apart from each
25 other, they are very different economies. They

1 have very different histories, and the scale and
2 scope of New Orleans's economy and the issues it
3 faces as it receives over 30 million visitors a
4 year is simple for global tourism, very different
5 from the state capital university town that
6 Baton Rouge is.

7 I know from my experience in Senator
8 Landrieu's office and Capital Hill, the
9 importance of congressional representation to
10 bring federal resources home to the district and
11 home to Louisiana and the issues that New Orleans
12 faces and the issues that Baton Rouge face are
13 very different and require their own levels of or
14 their own advocates in Congress to advance those
15 issues.

16 And so linking people on Harding
17 Boulevard and people on Bullard does not
18 necessarily make sense to me because those are
19 distinct communities linked by race, but there
20 are other factors that I think need to be taken
21 into consideration that justify having different
22 representation in the Baton Rouge and delta
23 region than you have in the Orleans region.

24 Q. Now, based on your experiences, how
25 does grouping Baton Rouge and New Orleans

1 together in a congressional district effect the
2 voting power of black voters in Baton Rouge?

3 A. Well, I think it runs the risk of --
4 of subordinating the issues of black voters in
5 Baton Rouge, which again are black voters who
6 live in the state capital, so who live in the
7 shadow of Southern University and -- and gain the
8 tremendous impact Southern University has on --
9 on this community, who live in a decidedly
10 different urban context than those in -- in
11 New Orleans; and therefore, have different issues
12 that require advocacy and attention and priority
13 that I'm not sure always happens in -- in the
14 current construction.

15 Q. Could you give any examples of
16 suburban areas or areas outside of the larger
17 metropolitan area of New Orleans that have a
18 connection to New Orleans that also have a
19 connection to Baton Rouge?

20 A. You know, again, I think you can
21 look at the -- the River Parishes as -- as
22 having, you know, some connection, perhaps the
23 Northshore as well. But by and large, I think
24 that those -- you know, New Orleans is such a
25 specific urban context and the areas around it

1 that drain into New Orleans and support it feed
2 off of its tourism industry. The Port of
3 New Orleans differentiates it from -- from the
4 Baton Rouge region.

5 Q. Again, based on your lengthy
6 experience as a native Louisianian, does focusing
7 on cultural similarities or cultural identifiers,
8 such as food or music or any differences in those
9 cultural identities, perhaps by focusing on those
10 things, does it diminish the role that race
11 should play in these conversations?

12 A. Yes. Look, I think you know we are
13 Louisianians and we love our food, we love our
14 culture, we love our music. It's so rich and a
15 unique culture and we should take pride in it;
16 and in some areas of the state, we use black
17 pepper, some areas we say we use red pepper, and
18 in all the state we had Jim Crow, right. In all
19 the state we had a very rigid social hierarchy
20 that was the dominant force impact in black life
21 and particularly all lives in the State of
22 Louisiana. And so it's great to revel in those
23 cultural narratives.

24 We are all very familiar with the
25 gumbo narrative, right? It's a collection of

1 cultures and it's mixing, but it's important not
2 to confuse that I think with what people's life
3 experiences have been and continue to be,
4 particularly around race. The role that that has
5 played in educational opportunity, economic
6 opportunity, social opportunity, your ability to
7 move, you know, your ability to live in certain
8 places, you know, where you went to school. And
9 so I don't think we should use that to kind of
10 minimize or kind of whitewash, if you will, that
11 very specific history that we all know and which
12 has cumulative impacts on the present.

13 Q. And in your living experience, do
14 you believe that it makes more sense to link
15 Baton Rouge with New Orleans in the River
16 Parishes than to link Baton Rouge with the Delta
17 Parishes?

18 A. No. I think, again, race is a
19 factor that we take into account. When we take
20 race into account with other urban dynamics, I do
21 not think it makes sense to link Baton Rouge and
22 New Orleans, two of the largest population
23 centers of the state, the two largest black
24 communities of the state and very different
25 economies and very different settings that

1 require representation. I think Baton Rouge is
2 naturally connected to the delta region and --
3 and I think the -- the history of black
4 settlement in Baton Rouge also reflects very real
5 and enduring connections to the delta region.

6 MS. SEDWICK:

7 No further questions, Your Honor.

8 MR. WALSH:

9 Good afternoon, Your Honor, John --
10 John Walsh on behalf of the secretary of
11 state.

12 THE COURT:

13 Go ahead, Mr. Walsh.

14 CROSS-EXAMINATION BY MR. WALSH:

15 Q. Good afternoon, Mr. Tyson.

16 A. Good afternoon.

17 Q. Mr. Tyson or Professor Tyson?

18 A. Either one. Chris is good too.

19 Q. As a fellow Cub, I'm going to keep
20 this short.

21 A. All right.

22 Q. Professor, when did you start at U
23 High?

24 A. Well, I enrolled in 1981, 1st grade.

25 Q. First grade?

1 A. So I was a 12-year senior.

2 Q. Well, we were there about the same
3 time. I'm just within a decade ahead of you.

4 A. Yeah.

5 Q. You mentioned that when you started
6 in 1981, that was the first year of the forced
7 busing in East Baton Rouge Parish?

8 A. Yes.

9 Q. And are you aware now that the
10 parish has achieved unity and has been released
11 from its desegregation plan?

12 A. Yes.

13 Q. You also mentioned that, and you
14 have very strong feelings you've expressed today,
15 that the delta region, the Delta Parishes have a
16 unique connection to East Baton Rouge Parish?

17 A. Yes.

18 Q. If that's true, then why would such
19 a story, history and background, why haven't we
20 had a congressional district from Baton Rouge
21 running up into the delta with the exception of
22 the 1992 that was ultimately struck down?

23 A. Yeah. I think we have had that in
24 '92. You know, I cannot speak to the two cycles
25 redistricting in between the '92 map, the '90 map

1 and the current map. Politics I think plays a
2 role in that. But, you know, that -- that's all
3 I could say on that.

4 Q. But prior to 1992, you're not aware
5 of any other congressional maps that have ran
6 Baton Rouge up into the Louisiana delta?

7 A. I'm not aware of it, no.

8 Q. And you mentioned you were a
9 candidate for secretary of state --

10 A. Yes.

11 Q. -- in 2015?

12 A. Yes.

13 Q. Was that your first time running for
14 an elective office?

15 A. It was.

16 Q. And you took the time, you filed all
17 the ethics requirements, campaign finance, the
18 whole nine yards?

19 A. Yes.

20 Q. And you mentioned you campaigned
21 approximately for two years prior to the
22 election?

23 A. Yes. I declared my candidacy in
24 2013.

25 Q. And you traveled throughout the

1 state?

2 A. Yes.

3 Q. When you were traveling throughout
4 the state, how would you go from Baton Rouge to,
5 let's say, Lake Providence, Louisiana?

6 A. I mean, I traveled -- you know, if I
7 was going to north Louisiana, sometimes I went up
8 61 and came back over Natchez. If I was on I-20
9 and I was going to come back, you know, east
10 after visiting Shreveport or getting to the
11 Monroe area, it just depends on the trip because
12 we took many trips --

13 Q. Sure.

14 A. -- all up and around the state.

15 Q. So you would go from Baton Rouge up
16 through St. Francisville up through Woodville,
17 Mississippi, have to go into Mississippi?

18 A. Sometimes, yes.

19 Q. Go to Natchez, cross over back into
20 Vidalia?

21 A. Uh-huh (affirmatively).

22 Q. Up through Ferriday?

23 A. Uh-huh (affirmatively).

24 Q. Slow down in Clayton so you won't
25 get a ticket and then right up --

1 A. That's right.

2 Q. -- right up through Tensas and --
3 and so forth?

4 A. Uh-huh (affirmatively).

5 Q. And about how long would a trip like
6 that take from Baton Rouge to, let's say,
7 Lake Providence, Louisiana?

8 A. Well, in many of those trips, we
9 were stopping and -- and meeting with, you know,
10 supporters along the way, so it's kind of hard
11 for me to say kind of driving, you know,
12 steadily.

13 Q. If I represent to you today it takes
14 about 4 hours and 20 minutes without getting a
15 ticket in Clayton, would you -- would you agree
16 with that?

17 A. I guess you certainly could spend
18 that amount of time being there.

19 Q. Were you running against an
20 incumbent or it was a vacancy?

21 A. I was running against an
22 incumbent --

23 Q. And he --

24 A. -- an incumbent, Mr. Schedler.

25 Q. Mr. Schedler. And he had -- he was

1 filling the unexpired term, at that point, he had
2 been elected to fill the unexpired term of then
3 Lieutenant Governor Gardner?

4 A. This was subsequent to that
5 unexpired term, so he had actually been elected
6 after filling Secretary Gardner's unexpired term.

7 Q. So would you agree that as the
8 incumbent it's a little easier to run for office
9 than as the challenger?

10 A. It can be. It depends on the
11 office. Secretary of state, and I enjoy talking
12 to past candidates and secretaries of state,
13 Republican and Democrat, and it is a particularly
14 hard race to -- to run for. So I know
15 Mr. Schedler ran a campaign as -- as I did and so
16 I have yet to meet anyone who has been secretary
17 of state or is running for secretary to state
18 that describes that as an easy position to run
19 for.

20 Q. When you say "it's a tough position
21 to run for," is it -- is it in terms of
22 raising -- raising funds?

23 A. Yes.

24 Q. And did you -- did you loan your
25 campaign funds from time to time?

1 A. Yes.

2 Q. But you were able to -- once you
3 raised money, you were able to pay those loans
4 back, right?

5 A. Yes.

6 Q. And in your campaign, would you
7 consider your campaign more of a grass roots
8 style campaign or was it heavy on the media?

9 A. More grass roots. You know, we
10 didn't have tremendous resources to do a great
11 media campaign, so more grass roots.

12 Q. Were you able to go on any broadcast
13 TV in any of the -- the seven media markets but
14 in the Louisiana major media markets?

15 A. We did not. I don't think we bought
16 any media time in any of the projects we did.

17 Q. You probably -- but you did -- you
18 did cut some spots and run them on Facebook --

19 A. Yes.

20 Q. -- and places like that?

21 A. Yes.

22 Q. You mentioned earlier that the I-20
23 crosses north Louisiana?

24 A. Uh-huh (affirmatively).

25 Q. Let's just say Madison Parish where

1 I-20 goes through right there, Tallulah, right
2 there pretty close to the Mississippi River I
3 believe?

4 A. Uh-huh (affirmatively).

5 Q. Is Madison Parish, is Tallulah right
6 there? Is it closer to Jackson, Mississippi or
7 to Baton Rouge at that point?

8 A. I don't know the mileage, so I
9 wouldn't --

10 Q. If I represent to you it's less than
11 70 miles to -- to Jackson, does that seem right
12 to you?

13 A. I'd certainly -- I'd have to see a
14 map.

15 Q. How about Monroe, about how far from
16 Monroe, Louisiana to -- to Madison Parish right
17 there at I-20 would you say that is?

18 A. Not far.

19 Q. That's definitely closer than
20 Baton Rouge?

21 A. It certainly is closer than
22 Baton Rouge, yes.

23 Q. All right. And in your -- in your
24 declaration, you mentioned that you know
25 Baton Rouge would be a good anchor for a

1 congressional district that runs up the river?

2 A. Uh-huh (affirmatively).

3 Q. It seems that while Baton Rouge is
4 the state capital, wouldn't Alexandria, which is
5 located right in the middle of the state and is
6 closer to the Louisiana delta, be more of an
7 anchor?

8 A. No, I don't think so. I think that,
9 as I understand districting and the process of
10 drawing a map, there are a number of factors that
11 are being weighed, including; population density,
12 and so I don't think that that part of Louisiana
13 would have the density to be an anchor.

14 I would imagine Baton Rouge, given
15 its relative relationship in thinking about
16 communities of interest, the historical ties that
17 I've discussed would make it logical more of an
18 anchor.

19 Q. In your campaign of state secretary
20 of state, it was an open seat?

21 A. Yes.

22 Q. Governor was on the ballot?

23 A. Yes.

24 Q. Senator Vitter was on the ballot?

25 A. Yes.

1 Q. It was also an open seat for
2 lieutenant governor I believe?

3 A. Yes.

4 Q. Former Mayor Holden, he was on the
5 ballot?

6 A. Yes.

7 Q. Along with Mr. Nungesser, who
8 ultimately ran and won the election?

9 A. Yes.

10 Q. So it was just you and Mr. Schedler?

11 A. Yes, it was.

12 Q. And you remember how you ran in East
13 Baton Rouge; how did you do?

14 A. In East Baton Rouge, I think I got
15 about 48 or 49 percent of the vote.

16 Q. If I told you -- you are right on
17 it. It was 48 to 52.

18 A. Uh-huh (affirmatively).

19 Q. Do you remember how Mr. Holden did
20 here in East Baton Rouge Parish?

21 A. In the primary?

22 Q. Yes, sir, the primary.

23 A. I don't exactly --

24 Q. If I represented to you that former
25 Mayor Holden received approximately 58 percent of

1 the vote in East Baton Rouge Parish, would that
2 sound right?

3 A. I trust you. I don't think you
4 would tell me the wrong number.

5 Q. Governor Edwards, he won East
6 Baton Rouge Parish as well?

7 A. Yes, sir.

8 Q. And they were both running as
9 Democrats, correct?

10 A. Yes.

11 Q. And you ran as a democrat also?

12 A. Yes.

13 Q. And Mr. Schedler was a Republican?

14 A. Yes.

15 Q. If a new congressional district is
16 formed with Baton Rouge as an anchor, are you a
17 candidate?

18 A. No.

19 Q. Have you heard of anybody who's
20 thinking about this race?

21 A. No.

22 MR. WALE:

23 Thank you very much.

24 THE COURT:

25 Any redirect?

1 MS. SEDWICK:

2 No redirect.

3 THE COURT:

4 Thank you. You can step down.

5 MS. MADDURI:

6 Afternoon, Your Honor. The
7 plaintiffs call Dr. Maxwell Palmer.

8 THE COURT:

9 And your name, ma'am?

10 MS. MADDURI:

11 Lali, that's spelled L-A-L-I, last
12 name, M-A-D-D-U-R-I, and I represent the
13 Galmon plaintiffs.

14 DR. MAXWELL PALMER,
15 after having first been duly sworn by the
16 above-mentioned court reporter, did testify as
17 follows:

18 Q. Good afternoon, Dr. Palmer. Can you
19 please state your name for the record?

20 A. Maxwell Palmer.

21 Q. And you've been retained as an
22 expert for the Galmon plaintiffs; is that
23 correct?

24 A. Yes.

25 MS. MADDURI:

1 Plaintiffs would like to proffer
2 Dr. Palmer as an expert in redistricting
3 and data analysis.

4 THE COURT:

5 Is there any objection to tendering
6 to redistricting and data analysis?

7 MS. MCKNIGHT:

8 I just want to understand the
9 redistricting tender.

10 THE REPORTER:

11 Can you state your name, please?

12 MS. MCKNIGHT:

13 Kate McKnight.

14 THE COURT:

15 We're having a little problem with
16 the mic.

17 MS. MCKNIGHT:

18 Pardon me. Can you hear me now?

19 THE COURT:

20 Yes.

21 MS. MCKNIGHT:

22 Would you like me to repeat myself?

23 THE COURT:

24 You said that you questioned the
25 tender in redistricting?

1 MS. MCKNIGHT:

2 Correct. It's a fairly large
3 category. I just ask her to be more
4 specific.

5 THE COURT:

6 Do you care to be more specific? If
7 that's your tender, that's your tender,
8 but she's either going to stipulate or not
9 and she can cross on the tender. You know
10 how it goes, whatever you want to do.
11 What say you?

12 MS. MADDURI:

13 Thank you, Your Honor. I think
14 that's what we will tender him in.

15 MS. MCKNIGHT:

16 I'd offer that he's prepared a
17 report on racially polarizing. He has not
18 prepared a report on general
19 redistricting.

20 THE REPORTER:

21 You've got to slow down.

22 THE COURT:

23 Yeah. And can you maybe pull the
24 mic closer to you, Ms. McKnight?

25 MS. MCKNIGHT:

1 Thank you, Your Honor. He has
2 prepared a report on racially polarized
3 voting, not on redistricting in general,
4 so I stipulate to him being an expert in
5 racially polarized voting.

6 THE COURT:

7 However, the field's on racially
8 polarized voting, but, then again, this is
9 my first rodeo on this, so she's willing
10 to stipulate to a tender in racially
11 polarized voting.

12 MS. MADDURI:

13 Dr. Palmer is going to testify about
14 more than just racially polarizing.
15 That's why he wrote his report.

16 MS. MCKNIGHT:

17 As long as he's just testifying
18 about his report, we will stipulate to
19 that.

20 MS. MADDURI:

21 Certainly we will stipulate that
22 he's an expert as to the content of his
23 report.

24 THE COURT:

25 How about if we say redistricting

1 with an emphasis on racially polarized

2 voting; does that satisfy everybody?

3 MS. MCKNIGHT:

4 That's fine, Your Honor.

5 THE COURT:

6 And data analysis, does that satisfy

7 everyone?

8 MS. MCKNIGHT:

9 Yes, Your Honor.

10 THE COURT:

11 Okay. Dr. Palmar will be admitted

12 by the court and may give opinion

13 testimony in redistricting with an

14 emphasis in racially polarized voting and

15 data analysis. You may proceed.

16 MS. MADDURI:

17 Thank you, Your Honor.

18 DIRECT EXAMINATION BY MS. MADDURI:

19 Q. Dr. Palmer, you prepared two reports

20 in this case; is that correct?

21 A. Yes.

22 Q. And those reports are GX-2 Record

23 Document 47 and GX-37, which is Record Document

24 120-3, and I'm going to hand you a copy of your

25 reports.

1 MS. MADDURI:

2 If that's okay, Your Honor, and
3 defendant's counsel?

4 THE COURT:

5 You may.

6 BY MS. MADDURI:

7 Q. Dr. Palmer, is your CV included in
8 your initial report, which is GX-2?

9 A. Yes.

10 Q. Is your CV a complete and accurate
11 summary of your background and professional
12 experience?

13 A. Yes.

14 Q. I'll briefly ask you a couple of
15 questions about your professional background
16 before we move to your opinions in this case.

17 First, can you briefly summarize
18 your educational background?

19 A. I received my undergraduate degree
20 in mathematics and government and legal studies
21 from Bowdoin College in Maine and my PhD in
22 political science from Harvard University.

23 Q. And where are you currently
24 employed?

25 A. I'm currently an associate professor

1 of political science at Boston University.

2 Q. And are you tenured?

3 A. Yes.

4 Q. And what classes do you teach?

5 A. I teach courses on American
6 politics, especially American institutions,
7 including Congress, as well as classes on data
8 analysis, data science and theory.

9 Q. And what are your principle areas of
10 research?

11 A. My areas of research are on Congress
12 redistricting and voting rates and local
13 politics.

14 Q. And have you been accepted as an
15 expert witness in cases involving redistricting
16 before?

17 A. Yes.

18 Q. Have you ever been rejected as an
19 expert by any court?

20 A. No.

21 Q. Is the list of cases in which you've
22 served as an expert included in your expert
23 report on page 2?

24 A. Yes.

25 Q. In how many of those cases have you

1 provided a racially polarized voting analysis?

2 A. In all eight.

3 Q. And have courts previously credited
4 and relied on your analysis?

5 A. They have.

6 Q. Let's now talk specifically about
7 the work you performed in this case. What were
8 you asked to do?

9 A. I was asked to offer an expert
10 opinion on the extent to which voting is racially
11 polarized in Louisiana as a whole in each of the
12 congressional districts under the newly enacted
13 map. I was also asked to evaluate the
14 performance of black voting candidates in their
15 ability to win in the state in these districts.

16 Q. Were you also asked to evaluate the
17 performance of the Galmon plaintiffs'
18 illustrative majority black districts?

19 A. Yes.

20 Q. At a high level, what did you
21 conclude about whether there is racially
22 polarized voting in Louisiana?

23 A. I find strong evidence of racially
24 polarized voting in Louisiana, and in each of the
25 congressional districts I find that black and

1 white voters generally support different
2 candidates and the black supported candidates are
3 generally unable to win elections.

4 Q. And is that true statewide and
5 within each congressional district?

6 A. Statewide, black preferred
7 candidates were defeated in all of the contests I
8 looked at except for two. The two were the
9 governor. At the congressional district level,
10 black preferred candidates were generally
11 unsuccessful in every district except for the 2nd
12 Congressional District, which is the only
13 majority black district.

14 Q. And what did you conclude about the
15 performance of the illustrative majority-minority
16 districts in the Galmon plaintiffs' plans?

17 A. I found that the black preferred
18 candidates are generally the people that win
19 elections in the 2nd and 5th districts.

20 Q. Okay. Now, let's discuss the
21 racially polarized analyses. First, what is
22 racially polarized voting?

23 A. Racially polarized voting is when
24 voters of different racial or ethnic groups
25 prefer different candidates such that a majority

1 of black voters vote one candidate and a majority
2 of white voters vote the opponent.

3 Q. Is it always the case that there's
4 racially polarized voting in a particular
5 jurisdiction?

6 A. No.

7 Q. And past cases, have you conducted a
8 racially polarized voting analysis and found that
9 there was no racially polarized voting?

10 A. Yes. For example, in Bethune-Hill
11 in Virginia, which is a case about the Hudson
12 Valley districts in Virginia, I analyzed racially
13 polarized voting in a number of districts and
14 found that in some districts there was racially
15 polarized voting, but in other districts there
16 was not.

17 Q. At a high level, how do you go about
18 examining whether there's been racially polarized
19 voting?

20 A. I use a statistical technique called
21 ecological inference, which is often referred to
22 as EI; and what EI does is it estimates the
23 percentage of the voters of each racial or ethnic
24 group supporting each candidate on a particular
25 election; and then I can look at those numbers

1 with all the support to determine, first, if the
2 group has a candidate of choice and that, if so,
3 are those the same candidate of choice or are
4 they in opposition to each other.

5 Q. Okay. At any point in -- as part of
6 your rational /HAOE polarized voting analysis, do
7 you attempt to identify the reason a particular
8 group either votes for or against a particular
9 candidate?

10 A. No. That's not a question that
11 racially polarized voting analysis can answer.
12 What this analysis does, it determines how voters
13 are voting, what choices are they making but not
14 why. It doesn't get any of the reasons behind
15 the choices of which candidates are chosen.

16 Q. What geographic region did you
17 examine?

18 A. I examined the state as a whole as
19 well as each of the six congressional districts
20 under the newly enacted map.

21 Q. And which elections did you look at?

22 A. I looked at two statewide elections
23 from 2012 through 2020, and I heard today
24 Louisiana has a different electoral system than
25 most of the country. And so for each of the

1 elections, I look at the final round of voting in
2 that particular context. So for that election
3 that was decided in the primary, I looked at all
4 the candidates that ran in the primary. For the
5 election that went to a runoff, I just looked at
6 the middle for the runoff election.

7 Q. And at a high level, what data did
8 you use for the RPV analysis?

9 A. I combined a few different kinds of
10 data. First, I have precinct level electoral
11 votes for every election, so the total number of
12 votes cast for each candidate, and then I
13 combined that with precinct level data on voter
14 turnout by race, which is provided by the
15 secretary of state based on the state voter
16 registration file. So I know for each precinct
17 each election how many votes were cast for each
18 candidate and then the number of voters of each
19 race casting those votes. I also matched that up
20 with the shape file map of the congressional
21 districts to figure out which precincts fall into
22 which districts, and those precincts vary a
23 little bit from year to year, so I did that
24 separately for each of the illustrative plans I
25 examined.

1 Q. Now, getting into the EI. What does
2 EI methodology do?

3 A. EI is a statistical technique to
4 estimate group bubble behaviors from aggregate
5 data, and so the challenge that we have is that
6 we don't get to observe how individual people
7 vote. What we do see is how for specific areas,
8 precincts, the total votes for each candidate
9 there and then the number of voters by race.

10 And so what EI does is it looks at
11 that data across the geography, whether a state
12 or a congressional district, and estimates the
13 vote for each candidate.

14 Q. Is EI regularly used by scholars and
15 experts to examine racially polarized voting?

16 A. It is.

17 Q. Would you say that EI is the best
18 available method for assessing racially polarized
19 voting?

20 A. Yes.

21 Q. And is it your understanding that
22 courts regularly rely on EI to evaluate racially
23 polarized voting?

24 A. Yes.

25 Q. So what kind of results does an EI

1 analysis produce?

2 A. So when I run an EI, I run it
3 separately. It's a model that's run separately
4 for each election on a candidate. So I run it 22
5 times statewide and then 22 times separately for
6 each of the districts as well. And for each
7 separate run of the model, I get an estimate of
8 the percentage of the group voting for each
9 candidate as well as a 95 percent confidence
10 interval, which is a measure of the uncertainty
11 in the inference.

12 Q. Let's now assess your racially
13 polarized voting. Overall, what did you find?

14 A. Statewide, I found clear evidence of
15 racially polarized voting. In 18 of the 22
16 elections I examined, there was a clear black
17 candidate of choice; and in 21 of the 22, there
18 was a clear white candidate of choice. Overall
19 across those 18 black candidates of choice, they
20 received an estimated 91.4 percent of the vote
21 from black voters and those same candidates
22 received only about 20.8 percent of the votes
23 from white voters.

24 Similarly, among the 21 white
25 preferred -- white preferred candidates, I found

1 the average candidate received about 10.3 percent
2 from the black voters and 81.2 percent of the
3 vote from white voters.

4 Q. Of the 18 elections where black
5 voters had a preferred candidate, in how many of
6 those elections did white voters and black voters
7 support different candidates?

8 A. In 17 of those 18 elections, black
9 voters had candidates of choice, meaning there's
10 strong evidence of racially polarized voting in
11 those 17 contests. Among the candidates in those
12 contests, black voter -- black voter candidates
13 received about 92 percent of the vote from black
14 voters and about 17 percent of the vote from
15 white voters.

16 Q. Let's now look at GX-2, page 6,
17 Figure 1, which is entitled Top Candidates For
18 Black and White Voters. What does this figure
19 show?

20 A. This figure is a graphical
21 representation of the results of my statewide EI
22 analysis. And so each row of the figure lists
23 the elections I'm looking at with the name on the
24 left side of the candidate receiving the most
25 votes from black voters and on the right side the

1 candidates receiving the most votes from white
2 voters.

3 And as you see here, if you can zoom
4 in on the bottom of the figure, the last two
5 rows, this shows us the EI results for the 2020
6 presidential election and the 2020 Senate
7 election.

8 And so looking at the presidential
9 election, we see that Biden was the candidate of
10 choice for black voters, received almost
11 90 percent of the vote from black voters and
12 that's that black circle on the right in that
13 row. And in the white circle on that same row is
14 the extra percentage of the vote that I give to
15 white voters, somewhere in the teens.

16 So we can see there that a large
17 majority of black voters were supporting Biden
18 and only a small percentage of the white voters
19 are doing so. And then on the right-hand side,
20 we see essentially that exact same figure
21 flipped, and the reason is because there's only
22 two candidates; and so the voters are 100 percent
23 with that minus whatever I estimated for Biden
24 there. So we see that President Trump was the
25 clear candidate choice for white voters;

1 President Biden the clear -- President Trump
2 getting a low share of the vote from black
3 voters.

4 In the bottom row, we see a
5 different case where on the right-hand side we
6 see that Senator Cassidy was the clear candidate
7 choice for the white voters. On the right, we
8 see a clearly large share of the vote from white
9 voters, a very small share of the vote from black
10 voters; but on the left-hand side, we see that
11 black dot for one of the Senate candidates,
12 Perkins, right below 50 percent. And that's
13 because there wasn't one clear black candidate
14 choice in this election who was decided in the
15 primary and there were two black candidates who
16 received an ultimately large share of the black
17 votes because there was no one single black
18 candidate of choice; so I wouldn't say that in
19 this particular contest then we have evidence of
20 racially polarized voting.

21 And if we can zoom up to the figure,
22 as a whole again, I think it's useful to look at
23 individual elections, but it's more useful to
24 look at the pattern overall.

25 And so if we look at the left-hand

1 side, the Top Candidate For Black Voters column,
2 we see a general pattern in which the black dots
3 are usually well to the right of the dotted line
4 at 50 percent showing that, in most of the
5 elections that I'm looking at, there is a clear
6 candidate choice for black voters -- for black
7 voters; and in most of the elections, the white
8 support for that candidate is very low, way below
9 50 percent, and so we see a very clear general
10 trend across the whole set of elections across
11 the racially polarized vote.

12 Q. And to kind of sum up, what's the
13 takeaway from Figure 1?

14 A. There's clear evidence for racially
15 polarized voting at the statewide level.

16 Q. And does your report contain the
17 precise numbers for the percentages that we were
18 just looking at?

19 A. Yes. Table 2 has all the numbers
20 listed in this figure.

21 Q. Did you run the same RPV analysis on
22 a district-by-districts basis?

23 A. I did.

24 Q. What were the results of those
25 analyses?

1 A. Generally, the same pattern. I find
2 that black and white voters across all six
3 districts have clear candidates of choice in
4 those elections and aren't supporting the
5 opposing candidates.

6 Q. And does your report contain the
7 full support of those analyses?

8 A. Yes, in Table 3-3.

9 Q. Okay. So we are now wrapping up the
10 section about the racially polarized voting
11 analysis. Can you just sum up what your
12 conclusions are from that analysis?

13 A. I find strong evidence of racially
14 polarized voting both statewide and in each of
15 the congressional districts.

16 Q. So after you determined the levels
17 of racially polarized voting, what did you do
18 next?

19 A. I then turned to the performance of
20 the black four candidates identified in the
21 previous analysis statewide and in each of the
22 six districts.

23 Q. Is this part of the analysis
24 commonly referred to as Gingles 3?

25 A. Yes.

1 Q. And how do you conduct this piece of
2 the analysis?

3 A. This is just about aggregating
4 election results. And so for the statewide
5 analysis, I just add up the election results for
6 the candidates in the elections I just analyzed
7 to see if the black vote preferred candidate one
8 the majority of the vote or not.

9 And for the congressional districts,
10 I first identified which precinct is involved in
11 which district and then aggregated the results up
12 at the district level.

13 Q. So on the elections where you found
14 racially polarized voting, were black voters able
15 to elect their preferred candidates statewide?

16 A. No. Among the racially polarized
17 elections, black preferred -- the black preferred
18 candidate one only twice. Both times, that was
19 Governor Edwards.

20 Q. And what about on a
21 district-by-district basis of the racially
22 polarized voting elections -- racially polarized
23 elections, if we are looking at the individual
24 districts, in how many of those elections did
25 black preferred candidates get a majority of the

1 vote?

2 A. In the 1st District, the black
3 preferred candidate lost every contest. In the
4 3rd, 4th, 5th and 6th Districts, they lost every
5 contest except for one. In the 2nd Congressional
6 District, the only majority black district, the
7 black preferred candidate won every election in
8 which there was a black preferred candidate.

9 Q. Okay. And, again, are the results
10 of these analyses in your report?

11 A. Yes, in Table 9.

12 Q. Okay. Let's now turn to your
13 analysis of the performance of the Galmon
14 plaintiffs' illustrative majority-minority
15 districts. What did your performance analysis
16 examine?

17 A. I looked at the ability of the same
18 black preferred candidates that we identified to
19 win in the 2nd and 5th Congressional Districts
20 under the four Galmon plaintiff illustrative
21 maps.

22 Q. And how did you conduct this
23 analysis?

24 A. The exact same way I did the other
25 former analysis except I used the shade files

1 from the illustrative maps to find out which
2 precincts fell into which districts.

3 Q. And what did you find about whether
4 black preferred candidates would be able to win
5 an election under the Galmon plaintiffs'
6 illustrative majority black district?

7 A. I find that under all four maps,
8 black candidates of choice are generally able to
9 win elections in the majority black district.

10 In the 2nd Congressional District,
11 under all four maps, black preferred candidates
12 won 17 of the 18 elections and averaged about
13 69 percent of the votes.

14 In CD5, black preferred candidates
15 won 15 of the 18 under maps 1 through 4 and 14 of
16 the elections under Map 2 averaging in the mid to
17 high 50 percent range.

18 MS. MADDURI:

19 Let's turn briefly now to GX-2,
20 page 9, Figure 3, which is entitled Vote
21 Shares of Black Preferred Candidates Under
22 the Illustrative Maps.

23 TRIAL TECH:

24 (Complied.)

25 BY MS. MADDURI:

1 Q. What does Figure 3 show?

2 A. Figure 3 shows the estimated vote
3 share of the black preferred candidates for each
4 of the elections in which there was a black
5 preferred candidate under the three initial
6 illustrative maps for the 2nd and 5th
7 Congressional Districts.

8 The black circles correspond to
9 cases where the black candidate has won and the
10 white circles show where the black candidate of
11 choice lost.

12 Q. Okay.

13 MS. MADDURI:

14 Okay. We can go ahead and take this
15 down.

16 BY MS. MADDURI:

17 Q. And shifting gears a little bit now,
18 you also submitted a rebuttal report in this case
19 in response to some of defendants' expert
20 witnesses, and I'd like to ask you about some of
21 those topics now.

22 First, did you review Dr. Alford's
23 report?

24 A. I did.

25 Q. Are there any aspects of your

1 reports that Dr. Alford agrees with?

2 A. Yes. Dr. Alford reviewed the data
3 and methodology I used and agreed with it and
4 relied on my numbers and my estimates in his own
5 -- in his report, and he also agreed that there
6 is racially polarized voting; that is, black and
7 white voters prefer different candidates.

8 Q. What -- what is Dr. Alford's primary
9 point of issue with your reports?

10 A. Dr. Alford argues that the racially
11 polarized voting that we observe is based upon
12 partisan polarization rather than racial
13 polarization, so he is trying to explain why
14 voters are voting the way they do, but we are in
15 agreement on how they are voting.

16 Q. Are you familiar with Table 1 in
17 Dr. Alford's report which highlights, first of
18 all, the RPV analysis for just the last three
19 presidential elections?

20 A. Yes.

21 Q. What is your response to that table
22 and the conclusions that Dr. Alford draws from
23 it?

24 A. So in that analysis, Dr. Alford is
25 comparing the performance of the presidential

1 candidates from 2012, 2016 and 2020; and he
2 argues that because Barack Obama, a black
3 Democrat, received a smaller share of the vote
4 than Hillary Clinton, a white Democrat, in the
5 elections that might be evidence of partisan
6 polarization rather than race because black
7 voters didn't support the black preferred
8 candidate at the same high rate.

9 And while he's correct in looking at
10 these three elections alone, I think his targets
11 are useable in looking at the full set of
12 elections that I analyzed.

13 Across the 18 elections where
14 there's a black preferred candidate, in 9 of
15 those elections the black preferred candidate is
16 black and in 9 of those elections the black
17 preferred candidate is white. And if you average
18 across that full sample, I find that white voters
19 support white -- black preferred candidates by
20 about 10 percent more of the vote than they
21 support the black preferred candidate when that
22 candidate is black.

23 Similarly, black voters also support
24 the black preferred candidate with a slightly
25 higher voter share, about 4 or 5 percentage

1 points when the candidate is black than when the
2 black preferred candidate is white.

3 Q. Did you also review Dr. Lewis's
4 report?

5 A. I did.

6 Q. Dr. Lewis conducted an RVP analysis
7 of the 2020 presidential election; is that right?

8 A. Yes.

9 Q. How did the results of Dr. Lewis's
10 RVP analysis compare to the results of your
11 analyses?

12 A. Dr. Lewis is using a similar
13 methodology and the exact same data, but he's
14 looking at a different geography. He's looking
15 at the boundaries of the illustrative maps rather
16 than the enacted ones, but he uses the same
17 psychological approach as I am, and we had very
18 similar results. He also finds evidence of
19 racially polarized voting, though he's only
20 looking at one election.

21 Q. Dr. Lewis also offers some
22 hypothetical scenarios in his report. Are you
23 familiar with those?

24 A. Yes.

25 Q. What is your response to those

1 hypotheticals?

2 A. Dr. Lewis looks at a very extreme
3 hypothetical case in which there is no white
4 crossover voting in support of a black preferred
5 candidate; and I'm not quite sure what the
6 relevance of this means for understanding the
7 performance of the illustrative maps because, in
8 fact, there is some white crossover voting, but I
9 also think the way he goes about the analysis
10 relies on a very strong assumption that I don't
11 think is necessarily justified.

12 So what Dr. Lewis does is he first
13 estimates the percentage of the black and white
14 voters according to Biden and Trump in the 2020
15 president election, and then he says suppose all
16 the white voters who were supporting Biden
17 switched their vote and all of the said voters
18 voted for Trump instead, so there is no crossover
19 voting because all the voters are changing their
20 votes. In that case, he says it is not generally
21 performed.

22 But that's just one way of thinking
23 of black -- of crossover voting. We can also
24 imagine another alternative, which is suppose
25 those white voters who voted for Biden just said

1 I'm going to stay home and not vote at all in
2 this election. There would be no white crossover
3 voting then too, but in that case, he says the
4 voters are performing if either all but one of
5 them were supporting Biden overall.

6 So I'm not sure why -- whether this
7 is a useful hypothetical, but to the degree it
8 is, I don't think that Dr. Lewis's approach is
9 necessarily justified.

10 Q. So, in your opinion, what is the
11 relevance of these hypotheticals to evaluating
12 whether or not plaintiffs' illustrative districts
13 would perform for black preferred candidates?

14 A. Well, we know they perform for black
15 preferred candidates when using the actual
16 election results, and Dr. Lewis's own
17 calculations match up with mine when he doesn't
18 do his hypotheticals.

19 Q. Did you review Dr. Solanky's report?

20 A. I did.

21 Q. Do you recall Dr. Solanky's analysis
22 of East Baton Rouge -- East Baton Rouge Parish
23 and his conclusion that, quote, Based on the
24 voting pattern in East Baton Rouge for the 2020
25 presidential election, it does not appear that

1 white voters are voting as a block to beat the
2 black preferred candidate."

3 A. Yes.

4 Q. So does Dr. Solanky mean there is a
5 no racially polarized voting in East Baton Rouge
6 Parish?

7 A. No. There is strongly racially
8 polarized voting in East Baton Rouge Parish. I
9 estimated -- in my prior report, I estimated RVP
10 in East Baton Rouge Parish alone for the 2020
11 presidential election, which is the only one that
12 Dr. Solanky looked at, I estimated that 92.5 of
13 the black voters were for Biden; whereas only
14 23.7 percent of white voters voted that, so
15 that's strong evidence of racially polarized
16 voting there.

17 Q. And then, finally, did you review
18 Dr. Blunt's reports?

19 A. I did.

20 Q. Dr. Blunt conducted some simulations
21 analyses; is that right?

22 A. Yes.

23 Q. Do you have any concerns with the
24 way that he conducted those simulations?

25 A. Dr. Blunt uses a standard

1 redistricting package that's widely available and
2 one that I've used a lot in my own academic work;
3 and when you simulate districts in the software,
4 the person running it can set different
5 constraints and different goals.

6 And Dr. Blunt uses some very, very
7 strict constraints, which he uses some very
8 strict population constraints and very strict
9 compactness constraints; and then in his initial
10 report, there are very strict constraints that
11 only six parishes total with a massive reduction
12 could possibly fit into any of those maps. And
13 so when you run the models under these really
14 strong constraints, you don't get maps that look
15 like maps that are every actually in effect or
16 are drawn for Louisiana.

17 Q. Do Dr. Blunt's simulations account
18 for all of the traditional redistricting
19 principles?

20 A. No. They don't take into account
21 areas of interest or --

22 MS. MCKNIGHT:

23 Your Honor, insert an objection, an
24 objection here. Pardon me, Dr. Palmer.

25 This is not anything related to

1 Dr. Palmer's work. We've gone beyond the
2 scope of it.

3 THE COURT:

4 Okay. You may redirect it.

5 MS. MADDURI:

6 Your Honor, it is in the rebuttal
7 report and, on direct, I thought it would
8 be helpful.

9 THE COURT:

10 Can you point it out to me?

11 MS. MADDURI:

12 Sure. In GX-27, which is in Dr.
13 Palmer's rebuttal report, paragraph 11, he
14 discusses the various limitations of the
15 constraints.

16 MS. MCKNIGHT:

17 So in paragraph 11, he identifies
18 one constraint at issue, which is the
19 number of parishes split. He did not
20 address traditional redistricting criteria
21 she was just asking him about. He did not
22 address population or compactness.

23 MS. MADDURI:

24 I would also submit legislative
25 defendants submitted a reply report for

1 Dr. Blunt after an untimely filing for
2 reply reports, and so I believe Dr. Palmer
3 should be able to respond to that as well,
4 to that report.

5 THE COURT:

6 Objection is overruled.

7 BY MS. MADDURI:

8 Q. Dr. Palmer --

9 THE COURT:

10 Ask the question again, please.

11 BY MS> MADDURI:

12 Q. As you described some of the
13 constraints that were overly strict in
14 Dr. Blunt's report, are there also constraints or
15 criteria that are missing from the analysis?

16 A. Yes. So these models don't take
17 into account things like communities of interest,
18 things like the MSAs that we heard some of the
19 mapers talk about earlier, core retention
20 incumbents, things like that.

21 MS. MCKNIGHT:

22 Pardon me. Just for the record, I
23 need to re-assert the objection that this
24 goes beyond the scope of what he
25 identifies in his rebuttal report. He had

1 Dr. Blunt's report at the time he prepared
2 his rebuttal report and he's gone beyond
3 the scope of that.

4 THE COURT:

5 Your objection is noted. You may
6 continue.

7 BY MS. MADDURI:

8 Q. Dr. Palmer, what are the criteria
9 Dr. Blunt found valid?

10 A. The maps that he generates and
11 simulates don't look like maps that are actually
12 used in practice in Louisiana, in particular, you
13 know, his initial set was only a six parish split
14 at the most. That doesn't look like any of the
15 maps that we've discussed are the ones that were
16 actually implemented or passed by the
17 legislature.

18 And the patterns he has, all of
19 those are maps that don't actually look like
20 anything realistically being employed here, so I
21 think by example they don't tell us anything
22 about what the maps should actually look like or
23 what the statistics should actually be.

24 MS. MADDURI:

25 Your Honor, I don't have any more

1 questions for Dr. Palmer at this time, but
2 I would like to confirm that we move into
3 evidence his two reports, which are GX-2
4 and GX-30.

5 THE COURT:

6 Subject to objection?

7 MS. MCKNIGHT:

8 No objection, Your Honor.

9 THE COURT:

10 Okay. Cross-examination?

11 MS. MCKNIGHT:

12 Thank you, Your Honor. My name is
13 Kate McKnight.

14 THE COURT:

15 It's the court's intention to finish
16 this witness tonight, so just so you-all
17 know.

18 MS. MCKNIGHT:

19 Thank you, Your Honor. My name is
20 Kate McKnight for legislative intervenors.

21 CROSS-EXAMINATION BY MS. MCKNIGHT:

22 Q. Good afternoon, Dr. Palmer. I
23 believe I took your very first deposition in
24 Bethune-Hill, but it's so nice to see you at this
25 time again.

1 A. Nice to see you.

2 Q. Could I start with when you were
3 first contacted about doing work in Louisiana for
4 this redistricting cycle?

5 A. Mid to late March.

6 Q. And who called you?

7 A. Lali.

8 Q. And when were you engaged for this
9 work?

10 A. Mid to late March.

11 Q. Did you do any work related to
12 Louisiana prior to March?

13 A. No.

14 Q. Let's go to your report, your first
15 report at GX-2.

16 MS. MCKNIGHT:

17 And we will start at page 2,

18 Mr. Lansing.

19 TRIAL TECH:

20 (Complied.)

21 BY MS. MCKNIGHT:

22 Q. So in your report, Dr. Palmer,
23 paragraph 6, you state that you found strong
24 evidence of racially polarized voting across
25 Louisiana. Now, you did this in a statewide

1 analysis, correct?

2 A. State and congressional districts.

3 Q. Okay. And you did not do any
4 regional-specific analyses, did you?

5 A. Not within the congressional
6 districts.

7 Q. And when you are referring to the
8 analysis you did for the congressional districts,
9 that was limited to recompiled election analysis
10 where you took those congressional districts, the
11 plan, the as-drawn, and filled them in with
12 election data from past elections; is that
13 correct?

14 A. I'm sorry. Could you repeat the
15 question?

16 Q. Sure. Let me break it down. Let me
17 go a little more slowly. Did you study racially
18 polarized voting within specific regions of the
19 State of Louisiana?

20 A. As I said, only the congressional
21 districts.

22 Q. Now, can you give any testimony
23 about whether or not polarization levels in
24 Louisiana varied across regions in the state?

25 A. Just at the district level.

1 Q. At the congressional district level?

2 A. Yes.

3 Q. Okay. Now, I want to say something,
4 and tell me if you agree with it. You can have
5 strong evidence of racially polarized voting but
6 still have meaningful white crossover voting;
7 would you agree?

8 A. Yes.

9 Q. Let's go to paragraph 7. The third
10 sentence here, you say "When taken on a
11 district-by-district basis." You're referring
12 only to the congressional plan here, correct?

13 A. Yes.

14 Q. Okay. This does not take into
15 account the Louisiana legislative black caucus
16 with dozens of representatives and state Senators
17 in the Louisiana legislature, correct?

18 A. That's right. I only looked at RPV
19 at the congressional district level.

20 Q. Now, let's go to paragraph 9. Here
21 you note that you examined statewide and
22 congressional elections in Louisiana from 2012 to
23 2020, but that's not quite accurate, is it? You
24 did not examine congressional elections, correct?

25 A. You're right. That's an error.

1 That should say just statewide elections.

2 Q. Okay. And in examining the
3 congressional plans, you recompiled statewide
4 elections within those districts in the
5 congressional plan, correct?

6 A. I'm not sure recompiled is the right
7 term, but I took statewide elections and then
8 determined which precincts for those elections
9 fell into which districts.

10 Q. Okay. So you did not analyze any
11 actual congressional elections to tell this court
12 how a congressional election would behave,
13 correct?

14 A. No, because there -- I have not seen
15 any congressional elections under this plan, and
16 I don't think you can combine election results
17 from different districts into the new boundaries
18 in the same way that you can in a statewide
19 election or a same candidate in the precincts.

20 Q. Thank you.

21 MS. MCKNIGHT:

22 Let's go to page 10. This is still
23 on page 2.

24 TRIAL TECH:

25 (Complied.)

1 BY MS. MCKNIGHT:

2 Q. You write that you relied on and
3 downloaded turnout information by race. Do you
4 see that?

5 A. Yes.

6 Q. But you did not report turnout
7 information in your expert report in this case,
8 did you?

9 A. I'm relying entirely on the turnout
10 information, but I don't report the turnout
11 statistics, no.

12 MS. MCKNIGHT:

13 Okay. Let's go to paragraph 18, and
14 I believe this is on page 4.

15 TRIAL TECH:

16 (Complied.)

17 BY MS. MCKNIGHT:

18 Q. Here I see you note that the average
19 candidate of choice for black voters garnered
20 20.8 percent of the vote from white voters; is
21 that right?

22 A. Yes.

23 Q. And this is an average, so we could
24 expect that there was a higher or lower
25 percentage in some other -- in some parts of the

1 state, right?

2 A. So this is a statewide estimate.

3 It's an average of statewide estimates, so we
4 expect some of those statewide estimates to be
5 higher and some to be lower.

6 Q. Okay. Did you come to any
7 understanding about where that figure would be
8 higher in the state?

9 A. Only from looking at the
10 congressional districts, so the analysis was to
11 look at the statewide levels.

12 Q. Okay. So you just said that you
13 came to an understanding of where that rate of
14 votes from white voters might be higher on
15 average. Could you explain to us what that
16 understanding was?

17 A. If we look at the congressional
18 district results, it seems like in some
19 districts, such as District 1, the radio support
20 for black preferred candidates tends to be lower;
21 and in District 2, for example, it's a little bit
22 higher.

23 Q. Okay. And now on average, one fifth
24 of white voters in Louisiana vote for the black
25 preferred candidate, correct?

1 A. Yes.

2 Q. Let's go to Figure 1 on page 5.

3 A. (Complied.) I'm sorry. District 5,
4 they vote for black preferred candidates. I just
5 want to make sure I have that right.

6 Q. I think we got that right. Yeah.
7 Thank you, Dr. Palmer.

8 A. Okay.

9 Q. So what I'm looking at in this
10 image, I just want to make sure it's clear that
11 I'm looking at the column on the left, Top
12 Candidate For Black Voters.

13 When I see the white circles on the
14 left, they indicate white vote share for a
15 candidate of choice for black voters, correct?

16 A. Yes.

17 Q. Okay. So the horizontal axis below
18 indicates the percentage vote share, correct?

19 A. Yes.

20 Q. And the vertical dotted line
21 represents 50 percent, right?

22 A. Yes.

23 Q. So looking at the column Top
24 Candidate For Black Voters, whenever we see the
25 white circle to the right of the vertical zero

1 line, that means that there is crossover voting,
2 correct?

3 A. That means the majority of white
4 voters are voting the black preferred candidate.
5 I think we were just talking about crossover
6 voting as any white voters voting for the black
7 preferred candidate. When you say 20 percent
8 crossover voting, that's not the preferred
9 candidate, right?

10 Q. Okay. Well, I'm -- I'm just asking
11 you about this column here and the percentage
12 vote. You indicated that the white circle shows
13 the vote share for white voters for the black
14 candidate of choice, right?

15 A. Yes.

16 Q. Okay. So in looking at that,
17 whenever I see that white circle to the right of
18 zero, that means there are white voters voting
19 for the black candidate of choice, correct?

20 A. To the right of zero?

21 Q. Yes.

22 A. Yes.

23 Q. Okay. And when white voters vote
24 for black candidates of choice, that is defined
25 as crossover voting, isn't it?

1 A. I think that's a fair definition.

2 Q. Thank you. Now, white crossover
3 voting in Louisiana elections is so common that
4 you called it an extreme hypothetical, and just
5 earlier on the stand you called it very extreme
6 to have no white crossover voting; isn't that
7 right?

8 A. Yes. I've -- I've never run an RPV
9 anywhere where there isn't at least some white
10 crossover voting.

11 Q. Okay. Now, understanding your
12 findings on white crossover voting, let's turn to
13 page 23, Table 16.

14 A. (Complied.)

15 Q. A so, again, to orient the court and
16 everyone, this is your table showing vote shares
17 of black preferred candidates under the
18 illustrative maps. So Map 1 refers to Galmon
19 plaintiffs' Illustrative Plan 1, Map 2 and 3, so
20 forth.

21 A. Yes.

22 Q. And what you've done here, you've
23 just focused in on the two majority-minority
24 districts that -- that Galmon plaintiffs have
25 argued are in these illustrative plans being CD2

1 and CD5; is that right?

2 A. Yes.

3 Q. Okay. And when I'm looking at this
4 chart -- I'll just look at Map No. 1 at CD2 and
5 CD5 -- I see a range of winning vote percentages
6 where the black preferred candidate garnered
7 between 50.09 percent up to 79.1 percent. Do you
8 see that?

9 A. Yes.

10 Q. Okay. Now, do you recall off the
11 top of your head the any part black voting age
12 population number for CD5 in Map 1?

13 A. No.

14 Q. Okay. Let's refresh your
15 recollection, so I can instruct this discussion.

16 MS. MCKNIGHT:

17 If we can pull up GX-1B at page 10.

18 TRIAL TECH:

19 (Complied.)

20 MS. MCKNIGHT:

21 Pardon me, Your Honor. I do have a
22 cold. It is not COVID, I promise, but I
23 will be very careful. I've tested
24 multiple times, so that's why I've been
25 wearing a mask in here. I can wipe down

1 the microphone when I'm done.

2 BY MS. MCKNIGHT:

3 Q. Okay. So here we have -- this is
4 from Dr. Cooper's report prepared by Galmon
5 plaintiffs, and it identifies the 18 plus votes
6 for the voting age population for all any part
7 black. And do you see that for District 5 it's
8 indicated at 50.04 percent?

9 A. I'm sorry. Which column? Oh, yes,
10 I do see that.

11 Q. Okay. So now that we understand
12 that Illustrative Plan 1 for District 5 is
13 50.04 percent any part black, let's return back
14 to your report.

15 MS. MCKNIGHT:

16 And here we will go to page 5 of
17 GX-2. Pardon me page 23. Pardon me, Mr.
18 Lansing.

19 TRIAL TECH:

20 (Complied.)

21 BY MS. MCKNIGHT:

22 Q. So now understanding that under
23 Map 1, CD5 has been drawn at a level of
24 50.04 percent any part black population, do you
25 have an understanding of how much of this vote

1 percentage, of these winning vote percentages for
2 CD5 are made up of white voters?

3 A. It ranges, but usually a few
4 percentage points would be my guess.

5 Q. And what do you base that guess on?

6 A. Well, in some of them, the
7 percentage is below that number and so I don't
8 know to the degree that that's white crossover
9 voting versus a different level of support from
10 black voters. There could be variation in both
11 dimensions and some is higher and so the same
12 problem, so we don't know exactly from this table
13 what the percentages are.

14 Q. Okay. So you can't tell this court
15 what the percentage of white vote share is for
16 the CD5 victories, correct?

17 A. Not necessarily.

18 Q. Okay. Is it true that CD2 and CD5
19 could likely be drawn at below 50 percent BVAP
20 and still elect black preferred candidates?

21 A. Based on this table, yes.

22 Q. Thank you. Now, finally as an
23 expert in this case, Dr. Blunt used a methodology
24 for simulating redistricting plans. You were
25 just discussing it on the stand. He used the

1 Redist package in R to simulate 10,000
2 redistricting plans. This is a standard approach
3 to simulate redistricting plans, correct?

4 A. The package is commonly used, but
5 there's not just one approach in how to use the
6 methods. There's many different ways to use it.

7 Q. And it's been used by those scholars
8 and testifying experts?

9 A. That's my understanding.

10 Q. And this package is reliable enough
11 that you've used it in your own academic
12 research, correct?

13 A. Yes, but it's not a simple thing to
14 run. There is a lot of different ways it can be
15 run, a lot of different settings to -- to sort of
16 tune and adjust when trying to make the
17 simulations.

18 MS. MCKNIGHT:

19 Thank you very much, Dr. Palmer. I
20 have no further questions. And pardon,
21 Your Honor. I do want to wipe this down.

22 THE COURT:

23 Thank you for your cross. Any
24 redirect?

25 MS. MADDURI:

1 Just a couple of brief questions,

2 Your Honor.

3 THE COURT:

4 Okay. Give her a chance to try to

5 keep everybody healthy. Thank you,

6 Ms. McKnight.

7 REDIRECT BY MS. MADDURI:

8 Q. Dr. Palmer, you've testified as an

9 expert in RPV in a number of cases; is that

10 right?

11 A. Yes.

12 Q. And in all of those cases, the court

13 has credited your RPV analysis?

14 A. Yes.

15 Q. Have you ever encountered a case

16 where -- in which 100 percent of white voters

17 voted against the black preferred candidate?

18 A. I don't believe so.

19 Q. Is it your understanding that the

20 existence of any level of white crossover voting

21 negates the existence of racially polarized

22 voting?

23 A. Not at all.

24 MS. MADDURI:

25 No further questions.

1 THE COURT:

2 Okay. You may step down. Thank
3 you, sir.

4 Okay. That concludes our testimony
5 for day one. I want to thank the parties.
6 It went really smoothly and you-all were
7 extremely prepared. Well done, one and
8 all.

9 There was nobody in Courtroom 5,
10 which the court had designated as an
11 overflow courtroom. I don't anticipate
12 that we are going to have more people on
13 day two, so the court's going to let the
14 IT people take down the video in
15 Courtroom 5 unless you-all think there is
16 no reason to do that. No raised hands.

17 All right. We will commence
18 tomorrow morning at 9:30 a.m.

19 (The proceedings concluded at 5:23 p.m.)

20

21

22

23

24

25

1 REPORTER'S PAGE

2 I, CHERIE' E. WHITE, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(B)
6 of the Louisiana Code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the record;

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talkovers; that same is the
13 proper method for the court reporter's
14 transcription of a proceeding, and that dashes
15 (--) do not indicate that words or phrases have
16 been left out of this transcript; also, that any
17 words and/or names which could not be verified
18 through reference material have been denoted with
19 the phrase "(spelled phonetically)."

20

21

22 CHERIE' E. WHITE, CCR (LA NO. 96002)
23 CSR (TX NO 10720)
24 CSR (MS NO. 1514)
25 RPR (NATIONAL NO. 839452)

1 REPORTER'S CERTIFICATE

2

3 This certification is valid only for a
4 transcript accompanied by my original signature
5 and original seal on this page.

6

7 I, CHERIE' E. WHITE, Certified Court
8 Reporter, in and for the State of Louisiana, do
9 hereby certify that the transcript set forth in
10 the foregoing 350 pages; that this testimony was
11 reported by me in the stenotype reporting method,
12 was prepared and transcribed by me or under my
13 personal direction and supervision, and is a true
14 and correct transcript to the best of my ability
15 and understanding; that I am not related to
16 counsel or the parties herein, nor am I otherwise
17 interested in the outcome of this matter.

18

19

20

21 CHERIE' E. WHITE, CCR (LA NO. 96002)

22 CSR (TX NO. 10720)

23 CSR (MS NO. 1514)

24 RPR (NATIONAL NO. 839452)

25

EXHIBIT 2

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

3

4 PRESS ROBINSON, et al, CASE NO.
5 Plaintiffs, 3:22-cv-00211-SDD-SDJ
6 v

7 KYLE ARDOIN, in his
8 official capacity as c/w
9 Secretary of State for
10 Louisiana,
11 Defendant.

12
13 EDWARD GALMON, SR., et
14 al, CASE NO.
15 Plaintiffs, 3:22-cv-00214-SDD-SDJ
16 v

17 R. KYLE ARDOIN, in his
18 official capacity as
19 Louisiana Secretary of
20 State,
21 Defendant.

22

23 PROCEEDINGS

24 INJUNCTION HEARING

25 Held on Tuesday, May 10, 2022

Before The

HONORABLE SHELLY DICK

Judge Presiding

Baton Rouge, Louisiana

26

27 REPORTED BY:CHERIE' E. WHITE
28 CCR (LA), CSR (TX), CSR (MS), RPR
29 CERTIFIED COURT REPORTER

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4

5 ABHA KHANNA, ESQUIRE

6 JONATHAN P. HAWLEY, ESQUIRE

7 LALITHA D. MADDURI, ESQUIRE

8 OLIVIA N. SEDWICK, ESQUIRE

9 JACOB D. SHELLY, ESQUIRE

10 SAMANTHA OSAKI, ESQUIRE

11 SARAH BRANNON, ESQUIRE

12 JOHN ADCOCK, ESQUIRE

13 STUART NAIFEH, ESQUIRE

14 KATHRYN SADASIVAN, ESQUIRE

15 VICTORIA WENGER, ESQUIRE

16 SARA ROHANI, ESQUIRE

17 JONATHAN H. HURWITZ, ESQUIRE

18 AMITAV CHAKRABORTY, ESQUIRE

19 ADAM P. SAVITT, ESQUIRE

20 DARREL J. PAPILLION, ESQUIRE

21 JENNIFER WISE MOROUX, ESQUIRE

22

23

24

25

1 Representing the Defendant:

2 PHILLIP J. STRACH, ESQUIRE

3 THOMAS A. FARR, ESQUIRE

4 ALYSSA M. RIGGINS, ESQUIRE

5 JOHN C. WALSH, ESQUIRE

6

7 Representing the Legislative Intervenors, Clay

8 Schexnayder, in his Official Capacity as Speaker

9 of the Louisiana House of Representatives, and of

10 Patrick Page Cortez, in his Official Capacity as

11 President of the Louisiana Senate:

12 MICHAEL W. MENGIS, ESQUIRE

13 PATRICK. T. LEWIS, ESQUIRE

14 KATHERINE L. MCKNIGHT, ESQUIRE

15 E. MARK BRADEN, ESQUIRE

16 ERIKA DACKIN PROUTY, ESQUIRE

17

18 Representing the Defendant/Intervenor, State of

19 Louisiana, through Jeff Landry in his Official

20 Capacity as Attorney General:

21 ANGELIQUE DUHON FREEL, ESQUIRE

22 CAREY TOM JONES, ESQUIRE

23 JEFFERY M. WALE, ESQUIRE

24 JASON B. TORCHINSKY, ESQUIRE

25 PHILLIP M. GORDON, ESQUIRE

1	I N D E X	
2	Plaintiffs' Witnesses:	PAGE
3	DR. LISA HANDLEY	
4	Direct Examination by Ms. Brannon	9
5	Cross-Examination by Mr. Farr	40
6	Redirect Examination by Ms. Brannon	69
7	DOROTHY NAIRNE, Ph.D	
8	Direct Examination by Ms. Osaki	78
9	Cross-Examination by Mr. Wales	92
10	TRACI BURCH	
11	Direct Examination by	101
12	Mr. Chakraborty	
13	Cross-Examination by Ms. McKnight	131
14	Redirect Examination by	154
15	Mr. Chakraborty	
16	ALLAN LICHTMAN, Ph.D	
17	Direct Examination by Mr. Hawley	156
18	Cross-Examination by Mr. Braden	195
19	Redirect Examination by Mr. Hawley	214
20	ROBERT BLAKESLEE GILPIN, Ph.D	
21	Direct Examination by Mr. Rizzuto	217
22	Cross-Examination by Ms. McKnight	230
23	ASHLEY SHELTON	
24	Direct Examination by Mr. Savitt	234
25		

1 EXHIBIT INDEX

2 Plaintiffs' Exhibits:

3

4

5 Defendants' Exhibits:

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 THE COURT:

3 Good morning. Be seated. Welcome
4 back to day two. Hopefully, we won't have
5 a situation of fire and ice like we had
6 yesterday, and I'm referring to the
7 temperature in the courtroom.

8 Okay. Do we know what the clock --
9 how the clock remains? Do you-all want to
10 put that on the record so we are on the
11 same page?

12 Ms. Khanna?

13 MS. KHANNA:

14 Yes, Your Honor. Plaintiffs have
15 taken up 190 minutes and the defendants
16 have taken up 140 minutes.

17 THE COURT:

18 Plaintiffs, 190 and defendants, 140?

19 MS. KHANNA:

20 Yes, Your Honor.

21 THE COURT:

22 Okay. All right. Next witness?

23 MS. BRANNON:

24 I have to because I haven't entered
25 an appearance yet. Sarah Brannon,

1 B-R-A-N-N-O-N. And plaintiffs call

2 Dr. Lisa Handley.

3 DR. LISA HANDLEY,

4 after having first been duly sworn by the

5 above-mentioned court reporter, did testify as

6 follows:

7 MS. BRANNON:

8 We have agreed to stipulate to the

9 expertise of the witnesses, so I would

10 like to ask for a stipulation that

11 Dr. Handley is an expert in -- an expert

12 witness in district -- in redistricting

13 with an emphasis on racially polarized

14 voting. Is there an agreement?

15 THE COURT:

16 Is there a stipulation?

17 MR. FARR:

18 Good morning, Your Honor. Tom Farr

19 from the law firm of Nelson Mullins. I'm

20 here representing the Secretary of State,

21 and we have no objection to that

22 stipulation, Your Honor.

23 THE COURT:

24 Thank you, sir.

25 MS. BRANNON:

1 Your Honor, may I approach the
2 witness?

3 THE COURT:

4 Yes. And the court will accept
5 Dr. Handley and allow opinion testimony in
6 the area of expert witness experience in
7 racially polarized voting.

8 You may approach.

9 MS. BRANNON:

10 Your Honor, I just somehow have
11 realized that I cut my foot.

12 THE COURT:

13 Are you bleeding all over?

14 MS. BRANNON:

15 I am. Can we take a five-minute
16 recess?

17 THE COURT:

18 We can take a recess while you call

19 EMS. Okay. We will take five minutes.

20 (A short recess was taken at 9:37 a.m.)

21 THE COURT:

22 Okay. Be seated.

23 MS. BRANNON:

24 I'm recovered.

25 THE COURT:

1 Good. And if you feel lightheaded
2 from the loss of blood, we will take
3 another recess. Maybe somebody brought
4 cookies.

5 MS. BRANNON:

6 Okay. So we are going to return.
7 For the record, I have given Dr. Handley a
8 binder with a copy of her expert materials
9 in this case, and we are going to walk
10 through all of those and introduce them as
11 we discuss them.

12 THE COURT:

13 Okay. Proceed.

14 DIRECT EXAMINATION BY MS. BRANNON:

15 Q. Dr. Handley, did you prepare a
16 report in this case?

17 A. Several, yes.

18 Q. Can you turn to the first page of
19 your binder?

20 A. (Witness complied.)

21 Q. Is that a copy of the preliminary
22 report you prepared?

23 A. It is.

24 MS. BRANNON:

25 For the record, Dr. Handley's

1 preliminary report is Exhibit PR-12.

2 THE COURT:

3 Record Document 41, dash, 3, right?

4 MS. BRANNON:

5 Yes.

6 BY MS. BRANNON:

7 Q. Dr. Handley, is your CV attached to
8 your preliminary report?

9 A. It is.

10 Q. Is this a complete and accurate
11 summary of your background and professional
12 experience?

13 A. It is.

14 Q. Dr. Handley, what do you do for a
15 living?

16 A. I am a consultant.

17 THE COURT:

18 Ma'am, I think you might need to
19 adjust your mic. Yeah, right there. Your
20 mic, just adjust it.

21 THE WITNESS:

22 Just put it closer to my pad?

23 THE COURT:

24 Okay. Now we can hear better.

25 BY MS. BRANNON:

1 Q. I'll re-ask. Dr. Handley, what did
2 you do for a living?

3 A. I am a consultant here in the
4 United States and overseas. I also am a
5 part-time academic in the U.K.

6 Q. Can you provide us some examples of
7 some of your clients for your consulting
8 business?

9 A. I have worked, as I mentioned, the
10 UM. I worked for scores of states and local
11 jurisdictions. I worked for the redistricting
12 for the Department of Justice for several civil
13 rights organizations, including the ACLU.

14 Q. Can you briefly describe some of
15 your academic work you have done on the topic of
16 redistricting and minority vote dilution?

17 A. Almost all of the articles that
18 you'll see listed in my CV, that includes books,
19 articles, peer-review journals, law review
20 articles, chapters in books deal with minority
21 representation, voting redistricting with the
22 subjects of this case.

23 Q. All right. And have you testified
24 before as an expert witness?

25 A. I have.

1 Q. Approximately how many times have
2 you performed a racial block voting analysis as
3 an expert witness?

4 A. As an expert witness, scores of
5 times.

6 Q. Okay. And have you been -- have you
7 been accepted as an expert witness before to
8 testify about redistricting and racially
9 polarized voting?

10 A. I have.

11 Q. Approximately how many times?

12 A. Scores.

13 Q. Dr. Handley, what were you asked to
14 do in this case?

15 A. I was asked to conduct an analysis
16 of the voting patterns by race in Louisiana and
17 to evaluate proposed districts; that is, the
18 enacted plan and several illustrative plans to
19 ascertain the opportunity for black voters to
20 elect the candidates of their choice.

21 Q. And were you asked to analyze voting
22 patterns in the State of Louisiana specifically?

23 A. Yes. I analyzed voting patterns
24 statewide, I analyzed voting patterns in 16
25 congressional districts and in the enacted

1 congressional districts.

2 Q. And can you provide us a general
3 summary of the opinions that you reached with
4 respect to your analysis as to whether there's
5 racially polarized voting in Louisiana?

6 A. Yes, there is racially polarized
7 voting in Louisiana. There is quite stark
8 racially polarized voting in Louisiana.

9 Q. What is your definition of racially
10 polarized voting?

11 A. Thornburg versus Gingles tells us
12 that voting is polarized in black voters and
13 white voters vote differently. In other words,
14 if black voters voting alone elected different
15 candidates than white voters, then the contest is
16 racially polarized.

17 Q. What statistical techniques did you
18 use to analyze whether voting in Louisiana is
19 racially polarized?

20 A. I used three standard techniques:
21 Homogeneous precinct analysis, ecological
22 regression, and ecological inference.
23 Technically I used four because there are two
24 variants of ecological inference.

25 Q. We heard details yesterday about

1 ecological inference, but can you provide a brief
2 summary of homogeneous precinct analysis and
3 ecological regression.

4 A. Homogeneous precinct analysis simply
5 compares the voting patterns of precincts that
6 are overwhelmingly one race compared to precincts
7 that are overwhelmingly in another race.

8 So in this case, you are comparing
9 precincts that are overwhelming white to
10 precincts that are overwhelming black. It's not
11 actually a statistical technique. It's simply
12 comparing these two precincts. We call it an
13 estimate because, of course, not all voters live
14 in homogeneous precincts and might vote
15 differently than the voters who live in more
16 diverse precincts.

17 Q. Why do you use all three methods?

18 A. Two of the methods have been around
19 for a very long time. When Thornburg v Gingles
20 was decided, homogeneous precinct analysis and
21 ecological regression was used by the plaintiffs'
22 experts and the court approved those methods.
23 Since then, ecological inference was developed by
24 a professor at Harvard by the name of Gary King
25 and courts have accepted that.

1 Now, this is three different
2 techniques to arrive at estimates. If you -- if
3 the estimates are more or less the same, despite
4 using three different techniques, we are certain
5 that we have grasped what the voting patterns
6 are.

7 Q. Have courts accepted your expert
8 testimony using these different statistical
9 methodologies in voting cases before?

10 A. Yes. Now, again, ecological
11 inference is more common. I've only been using
12 that for maybe 20 years, but the others for
13 40 years, a long time.

14 Q. Okay. Let's look at your analysis a
15 little bit more in detail.

16 MS. BRANNON:

17 Can we see demonstrative

18 Exhibit 1.2?

19 TRIAL TECH:

20 (Complied.)

21 BY MS. BRANNON:

22 Q. Did you analyze statewide elections?

23 A. I did analyze statewide elections.

24 Q. How many statewide elections did you
25 analyze?

1 A. Fifteen statewide elections.

2 Q. Are you familiar with this table
3 that is demonstrative Exhibit 1.2?

4 A. Yes. These are the 15 contests that
5 I analyzed.

6 Q. Why did you choose these elections?

7 A. These are all recent elections from
8 2015 on. They all include black candidates.

9 Q. Let's walk through your analysis of
10 a statewide election.

11 MS. BRANNON:

12 Can we see demonstrative
13 Exhibit 1.3?

14 TRIAL TECH:

15 (Complied.)

16 BY MS. BRANNON:

17 Q. Dr. Handley, do you recognize this
18 spreadsheet?

19 A. I do.

20 Q. Is this spreadsheet part of your
21 preliminary report as appendix A?

22 A. It is.

23 Q. Can you explain what this
24 spreadsheet shows by walking us through the
25 portion that has been highlighted?

1 A. Yes. So this is a particular
2 contest. In this case, it's the attorney general
3 in 2019, October 2019. You can see the two
4 candidates, Jackson and Jeff Landry. You can see
5 their party, you can see their race, and the next
6 column is the actual votes they received.

7 Below that is the black turnout and
8 the white turnout figures. And then the next set
9 of four columns are the estimates derived by the
10 four different techniques of the percentage of
11 black voters who voted for each of these
12 candidates.

13 So, for example, C 90.6 is the EIR
14 times C estimate, 91.2 is the EI 2 times 2,
15 94 percent is the ER, and 87.7 is the homogeneous
16 precinct estimate of percentage of the black
17 voters who supported Ike Jackson. And then you
18 see the same information for the white voters.
19 So like EIR times 29.4 percent of the white
20 voters that supported Ike Jackson by EI 2.2, it's
21 10.1 by ER, it's 9.2; and by HB, it's 12.2. So
22 all of them are quite comparable.

23 For example, the estimate that the
24 percentage of black voters who voted for Jackson
25 was similar between 87.7 percent and 94 percent.

1 THE COURT:

2 Dr. Handley, one second. Will you
3 help her with her mic? See if maybe we
4 can adjust it.

5 THE WITNESS:

6 The problem is I'm leaning forward.

7 THE COURT:

8 Right. What we will do is she
9 will -- she will just see if we -- Mr. IT
10 is here too, so we are well. We are over
11 prepared.

12 THE WITNESS:

13 This is going to be too far away.

14 You can still hear?

15 THE COURT:

16 No. That's better and you can
17 certainly adjust it. I'll stop. We may
18 be give you some assistance, okay? Please
19 carry on. I'm sorry I interrupted you.

20 BY MS. BRANNON:

21 Q. Dr. Handley, what are confidence
22 intervals?

23 A. So the EIR times C estimates, the
24 column next to that, we have confidence
25 intervals. You can think of those as sort of the

1 margins of error that you see in a survey that
2 we're 95 percent certain that the true estimate,
3 the estimate being 90.6, that the true estimate
4 is somewhere between 90.3 and 90.9.

5 Q. And why do you include confidence
6 intervals only for your EIR times C calculation?

7 A. Those are the only confidence
8 intervals that are generally accepted by experts
9 in my area for -- for these kinds of estimates.

10 Q. Does the -- this appendix A also
11 provide information about voter turnout?

12 A. It does. The italicized lines in
13 the attorney general race, it says black turnout,
14 slash, black VAP. That's the percentage of black
15 voting age population that actually turned out
16 for that particular office; and the same for
17 white turnout of white VAP. So 35.2 percent of
18 black voting age, of the eligible black voting
19 age population turned out to vote and 45.2
20 percent of the whites.

21 Q. Would you characterize this 2019
22 attorney general election as a polarized contest?

23 A. I would.

24 Q. Why?

25 A. The vast majority of black voters

1 voted Jackson. If they had voted alone, Jackson
2 would have one overwhelmingly. The vast majority
3 of white voters supported Landry, and if they
4 alone would have voted, he would have one
5 overwhelmingly. In fact, he did win.

6 Q. Does the race of the candidates need
7 to be different to determine if there's racially
8 polarized voting?

9 A. No. The point is that black and
10 white voters are for different candidates. No.
11 It so happens in the contest that I looked at
12 with at least one or two exceptions, the black
13 candidate was the black preferred candidate; that
14 is, the candidate preferred by black voters, but
15 there are exceptions to that in the elections
16 that I looked at.

17 Q. Does appendix A show the same type
18 of data for the rest of the 14 statewide
19 elections that you analyzed?

20 A. Yes. So all 15 are in this and I
21 just described one. They are all read the same.

22 Q. What, if any, conclusions did you
23 reach about racially polarized voting in
24 Louisiana in statewide elections based on your
25 analysis with these 15 elections?

1 A. All 15 contests were polarized. In
2 every instance, black voters and white voters
3 would have elected different candidates had they
4 voted separately.

5 Q. You already explained how you looked
6 at voting patterns in congressional elections.
7 Why?

8 A. Of course, it indicated that
9 endogenous elections; that is, elections for the
10 office at issue, are more probative than
11 exogenous elections.

12 Now, in this case, you are looking
13 at proposed plans. There were no elections under
14 it, but congressional elections in general would
15 still be more probative and would be particularly
16 so in Louisiana where the districts didn't change
17 that much from the enacted plan from the current
18 plan.

19 MS. BRANNON:

20 Can we see demonstrative
21 Exhibit 1.4?

22 TRIAL TECH:

23 (Complied.)

24 BY MS. BRANNON:

25 Q. Do you recognize this table?

1 A. This -- yes. This is a list of the
2 congressional election contests that I looked at.
3 Again, this is from 2016 to the most recent
4 contest, and it was the contest that included
5 black candidates. There were no contests in
6 District 1 that included black candidates.

7 Q. And is the analysis of these
8 congressional districts described in your
9 reports?

10 A. Yes.

11 MS. BRANNON:

12 Can we see demonstrative
13 Exhibit 1.5?

14 TRIAL TECH:

15 (Complied.)

16 BY MS. BRANNON:

17 Q. Dr. Handley, do you recognize this
18 table?

19 A. Yes.

20 Q. Was there a version of appendix B
21 attached to your preliminary report?

22 A. Yes.

23 Q. Did you make any corrections?

24 A. I updated it by adding three
25 elections that occurred in 2021. There were two

1 congressional elections in District 2 to replace
2 Cedric Richmond and there was an election in
3 District 5, and so this has been updated to
4 include those elections. I also changed the date
5 of the elections from October to the correct
6 date, which is November, and I had to correct one
7 of the confidence intervals because of a typo.

8 Q. Was revised Appendix B included with
9 your rebuttal report?

10 A. Yes.

11 MS. BRANNON:

12 For the record, Dr. Handley's
13 rebuttal report is Exhibit PR-87.

14 BY MS. BRANNON:

15 Q. Did any of these changes impact any
16 of your opinions in this case?

17 A. No.

18 Q. Is the data as reflected in revised
19 Appendix B that's on the screen similar to the
20 data that is reflected in Appendix A we were just
21 discussing?

22 A. If by "data" you mean precinct
23 information, that is both the demographic
24 information and the election returns. It's the
25 same. If you mean reading the charts, it's read

1 the same as well.

2 Q. Yeah. Reading the charts?

3 A. Reading the charts.

4 Q. Reading the chart is the same. This

5 chart would be read the same as Appendix A that

6 we have walked through?

7 A. That's correct.

8 Q. Okay. What, if any, conclusions did

9 you reach about voting patterns and congressional

10 elections in Louisiana based on your analysis?

11 A. The elections in Districts 3, 4, 5

12 and 6 were all white polarized. The elections in

13 District 2 less so. In fact, most of them were

14 not polarized in District 2.

15 Q. All right.

16 MS. BRANNON:

17 Can we see demonstrative

18 Exhibit 1.6?

19 TRIAL TECH:

20 (Complied.)

21 BY MS. BRANNON:

22 Q. Dr. Handley, did you conduct any

23 analysis of the voting patterns in the newly

24 enacted congressional map related to HB-1?

25 A. I did. Of course, no election has

1 occurred. So this reflects recompiled results
2 using the precincts that the old elections
3 occurred in and sort of re-running the elections
4 as they would have occurred -- they would have
5 occurred in the enacted congressional districts.

6 Q. Do you recognize the tables on this
7 demonstrative?

8 A. Yes.

9 Q. Is there a version of Appendix C
10 attached to your preliminary report?

11 A. Yes.

12 Q. Did you make any changes?

13 A. Yes. So it turns out that we had an
14 old version of what's called a block two district
15 equivalency file for the enacted plan, and when
16 we discovered that it was old and we needed to
17 fix it, I then, in a burst of caution, re-ran all
18 of the analyses for the enacted districts using
19 the new block to district equivalency.

20 Q. Does this demonstrative demonstrate
21 your original Appendix C and your updated
22 Appendix C?

23 A. That's correct.

24 Q. Did your new analysis of
25 congressional districts in the enacted plan of

1 congressional district -- this is Congressional

2 District 2, correct?

3 A. Yes.

4 Q. Did any of your opinions change?

5 A. No. The -- the block equivalency

6 file was only off by about 2 percent of the

7 population. So we moved the 2 percentage into

8 the correct districts and it changed the

9 estimates barely, maybe by a percentage point, if

10 it changed them at all. As you can see, voting

11 is still quite polarized.

12 MS. BRANNON:

13 And, for the record, the updated

14 Appendix Cs are provided with plaintiffs'

15 Exhibit PR-92.

16 Can we see PX-1.7?

17 TRIAL TECH:

18 (Complied.)

19 BY MS. BRANNON:

20 Q. Did you do an analysis of the

21 enacted plan for congressional districts other

22 than Congressional District 2?

23 A. Yes. I did look at voting patterns

24 in all of the enacted districts that overlaid

25 Illustrative District 5; that is, the additional

1 black opportunity district offered by the
2 illustrative plan. And as you can see, it
3 overlaps Districts 2, 3, 4, 5 and 6.

4 Q. So --

5 A. So those were the -- those were the
6 congressional districts that I looked at. It
7 does not overlap 1, so I did not look at 1.

8 Q. And you recognize this map?

9 A. Yes.

10 Q. And it shows the overlay you were
11 just describing?

12 A. That's correct.

13 Q. All right. Did you make any further
14 changes to your analysis for the other
15 congressional districts besides CD2?

16 A. Do you mean because of the block
17 equivalent, I did it?

18 Q. Yes.

19 A. Yes. I re-ran all of the analyses.

20 Q. And those are all included in the
21 corrected materials report that we filed in this
22 case?

23 A. That's correct.

24 MS. BRANNON:

25 Which, for the record, is PR --

1 Exhibit PR-92.

2 BY MS. BRANNON:

3 Q. Did any of your opinions change as a
4 result of redoing this analysis for all five of
5 the congressional districts you looked at?

6 A. No. As I said, the changes were
7 mostly less than a percentage point and voting
8 still very polarized in these congressional
9 districts.

10 MS. BRANNON:

11 We can take this one down.

12 TRIAL TECH:

13 (Complied.)

14 BY MS. BRANNON:

15 Q. What -- when conducting your
16 analysis of these congressional districts in the
17 enacted plan, what conclusions did you reach?

18 A. If voting was polarized in all of
19 the districts that I looked at, there was some
20 variation in that there was more white crossover
21 vote in enacted District 2 than there was in 3,
22 4, 5 and 6, which were quite starkly polarized.

23 Q. What do you mean when you say "white
24 crossover voting"?

25 A. I'm talking about white voters who

1 are voting for the black preferred candidate.

2 Q. Let's turn now to your analysis of
3 black voters opportunities to elect candidates of
4 their choice in the illustrative maps and the
5 enacted congressional map.

6 Did you evaluate the opportunity of
7 black voters to elect their candidate of choice
8 in the enacted map?

9 A. I did.

10 Q. And what methodology did you use?

11 A. Of course, no elections have
12 actually occurred in either the illustrative or
13 the enacted plan, so I used -- I relied on what I
14 called recompiled election results looking at how
15 previous elections would have faired, how the
16 candidates of choice in previous elections would
17 have faired under the proposed districts.

18 Q. Have you used this method of
19 recompiling election results when providing other
20 expert opinions that have been accepted by courts
21 before?

22 A. Yes.

23 Q. Why do you think it is useful to
24 form this evaluation?

25 A. The only way to know if a proposed

1 plan will provide black voters with an
2 opportunity to elect their candidates of choice
3 since no elections have occurred is to do
4 something like this, to look at recompiled
5 election results, determine if the black
6 preferred candidates would win, and how many
7 elections they would win.

8 Q. Did you also perform this recompiled
9 election results analysis on Illustrative Map 2A
10 that was drawn by plaintiffs' expert
11 Tony Fairfax?

12 A. I did.

13 MS. BRANNON:

14 Can we see demonstrative
15 Exhibit 1.8?

16 TRIAL TECH:

17 (Complied.)

18 BY MS. BRANNON:

19 Q. Do you recognize these tables?

20 A. Yes.

21 Q. Can you explain the information
22 provided on these tables starting with the
23 enacted plan on the right side of the screen?

24 A. Yes. Now, when you are trying to
25 figure out if a district is going to provide

1 black voters with an opportunity to elect, the
2 elections that you want to look at are elections
3 in which black voters and white voters agreed on
4 who they would elect. And that happens to be the
5 case in all 15 elections that I looked at.

6 So here what I did was was I
7 determined how many of those 15 elections with a
8 black preferred candidate either win the majority
9 vote or win enough votes to go on to the runoff,
10 so that's my effectiveness score one. It's just
11 the percentage times the black preferred
12 candidate would win or lose if there were a
13 runoff.

14 The second column, the effectiveness
15 score two is what would happen if they made it to
16 the runoff and there were now just two
17 candidates, would they win the runoff, and this
18 is the percentage of times they would win the
19 runoff.

20 So, for example, in District 2, the
21 black preferred candidate in all 15 contests
22 would have either won or proceeded to the runoff;
23 and in the two -- two candidate contest if they
24 had gone to the runoff, they would have won
25 100 percent of the time.

1 Now, in the other districts in the
2 enacted plan, although the black preferred
3 candidates in some of these districts would have
4 proceeded to the runoff in about 25 percent of
5 these elections, none of them would have actually
6 won the runoff. So in the other districts, the
7 black preferred candidate would have not
8 ultimately prevailed in any of the elections.

9 Q. So can you just please explain how
10 that works in Louisiana's voting system?

11 A. All right. So this is a little
12 different than how I usually do this because you
13 have a system that is -- well, it used to be
14 unique. I think maybe some other states are
15 adopting it, but you have a primary system and it
16 includes both Democrats and Republicans; and the
17 election might actually end there without a
18 general election, while in most states you have
19 the -- you go on and you have a general election
20 with two candidates, a Democrat and Republican.
21 Sometimes here you go on and you have an election
22 with two Republicans, so that makes it a little
23 bit different, and that's why I -- that's why you
24 see these two columns.

25 Q. Would you characterize any of the

1 congressional districts an enacted plan other
2 than Congressional District 2 as an opportunity
3 district?

4 A. I would not.

5 Q. And then can you just briefly
6 explain the analysis that is reflected in Table 2
7 on the left side of the map about Illustrative
8 District -- Illustrative Map 2A?

9 A. So, again, I used exactly the same
10 methodology, did exactly the same thing, but this
11 time you can see that District 2 is also
12 100 percent of the time the black preferred
13 candidate wins.

14 In District 5, 86.7 percent of the
15 contest produced the black preferred candidate as
16 winning or proceeding to the runoff, and in
17 77.8 percent of the runoffs, also two candidate
18 contests, the black preferred candidate prevails
19 in District 5.

20 Q. Would you characterize any of the
21 congressional districts in Illustrative Map 2A as
22 opportunity districts?

23 A. Yes. Districts 2 and District --
24 and District 5 both provide black voters with an
25 opportunity to elect their candidates of choice.

1 The other districts, 1, 3, 4 and 6 do not.

2 Q. Is the information in Table 2
3 reflected in your reports in this case?

4 A. Yes.

5 Q. What conclusions, if any, did you
6 draw about the ability of black voters to elect
7 their candidates of choice in this illustrative
8 plan versus the enacted plan?

9 A. There is one black opportunity
10 district in the enacted plan and there are two in
11 the illustrative plan marked map 2A.

12 Q. Bringing together your racial
13 polarization analysis and your effectiveness
14 analysis of the enacted plan and the illustrative
15 maps, how does the racially black voting in
16 Louisiana effect voters' opportunities to elect
17 their candidates of choice?

18 A. Because voting is racially
19 polarized, black voters can only elect their
20 candidate of choice if the district is drawn that
21 gives them this opportunity.

22 MS. BRANNON:

23 I also move for admission of all of
24 Dr. Handley's materials that have been in
25 this case, but for the record, it's PR-12,

1 PR-87, PR-91 and PR-92.

2 THE COURT:

3 Any objection?

4 MR. FARR:

5 No objection, Your Honor.

6 THE COURT:

7 So admitted.

8 BY MS. BRANNON:

9 Q. Dr. Handley, did you also look at
10 the expert report of defendant's expert,
11 Dr. Solanky? I think I'm saying that correctly,
12 Solanky.

13 MR. FARR:

14 That's correct.

15 THE WITNESS:

16 I did.

17 BY MS. BRANNON:

18 Q. Do you think it was appropriate for
19 Dr. Solanky to offer voting opinions about the
20 voting patterns in East Baton Rouge from the
21 analysis of just one election?

22 A. Certainly, you would look at a
23 pattern of voting over more than one election.
24 You would look at as many as you could.

25 MS. BRANNON:

1 Can we see demonstrative 1.10?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. BRANNON:

5 Q. And Dr. Solanky did an evaluation of
6 East Baton Rouge Parish, correct?

7 A. Yes.

8 Q. Do you recognize this map?

9 A. Yes.

10 Q. Do you think it was appropriate that
11 Dr. Solanky looked just at East Baton Rouge
12 Parish?

13 A. No, for two reasons: No. 1, East
14 Baton Rouge Parish is not large enough to be its
15 own congressional district, that the population
16 is too small. You would have to add neighboring
17 parishes to it, thus he pointed out the voting
18 patterns in neighboring parishes is different.

19 And, No. 2, you can see from this
20 map that, in any case, East Baton Rouge is not
21 wholly contained within any congressional
22 districts, either in the enacted or the
23 illustrative maps. It is divided between two
24 districts.

25 Q. Would it be possible to draw a

1 congressional district just with East Baton Rouge

2 Parish?

3 A. No. The population is too small.

4 Q. So even if Dr. Solanky's conclusion

5 was correct that the voting patterns in East

6 Baton Rouge -- about the voting patterns in East

7 Baton Rouge, do you think that that analysis is

8 relevant to questions about performance in an

9 Illustrative District 5?

10 A. No. Again, you have to add

11 population. As he himself points out the

12 population, the voting patterns in the parishes

13 neighboring East Baton Rouge Parish is different.

14 Q. Did you also look at the report of

15 Dr. Alford?

16 A. I did.

17 Q. Did Dr. Alford offer any criticism

18 of the methodology in your report?

19 A. No.

20 Q. Dr. Alford's report -- Dr. Alford in

21 his report in addressing the cause of voting

22 patterns in Louisiana does an evaluation as to

23 whether there is racial --

24 MS. BRANNON:

25 Excuse me, Your Honor. Can I start

1 again?

2 BY MS. BRANNON:

3 Q. Does any evaluation of whether there
4 is actual racially polarized voting involve an
5 evaluation of the causes of the voting patterns
6 that have been analyzed?

7 A. No. The Voting Rights Act, I
8 believe the Voting Rights Act was specifically
9 amended to focus the inquiry on the electoral
10 consequences of different voting patterns and to
11 not -- the reason for those. Intent was
12 specifically taken out of the equation, the
13 intent of the legislators as well as the intent
14 of the voters.

15 Q. Do you agree with Dr. Alford's
16 suggestion in his report that the fact that black
17 voters support Democrats and white voters support
18 Republicans in Louisiana means that voting is not
19 racially polarized?

20 A. When you determine voting is
21 racially polarized, you do it the way that I have
22 done it. This is the way that experts have done
23 it for over 50 years. You look at the voting
24 patterns of blacks and whites and you compare to
25 see if they are voting the same candidates or

1 different candidates. This is how it is done.

2 This is how you determine if voting is racially

3 polarized.

4 MS. BRANNON:

5 Nothing further, Your Honor.

6 THE COURT:

7 Cross?

8 MR. FARR:

9 Thank you, Your Honor. Can everyone

10 hear me?

11 THE COURT:

12 Yes, sir. Did you need to -- did

13 you need to remain seated? I can't

14 remember --

15 MR. FARR:

16 I just want to tell Dr. Handley nice

17 to meet you. And through the graciousness

18 of Your Honor, I've got a back condition,

19 so she's agreed that I can examine you

20 from counsel's table, and I'm grateful to

21 her for doing that. Please let me know if

22 you can't hear my questions and I'll try

23 to rephrase them.

24 THE WITNESS:

25 Okay.

1 THE COURT:

2 Let me ask this. Would it be
3 helpful -- you may be seated, sir.

4 Would it be helpful to be able to
5 make eye contact? I mean, is there
6 somebody that I can move, either counsel
7 table move out of the way or does it
8 matter?

9 MR. FARR:

10 I can see Dr. Handley, if she can
11 see me.

12 THE COURT:

13 Can you see her -- him?

14 THE WITNESS:

15 I can see, yes. I don't have my
16 glasses on, but other than that --

17 THE COURT:

18 All right. Well, then that's fine.
19 We just want to make sure that you-all
20 communicate well.

21 THE WITNESS:

22 Okay.

23 THE COURT:

24 Go ahead, sir.

25 CROSS-EXAMINATION BY MR. FARR:

1 Q. Dr. Handley, we haven't met before,
2 but I've reviewed some of your prior testimony in
3 some cases that involved our firm; and it's an
4 honor to meet you here today.

5 THE COURT:

6 And state your name for the
7 reporter. You may have already done that,
8 but I just need it.

9 MR. FARR:

10 Yes, ma'am. I'm Tom Farr, and I'm
11 from the law firm of Nelson Mullins and
12 I'm here representing the Secretary of
13 State.

14 BY MR. FARR:

15 Q. So, Dr. Handley, when were you first
16 contacted about Louisiana redistricting in this
17 cycle?

18 A. It's difficult to say. I was
19 working with the ACLU in another couple of states
20 before we started talking about Louisiana.

21 Q. It's not a memory test, Dr. Handley.

22 A. Okay. I'm sorry. I don't remember
23 exactly when. Certainly, less than a year ago.

24 Q. Okay. Well, let's see if we can
25 clarify that a little bit with some questions

1 I'll ask.

2 Do you remember who called you about
3 working on Louisiana redistricting?

4 A. No.

5 Q. When were you actually engaged to
6 work on Louisiana redistricting?

7 A. Oh, that's also a tough question
8 because I am not even sure that I have a contract
9 with the ACLU with Louisiana, so I can't actually
10 answer that question.

11 Q. And do you know who engaged you?

12 A. No.

13 Q. Okay. You don't know the person
14 that engaged you?

15 A. Well, I suppose ultimately it would
16 have been Dale Hope, and I had conversations with
17 him earlier; and this is the head of the voting
18 rank division -- the voting section of the ACLU.

19 Q. Yes, ma'am. I know Mr. Dale Hope.
20 I think very highly of him, so thank you for that
21 answer.

22 Did you do any work on Louisiana
23 prior to the Louisiana legislative process?

24 MS. BRANNON:

25 Your Honor, I'm just going to -- she

1 can answer that question, but I want to
2 put an objection on the record to the
3 extent it's seeking what we would consider
4 being work product leading up to
5 litigation, but anything that relates to
6 not leading up to litigation, you can
7 answer.

8 THE COURT:

9 Your objection is noted. It may be
10 a little premature, but you-all know that
11 she thinks you are going in the wrong
12 direction, so there you go.

13 MR. FARR:

14 Your Honor, I'm not going to ask her
15 about work product. I just want to know
16 when she started working on this, and if
17 it's -- we are all interested in other
18 issues in the case, so --

19 THE COURT:

20 Okay. There's no objection to your
21 current question, so if you want to
22 restate it?

23 MR. FARR:

24 Yes, ma'am.

25 THE COURT:

1 Go ahead.

2 MR. FARR:

3 Thank you, Your Honor.

4 BY MR. FARR:

5 Q. Ms. Handley, do you remember when
6 you started working on matters related to
7 Louisiana congressional redistricting in this
8 cycle? Let me try -- let me try it off a little
9 bit.

10 A. I'm sorry. I -- I can't remember.

11 Q. That's all right. I understand. Do
12 you think you began working before the
13 legislative process started?

14 A. I have no idea. I don't know when
15 the legislative process started.

16 Q. Okay. I heard you mention
17 something. Could it have been that you were
18 working on Louisiana redistricting sometime
19 within the last year?

20 A. Yes.

21 Q. Okay. And you just didn't start
22 when the plan was enacted?

23 A. That's correct.

24 Q. Did you give any input on your
25 theories and calculations to the legislature

1 during the legislative process?

2 A. Did I? The legislature never
3 contacted me or asked me to do any work, no.

4 Q. But you didn't voluntarily give any
5 of your research to the Louisiana legislature
6 while they were considering congressional plans?

7 A. I personally?

8 Q. Yes.

9 A. No.

10 Q. Did you talk to anybody who gave
11 information about your plans or any advice that
12 you may have transmitted? Did you talk to anyone
13 who may have provided that information to the
14 Louisiana legislature?

15 A. Possibly.

16 Q. Do you know who that would have
17 been?

18 A. No.

19 Q. And did you perform your
20 polarization studies that we talked about today
21 before the plan was enacted?

22 A. It depends on what you mean by
23 "enacted."

24 Q. Why don't you --

25 A. So my understanding was it passed,

1 but then it was vetoed and then the veto was
2 overridden. I analyzed the plan after it was
3 passed by the legislature.

4 Q. Okay. And your report's got
5 analysis of statewide polarization rates?

6 A. I'm sorry. Could you repeat that?

7 Q. Yes, ma'am. In reading your report,
8 it appears that you have -- you've done
9 polarization studies on statewide elections?

10 A. That's correct.

11 Q. Did you do those before the
12 congressional plan was enacted?

13 A. I don't remember in time. I'm not
14 exactly sure what you mean by "enacted." I did
15 it most likely before the veto was overridden.

16 Q. Okay. So before the initial plan
17 was ever written, you think sometime before then
18 you did your statewide polarization studies?

19 A. I probably had started them.

20 Q. Okay. All right. Thanks.

21 Now, I want to ask you some
22 questions about what you mean by "polarization,"
23 and we can go to your report if that will help
24 you, but when I read your report on page 1 --

25 MR. FARR:

1 Well, let me pull up PR-12 on the
2 screen.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. FARR:

6 Q. Are you there?

7 A. Yes.

8 Q. So during your testimony, you said
9 several times that voting in Louisiana is
10 racially polarized. Is that a fair recitation?

11 A. Yes.

12 Q. And then on page 1 of your report,
13 you make a statement that voting in the State of
14 Louisiana is racially polarized. You see that?

15 A. Yes.

16 Q. Now, turn to page 8. It looks like
17 it's the second full paragraph where it says
18 "congressional elections." Do you see that? You
19 see that paragraph?

20 A. Yes, I do.

21 Q. Okay. And is it fair to say that
22 your report that elections in the 2011 version of
23 Congressional District 2 were probably not
24 racially polarized?

25 A. Although the statewide elections

1 were polarized, the congressional elections, I
2 think it was most of them, not all of them, were
3 not polarized.

4 Q. Okay. So that's -- that's where I
5 want to ask you some questions, Dr. Handley.

6 You've been doing this for a long
7 time and you know way more than I do. Is there a
8 difference between legally significant racially
9 polarized voting and just simple polarized
10 voting?

11 A. Now, I've written on this, but I'm
12 not a lawyer, so I don't really know that you
13 want me to answer this.

14 Q. Well, I'd like you to because I
15 think you've explained it before. Is there a
16 difference between significant racially polarized
17 voting and substantial racially polarized voting?

18 MS. BRANNON:

19 I'm just going to object. I'm going
20 to object to the extent that calls for a
21 legal conclusion.

22 MR. FARR:

23 Your Honor, I'm just asking her for
24 her opinion as an expert in the area of
25 racial polarization. She understands the

1 two different types of racial

2 polarization.

3 THE COURT:

4 Well, the question on the floor
5 right now, is there a difference between
6 significant racial polarization and
7 substantial racial polarization, you did
8 rephrase your question. You removed the
9 words "legally sufficient," so I'm going
10 to overrule the objection.

11 So the question is, is there a
12 difference between significant racial
13 polarization and substantial racial
14 polarization, if you have an opinion on
15 that.

16 THE WITNESS:

17 Between significant and substantial?

18 THE COURT:

19 Is -- that's -- isn't that your
20 question, sir?

21 MR. FARR:

22 Yes, it is.

23 THE COURT:

24 Okay.

25 THE WITNESS:

1 I can't think of one.

2 MR. FARR:

3 Okay. Let me pull up a deposition
4 that Dr. Handley gave in the Ohio Randolph
5 Institute case on December 12th, 2018.

6 TRIAL TECH:

7 (Complied.)

8 BY MR. FARR:

9 Q. Can you see that on your screen,
10 Dr. Handley?

11 A. I can.

12 Q. And were you an expert witness in
13 that case?

14 THE COURT:

15 You need to know the case again?

16 THE WITNESS:

17 I need to know which case this is.

18 BY MR. FARR:

19 Q. Well, it says it's your deposition
20 on the front page, correct?

21 A. Yes. I believe this is my
22 deposition and I believe I know what case it is.

23 Q. Yes. And you remember being
24 cross-examined by my law partner, Phil Strach, in
25 that case?

1 A. I do not.

2 Q. Okay. Well, let's turn to page 104

3 of that exhibit. And I'll represent to you,

4 Dr. Handley, this is a series of questions that

5 my partner, Phil Strach, asked you in this

6 deposition. I'm going to read the question and

7 I'd like for you to read the answer. Would that

8 be all right?

9 THE COURT:

10 Give us a line reference.

11 BY MR. FARR:

12 Q. I'm going to start with line 21.

13 Are you ready?

14 A. Yes.

15 Q. So the question is "All right.

16 Thank you. Are you aware of the difference

17 between statistically significant racially

18 polarized voting and legally significant racially

19 polarized voting," and your answer is --

20 MS. BRANNON:

21 Your Honor, I'd like to object. I

22 think this is improper impeachment. I

23 don't think he's laid the foundation.

24 THE COURT:

25 Sir, you want to respond? Did you

1 hear her objection?

2 MR. FARR:

3 I think I did and I don't know
4 really what the substance of the objection
5 is. I'm impeaching the witness on a
6 previous deposition that she gave to
7 significant racial polarization versus
8 substantial racial polarization.

9 THE COURT:

10 She's correct. It's improper
11 foundation. It is not -- it's improper
12 impeachment. It is not a prior consistent
13 statement. The questions are different
14 and you made them different. Objection
15 sustained.

16 MR. FARR:

17 Your Honor, may I try again?

18 THE COURT:

19 You may, but take the deposition
20 down.

21 TRIAN TECH:

22 (Complied.)

23 BY MR. FARR:

24 Q. Dr. Handley, do you agree that
25 substantively significant racial polarization

1 means that the minority and the whites are voting
2 for different candidates?

3 A. Yes. Yes.

4 Q. Do you agree that it would rise to
5 the level of legal significance if the minority
6 preferred candidate usually lost?

7 MS. BRANNON:

8 Again, Your Honor, I'm going to
9 object. That calls for a legal
10 conclusion.

11 MR. FARR:

12 I'm not asking for a legal
13 conclusion. I'm asking for her -- the way
14 she understands racial polarization.

15 THE COURT:

16 The question is legally significant.
17 That is a legal question. That is a
18 question of a legal opinion. The
19 objection's sustained.

20 MR. FARR:

21 Well, may I ask the question again,
22 Your Honor? I'll take the word "legal"
23 out.

24 THE COURT:

25 And you did that and you are going

1 to receive the same result. You are going
2 to have improper impeachment. You can try
3 again, but if the word legally is in the
4 prior question, it's -- you're not -- it's
5 not a prior inconsistent statement.

6 MR. FARR:

7 I'm sorry, Your Honor. I apologize.

8 THE COURT:

9 Okay. No worries. Go ahead.

10 BY MR. FARR:

11 Q. So my question is would polarization
12 rise to the level of significant polarization if
13 the minority for a candidate usually lost?

14 A. Polarization is -- let's see. Let's
15 see how -- I suppose you could say that one
16 contest being polarized is less significant than
17 more contests being polarized.

18 Q. Which if the -- if the white
19 candidates did not vote in sufficient numbers to
20 defeat the black candidate, preferred candidate
21 of choice, would you consider that to be
22 significant racial polarization?

23 A. I think it would depend on the
24 circumstances. So if you had a district that --
25 I can't really answer that as a hypothetical.

1 Could you give me --

2 Q. Let me try again. Explain why you
3 concluded that voting in the State of Louisiana
4 was racially polarized while also saying that the
5 voting in Congressional District 2 was not
6 racially polarized?

7 A. So in the 15 contests that I looked
8 at statewide, in every case the black and white
9 voters would have elected different candidates.

10 In Congressional District 2, in many
11 cases the white voters supported the incumbent
12 black candidate, Cedric Richmond.

13 Q. So the white voters in Congressional
14 District 2 did not vote as a block and defeat the
15 black voter, the preferred candidate?

16 A. In Congressional District 2 when
17 Cedric Richmond was the candidate, that's
18 correct.

19 Q. Okay. And whites are the majority
20 in Congressional District 2?

21 A. I beg your pardon?

22 Q. Are whites the majority in
23 Congressional District 2?

24 A. They are not.

25 Q. Okay. Are there areas in Louisiana

1 where the level of polarization is higher and
2 lower?

3 A. That the what -- I'm sorry. Repeat
4 the question.

5 Q. Yes, ma'am. You reported on
6 statewide polarization rates for statewide
7 elections; is that correct?

8 A. Yes.

9 Q. Are there some areas of the state
10 where the polarization rate is higher than in
11 other areas of the state?

12 A. It depends on what you mean by
13 "polarization rates." You mean the number of
14 contests that --

15 Q. No.

16 A. -- are polarized; is that what you
17 mean?

18 Q. I mean the difference between the
19 number of whites and blacks who vote for the
20 black preferred candidate of choice.

21 A. It is the case that there is more
22 white crossover vote in Congressional District 2
23 than anywhere else that I looked in the state.

24 Q. Okay. And could there be other
25 areas of the state where the crossover vote is

1 higher than the -- than the average?

2 A. Not at the congressional level or
3 statewide. There may be pockets.

4 Q. Okay. When you did your study on
5 racial polarization, you did not do a
6 parish-by-parish study on polarization rates?

7 A. That's correct.

8 Q. Okay. I'll move on to another
9 subject now, Dr. Handley.

10 When you talk in your report about
11 voting age population for African-Americans, are
12 you referring to any part black voting age?

13 A. It depends. I report of any part
14 black and the DOJ definition of voting age
15 population in my rebuttal report and in the
16 supplemental report.

17 Q. Okay. So let's turn to PR-12.

18 A. I'm sorry. To what?

19 Q. I'm sorry, ma'am. Your initial
20 report, which I think is labeled PR-12?

21 A. Oh, okay.

22 Q. And -- and can you turn to Table 3,
23 which is on page 10?

24 A. (Complied.)

25 Q. Are you there?

1 A. I am.

2 Q. And you see on footnote 14 you say,
3 "Black voting age population has been calculated
4 by counting all persons who checked black or
5 African-American on their census form"; is that
6 correct?

7 A. Yes.

8 Q. And in making that footnote, were
9 you referring to any part black?

10 A. Yes.

11 Q. Okay. Thank you. And using the
12 census category part black, did that result in a
13 higher black percentage in the districts you are
14 looking at than if you used a single race black?

15 A. Yes.

16 Q. Now, I want to move to some
17 questions about your appendices. And I think
18 this is kind of a refresh or review of Appendix A
19 which is your study of statewide elections; is
20 that correct?

21 A. Yes.

22 Q. Appendix B was your study of
23 percentage of black and white voters for each
24 candidate in congressional elections from 2016 to
25 2020?

1 A. Ultimately, 2021.

2 Q. Okay. That was in your report you
3 just gave us; is that correct?

4 A. Yeah.

5 Q. All right. Fair enough. And that
6 was under the plan that was enacted in 2011?

7 A. The congressional elections were,
8 yes.

9 Q. Okay. And then in Appendix C
10 through G, you do a polarization study on all of
11 the districts in the plan that was enacted in
12 2022; is that correct?

13 A. Almost. I didn't look at
14 District 1.

15 Q. Oh, you didn't look at Congressional
16 District 1?

17 A. That's correct.

18 Q. I was going to ask you just out of
19 curiosity, why didn't you look at that?

20 A. Because it doesn't overlap. It
21 supplies no voters to Illustrative District 5.

22 Q. Okay. And you didn't report a
23 similar analysis for Mr. Fairfax's
24 illustrative -- illustrative plans, did you?

25 A. I'm sorry. Repeat that.

1 Q. Did you do a similar report for the
2 illustrative plans that Mr. Fairfax has proposed
3 in this case?

4 A. A similar report? I'm sorry.

5 Q. Yeah. As to what you did for the
6 2011 congressional districts, did you do
7 something like that for the districts in
8 Mr. Fairfax's illustrative plans?

9 A. No.

10 Q. You didn't report that. Did you
11 ever do that and not report it?

12 A. No.

13 Q. Okay. Now, I want to go through
14 some terms to get the question I want to ask you,
15 Dr. Handley.

16 Is it fair to say a majority black
17 district, as the U.S. Supreme Court has defined
18 it, means a district where the black voting age
19 population is an actual majority?

20 MS. BRANNON:

21 Objection. Again, Your Honor, isn't
22 that a legal conclusion?

23 THE COURT:

24 Sir?

25 MR. FARR:

1 May I rephrase it?

2 THE COURT:

3 You may.

4 BY MR. FARR:

5 Q. Dr. Handley, have you read the
6 Supreme Court's decision?

7 A. Many years ago.

8 Q. Do you recall how the court defined
9 the majority black district in that case?

10 A. I believe so.

11 Q. And how did they define it?

12 A. A majority black district would be a
13 black district in which the voting age population
14 was majority black at least 50 percent plus
15 1 percent.

16 Q. Okay. And a crossover district is
17 a -- is what?

18 A. A crossover district, you'll have to
19 tell me.

20 Q. Okay. Is it fair to say a crossover
21 district is a district where the black population
22 is not in the majority, but they can elect their
23 preferred candidate with the help of white
24 crossover voters?

25 A. I don't use that term. I think it

1 might have come out of some recent case. If you
2 want to define it that way, you can.

3 Q. Okay. Well, are there districts
4 where black voters are able to elect their
5 candidate of choice, even if they are not a
6 majority?

7 A. Yes.

8 Q. And in those instances, do they --
9 is the candidate of choice selected because there
10 are white voters crossing over to help elect the
11 black candidates preferred -- the black minority
12 group preferred candidate?

13 A. Yes.

14 Q. All right. Now, have you -- have
15 you written about something called an effective
16 district?

17 THE COURT:

18 I'm sorry. I missed that. The what
19 district?

20 MR. FARR:

21 I'm sorry, Your Honor.

22 BY MR. FARR:

23 Q. Have you written or described some
24 districts as being effective districts?

25 A. Yes.

1 Q. And can an effective district be a
2 district that has less than 50 percent black
3 voting age population?

4 A. Yes.

5 Q. And an effective district means that
6 the -- that the district provides the black
7 community an opportunity to elect their candidate
8 of choice; is that correct?

9 A. Yes.

10 Q. And that said, even when they are
11 not a majority of the district, it could be?

12 A. It could be the case, yes.

13 Q. Now, in other cases, Dr. Handley,
14 have you ever done something called a functional
15 analysis to determine whether a district could
16 provide African-Americans with the opportunity to
17 elect their candidate of choice with a black
18 percent that's under 50 percent?

19 A. Yes.

20 Q. And did you do such a study in this
21 case?

22 A. I did not.

23 Q. All right. I want to turn now to
24 some questions about your rebuttal report.
25 Please feel free, ma'am, to pull that up in front

1 of you if it will be helpful. I don't know that
2 I'll be quoting any pages, but feel free to
3 respond to that if that helps your testimony, all
4 right?

5 A. Yes.

6 Q. Now, you are familiar with the
7 report Dr. Lewis submitted for the defendants
8 analyzing crossover voting in the illustrative
9 plans?

10 A. I read Dr. Lewis's report.

11 MR. FARR:

12 Okay. And, just for the record, I
13 believe that's Exhibit LEG 2 is the report
14 I'm referring to.

15 BY MR. FARR:

16 Q. So you had an opportunity to review
17 Dr. Lewis's report?

18 A. I read Dr. Lewis's report, yes.

19 Q. And in your rebuttal reports,
20 correct me if I'm wrong, the only experts you
21 provided rebuttal testimony to are Dr. Solanky
22 and Dr. Alford; is that correct?

23 A. Yes.

24 Q. And more specifically, you did not
25 submit a reply to Dr. Lewis's report?

1 A. Correct.

2 Q. So if someone in this case asserted
3 that districts with the black voting age
4 population below 50 percent was -- will give the
5 black community an equal opportunity to elect
6 their preferred candidates of choice, you have no
7 basis to disagree with that statement, do you?

8 A. If you mean Dr. Lewis convinced me
9 of that, I would have to disagree with you. No,
10 he did not convince me that a district with less
11 than 50 percent was equal.

12 Q. But you yourself have not done a
13 study to see if a district which was less than
14 50 percent would provide an equal opportunity to
15 elect a black for a candidate; is that right?

16 A. In this case, that's correct.

17 Q. So you've testified about
18 Mr. Fairfax's illustrative plans; is that right?

19 A. Yes.

20 Q. Have you studied the plans drawn by
21 Mr. Cooper?

22 A. No.

23 Q. Okay. I'll -- let's turn. I just
24 have a few more questions, Dr. Handley, and I'll
25 be done.

1 Could you turn back to your original
2 report, which is PR-12, and I'd like you to look
3 at Table 1 on page 6.

4 A. (Complied.)

5 Q. Are you there?

6 A. Yes.

7 Q. And you selected the statewide races
8 that you would study in your report and there's
9 15 races that are listed there; is that correct?

10 A. The 15 races listed there are the
11 contests that I analyzed, that's correct.

12 Q. Okay. And you didn't include
13 Governor Edwards' election in 2015 or 2019; is
14 that a fair statement?

15 A. That's correct. There were no black
16 candidates in those contests.

17 Q. But -- but do you think that
18 Governor Edwards was the preferred black
19 candidate of choice for the black community?

20 A. Yes. I saw Dr. Alford's report that
21 produced Dr. Palmer's numbers, so yes.

22 Q. Okay. And then also, you didn't
23 include in one of the races you studied the 2016
24 presidential election involving Secretary Clinton
25 and Senator Cain; is that correct?

1 A. That's correct.

2 Q. Please bear with me, Dr. Handley.

3 I'm trying to find one of your charts. I think

4 we can look at Table 4 on page 11. Are you

5 there?

6 A. Yes.

7 Q. You say, Dr. Handley, in order to

8 determine the effectiveness of congressional

9 districts in the enacted plan -- and then I think

10 moving over, you did the same thing on page 13

11 for the illustrative plan; is that a fair

12 statement?

13 A. Yes.

14 Q. And so all your report is who won or

15 lost the election?

16 A. No, not exactly. The percentage of

17 cases that -- the percentage of elections are in

18 the first column in which the black preferred

19 candidate either outright or would have proceeded

20 to a runoff.

21 Q. Okay. And then what was the second

22 column?

23 A. The percentage of two candidate

24 contests in which the black preferred candidate

25 won obviously with more than 50 percent of the

1 vote.

2 Q. And you didn't report the vote
3 totals or the margins of victory in any of those
4 elections; is that a fair statement?

5 A. No. It's not -- it's not listed in
6 these tables, but it's certainly listed in my
7 appendix.

8 Q. Okay. I'm sorry. I missed that. I
9 apologize.

10 Did you report the relative
11 fundraising by the candidates in the elections
12 that you selected?

13 A. Did you say fundraising?

14 Q. Yes.

15 A. No.

16 Q. All right. Have you ever talked
17 more about it's better to use a more highly
18 visible race to calculate racially polarized
19 voting than one that's not visible?

20 A. I probably have. I agree with that
21 statement.

22 Q. Okay. So what would be more visible
23 to judge racially polarized voting, the
24 governor's elections or the Secretary of State
25 election?

1 A. I would use both.

2 Q. Excuse me?

3 A. I would use both. If they had a
4 black candidate, why would I have to choose one
5 or the other?

6 Q. Would you have an opinion on which
7 is more visible to the voters of Louisiana?

8 A. I would not, not if one, for
9 example, included a black candidate and the other
10 did not.

11 MR. FARR:

12 Okay. That's all, Your Honor.

13 Thank you.

14 THE COURT:

15 Any redirect?

16 MS. BRANNON:

17 Yeah, just some brief redirect,

18 Your Honor.

19 REDIRECT EXAMINATION BY MS. BRANNON:

20 Q. First, can we call up demonstrative
21 Exhibit 1.11? Dr. Handley, are you familiar with
22 this table?

23 A. Yes.

24 Q. Does this show the voting age
25 population for all parts black and then also the

1 voting age population under the DOJ definition in
2 Illustrative District 2?

3 A. Yes.

4 Q. Was your analysis any different
5 about the effectiveness of Illustrative District
6 2, depending on the definition used for the black
7 population?

8 A. No.

9 Q. Was your analysis any different
10 about the effectiveness of the congressional
11 districts enacted -- the enacted map, depending
12 on what definition of black is used?

13 A. No.

14 Q. Okay. And counsel asked you about
15 performing a functional analysis.

16 Why didn't you perform a functional
17 analysis at this time in this case for your
18 report?

19 A. I did perform a functional analysis.
20 A functional analysis is simply looking at how
21 black preferred candidates would -- whether they
22 would have an opportunity -- whether black voters
23 would have an opportunity to elect candidates of
24 choice, depending on the voting patterns of
25 blacks and whites, as opposed to just the voting

1 age population. That's what this is. Not this

2 chart, what the effectiveness tables were.

3 Q. You can take that down.

4 A. I'm sorry.

5 Q. And did you do that for an analysis
6 of the illustrative plans?

7 A. I did a functional analysis of
8 several illustrative plans as well as the enacted
9 plan.

10 Q. Correct. And we have already
11 discussed that that information is in your
12 chart -- in your report, correct?

13 A. Yes.

14 Q. And as part of the -- your analysis
15 of the enacted plan, do any of the populations in
16 the enacted plan have a voting age population of
17 over 50 percent besides Congressional District 2?

18 A. In the enacted plan?

19 Q. Yes, in the enacted plan.

20 A. No.

21 THE COURT:

22 Under either definition or which
23 definition?

24 MS. BRANNON:

25 Under either definition.

1 THE WITNESS:

2 No.

3 BY MS. BRANNON:

4 Q. Do any of the congressional
5 districts in the enacted plan conform to allow
6 black voters to elect their candidate of choice
7 besides Congressional District 2?

8 A. No.

9 Q. Can we turn back to the Appendix C?
10 Not Appendix C, revised Appendix C.

11 MS. BRANNON:

12 Just bear with me a minute,
13 Your Honor. It is Illustrative District
14 1. -- Exhibit 1.6. And actually, can you
15 turn to revised Appendix C in your report,
16 which is in your binder? We can take this
17 down.

18 TRIAL TECH:

19 (Complied.)

20 MS. BRANNON:

21 And, for the record, that's exhibit
22 PR-92.

23 BY MS. BRANNON:

24 Q. In looking at Appendix C that's in
25 the report, can you just refresh your

1 recollection as to exactly what is contained in
2 that document?

3 A. You mean corrected Appendix C?

4 Q. Yes.

5 A. So this is statewide elections
6 recompiled, reconfigured to conform with the
7 enacted district boundaries and racial black
8 voting analysis of the five districts that would
9 contribute voters to the Illustrative District 2,
10 illustrative -- additional opportunity district
11 in Illustrative Plan 2 or Plan 2A?

12 Q. Is it an evaluation of the enacted
13 plan?

14 A. Yes.

15 Q. Okay. Can you go through that, the
16 review of that document?

17 MS. BRANNON:

18 And maybe we can pull it up on the
19 screen, Appendix C from Exhibit R-92,
20 PR-92. Keep going, and then keep going.

21 TRIAL TECH:

22 (Complied.)

23 MS. BRANNON:

24 Okay. Yeah, Appendix C. There.

25 TRIAL TECH:

1 (Complied.)

2 MS. BRANNON:

3 That's the right thing.

4 BY MS. BRANNON:

5 Q. This is from your report, correct?

6 A. Yes.

7 Q. Okay. Can you explain whether all
8 of these elections are polarized or not in your
9 analysis of the enacted plan?

10 A. They are all polarized for all of
11 the districts, I believe, including District 2.
12 If you could turn that, they are all polarized
13 for all enacted districts, including District 2.

14 Q. And would a BVAP of less than
15 50 percent allow black voters to elect their
16 candidate of choice in Congressional District 2
17 in the enacted plan, or not the enacted plan, or
18 just based on your analysis, would --

19 MS. BRANNON:

20 Let me rephrase the question,

21 Your Honor.

22 BY MS. BRANNON:

23 Q. Would a BVAP of less than 50 percent
24 allow black voters to elect their candidate of
25 choice in Congressional District 2?

1 A. I don't know. The -- the district
2 was 58 percent. Oh, in Enacted District 2, it's
3 still 58 percent, so I can't answer that for
4 that, but in the illustrative plan, it's
5 50 percent and it still allows the black voters
6 to elect their candidate of choice.

7 Q. Do you think a BVAP of less than
8 50 percent in Congressional District 2 would
9 allow black voters to elect their candidate of
10 choice?

11 A. It's possible.

12 Q. Okay. And in looking at this
13 analysis --

14 MS. BRANNON:

15 Maybe can we go back to Appendix B,
16 revised Appendix B, which is in 92 -- 91?
17 I'm sorry, Your Honor. No. Can we go to
18 Exhibit PR-87, and then could we go to
19 revised Appendix B at the end of this
20 document?

21 TRIAL TECH:

22 (Complied.)

23 MS. BRANNON:

24 Maybe we don't have it. This is
25 just -- and can we go down to look at the

1 next page?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. BRANNON:

5 Q. And just looking at -- for example,
6 at Congressional District 3, can you just briefly
7 describe the white crossover voting that you
8 found in -- when looking at Congressional
9 District 3?

10 A. So the black preferred candidate in
11 2020 was Ryland Harris. He received somewhere
12 between 64 and 69 percent of the black vote and
13 he received somewhere in the neighborhood of 1.7
14 to 6 percent of the white vote.

15 Q. So that's a low amount of white
16 crossover vote?

17 A. That's a very low amount of white
18 crossover vote, yes.

19 MS. BRANNON:

20 Your Honor, I have no further
21 questions.

22 THE COURT:

23 Okay, Dr. Handley. Thank you,
24 ma'am.

25 Okay. We are going to stay on the

1 record until 11:30. The court has a
2 pretrial conference at 11:30, so let's
3 plow through. If somebody needs to use
4 the restroom, you can certainly -- you are
5 not going to bother me.

6 MS. OSKAI:

7 Good morning, Your Honor. I'd like
8 to also enter an appearance. My name is
9 Samantha Osaki, that's O-S-A-K-I, for the
10 American Civil Liberties Union for the
11 Robinson plaintiffs.

12 The Robinson plaintiffs will now
13 call Dr. Dorothy Nairne.

14 DOROTHY NAIRNE, Ph.D,
15 after having first been duly sworn by the
16 above-mentioned Court Reporter did testify as
17 follows:

18 THE COURT:

19 Good morning, ma'am. You'll need to
20 adjust the mic.

21 THE WITNESS:

22 Good morning. Good morning, can you
23 hear me?

24 THE COURT:

25 Yes, ma'am.

1 EXAMINATION BY MS. OSAKI:

2 Q. Good morning, Dr. Nairne.

3 A. Good morning.

4 Q. To start, could you please state
5 your name for the court?

6 A. My name is Dorothy Nairne.

7 Q. And how do you identify racially,
8 Dr. Nairne?

9 A. I am black. I am African-American.

10 Q. What town and parish do you live in,
11 Dr. Nairne?

12 A. I live in Napoleonville, Assumption
13 Parish.

14 Q. And how long have you lived at your
15 current address?

16 A. It's a family home that I've visited
17 all my life and I've been there full-time since
18 2017.

19 Q. And before 2017, how long have --
20 have you and your family traced your roots in
21 Louisiana?

22 A. For generations. My mother's,
23 mother's, mother's mothers and fathers were
24 enslaved here in Louisiana in Assumption Parish.

25 Q. Could you please tell us briefly

1 about your education and career history,

2 Dr. Nairne?

3 A. I had the benefit of going to the
4 University of Wisconsin -- go Badgers -- and then
5 I went to -- I studied journalism and
6 African-American studies, then I lived in Atlanta
7 and went to Clark Atlanta University where I got
8 a master's in African-American studies and a PhD
9 in economic affairs and development.

10 Q. And could you please describe what
11 you currently do for a living?

12 A. I have a start-up business here in
13 Louisiana that is focusing on glass recycling and
14 taking the glass, turning it into sand and doing
15 stormwater management and Mardi Gras beads so
16 that we can create jobs for people coming out of
17 prison.

18 Q. Thank you, Dr. Nairne. Do you
19 belong to any civic, nonprofit or political
20 groups?

21 A. I'm very active with the NAACP, with
22 the Urban League, with Climate -- Weather For
23 Climate and also with other start-up
24 organizations like Fund 17 and there's one called
25 Flight and together Louisiana and together

1 New Orleans.

2 Q. So do you consider yourself to be
3 active in your community?

4 A. I am very active.

5 Q. Dr. Nairne, could you please
6 describe the role that race has played in your
7 family since your family has lived in Louisiana?

8 A. So first, my grandparents were on --
9 they were sharecroppers on different plantations
10 in Assumption Parish, and so my grandfather could
11 read, so he used to read to all of the other
12 sharecroppers who couldn't read and also help
13 them with their money.

14 So my grandmother used to tell
15 stories about how on the plantations they were
16 paid with jitney, so they would try to pay people
17 different money so you could never get off the
18 plantation.

19 So I've got that long background
20 where my grandmother always wanted to get off the
21 plantation and my mother did. My family, her
22 family poured into her where she was able to go
23 to school beyond the 6th grade all the way in
24 New Orleans because there was no school in
25 Assumption Parish for black children. So they

1 had to walk from grades one until six probably
2 five miles each way. And the white children who
3 were in school had the bus, all of these public
4 schools. So my mother would tell gross stories
5 of being spit on from the school bus and then
6 having to go all the way to New Orleans to go to
7 school beyond the 6th grade.

8 Q. Are you a registered voter,
9 Dr. Nairne?

10 A. I am a registered voter.

11 Q. Are you registered to vote at your
12 current address?

13 A. Yes, I am.

14 Q. Do you regularly vote in
15 congressional elections?

16 A. I vote, yes.

17 Q. Do you plan on voting in future
18 congressional elections?

19 A. Yes, I do.

20 Q. Thank you. I'd next like to discuss
21 your involvement with this case. What motivated
22 you to be a plaintiff and a witness today?

23 A. I grew up with the notion that where
24 much is given, more is expected. I have been
25 completely privileged in having an education and

1 knowing people in Assumption Parish, in
2 Napoleonville who haven't had those
3 opportunities. So for me, it's a moral
4 imperative to give as much as I can for the
5 people who live around me who want justice, who
6 want racial equality and who want opportunities.

7 Q. Thank you, Dr. Nairne.

8 Let's talk a little bit about your
9 current congressional district. Do you know what
10 your current Congressional District is?

11 A. I am in District 6.

12 Q. And who is your current
13 representative?

14 A. Graves, Garrett Graves.

15 Q. What is your understanding of your
16 Congressman Graves?

17 A. He is a white man.

18 Q. In general, do you follow your
19 congressman's actions?

20 A. I follow him and I have contacted
21 his office on several occasions.

22 Q. In your affidavit, you note that you
23 believe that your congressmen does not advocate
24 for your community's needs. What did you mean by
25 that?

1 A. I'm very active, as I stated, in my
2 community and also participating widely on Zoom
3 or for policy conferences; and I haven't seen him
4 at any events, whether for King day, Juneteenth
5 day or just to discuss the plight of the black
6 community.

7 Q. Have you seen him campaigning in
8 your community?

9 A. No. No. No. I have not seen him
10 campaigning during the several elections that
11 I've been around for.

12 Q. Thank you, Dr. Nairne. I'd now like
13 to discuss the Enacted Maps.

14 MS. OSAKI:

15 May we please pull up the enacted --
16 the enacted map under HC-1, which has been
17 moved as Plaintiffs Exhibit PR-15 on
18 page 48.

19 TRIAL TECH:

20 (Complied.)

21 BY MS. OSAKI:

22 Q. Dr. Nairne, are you familiar with
23 this map?

24 A. Yes, I am.

25 Q. Do you know which district you

1 reside in under this map?

2 A. It's still unclear, so there's one
3 election where I went from school to school to
4 school looking for, you know, am I voting, can I
5 vote, where am I voting and they turned me away,
6 so I learned that I was in District 6 and I'm
7 right there on the cusp; so some of my neighbors
8 vote in District 2 and some in District 6, so
9 it's confusing, it's chaotic, and it doesn't help
10 us to organize or plan.

11 Q. What do you mean by "on the cusp"?

12 A. So my house is like literally where
13 my neighbors across the street are in District 2,
14 so they were able to vote, but I wasn't.

15 MS. OSAKI:

16 May we please zoom in on that area?

17 It's Assumption Parish in Congressional

18 District 6.

19 TRIAL TECH:

20 (Complied.)

21 MS. OSAKI:

22 Thank you.

23 BY MS. OSAKI:

24 Q. Dr. Nairne, based on your living

25 experiences looking at this map, what is your

1 impression of your district, Congressional

2 District 6?

3 A. So as small as Assumption Parish is,
4 it's a big land mass but small community. We are
5 not able to organize or able to mobilize or able
6 to voice our -- and organize our voice in
7 Assumption Parish.

8 Q. And could you describe
9 geographically what areas your community in
10 Assumption Parish convenes with in Congressional
11 District 6 of this enacted map?

12 A. Sure. So a lot of the work that I
13 do is with people of the river parishes:
14 St. John, St. James, St. Charles and Jefferson
15 and Orleans Parish. And so when it comes time to
16 discuss candidates and voting, I'm -- I'm silent,
17 I have nothing to say because they are in one
18 district and I'm in another.

19 Q. So under Congressional District 6,
20 you're the -- can you describe some of the
21 parishes that you would be linked with here?

22 A. So St. Mary's, Iberville. I -- I
23 have absolutely no alliance there, no community
24 members there in those parishes.

25 Q. I'd like to talk a little bit more

1 about that. Based on your living experiences,
2 how would you describe some of those communities
3 that are -- that are included on circling here?

4 A. So a lot of the communities' work
5 that I do is with the river parishes where we do
6 a lot of work around environmental justice and
7 racial justice and looking at cancer alley and
8 looking at just what's happening with people's
9 living experiences as well as with HIV, with
10 crime and with how we improve each other's lives.

11 So I don't work with people within
12 Terrebonne or the other parishes, so I'm kind of
13 a sore thumb standing out there because we work
14 together, but then we don't vote together.

15 Q. I see. So it sounds like you are
16 saying you are not as familiar with these that
17 you are included with?

18 A. Yes.

19 Q. Okay. Now, under this enacted plan
20 and based on your living experiences as a
21 resident of Congressional District 6, do you
22 believe your interests would be fairly
23 represented?

24 A. I do not believe that my interests
25 are represented.

1 Q. And why is that?

2 A. I feel like I'm alienated, that I
3 don't have associations and groups that I would
4 work with. I would have to start over really to
5 see who's where and doing what given this map
6 that I'm looking at right now.

7 Q. Thank you, Dr. Nairne. I'd now like
8 to discuss one of plaintiffs' illustrative maps.

9 MS. OSAKI:

10 Could we please pull up one of
11 plaintiffs' illustrative maps which has
12 been moved into evidence as PR-15 on
13 page 47?

14 TRIAL TECH:

15 (Complied.)

16 BY MS. OSAKI:

17 Q. Dr. Nairne, are you familiar with
18 this map?

19 A. Yes, I am.

20 Q. Under this Illustrative map, are you
21 aware of what district you live in?

22 A. I would know -- I know where I live,
23 but I would know what district that I am in.
24 Sure enough, me and all my neighbors would be in
25 District 2 according to this map.

1 MS. OSAKI:

2 May we please zoom in to
3 Congressional District 2 on this
4 illustrative map?

5 TRIAL TECH:

6 (Complied.)

7 MS. OSAKI:

8 Thank you.

9 BY MS. OSAKI:

10 Q. Dr. Nairne, geographically, what
11 areas would -- would you be linked with in this
12 Congressional District 2 of this illustrative
13 map?

14 A. In this map, I would be with the
15 people that I'm working with currently along with
16 the river parishes all the way into Orleans and
17 Jefferson Parishes. This maps makes sense to me.

18 Q. Do you have any personal connections
19 with any of those other parishes?

20 A. I have personal connections, family,
21 friends, colleagues in all of this -- this entire
22 area.

23 Q. How would you describe communities
24 in these areas, these river parish areas based on
25 your personal knowledge?

1 A. We have a shared history, we have a
2 shared cultural heritage, and we work together to
3 make improvements along this area with community
4 development where we are doing work around
5 creating jobs for people, opportunities for young
6 people, and trying to improve our health.

7 Q. What did you mean by that, "trying
8 to improve your health"?

9 A. This area is known as cancer alley,
10 and just so I work somewhat with the cancer index
11 and looking at just neighbors across the street,
12 next to me, even my own mother who had a tumor
13 the size of a soccer ball in her belly; and so,
14 you know, just cancer is everywhere and, you
15 know, if it's in my own house, then is it in me
16 too, so it really requires us to do quite a bit
17 of work together.

18 Q. Can you describe some of the health
19 -- health inequities that are similar along the
20 river parishes? What about industries, are there
21 industries that are similar along these
22 communities?

23 A. Well, the sugar cane industry
24 defined this area, this region, but now the sugar
25 cane is mechanized so people don't have those

1 jobs anymore, so there's a lot of not much to do
2 going on in Assumption, St. James, St. John and
3 St. Charles.

4 Q. Now, under this new -- under this
5 illustrative plan and based on your living
6 experiences, do you believe that your community's
7 interest would be fairly represented?

8 A. Under this map, yes.

9 Q. Why is that?

10 A. It would give us a base so that we
11 can mobilize and so that we can organize and so
12 that we have one collective voice so that we
13 would have action together so we can move forward
14 and improve, but not our communities, our
15 households, our entire state.

16 Q. Based on your living experiences in
17 Louisiana, does it make sense culturally,
18 socioeconomically, historically or otherwise, for
19 your community to settle under this illustrative
20 map Congressional District 2 alongside these
21 other river parish communities?

22 A. To me, it makes complete sense that
23 we are in this district.

24 Q. Thank you. Finally, Dr. Nairne, how
25 would you feel if a map like this illustrative

1 plan that is a map that enacts a second majority
2 black congressional district were to be enacted
3 into law?

4 A. I know exactly the households that
5 I'm going to knock on their doors should this
6 happen. There were a number of people -- so
7 during the census and leading up to the elections
8 for 2020, I was a block captain for Together
9 Louisiana. So there were a couple of households
10 that I knocked on their doors and they were like
11 oh, good, you mean change is coming for us. So
12 then when they see that changes are not real,
13 their hopes are dashed. They are feeling like
14 yet again you lied, some bad sense; no, I didn't
15 lie to you. This process just takes a while.

16 So I know I would go to his home.
17 This is somebody I've known all my life and just
18 to see -- he's weathered and worn out and just to
19 have him have a little bit of hope, wow, that
20 would make my year, my day, my hour. So that's
21 where I would go and say look, change is coming
22 here to Assumption Parish, so we have some happy
23 people who would have hope again in Louisiana.

24 MS. OSKAI:

25 Thank you, Dr. Nairne. No further

1 questions, Your Honor.

2 THE COURT:

3 Cross?

4 CROSS-EXAMINATION BY MR. WALES:

5 Q. Hi -- excuse me. Hi, Dr. Nairne.

6 Jeff Wales. I'm an attorney for the state, and

7 I'll be asking you a few questions today.

8 Dr. Nairne, you said you moved to

9 Louisiana in 2017; is that correct?

10 A. Yes, it is.

11 Q. So where did you live before that?

12 A. Well, I lived in South Africa.

13 Q. And -- and so where did you grow up?

14 Is that where you grew up, in South Africa?

15 A. No. I grew up between Milwaukee and

16 also between Louisiana where I would come in the

17 summer.

18 Q. So you would visit in Louisiana, but

19 you wouldn't come here full-time?

20 A. Correct.

21 Q. So when did you register to vote?

22 A. I registered to vote I think in

23 2017.

24 Q. And you are a registered Democrat,

25 correct?

1 A. Yes.

2 Q. And earlier you said something about
3 being confused about where to vote. Did you find
4 out where to go vote?

5 A. I did.

6 Q. So you are aware that the Geaux Vote
7 App is where the Secretary of State lets people
8 know where to vote?

9 A. Yes, I am.

10 Q. All right. And you live in
11 Congressional District 6 currently, correct?

12 A. That's correct.

13 Q. And that your current congressman is
14 Garrett Graves?

15 A. Yes.

16 Q. And he is a Republican, correct?

17 A. Yes.

18 Q. And you testified earlier in your
19 declaration that you are highly engaged, so you
20 attend redistricting workshops around the state?

21 A. Yes, I do.

22 Q. And you've written letters to your
23 congressmen, to Congressman Graves; is that
24 correct?

25 A. I went to him regarding the

1 environment, so yes.

2 Q. And you've spoken about your
3 advocacy and your work in the community.

4 Irrespective of the results of this
5 litigation, will you continue to be engaged with
6 the elected representatives who represent you?

7 A. Yes, I will.

8 Q. And regardless of what the map looks
9 like now or will look like, you'll continue to
10 advocate for things you care deeply about,
11 correct?

12 A. Yes.

13 Q. In paragraph 11 of your declaration,
14 you've stated that you have donated to
15 congressional candidates. Can you tell me which
16 candidates you donated to?

17 A. I donated to several candidates \$5
18 here and \$10 there.

19 Q. All right. And what is the
20 affiliation of those candidates, the political
21 affiliation?

22 A. Some are independent, a couple of
23 green party, and a few Democratic candidates.

24 Q. Do you recall have you ever donated
25 to the Democratic Congressional Campaign campaign

1 committee?

2 A. I'm not sure. Help me understand.

3 Q. Sure, sure. If I may, I'm going to
4 use this system.

5 THE COURT:

6 You can use the document camera.

7 Mr. Wells, tell us what you are going to
8 put up there before you just throw it up
9 there.

10 MR. WALES:

11 Okay. Yes, ma'am. I'm going to
12 show a document from the official
13 government website from the Baton Rouge
14 Federal Actions Commission, if I can get
15 the -- did you turn it on?

16 BY MR. WALES:

17 Q. All right. Let me try again.

18 Dr. Nairne, do you remember donating to a group
19 called Act Blue?

20 A. I think I did donate to them, yes.

21 Q. Okay. So you would believe me if I
22 said you had donated to Act Blue and that
23 contained an earmark for the DCC, also known as
24 the Democratic Congressional Campaign Committee?

25 A. Okay.

1 Q. Going back to your voting
2 registration, you said that you are a regular
3 voter, correct?

4 A. Yes.

5 Q. Did you ever miss an election?

6 A. There are so many, but I try to
7 vote, especially locally.

8 Q. So it's possible that you have
9 missed a few elections?

10 A. I'm pretty good at voting.

11 Q. Okay. And so, again, we still don't
12 have a --

13 THE DEPUTY:

14 I'm texting them now.

15 BY MR. WALES:

16 Q. Okay. And I'm going to ask you,
17 Dr. Nairne -- Dr. Nairne, if you remember voting
18 in the December 2018 election that was for the
19 Louisiana Secretary of State. It was an election
20 between Secretary of State Kyle Ardoin and Gwen
21 Collins-Greenup?

22 A. I don't remember, honestly.

23 Q. You don't -- you don't recall voting
24 in that election?

25 A. No. I don't recall not voting

1 because that was a statewide election, correct?

2 Q. Correct.

3 A. Yeah. So I would not have been
4 turned away from voting during that election.

5 THE COURT:

6 Just give us a second, Mr. Wales.

7 She's contacted IT so they can
8 troubleshoot it for us. Do you have any
9 other questions you can go to?

10 MR. WELLS:

11 No. No, Your Honor.

12 BY MR. WALES:

13 Q. All right. It looks like there is
14 light. Excuse me. Dr. Nairne, I'm going to show
15 you a document from the Louisiana Secretary of
16 State's office and I'm going to see if -- all
17 right.

18 MR. WALES:

19 Well, zoom.

20 TRIAL TECH:

21 (Complied.)

22 THE COURT:

23 If you quit your day job --

24 BY MR. WALES:

25 Q. Thank you. So Dr. Nairne, I realize

1 the -- the first line over here is a little bit

2 difficult to read. It's in script, but can --

3 can you read that for us, please?

4 A. Sure. As Secretary of State of the

5 State of Louisiana, I do hereby certify that the

6 annex hereto is true and correct voter

7 registration information for the state of Dorothy

8 Evelyn Nairne, and that's me.

9 Q. Thank you so much.

10 A. Uh-huh (affirmatively).

11 Q. And so I'm going to show you another

12 page in here. And can you tell me what the top

13 two lines say?

14 A. Did not vote 2021.

15 Q. Oh, I'm sorry. At the very top of

16 the page?

17 A. Oh, okay. Assumption Parish.

18 Q. And even prior to that?

19 A. Louisiana Secretary of State voter

20 election history report for Parish of Assumption.

21 Q. Okay. And you see about -- about

22 eight election dates there?

23 A. Uh-huh (affirmatively).

24 Q. And do you see how many where it

25 says you did not vote?

1 A. I see.

2 Q. All right. And how many elections
3 did you not vote in?

4 A. So I voted in one, two, three, four,
5 five, I did not vote in November 2021, July 2020,
6 so I did not vote in three elections.

7 Q. Okay. And then the election I was
8 asking you about in -- I'm sorry, in December of
9 2018, that was the election that was discussed
10 earlier -- earlier by the expert. It was for
11 Secretary of State between Kyle Ardoin and Gwen
12 Greenup; you did not vote in that election,
13 correct?

14 A. Well, I see now.

15 Q. Yes. And Kyle Ardoin, who won that
16 election, is the defendant in this suit, correct?

17 A. Yes.

18 Q. So you did not participate in the
19 election in which the defendant of this suit was
20 elected?

21 A. Okay.

22 MR. WALES:

23 All right. That's all the questions
24 I have. Thank you very much.

25 THE COURT:

1 Any redirect?

2 MS. OSAKI:

3 No redirect, Your Honor. Thank you.

4 THE COURT:

5 Okay. You may step down. Thank you
6 for your help today, ma'am. Okay. We are
7 going to be in recess until 1:30.

8 THE DEPUTY:

9 The court is now in recess.

10 (A short recess was taken at 11:23 a.m.)

11 THE COURT:

12 Okay. Please be seated. Good
13 afternoon everyone.

14 Why don't we say who we are calling
15 as our next witness because it needs to be
16 put on the record.

17 Go ahead. Put it on the record who
18 your next witness is and who you are, sir.

19 MR. CHAKRABORTY:

20 Good afternoon, Your Honor. Our
21 next witness is Traci Burch, and I'm
22 making my first appearance today.

23 I am Amitav Chakraborty on behalf of
24 the plaintiffs.

25 THE COURT:

1 Okay. And we are waiting on the

2 Zoom. Dr. Burch, can you hear us?

3 THE WITNESS:

4 Not yet.

5 THE COURT:

6 Can you hear me now?

7 THE WITNESS:

8 Yes.

9 THE COURT:

10 Your witness, sir.

11 MR. CHAKRABORTY:

12 Thank you.

13 THE COURT:

14 Wait. We need to swear her in.

15 Sorry.

16 TRACI BURCH,

17 after having first been duly sworn by the

18 above-mentioned Court Reporter did testify as

19 follows:

20 THE COURT:

21 Now, your witness.

22 DIRECT EXAMINATION BY MR. CHAKRABORTY:

23 Q. Thank you. Good afternoon. Can you

24 please state --

25 A. Good afternoon.

1 Q. Can you please state your full name
2 for the record?

3 A. Dr. Traci Burch.

4 Q. And what is your educational
5 background, Dr. Burch?

6 A. I am -- I first completed by
7 undergraduate work at Princeton where I majored
8 in politics and got a certificate in
9 African-American studies, and I finished my PhD
10 at Harvard in the Ph.D degree program in
11 government policy.

12 Q. And what is your current occupation?

13 A. Currently, I am an associate
14 professor of political science at Northwestern as
15 well as a regents professor at the American Bar
16 Foundation.

17 Q. And how long have you been a
18 professor, Dr. Burch?

19 A. Since 2007.

20 Q. What are your principle areas of
21 research?

22 A. Sorry. My principle areas of
23 research include political behavior, political
24 participation, barriers to voting and race ethnic
25 politics, and I also focus on the ways that

1 interaction with the government can effect all
2 those things such as participation, and I
3 specifically have focused on how the federal
4 justice system can effect various things.

5 Q. Thank you. And have you been
6 published on any or all of these subjects?

7 A. Yes, I have been.

8 Q. Have you previously served as an
9 expert witness?

10 A. Yes. I have testified at -- at
11 trial in four cases and in -- at a deposition in
12 an additional -- additional case.

13 Q. Did any of those cases in which you
14 testified involve claims brought under the Voting
15 Rights Act?

16 A. Yes.

17 Q. And was your testimony credited or
18 accepted by the court in each of those cases in
19 which you testified?

20 A. Yes.

21 MR. CHAKRABORTY:

22 Your Honor, pursuant to the Federal
23 Rule 702 and the state Secretary of State
24 parties, the Robinson plaintiffs would
25 like to proffer Dr. Burch as an expert in

1 political behavior, political
2 participation and barriers to voting.

3 THE COURT:

4 Is there any objections?

5 MS. KHANNA:

6 No objections, Your Honor.

7 THE COURT:

8 Okay. Dr. Burch will be accepted
9 and be able to give testimony in the areas
10 of political behavior, political
11 participation and barriers to voting,
12 correct?

13 MR. CHAKRABORTY:

14 Yes, Your Honor.

15 THE COURT:

16 You may proceed.

17 BY MR. CHAKRABORTY:

18 Q. Mr. Burch, did you submit an expert
19 report as part of your work in this case?

20 A. I did. And could you excuse me for
21 a few minutes? I just need to close my door.

22 Sorry. Thank you. Yes, I did.

23 MR. CHAKRABORTY:

24 No worries at all. I'd like to
25 bring up on the screen, and just let us

1 know if you are not able to see it, what
2 has been premarked as PR-14.

3 THE COURT:

4 I don't know that you can screen
5 share.

6 THE DEPUTY:

7 We are supposed to be able to.

8 THE COURT:

9 Okay. I'm going to let you
10 disregard my technical input.

11 BY MR. CHAKRABORTY:

12 Q. Sorry, Dr. Burch. Just give us one
13 second.

14 Dr. Burch, are you able to see any
15 report on your screen?

16 A. Not yet.

17 THE DEPUTY:

18 Okay. Wait. Let's see.

19 THE COURT:

20 IT is coming. Is there any way you
21 can do a little bit with Dr. Burch until
22 IT gets here?

23 MR. CHAKRABORTY:

24 I can do a couple of questions.

25 THE COURT:

1 Okay. Great.

2 BY MR. CHAKRABORTY:

3 Q. Dr. Burch, just jumping into it a
4 brief bit before we tackle the technical
5 difficulties, did you submit a report for your
6 work in this case?

7 A. I did.

8 Q. I'll show you briefly what has been
9 premarked as PR-14, and it will be your expert
10 report.

11 What did you set out to evaluate in
12 your expert report?

13 A. So in my expert report, I was asked
14 to evaluate the set factors of -- relevant to
15 this case in Louisiana, particularly Senate
16 factors five, six, seven, eight and nine.

17 Q. Thank you. And what materials did
18 you rely on to reach your conclusions about those
19 factors?

20 A. A wide variety of materials
21 including my own analysis of the census data such
22 as the data from the plaintiff census and the
23 American Civil Liberties communities, various
24 agencies of the court, demography literature, the
25 legislative record including hearings, videos,

1 hearing of testimonies and road shows, other
2 documents such as amendments and bills that were
3 submitted, various news reports and -- and other
4 public speeches by public officials.

5 Q. Thank you, Dr. Burch. I'd just like
6 to pause there until we fix the issues.

7 THE COURT:

8 Do you think she's got a copy of her
9 report that she could look at while you
10 examine her? Because I have her report
11 here. I can follow along.

12 MR. CHAKRABORTY:

13 We do, and I believe Dr. Burch does,
14 but we were going to bring up a
15 demonstrative.

16 THE COURT:

17 Oh. Help is on the way, Dr. Burch.
18 Give us a minute.

19 MS. MCKNIGHT:

20 I'm sorry, Your Honor. We are going
21 to try to log into the Zoom. We are going
22 to try to log into Zoom at the same time
23 to avoid a delay later on. Thank you.

24 THE WITNESS:

25 All right. I've got it.

1 BY MR. CHAKRABORTY:

2 Q. Thank you for your patience,
3 Dr. Burch. So I'd like to jump back and -- and I
4 know you were just talking a minute ago about the
5 Senate factors that you examined. Are those
6 factors displayed for you on the screen?

7 A. Yes, they are.

8 Q. And just as a reminder to the court
9 and everybody here, which factors were those?

10 A. So I reviewed Senate Factor 5, the
11 extent to which members of the minority group are
12 suffering from the effect of different
13 discrimination in areas such as employment,
14 education and health that effect participation;
15 Senate Factor 6, which revealed political
16 campaigns; Factor 7, which is minority group
17 representation in public office; Factor 8, which
18 is about whether there's lack of responsiveness
19 of the elected officials to the procedural needs
20 of the group; and Factor 9, which is whether the
21 state of the policy or practice is to take the
22 position in that and is that the same.

23 Q. Thank you, Dr. Burch. I'd like to
24 start with Senate Factor 5. Which specific areas
25 of disparity did you evaluate as part of this

1 factor?

2 A. I examined education and other
3 aspects of socioeconomic status such as
4 employment and income. I looked at health, I
5 looked at residents in housing, and I also
6 examined the criminal justice system.

7 Q. Thank you, Dr. Burch. I'd like to
8 begin by talking about education.

9 MR. CHAKRABORTY:

10 Matthew, can you please turn to the
11 next slide?

12 TRIAL TECH:

13 (Complied.)

14 BY MR. CHAKRABORTY:

15 Q. Dr. Burch, what does this slide
16 display?

17 A. So this -- this slide displays a --
18 a couple of the charts from my report in which I
19 am documenting contemporary disparities in
20 education. And on the left, this slide shows the
21 difference in scores on standardized tests for
22 Louisianians who are in 8th grade over time.

23 And for each map, for each graph,
24 I'm sorry, the top one is for mathematics and the
25 bottom is for English, and the white students are

1 at the top and the red dots and the blue dots --
2 blue crosses are black students. And, as you can
3 see, there's a persistent gap over time and that
4 determines the students' scores on these
5 achievement tests, and that gap is pretty
6 persistent and consistent over time.

7 Q. And what's displayed on the right
8 here?

9 A. And so on the right, as you can see
10 here, I -- this is just part of one of the charts
11 that I have that shows educational attainment by
12 race scores 25 and older, and white Louisianians
13 are much more likely to have earned a bachelor's
14 degree or higher than black Louisianians.

15 Q. Thank you, Dr. Burch. Based on
16 these selected examples and other citings in your
17 report, what were your conclusions about the
18 existence and extent of educational disparities
19 that exist in Louisiana between black and white
20 populations?

21 A. Yes. So I concluded that there were
22 still great disparities in education and
23 educational attainment between black and white
24 Louisianians, not only related to these factors
25 that I state here, but also with respect to

1 persistent segregation in education as well; and
2 those factors, those disparities are given by
3 both historical and contemporary discrimination
4 in the education realm.

5 Q. Thank you.

6 MR. CHAKRABORTY:

7 Next slide please, Matthew.

8 TRIAL TECH:

9 (Complied.)

10 BY MR. CHAKRABORTY:

11 Q. Dr. Burch, what does this slide
12 show?

13 A. So this slide shows more evidence of
14 disparity with respect to socioeconomic status
15 between black and white men. And consistent with
16 the prior set of graphs, white Louisianians are
17 shown here in the print and black Louisianians
18 are shown here in the teal.

19 And as you can see on all of these
20 factors, black Louisianians are worse off than
21 white Louisianians. Unemployment rates, the
22 unemployment rate is nearly double from black
23 Louisianians. Family poverty is nearly three
24 times as high for black Louisianians than for
25 white Louisianians. White house -- Louisiana

1 households on average, median household income is
2 tens of thousands of dollars higher than that of
3 black Louisianians' households, and there's
4 definitely disparity in terms as to ethnicity,
5 vehicles, there is -- black households are more
6 than four times or three times as likely, sorry,
7 almost four times as likely in black households
8 than white households.

9 Q. And based on these conclusions in
10 your report, what was your conclusions about
11 socioeconomic disparity between white and black
12 Louisianians?

13 A. Again, I concluded that there are
14 socioeconomic disparities that exist today and
15 that those disparities relate to both
16 contemporary and historical disparities between
17 black and white Louisianians.

18 MR. CHAKRABORTY:

19 Next slide, please.

20 TRIAL TECH:

21 (Complied.)

22 BY MR. CHAKRABORTY:

23 Q. Dr. Burch, what information is
24 displayed on this slide?

25 A. So this slide shows some of the

1 information that I wrote about with respect to
2 disparity in housing.

3 Q. And what types of examples or
4 disparity did you examine in your analysis of
5 this factor or this -- this issue?

6 A. So in particular, I looked at
7 disparity in -- in residents and where people
8 live because it's so important to policies and --
9 and political participants.

10 And so here, you can see in the map
11 on the left, I had a historical map that was used
12 by the Homeowners Loan Corporation dated since
13 the 1930s and 1940s. And several cities of
14 Louisiana that -- and this map was used to
15 determine lending and the risk of lending. Red
16 areas typically are those that were high risk and
17 -- and not suitable for lending and happen to be
18 neighborhoods where black people lived.

19 And so looking at these maps and --
20 and these areas of segregation and -- and these
21 historical maps as continues to present day, as
22 you see on the left where it shows that there is
23 still metro areas and cities in Louisiana that
24 are highly -- marked by high segregated by race;
25 and that includes New Orleans, the New Orleans,

1 Metairie metro area, Baton Rouge, the
2 Shreveport/Bossier cities and Lake Charles, and
3 those cities are -- are highly segregated by race
4 as well.

5 Q. Thank you, Dr. Burch. Can policies
6 effect -- I know you -- I just wanted to know,
7 can government policies effect the -- the level
8 and placement of segregation between black and
9 white Louisianians in housing?

10 A. Yes. Even present contemporary
11 policies or just voting decisions on where and
12 how to build, especially as I give an example in
13 my report about decisions about how to rebuild
14 after Katrina. That coupled with other issues
15 such as seeing the pace at which disaster relief
16 was given effect the ability of black people to
17 rebuild in areas that have been hurt by natural
18 disasters, for example. So these areas -- so
19 housing is effected in several areas.

20 Q. Thank you.

21 MR. CHAKRABORTY:

22 Please turn to the next slide,

23 Matthew.

24 TRIAL TECH:

25 (Complied.)

1 BY MR. CHAKRABORTY:

2 Q. Dr. Burch, what's on this slide?

3 A. So these -- this slide discusses
4 several of the disparities in health that I
5 talked about in my report. And, in particular,
6 we can see here in the left report -- chart that
7 mortality for black Louisianians from diseases
8 such as cancer, cardiovascular disease and
9 diabetes is higher than that of those mortality
10 rates for white Louisianians. Overall, as in the
11 second slide, the disparities in health translate
12 into a disparity in life expectancy.

13 So on average, white Louisianians --
14 white Louisiana men are about -- expected to live
15 about seven years longer than black Louisiana
16 men; and with respect to women, there's a large
17 gap as well. White Louisiana women are expected
18 to live about five years longer than black
19 Louisiana women. Infant and child mortality for
20 blacks versus white Louisiana children is higher
21 as well.

22 Q. And can environmental factors
23 contribute to racial health disparities such as
24 these?

25 A. Yes. So in my report, I talk a lot

1 about both the fact that natural disasters can
2 have differential effects and have had
3 differential effects in terms of mortality on
4 black versus white Louisianians, and I also talk
5 about disparity related to exposure to pollution
6 particularly in the area of Louisiana known as
7 cancer alley which is between Baton Rouge and
8 New Orleans.

9 And research has shown that for
10 black residents in those areas that higher
11 exposure to environmental pollution and the like
12 is related to higher rates of COVID-19, asthma
13 and -- and cancer.

14 Q. Thank you. So on this topic, would
15 you say that black Louisianians have worse
16 outcomes overall than white Louisianians?

17 A. Yes.

18 MR. CHAKRABORTY:

19 Next slide.

20 TRIAL TECH:

21 (Complied.)

22 BY MR. CHAKRABORTY:

23 Q. Dr. Burch, what does this slide
24 display information regarding?

25 A. So this slide discusses disparities

1 with respect to the criminal justice system in
2 Louisiana. And as you can see from this graph on
3 the left, black Louisianians are about -- about a
4 third of Louisiana's overall population but are
5 over represented among prison, probation and
6 parole populations. In fact, black
7 representation in Louisiana's prison and parole
8 population is double their representation in the
9 overall population.

10 Q. And so what are your conclusions
11 about the kinds of disparities that exist between
12 black and white Louisianians in the realm of
13 criminal justice?

14 A. That there are dramatic disparities
15 in the involvement with the criminal justice
16 system between black and white Louisianians with
17 black Louisianians being much worse off, and
18 these factors, these -- these disparities can't
19 be explained by just crime rates alone and, in
20 fact, are related to those that they are both
21 historical and contemporary discrimination in the
22 criminal justice system.

23 Q. And just to confirm. I know you
24 just mentioned for criminal justice there, but
25 would you say that all of the disparities that

1 you talked about today, you know, education,
2 health, socioeconomic status and -- and criminal
3 justice, all are tied to historical trends but
4 also are exhibited currently and are existing
5 disparities?

6 A. Yes. So -- so for all of the
7 disparities that I mentioned, the research shows
8 that both historical discrimination as well as
9 contemporary discrimination by the state and
10 other factors feeds and contributes to those
11 areas.

12 Q. And finally, last question on this
13 topic, Dr. Burch. All of these disparities, how
14 do they effect political participation in black
15 Louisianians in the state?

16 A. So, and I've done it for each factor
17 that was in my report, but overall if you think
18 about the fact that political science -- think
19 about the decision to participate in politics to
20 effect a rationale choice, we think that voters
21 weigh cost and benefits of these disparities, the
22 disparities of these factors tend to make voting
23 much more costly. So it would effect the
24 education, for instance, it's much more difficult
25 for someone to -- having to navigate

1 bureaucracies and the like if they have lower
2 educational attainment. It's difficult for
3 people to get to a polling place if they don't
4 have access to a vehicle or a -- or a household
5 that has access.

6 The criminal justice system effects
7 political participation because of loans and
8 franchise laws. People aren't allowed to vote if
9 they are serving a sentence in prison, for
10 instance, and so all of these factors are
11 interrelated, but also definitely have an effect
12 on political participation and the literature
13 shows that quite clearly.

14 Q. Thank you, Dr. Burch.

15 MR. CHAKRABORTY:

16 I'd like to move on to the next
17 slide, Matthew.

18 TRIAL TECH:

19 (Complied.)

20 BY MR. CHAKRABORTY:

21 Q. I'd like to move on to -- ask you
22 about your analysis of racial appeals and
23 political campaigns. And before we get to this
24 slide, what is a racial appeal?

25 A. So a -- a racial appeal in a

1 political campaign is an aspect of either a
2 speech or a -- a campaign ad, for instance, that
3 would prime voters to think about racial concerns
4 when making decisions about candidates in policy.
5 And those can be either implicit, which means
6 that race isn't mentioned, but you could see code
7 words or black exemplars, for example, that would
8 prime or still prime words to think about race to
9 make political decisions or they can be explicit,
10 which means they refer for specifics for the
11 race.

12 Q. And based on your experience and
13 review of the relevant literature, are appeals
14 effective or do they effect voting behavior?

15 A. Yes. Racial appeals are both
16 explicit and implicit and have been shown to
17 heighten the way voters pay attention to or think
18 about race and -- and it also effects how voters
19 think about candidates when they think about this
20 issue.

21 Q. Did you examine the racial appeals
22 in Louisiana?

23 A. Yes. I looked at a recent statewide
24 campaign, which is the 2019 gubernatorial
25 election.

1 Q. And what did you conclude about this
2 race?

3 A. I found evidence of several of --
4 sorry. I'm getting feedback. I -- I found
5 evidence of several campaign ads and statements
6 that could be characterized as a racial appeal.

7 Q. Can you give us some of those
8 examples?

9 A. Yes. So a prominent one has still
10 -- and here is from a campaign ad that was run by
11 the Eddie Rispono running for governor campaign.
12 And in it there's several aspects that calls for
13 (inaudible) they characterize racial appeal.

14 So, for instance, you have there in
15 the middle a picture of a mugshot, a black that
16 infers, activates on your particular racial type
17 such as black commonality. You have an image of
18 a candidate with all white constituents, and also
19 you have the use of language such as sanctuary
20 city and crimes that have been shown in
21 particular to crime racial ads, among others.

22 Q. Thank you, Dr. Burch. What were
23 your conclusions about the existence of racial
24 appeals as it exists in Louisiana?

25 A. Based on the several examples that I

1 found from that political campaign, that racial
2 appeals -- that there are still racial appeals
3 that characterize these things in a political
4 campaign.

5 Q. Thank you.

6 MR. CHAKRABORTY:

7 Next slide, Matthew.

8 TRIAL TECH:

9 (Complied.)

10 BY MR. CHAKRABORTY:

11 Q. I'd like to ask you about your
12 examination of Senate Factor 7, which is the
13 extent to which black Louisianians have been
14 elected to public office.

15 Which elected offices did you
16 evaluate in reaching your conclusions?

17 A. I evaluated several -- several
18 offices as well as offices at the state and local
19 levels as well.

20 Q. Let's start at the federal level.
21 What did you find with respect to federal
22 positions and black representation in those?

23 A. As shown up here, I -- I found that
24 there's been associated destruction; no black
25 senators and only four black Louisianians elected

1 to Congress at the -- at the federal level.

2 Q. And what about state and municipal
3 positions?

4 A. Similarly, there have been no black
5 governors or lieutenant governors in Louisiana,
6 and as with respect to the state legislature,
7 currently about a quarter of state legislative
8 seats are held by black members. Louisiana mayor
9 is less than a -- a quarter of all black -- black
10 mayors are less than a quarter of all Louisiana
11 mayors. State court judges are about
12 20.1 percent of all state court judges and a
13 quarter of the elected court members are black as
14 well.

15 Q. Thank you. What were your
16 conclusions from the analysis of this factor of
17 the intended representation of black Louisianians
18 in office?

19 A. Given the fact that they're about a
20 third of the population and it seems to be there
21 is no -- none of the offices that I examined has
22 there been a black representation of
23 Louisianians. It's measured a third of that body
24 or that group.

25 Q. Thank you.

1 MR. CHAKRABORTY:

2 Next slide, please.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. CHAKRABORTY:

6 Q. Dr. Burch, did you look at the
7 responsiveness of elected officials to the needs
8 of black Louisianians?

9 A. I did.

10 Q. And which sources of evidence did
11 you look to as part of that analysis?

12 A. I looked at my examination of -- of
13 -- that I conducted for Senate Factor 5 as well
14 as really the voices of black Louisianians
15 themselves as represented in the road shows.

16 Q. I know we already covered your --
17 your Senate Factor 5 evidence. What have you
18 learned from the latter that you reviewed the
19 testimony of these road shows?

20 A. Consistently across different areas
21 of the state, black Louisianians stood up at
22 these road shows and discussed their concerns
23 about race representation in their state and
24 talked about how they felt like things haven't
25 been improving. I have some examples here that

1 have been pulled from my -- my report that comes
2 from the road shows where -- where people stood
3 up and talked about how they felt as though they
4 weren't -- they were overlooked, they weren't
5 represented fairly and they were concerned about
6 the lack of representation and concern for, in
7 effect, the government policies that would help
8 them throughout the state.

9 Q. Thank you. And so what were your
10 conclusions based on these sources that you
11 reviewed in response to the elected officials to
12 the needs of the black Louisianians?

13 A. Based on the policies and the
14 persistent gaps that I found with respect to
15 Senate Factor 5 as well as based on voices of
16 black Louisianians themselves, that -- that black
17 Louisianians (inaudible) publicly elected
18 officials were not responsive.

19 Q. Thank you, Dr. Burch.

20 MR. CHAKRABORTY:

21 Next slide, Matthew.

22 TRIAL TECH:

23 (Complied.)

24 BY MR. CHAKRABORTY:

25 Q. Dr. Burch, did you look at Senate

1 Factor 9?

2 A. I did.

3 Q. And what is Senate Factor 9?

4 A. Senate Factor 9 examines whether the
5 legislature had proper justification listed for
6 HB-1 and SB-5.

7 Q. And what source of evidence that you
8 knew then did you examine to draw conclusions on
9 this factor?

10 A. I looked at the legislative record,
11 the hearings, the (inaudible) dates, the road
12 shows, the bills, the amendments, amendments
13 themselves, and I also examined some other public
14 statements by legislators.

15 Q. And have you conducted an analysis
16 for state records, either in your academic work
17 or in other cases?

18 A. Yes, both.

19 Q. So based on your review of
20 legislature statements, what are your conclusions
21 about the -- this factor?

22 A. So I concluded that there were
23 several factors that I laid out in my report that
24 were advanced in various points that were
25 important for justification that the legislature

1 was considering when discussing HB-1 and SB-5.

2 Those would be the -- the minimizing the

3 population deviation across districts, such as

4 keeping parishes -- parishes and precincts

5 together and getting no -- no -- not splitting

6 previews when splitting a parish's compactness.

7 They did say at first that they were

8 interested in these traditional legislative

9 principals; however, when they were presented as

10 maps, that performed better on the traditional

11 legislative principles, that did not have -- that

12 contained few majority-minority districts. They

13 either, for the record, backed off from some of

14 those traditional legislative principals or said

15 that they were left.

16 Q. Thank you. I think you briefly

17 touched on it. Can you provide just one example

18 of such a shifting justification perhaps on the

19 slide?

20 A. Yes. So, for instance, with respect

21 to the population deviation, to hear Chairman

22 Sklefani do one of several examples that write

23 about making the population down to as close to

24 the nearest person as possible to the possible

25 district when -- later in the process, when

1 presented, I believe by -- in Amendment 88 as
2 well as in Amendment 91 with maps that were
3 actually lower population deviations but contain
4 two majority-minority districts, for instance,
5 made the statements backing away from those a
6 commitment, saying that well, it's not -- you
7 know, yes, this map is lower in terms of
8 population, but that's not -- that's not as
9 important as -- that's not the thing that matters
10 like just difference is as important.

11 Q. Thank you.

12 MR. CHAKRABORTY:

13 You can take the demonstrative down
14 and put up what has been premarked as
15 PR-89.

16 TRIAL TECH:

17 (Complied.)

18 BY MR. CHAKRABORTY:

19 Q. Dr. Burch, I'd like to close by
20 asking you a couple of questions about your
21 supplemental report. Do you recognize this
22 document?

23 A. Yes.

24 Q. And what is it?

25 A. It is the supplemental report that I

1 submitted.

2 Q. What does your supplemental report
3 examine?

4 A. I was asked to examine the
5 relationship between race partisanship.

6 Q. And what did you review in order to
7 reach your conclusions on this topic?

8 A. The scholars, the scholars and
9 literature as well as some -- as -- as well as an
10 examination of registration of patterns,
11 registration by race.

12 Q. And based on your review, did you
13 reach any conclusions about the historical length
14 between race and party and/or the contemporary
15 relationship between the two?

16 A. Yes. So the literature itself tends
17 to locate the link that there is -- that there is
18 a link between race, racial attitudes and
19 partisanship, and then the contemporary or the
20 current, the substantiation of that starts with
21 the assignment, real lineup of parties beginning
22 in The New Deal and solidifying in the 1960s and
23 resulting bill of rights. And over time, that
24 realignment, particularly the realignment of
25 white southerns away from the Democratic party

1 into the Republican party is a hallmark of
2 politics, obviously the civil rights throughout.

3 Moreover, I conclude that there's
4 growing strong evidence in the literature that
5 that relationship between partisanship and race
6 and racial attitudes is getting stronger and has
7 been getting stronger since 2008. Any phenomena
8 or the data show as well as the road shows that
9 trends are happening in Louisiana as well.

10 Q. Thank you, Dr. Burch.

11 MR. CHAKRABORTY:

12 Your Honor, at this time, I'd like
13 to introduce PR-14 and PR-89 into
14 evidence. They are Dr. Burch's main and
15 supplemental expert reports.

16 THE COURT:

17 Any objection?

18 MS. MCKNIGHT:

19 No objection.

20 MR. CHAKRABORTY:

21 And no further questions,

22 Your Honor.

23 THE COURT:

24 Cross-examination?

25 MR. CHAKRABORTY:

1 Thank you, Dr. Burch.

2 CROSS-EXAMINATION BY MS. MCKNIGHT:

3 Q. Good afternoon, Dr. Burch. I'm not
4 sure if you can see me.

5 A. Yes, I can see you.

6 Q. I'm sorry. This is a bit awkward.
7 It's an honor to meet you. I'll have a few
8 questions for you this afternoon. I'm sorry, I
9 can't look you in your face.

10 A. Okay. And I'm just grateful you
11 guys were able to accommodate me.

12 Q. Absolutely. So Dr. Burch, I'd like
13 to start with something you've written in the
14 past which is that voters in a given racial or
15 ethnic group cannot be assumed to share policy
16 preferences. You wrote that, didn't you?

17 A. You'll have to show it to me.

18 MS. MCKNIGHT:

19 Okay. Let's bring up. This would
20 be Burch 1, Mr. Williamson.

21 TRIAL TECH:

22 (Complied.)

23 BY MS. MCKNIGHT:

24 Q. Do you recall writing a book
25 entitled Creating a New Racial Order?

1 A. Yes. I -- that was my co-authors
2 book.

3 Q. Okay. And that -- I think I'll wait
4 for him to bring up the cover of the book for
5 you, Dr. Burch.

6 A. Uh-huh (affirmatively).

7 Q. I think Mr. Williamson just needs to
8 share his screen.

9 THE COURT:

10 Can you give me the quote again?

11 It's voters?

12 MS. MCKNIGHT:

13 Sure. Voters in a given racial or
14 ethnic group cannot be assumed to share
15 policy preferences.

16 THE COURT:

17 Thank you.

18 MS. MCKNIGHT:

19 Burch 1. Hold on one moment,
20 Your Honor.

21 THE COURT:

22 That's okay. We are going to be
23 patient today.

24 MS. MCKNIGHT:

25 Thank you, Your Honor.

1 BY MS. MCKNIGHT:

2 Q. Dr. Burch, we have before you an
3 electronic version of your book entitled Creating
4 a New Racial Order. Do you see that?

5 A. I do.

6 Q. And if we can flip to the next page,
7 here's a copyright page for that book. Does this
8 look right to you, Dr. Burch, copyright 2012 by
9 Princeton University Press?

10 A. Yes.

11 Q. Okay. Now, Dr. Burch, this is an
12 electronic version so you can see at the bottom
13 there are a number of pages because it's
14 electronic, but if we turn to the next page, find
15 the quote, page with your quote on it, I'm not --
16 I've highlighted the section for you to see. Are
17 you able to read that Dr. Burch?

18 A. Yes.

19 Q. Okay. So Dr. Burch, thank you for
20 your patience. In the highlighted section, it's
21 three lines down. Voters in a given racial or
22 ethnic group cannot be assumed to share policy
23 preferences. Do you see that?

24 A. Oh, wait. I'm sorry. You were --
25 I'm sorry. You put something over the whole

1 quote that -- if you could, just remove that

2 bottom line so I can see it.

3 Q. Sure.

4 A. Okay. That is -- that is definitely

5 not a (inaudible).

6 Q. You can take that down. Does that

7 refresh your recollection that you thought in the

8 past voters in a racial or ethnic group cannot be

9 assumed to share policy preferences?

10 A. Yes, I agree with that.

11 Q. Okay. And now, your report in this

12 case, does not examine whether a plaque voter in

13 rural Louisiana will vote the same way as a black

14 voter in urban Baton Rouge, for example, correct?

15 A. No. I examined research that looked

16 at voting patterns by race.

17 Q. Okay. And your report does not

18 examine white crossover voting that is white

19 voters who vote for the candidates of choice of

20 black voters, correct?

21 A. No. I'm looking at both party

22 registration as well as the other people readers

23 as to those kind of questions.

24 MS. MCKNIGHT:

25 Okay. Now, turning to your report,

1 this is PR-14 at page 25 through 28.

2 Mr. Williamson, we can just go to page 25,
3 the header of the section.

4 Pardon me. I think you need to go
5 PR-14, page 25, but unfortunately the
6 numbers -- there you go.

7 TRIAL TECH:

8 (Complied.)

9 BY MS. MCKNIGHT:

10 Q. So, Dr. Burch, I heard you testify
11 on direct that you believe there are still racial
12 appeals that characterize elections in Louisiana.
13 Did I hear you right?

14 A. Yes.

15 Q. Okay. So in reviewing the section
16 Senate Factor 6, racial appeals and campaigns,
17 over the past 30 years you identified only one
18 candidate who made a racial appeal in an
19 election, correct? And that candidate --

20 A. No. Could you switch to -- could
21 you go to the next page, please?

22 Q. Sure.

23 A. So I have both during this
24 gubernatorial campaign in the middle. I'm
25 talking about Eddie Rispone here, but also, if

1 you go to the next page, I also have here, racial
2 appeals that targeted -- that were run by the
3 Louisiana Republican party and for -- for
4 instance, the quotation at the bottom of that
5 page that's from the -- the party not from Eddie
6 Risponse and the next page is another racial
7 appeal that was made by a different candidate.

8 Q. Okay. Let's turn to the next page
9 so I can understand what you meant by that third
10 example?

11 A. Uh-huh (affirmatively).

12 Q. And so the third example was which
13 other candidate, Dr. Burch?

14 A. So here you have Conrad Apple was
15 talking about -- that making the appeal that
16 African-Americans should support Republicans
17 better than Democrats because of issues regarding
18 racial -- concerns about racial.

19 Q. Okay. And going back a page, those
20 racials appeals had to do with a candidate for
21 Eddie Risponse; is that right?

22 A. I think that the one for -- the
23 second one was probably more general, but it
24 probably referred in general to support of black
25 people for (inaudible) Democratic parties.

1 Q. So I just want to make sure I
2 understand, that the second one here, I'm seeing
3 reference to candidate Rispone here and then 2019
4 gubernatorial race, are you referring to
5 something else?

6 A. No. What I'm saying here is that in
7 the RNC, the -- the Republican -- the Louisiana
8 GOP coalition is with respect to
9 John Bel Edwards. But the quote on the next page
10 is more general.

11 Q. I see. And so are you aware whether
12 candidate Rispone won or lost his election?

13 A. I believe he lost.

14 Q. And do you know whether the last two
15 elections for governor, whether the candidate of
16 choice for black voters won?

17 A. Yes. John Bel Edwards did win.

18 Q. Now, let's turn to another Senate
19 Factor, Senate Factor 9. Now, I understand that
20 Senate Factor 9, you studied whether the
21 legislatures rationale for drawing its
22 congressional plan was supported by the evidence
23 or if it was quote, unquote, tenuous; is that
24 right?

25 A. Is that an exact quotation from

1 somewhere?

2 Q. Well, the word tenuous is a quote
3 from Senate Factor 9; is that right?

4 A. Yes.

5 Q. Okay. And so in doing your work on
6 this report for Senate Factor 9, you developed an
7 opinion that the legislature's rationale for
8 drawing its congressional plan was tenuous,
9 correct?

10 A. I don't know if I used those exact
11 words. Can you show me where I said that
12 exactly?

13 Q. Well -- well, let me step back. Is
14 it your position that their rationale was not
15 tenuous?

16 A. My position is that the rational was
17 not supported by evidence or they would back off
18 certain rationals, but I don't believe I ever
19 said that whether it was tenuous or not.

20 Q. Okay. Okay. Well, I think -- I
21 think it may make sense to just get to Factor 9,
22 so you can understand my questions, you've
23 written a very thorough report. I just want to
24 make sure we are understanding each other.

25 So if we would turn to PR-14,

1 page 32. And so here, you begin your section on
2 Senate Factor 9, tenuousness. Do you see that?

3 A. I do.

4 Q. Okay. In here, you write that the
5 sponsors and advocates of two bills provided
6 several justifications and you go onto show that
7 you believe that they are proper justifications
8 lack support; is that right?

9 A. Empirical support, yes.

10 Q. Okay. And now, in preparing your
11 report you studied the legislative record related
12 to redistricting this year in order to develop
13 your conclusions, right?

14 A. I did.

15 Q. In fact, studying legislative
16 history is part of your research practice.
17 You've identified it in another part of your
18 report in your background, correct?

19 A. Yes.

20 Q. Okay. And let me step back. When
21 studying a legislative record to understand
22 legislative intent, you don't want to cherry pick
23 certain pieces of the record and ignore
24 legislative priorities that have been repeatedly
25 stated because you want to get a full picture of

1 the record; would you agree with that?

2 A. Yes.

3 Q. And your report quotes from the
4 legislative record, correct?

5 A. Yes.

6 Q. You reviewed the state government
7 affairs committee hearings, correct?

8 A. Yes.

9 Q. And you reviewed the Florida Bates,
10 correct?

11 A. I did.

12 Q. And during the committee hearings
13 and Florida Bates, the legislature repeatedly
14 described the plan as a continuity of
15 representation plan; isn't that right?

16 A. Not repeatedly. That actually
17 started to enter the record at the end, and I
18 believe I do have quotations to that effect in
19 the report.

20 Q. Okay. Let's start with where you
21 have quotations that effect in the report and
22 then we will get to repeatedly so can you
23 identify in your report where you have those
24 quotations?

25 A. So I'm going to refer. I have my --

1 I have my report here so I'm going to flip
2 through it and look.

3 Q. Take your time.

4 A. So on page 39, I have some
5 information to that effect.

6 MS. MCKNIGHT:

7 Mr. Williamson, would you mind
8 turning to page 39 so we can all follow
9 along.

10 BY MS. MCKNIGHT:

11 Q. Is this the page 39 you are
12 referring to or is it the exhibit number below?

13 A. It's the page yes, this is 39.

14 Q. Okay. Great.

15 A. So I write here, during the -- I
16 believe it's the Florida debate which might be
17 the one -- which I think might be the final
18 transcript or close to it or represented that he
19 was presenting the bill that day. He said that
20 the primary criterion for drawing the
21 congressional districts have become, quote, they
22 honor traditions as best as possible, and this
23 did create massive disapproval and so he -- and
24 then later on in that moment he said that 1, HB-1
25 was designed to, quote, maintain traditional

1 boundaries. So yes, I do talk about the fact
2 that has become a part of the (inaudible).

3 Q. Okay. So you quote -- you quote
4 Representative Mickey, but where do you talk
5 about that as becoming a priority?

6 A. So on page 39 I said, by the end of
7 the process, a quarter of HB-1 in particular had
8 shifted their legislative priorities. Instead of
9 compactness or other measures, Representative
10 Mickey stated a primary criteria for drawing
11 congressional districts to come was to honor
12 (inaudible) as best as possible to create this
13 message was equal with the people.
14 Representatives (inaudible) records of PB-1
15 prioritized the traditional ballots after looking
16 at all the other criterias.

17 Q. Okay. And do you know when the
18 legislative redistricting session began in
19 Louisiana?

20 A. You mean with the road shows and
21 everything else?

22 Q. The legislative redistricting
23 session?

24 A. So they started holding road shows
25 and hearings back in 2021, but did you mean such

1 as when the (inaudible) started?

2 Q. Correct.

3 A. That was in February.

4 Q. Would -- would you have any reason

5 to disagree with me if I told you it was

6 February 2nd?

7 A. I accept that. That's fine.

8 Q. Okay. So just to tie this up. Is

9 this the only place where you reference

10 traditional boundaries on page 39 of your report?

11 A. Let me see. There may be some other

12 areas in which I talk about reference to

13 traditional boundaries, but that's the one that

14 comes to mind.

15 Q. Okay. None others come to your mind

16 at this moment?

17 A. In the report --

18 Q. Yes.

19 A. -- as far as that -- that being a

20 priority? No. Again, they had in each place

21 they started out with a list of priorities up

22 until the end, No. 1, was always the engagement

23 of communities of interest and other kinds of --

24 and the other traditional redistricting format.

25 Q. Okay.

1 A. Again, the priorities (inaudible)
2 and here the priorities by the end of this
3 legislative -- legislative session shifted to
4 when they were then emphasizing the appearance to
5 the primary -- the primary criteria was now
6 honoring traditional boundaries so yes, that's
7 priority.

8 Q. I see. So since you -- you were
9 concerned about the end of the process. Let's go
10 to the beginning of the legislative session on
11 redistricting and bring up PR -- well, before I
12 do that, let me share with you. The parties have
13 stipulated to transcripts of certain hearings,
14 committee hearings and floor sessions, and so
15 what I'm about to bring up for you is an exhibit
16 that is a transcript that has been prepared by
17 plaintiffs of the special session SGA committee
18 transcript dated February 2, 2022. We are going
19 to pull up PR-52 at page 7. And now, Dr. Burch,
20 I'm looking at lines 9 through 16.

21 A. Uh-huh (affirmatively).

22 Q. And I'll offer for you that the
23 speaker during this hearing is president of the
24 Senate Page Cortez. In here he states, the third
25 tenant or principle was as best possible to

1 maintain the continuity of representation. What
2 do I mean by that, it means that if your district
3 elected you and you've done a good job they also
4 have a right to re-elect you. Conversely, you
5 don't get to choose who your population is they
6 choose you. If you didn't do a good job. They
7 have the right to un-elect you. Do you see that?

8 A. I do.

9 Q. And does that refresh your
10 recollection about whether the legislature
11 identified continuity on representation on the
12 first day of legislation?

13 A. Yes. I said I could recall that,
14 but again, if you see here in the -- the
15 quotation he cited it's not the top priority it's
16 third so as I said before, those priorities
17 shifted.

18 Q. I see. Well, let's go down to lines
19 23 through 25 on this same page. So this reads
20 by President Cortez, so the next principle that I
21 tried to adhere to was with something you-all
22 heard on the road show many times called
23 compactness. So does this refresh your
24 recollection about whether President Cortez and
25 the legislature discussed continuity of

1 representation before they even addressed
2 compactness on the first day of the legislative
3 session on redistricting?

4 A. Yes. They did.

5 Q. Okay. Thank you. I'm going pull up
6 another exhibit for you. This exhibit is a
7 transcript stipulated by both parties to the
8 special session SGA committee transcript dated
9 February 3rd, 2022. It's Exhibit PR-54 at
10 page 4. And here, I'm starting at line 13 and
11 going down into the next page, the Line 1.

12 Dr. Burch, we will highlight it for
13 you and then let us know if you need us to zoom
14 in at all. I'm going to read the first line and
15 then paraphrase the rest. I -- I will stop so
16 you can have a chance to review it, but here,
17 I'll represent to you that the speaker is
18 chairwoman of the Senate redistricting first
19 Senator Hewitt and she said on the floor or in
20 this committee at that time, we talked about
21 continuity representation a lot in these hearings
22 and we heard again at the road show one of the
23 kind of talking points was elected officials
24 should not choose their voters, voters should
25 choose their elected officials and to that again,

1 I would respond by saying I respect the voters in
2 this state and know that they are in the best
3 position to vote an elected official in or out of
4 office based on their performance. Dr. Burch,
5 does this refresh your recollection about whether
6 the legislature considered notion of continuity
7 of representation early in the legislative
8 session?

9 A. I never said they that didn't
10 consider it early, I said it wasn't the top
11 priority so if you look at it again you didn't
12 show me what -- like before, you didn't show me
13 what came before that and what order it talked
14 about continuity in the legislative session so I
15 don't really know -- so I can't really -- so I
16 don't really know if I could agree like I said,
17 before that, they prioritized what they had done
18 and then they shifted priority.

19 Q. I see. And so, let me do one more
20 example, Dr. Burch, and then we can -- we can
21 start moving on. If we could bring up PR-71.
22 Dr. Burch, this is a special session Senate
23 full-floor debate dated February 8, 2022. And
24 again, this is a Senate full-floor debate and I'm
25 looking at line 16 through the next page on -- on

1 line 4, but we can just start on page -- sorry.
2 On page 88, at line 16. And so here, I'll just
3 read the first few lines. The next principle
4 preserve the core of the prior districts to
5 ensure continuity of representation. You know,
6 we heard many times on the road show and the
7 president spoke to this a little bit earlier on
8 the bill and then it goes on to reiterate points
9 about voters being able to vote in or out their
10 elected officials. Do you see that, Dr. Burch?

11 A. I do.

12 Q. Okay. And would it surprise you to
13 know that the phrase continuity appears more than
14 35 times in 13 days of transcripts in this case?

15 A. No.

16 Q. Okay. So in reviewing these hearing
17 transcripts that are dated February 2nd,
18 February 3rd, February 8th, and that you are not
19 surprised that continuity was references more
20 than 35 times in 13 days of legislative
21 transcripts, does that refresh your recollection
22 about the fact that the legislature repeatedly
23 described the plan as a continuity of
24 representation plan?

25 A. Again, it's not -- I never said that

1 I didn't recall that they talked about continuity
2 representation, what I said is that that priority
3 shifted across time. Even the last quote --
4 quotation you showed me. It began with the next
5 as if that wasn't the first thing they talked
6 about. And as I said, hereby the time we get to
7 the end, that traditional redistricting principle
8 aspect was -- what they arrived on as the -- as
9 the top priority, but that was only after all the
10 other ones such as compactness and even the
11 example that I gave that are correct. There was
12 the absolutely deviation was again, supplanted by
13 or plans that had two majority, minority
14 districts actually performed better on the
15 metric, so I stand by what I wrote in my report
16 that again, that -- those priorities shifted and
17 by the end, that had to come and those quotations
18 you showed me those were early on they were
19 talking about other principles before they
20 actually got continuity of representation.

21 Q. I see. And -- and even if it was a
22 third principle on the very first day of the
23 redistricting session, you did not examine
24 continuity of representation and whether or not
25 the legislature fulfilled their goal of

1 continuity representation, correct?

2 A. I looked at both the plan that was
3 there as well as the -- the full plan and of
4 course, the boundaries had to change a little
5 bit, but as far as whether or not they got as
6 close as possible to the old boundaries no, I
7 didn't look at that. And I don't believe there
8 was any discussion as far as whether that was the
9 plan that brings change -- these changed the
10 boundaries of all the plans that were available.
11 So it wasn't -- so it's not in my report is a
12 recollection of is an issue it's that they didn't
13 really compare bills based on you know, whether
14 that was a -- that was a statement that in terms
15 of like how closely that -- that plan came than
16 say, a different bill the computer might have
17 observed.

18 Q. I see. So I'll represent to you
19 that we have experts in this case who have
20 submitted reports that the core retention score
21 in this plan has been calculated to be
22 96 percent. I'll also represent to you that that
23 is a higher score than any of plaintiff's
24 illustrative plans. My question to you relates
25 to the Senate factor of tenuousness. I

1 understand from your earlier testimony that you
2 were trying to understand the legislature's
3 priority in drawing it its plan and trying to
4 study whether those priorities played out in the
5 ultimate plan in the at past. I understand from
6 your testimony just now, that you did no
7 examination of continuity of the representation
8 in your report, correct?

9 A. Right. That's not those figures
10 aren't in the record.

11 Q. Okay. And you did not conclude in
12 your report that the legislature's rational to
13 draw a continuity of representation plan was
14 quote, unquote, anyway, right?

15 A. No. I said that those plans lack
16 empirical support and that the references you
17 just made are in the record.

18 Q. Okay. But you would agree with me
19 that the references I just made to the
20 legislature describing continuity of
21 representation as a goal those are in the
22 records, correct?

23 A. Yes. In the way that I described.

24 Q. And I'm going to share a fact with
25 you. Tell me if you agree or disagree or have

1 knowledge about it priority plan drawn in 2011
2 was pre-cleared by president's Obama's Department
3 of Justice, correct?

4 A. That was in the record.

5 Q. So you would agree with me that
6 that's a fact?

7 A. Yes.

8 Q. Now, in this case, you did not study
9 whether the so-called tenuous was due to
10 political as opposed to racial choices, correct?

11 A. The only references that I have in
12 this section with respect to race are I do have a
13 discussion about the extent to which there was a
14 new census redrawing of two majority, minority
15 districts also I reference race when I talk about
16 dispersions that the Senators and members of the
17 house made with respect to what they thought
18 about minority voting or different parts of
19 minority positions.

20 Q. Okay. So I -- I think you answered
21 a different question and so pardon me for
22 repeating. I believe it is just a yes or no
23 question. You did not study whether the
24 so-called tenuous that you found was due to
25 political as opposed to racial choices, correct?

1 A. Yes. I believe I talked about ways
2 in which they were discussing race.

3 Q. Okay. We will move on. Dr. Burch,
4 you believe that the legislature should have
5 drawn maps identifying black voters as a
6 community of interest, correct?

7 A. I believe what I wrote is that black
8 voters and other people themselves said that they
9 constituted a community of interest.

10 Q. Okay. Is it your position that the
11 legislature could use race as a proxy for a
12 traditional districting criterion?

13 A. It's my understanding that based on
14 the need to ensure representation that the
15 legislature had to consider race.

16 Q. Okay. But you don't have an
17 understanding about whether race can be used as a
18 proxy for traditional districting criterion?

19 A. I never made that point. The only
20 point that I'm making is that on the record, that
21 was brought up on the record and actually, I
22 believe I had some point to which the legislators
23 agreed, so my -- my point really was to just put
24 on the record that that was discussed.

25 MS. MCKNIGHT:

1 Okay. Thank you very much,

2 Dr. Burch. I have no further questions.

3 THE COURT:

4 Any redirect?

5 MR. CHAKRABORTY:

6 Yes, Your Honor.

7 REDIRECT EXAMINATION BY MR. CHAKRABORTY:

8 Q. Dr. Burch, just a couple of brief
9 questions.

10 MR. CHAKRABORTY:

11 Can we pull up PR-52, Matthew? And
12 can we please turn to page 7?

13 TRIAL TECH:

14 (Complied.)

15 BY MR. CHAKRABORTY:

16 Q. Dr. Burch, that middle area there,
17 the third tender principle, do you recognize that
18 as the portion that Ms. McKnight was representing
19 earlier with you?

20 A. Yes.

21 Q. Great. Thank you. Can we please
22 turn to page 5? And do you see, Dr. Burch, at
23 the very top of this page where it reads let's
24 start with Senate bill offered by
25 President Cortez?

1 A. I do.

2 Q. And then you see President Cortez,
3 the Senate president start his remarks that
4 ultimately lead onto the portions that
5 Ms. McKnight read out to you?

6 A. Yes, I do.

7 Q. And do you have any reason to doubt
8 that Senate Bill 1, actually deals with state
9 legislative redistricting?

10 A. I -- well, yes. That's S HB-5.

11 Q. Right. It doesn't deal with
12 congressional redistricting such as SB-5 or HB-1?

13 A. That's right.

14 Q. Did any of those change your basic
15 conclusion on Senate Factor 9, that the
16 justifications afforded by legislators were
17 tenuous?

18 A. No. Nothing that I put forward here
19 changes what I wrote.

20 MR. CHAKRABORTY:

21 Thank you. No more questions.

22 THE COURT:

23 Okay. Thank you, Dr. Burch, let's
24 take a 15-minute recess.

25 (A short recess was taken.)

1 THE COURT:

2 Okay. Be seated. Next witness.

3 MR. HAWLEY:

4 Good afternoon, Your Honor. Making

5 my first appearance, I'm Jonathan Hawley.

6 H-A-W-L-E-Y. I represent the Galmon

7 plaintiffs, and the plaintiffs next call,

8 Dr. Allan Lichtman will be joining us via

9 Zoom. Good afternoon, Dr. Lichtman.

10 THE WITNESS:

11 Good afternoon.

12 DR. ALLAN LICHTMAN,

13 after having first been duly sworn by the

14 above-mentioned Court Reporter did testify as

15 follows:

16 DIRECT EXAMINATION BY MR. HAWLEY:

17 Q. Can you hear me okay, Dr. Lichtman?

18 A. I hear you fine. I'm a little deaf,

19 so I speak slowly and clearly.

20 Q. I will do that.

21 MR. HAWLEY:

22 Your Honor, the Glamon plaintiffs

23 wish to tender Dr. Lichtman as an expert

24 in American politics, American political

25 history, voting rights and qualitative and

1 quantitative social science analysis.

2 THE COURT:

3 Any objection?

4 MR. BRADEN:

5 My name is Mark Braden, defendant

6 intervenors for the legislature, and we

7 have no objections.

8 THE COURT:

9 Okay. Dr. Lichtman will be accepted

10 by the court in the fields of American

11 politics, American political history,

12 voting rights and qualitative and

13 quantitative social sciences and

14 Dr. Lichtman may provide opinion testimony

15 in those fields.

16 BY MR. HAWLEY:

17 Q. Thank you, Your Honor.

18 Dr. Lichtman, will you please state your full

19 name for the record?

20 A. Allan J. Lichtman. That's

21 A-L-L-A-N, J, period, L-I-C-H-T-M-A-N. I'm

22 getting an echo.

23 Q. We are okay on our end,

24 Dr. Lichtman. Can you hear me?

25 THE COURT:

1 Mr. Hawley, would you like to turn
2 the podium.

3 BY MR. HAWLEY:

4 Q. No. Can you -- can you still hear
5 me okay, Dr. Lichtman?

6 A. I hear you fine. I'm still getting
7 an echo. Maybe if I turn my --

8 THE COURT:

9 Turn your speaker down.

10 THE WITNESS:

11 -- my commuter volume down a little
12 that might help. Let me try it. All
13 right. Let's try it now.

14 BY MR. HAWLEY:

15 Q. Okay. Dr. Lichtman, how about now?

16 A. Much better.

17 Q. Okay. Thank you. Dr. Lichtman,
18 you've been retained as an expert for the Glamon
19 plaintiffs; is that correct?

20 A. Yes. Yes.

21 Q. And you prepared -- thank you. And
22 you prepared a report in this case?

23 A. Yes.

24 MR. HAWLEY:

25 For the record, that is Exhibit

1 GX-03, which is Record Docket No. 48.

2 BY MR. HAWLEY:

3 Q. Dr. Lichtman, do you have a copy of
4 your initial report in front of you now?

5 A. I do.

6 Q. And you also prepared a rebuttal
7 report in this case, correct?

8 A. Correct.

9 MR. HAWLEY:

10 And, for the record, that is Exhibit
11 GX-31, Record Document 120-4.

12 BY MR. HAWLEY:

13 Q. Dr. Lichtman, do you have a copy of
14 your rebuttal report with you as well?

15 A. Yes.

16 Q. And Dr. Lichtman, is your CV
17 included in your report?

18 A. Yes.

19 MR. HAWLEY:

20 And I'll say for the record that is
21 at page 99, of GX-3, Record Document 48.

22 BY MR. HAWLEY:

23 Q. And, Dr. Lichtman, is your CV a
24 complete and accurate summary of your background
25 and professional experience?

1 A. Yes.

2 Q. I'd like to ask you a few brief
3 question about that. Can you please summarize
4 your professional background?

5 A. I graduated in 1967 with a BA from
6 Brandeis University in history, but I've been a
7 science major for three years before turning to
8 history my senior year which may explain my
9 interest in social science and qualitative
10 methodology. I then got my PhD from Harvard
11 University in 1973 with a specialty in American
12 political history and quantitative methods.

13 Q. Where are you currently employed?

14 A. I am employed at American University
15 in Washington, D.C. and I'm not sure if I'm
16 pleased or embarrassed to say next year will be
17 my 50th year of science.

18 Q. And I assume that means you are
19 tenured?

20 A. I have been tenured since about
21 1980. In 2011, I was appointed distinguished
22 professor so I made office of university rank.
23 It's a rank above full professor there are only a
24 handful of us out of many hundreds of faculty
25 members at the university.

1 Q. And what are your principles areas
2 of research?

3 A. I would say American politics,
4 American political history, voting rights,
5 quantitative methods, qualitative methods,
6 political prediction.

7 Q. Have you previously served as an
8 expert witness in voting rights cases?

9 A. Probably close to a hundred and if
10 you count civil rights cases in general north of
11 110.

12 Q. And do those include redistricting
13 cases?

14 A. Yes.

15 Q. Have you served as an expert in
16 redistricting cases in Louisiana?

17 A. Yes.

18 Q. And does that include the Terrebonne
19 Parish litigation?

20 A. Yes.

21 Q. In that case, did you undertake a
22 Senate factor's analysis?

23 A. I did.

24 Q. And did the court in that case
25 credit your Senate factors analysis?

1 A. It did.

2 Q. And did other courts previously
3 credited and relied on your analysis?

4 A. Not every time, of course, there
5 have been over a 110, but most of the time
6 including the United States Supreme Court in its
7 landmark 2006 decision in the Texas Congressional
8 Redistricting Case, LULAC versus Perry, the court
9 relied on my work, my analysis and doing
10 something quite unusual and that is it
11 invalidated a district, a congressional district
12 in southwest Texas, based on my work on the
13 grounds that it polluted the votes of Hispanics.

14 Q. Dr. Lichtman, what were you asked to
15 do in this case?

16 A. I was asked to examine the 9 Senate
17 factors that relate to totality of circumstances
18 in the State of Louisiana facing the
19 opportunities for African-American voters who
20 participate fully in the political process and to
21 elect candidates of their choice and I was also
22 asked to respond to any material presented by
23 defendants.

24 Q. And what methodology did you employ
25 as part of that analysis?

1 A. I employed standard methodologies in
2 my fields of research over these many decades. I
3 analyze sources like surveys, scholarly articles,
4 books, journalistic articles, governmental
5 reports, demographic information, election
6 returns and similar data to reach my conclusions,
7 and I applied quantitative methods in this case
8 mostly fairly simple quantitative methods, for
9 example, just looking at percentage differences
10 to gauge racially polarized voting in Louisiana
11 or just looking at percentage and differences to
12 engage socioeconomic disparities between
13 African-Americans and whites in Louisiana and
14 then, of course, like any historian, I analyzed
15 documentary materials, I've written a book on
16 historical methodologies.

17 Q. And what are your overall
18 conclusions?

19 A. My overall conclusions are that
20 essentially all of the 9 Senate factors apply in
21 the State of Louisiana contemporarily to impede
22 the opportunities for African-American voters to
23 participate fully in the political process and to
24 elect the candidates of their choice, and I also
25 find that these are not isolated factors

1 separated into watertight compartments, but that
2 one factor synergistically influences the other
3 to expand the impediments that I discuss.

4 Q. Did you read the expert report
5 submitted by the defendants in these consolidated
6 cases?

7 A. I did.

8 Q. And did anything in those reports
9 change your conclusions about the Senate factors
10 in Louisiana?

11 A. Not only did nothing in those
12 reports change my conclusions, they strengthened
13 my conclusions. None of the reports directly
14 address the Senate factors or even mention my
15 report by name. None of the information
16 presented in my report was refuted by any of the
17 expert reports submitted on behalf of defendants.
18 Two of the expert reports, one by Dr. Alford and
19 one by Mr. Hefner and -- and one by Mr. -- I hope
20 I get his name right, Solanky, indirectly address
21 some of my two Senate factors, 2 and 9, and to
22 the extent there was information in those
23 reports, he falls to that.

24 Q. Dr. Lichtman, I'd like to cover the
25 history of your two reports and some key points

1 and cover the key areas of your analysis and
2 conclusions, and we will start with Senate Factor
3 1.

4 Does the State of Louisiana have a
5 history of voting discrimination against its
6 black citizens?

7 A. It not only has a history, it has an
8 ongoing history; and that history relates not
9 just to direct voter discrimination, for example,
10 the use of at-large elections with the
11 availability of polling places for
12 African-Americans, but it also relates right up
13 to the present of discrimination in three areas
14 that significantly effected the impact of voting;
15 that is, law enforcement, discrimination in law
16 enforcement, significantly impacted voting for a
17 couple of reasons. No. 1, Louisiana has some
18 pretty strict felony disenfranchise laws. You
19 can't vote while you were incarcerated, you can't
20 vote while you were on parole or probation and
21 there's no automatic restoration of your voting
22 rights after five years. You have to go through
23 a process.

24 Secondly, as I point out in my
25 report, once you've been incarcerated your

1 integration into a fully functioning member of
2 society including a voting member in political
3 participation becoming all that much more
4 difficult, second area would be the area of
5 education. And all this scholarly research
6 indicates that education is a prime determinant
7 of political participation and of course, levels
8 and proficiency in education effect almost
9 everything in the course of the lifestyle of
10 proficient education, in proficiency. In
11 addition, in education, it contributes to other
12 socioeconomic factors which have an impact on
13 voting.

14 Finally, there is racial segregation
15 and the literature I cite in my report indicates
16 that segregation perpetuates circle of the
17 poverty. It expands it multiplies socioeconomic
18 disparities that have a direct impact on the
19 ability of African-Americans in Louisiana to
20 participate in the political process and to elect
21 candidates of their choice.

22 Q. On the topic of discriminatory
23 voting practices, in particular you mentioned
24 just now at-large judicial elections and closing
25 of polling places. Are those examples of efforts

1 that have continued into the present day?

2 A. That's correct. Those are examples
3 that continue into the 20th century, and we can
4 also talk about as actually good in the context
5 of another factor, what I believe to be the
6 discriminatory redistricting plan in the post
7 2011.

8 Q. Let's move on to Senate Factor 2.
9 Dr. Lichtman, does Louisiana have racially
10 polarized voting?

11 A. Louisiana, as I point out in my
12 report, has extreme racially polarized voting;
13 that is, African-Americans vote almost
14 unanimously for Democratic candidates and
15 Republican candidates choice of African-American
16 voters, and this racial divide between blacks and
17 whites voting Democratic and Republican is
18 inextricably tied to race. Party labels by
19 themselves are meaningless. They are just
20 labels. What matters is what those labels
21 represent.

22 We know for the 19th century and
23 well into the 20th century blacks in the south
24 are voting Republican, the party of Lincoln, and
25 whites were voting Democratic, the party of

1 redemption. That changed particularly after the
2 Voting Rights Act of 1965. It wasn't an
3 immediate process, but over time and certainly up
4 to our own time the party images and
5 representations shifted. Democrats came to
6 represent the party of civil rights and black
7 interests and Republicans, the opposite. I
8 document this change in many ways in my report.

9 First of all, I cite scholarly
10 literature on what they call the co-joining of
11 race and party in recent years. Secondly, I look
12 at political leadership and I look at two
13 advocacies; NAACP, the oldest advocacy group in
14 the country and the ladder conference on civil
15 and human rights. And they have legislative
16 score cards to what extent the legislators
17 represent black and minority interests; and they
18 both show the same thing: That there is extreme
19 polarization between the positions taken by
20 Republican leaders, legislators in the Congress
21 and the position taken by Democrats.

22 It's extreme polarization, as I
23 document in my report, that matches the extreme
24 polarization of the voting -- voting of blacks
25 and whites.

1 Second -- a third area I look at is
2 the rank and file; that is, what are the
3 attitudes with respect to race of Louisianians
4 who are Republicans and Democrats. Again, I find
5 extreme polarization on issues squarely related
6 to race and I document this in two respected
7 studies, the cooperative congressional election
8 study, a standard source. And here in Louisiana,
9 the Riley Center study, they ask different
10 questions, but they come to the same answer
11 again. It's the polarization reflecting the
12 polarization in the vote.

13 Finally, and this is important, I
14 look at the actual results of election.
15 Republicans are quite dominant in Louisiana
16 winning almost all statewide elections. Winning
17 essentially all legislative elections in white
18 districts and what is consistent in my findings
19 is that Republicans in all of these areas have
20 not sponsored any winning black Republican
21 candidates. All of the statewide executive
22 offices are owned by whites both U. S. Senate
23 Office that are voted statewide are held by
24 whites. Whites win in the white majority
25 districts in the state house of representatives

1 and in the state Senate. I even drilled down for
2 more fine grain level, the level that mayoral
3 elections that is I looked at mayoral elections
4 in municipalities then war in Louisiana and no
5 blacks are elected in any majority white
6 municipality only blacks are elected in majority
7 black municipalities and there are no black
8 Republicans, so I document this at the level
9 scholarship, at the leadership level, at the rank
10 and file level, at the level of the actual
11 results of elections.

12 Q. Ultimately, Dr. Lichtman, as between
13 race and party, which do you consider to be the
14 driving causal mechanism of Louisiana's polarized
15 voting?

16 A. The driving mechanism is clearly
17 race as I explained. Party by itself doesn't
18 explain anything. As I said at one time,
19 racially voting patterns were reversed it is
20 because of what the parties represent that I
21 document in so many ways that's driving voting.
22 In other words, blacks are voting Democrat in
23 Louisiana, whites are voting Republican and this
24 is not related to Louisiana by the way, not in
25 spite of race, but because of race is at the

1 center of all of this. I also cite scholarship
2 by Dr. Bromage claiming how race is at the center
3 of Republican political strategy that comes down
4 to meeting of the ***.

5 Q. You mentioned reports written by
6 Dr. Alford in this case, correct?

7 A. Correct.

8 Q. Did anything in Dr. Alford's report
9 change your conclusions about racially polarized
10 voting in Louisiana?

11 A. No. It strengthens it. Let me
12 explain. All of the analyses of Dr. Alford
13 performed show the same thing my report showed.
14 Extreme polarization of between African-Americans
15 and whites in terms of blacks voting Democratic,
16 whites voting Republican in very large
17 majorities. Now, Dr. Alford states or at least
18 implies that the driving force is party not race,
19 but he stops cold there. He never explains or
20 attempts to justify that conclusion. He doesn't
21 look at my analysis history, doesn't look at my
22 analysis of leaders, doesn't look at my analysis
23 of rank and file doesn't look at my analysis or
24 any analysis in these areas of the actual results
25 of elections. In fact, what's interesting and

1 telling is Dr. Alford looks at, I believe
2 something like 28 Republican candidacies in his
3 analysis and not one of those Republican
4 candidacies involved a black candidate.
5 Dr. Alford also ignores that part of my initial
6 report that looks at whether or not race can
7 influence voting when the Polar party is not an
8 issue. I looked at the 2008 primary, Democratic
9 primary where overwhelmingly blacks participate
10 and that involved Barack Obama the
11 African-American and Clinton the white candidate
12 and a few other white candidates, and what I
13 found is that African-Americans voted 86 percent
14 for Obama and only 30 percent of whites voted for
15 Obama, so within the same party it was a sharp
16 where I also looked at the subsequent 2008
17 general elections and found that black Democrats
18 voted 98 percent for Obama, but white Democrats
19 only voted 38 percent for Obama. So there isn't
20 critically and inextricably a poll party you can
21 see voters responding on race again, Dr. Alford
22 does not consider those results or present any
23 comparable results of his own.

24 Q. Moving to Senate Factor 3, Dr.
25 Lichtman. Does Louisiana employ any voting

1 practices that enhance the opportunity for
2 discrimination?

3 A. It does. It employs one of them
4 that's explicitly listed under Senate Factor 3
5 and that is the use of the majority vote
6 requirement and subsequent runoff elections.

7 Q. What effect does the majority voter
8 requirement have on black and black preferred
9 candidates?

10 A. Well, it means is even if a black
11 candidate gets a plurality in the first round as
12 a result of a split among more than one ambitious
13 white candidate, that does not elect that black
14 candidate, but rather that black candidate has to
15 face off one -- one on one against a white
16 candidate. And clearly in statewide in Louisiana
17 the white voters dominant in that kind of contest
18 the African-American candidate has little chance
19 of winning and I gave three examples of that in
20 my report.

21 Q. You -- what are those three recent
22 examples?

23 A. Yeah. We have the 2015 election for
24 lieutenant governor the black candidate won the
25 first round by three percentage points so it was

1 close, but not eye lash and the candidate lost
2 55, 45 in the runoff. We had a 2017 election for
3 treasurer black candidate won the first round
4 even more decisively by 7 points and was defeated
5 even more decisively 54, 45 and finally we have
6 the 2017 election the Secretary of State. The
7 black candidate didn't win the first round, but
8 came really close came within 10,000 votes or if
9 so, but got shrouded in the runoff by 59 percent.

10 Q. When was the majority vote adopted
11 in Louisiana?

12 A. It was first adopted in 1975. And
13 the most famous runoff, of course, was in 1991
14 between the Ku Klux Klan candidate David Duke,
15 and I think it was Edwin Edwards who was against
16 him.

17 Q. So was the majority vote requirement
18 adopted in response to the U.S. Supreme Courts
19 foster decision?

20 A. No. It was adopted more than two
21 decades before and as I said, kind of a highlight
22 runoff election that got major national attention
23 occurred several years before that in 1991.

24 Q. Moving to Senate Factor 4.
25 Dr. Lichtman, what are your findings on candidate

1 slating in Louisiana's congressional elections?

2 A. Well, I found something rather
3 interesting, that the way Louisiana set up its
4 congressional redistricting plan it kind of made
5 slating irrelevant and unavailing for black
6 candidates; that is in District 2, which is
7 overwhelmingly packed with blacks and Democrats
8 slating is irrelevant is going to black governor,
9 whereas the other five districts that are
10 overwhelmingly white and Republican slighting is
11 equally irrelevant because a black candidate has
12 no chance essentially to win in districts that
13 are -- R plus 20 or more according to standard
14 political analysis type. That's the partisan
15 voting index that measures the Patterson strength
16 of the district and it's in my report.

17 Q. Next to Senate Factor 5.
18 Dr. Lichtman, what effect does the history of
19 discrimination you described before have on black
20 Louisianians today?

21 A. It has profound effects on black
22 Louisianians today. I document in my report that
23 there are major today socioeconomic disparities
24 between African-Americans and whites in Louisiana
25 and that extends to almost every area of

1 significance of peoples lives and political
2 participation and voting. It extends to income,
3 to unemployment, to poverty, to dependence upon
4 welfare, to homeownership, to the availability of
5 vehicles, the availability for broadband
6 internet, it extends to educational attainment
7 and educational proficiency, all these between
8 African-Americans and whites in Louisiana in the
9 present day and it extends to various measures of
10 health as well.

11 Q. And do these inequities impact black
12 political participation?

13 A. Yes. As I explain in my report,
14 first of all, they -- this isn't the only one,
15 but first of all, and the most obvious is that
16 they impact the participation rates of blacks
17 versus whites in terms of turnout, and I present
18 data in my report showing differentials between
19 black and white turnout in recent elections in
20 Louisiana that can extend into the double digits
21 and that hadn't really ameliorated itself in
22 recent elections other information presented by
23 one of the experts for defendants bolsters that.

24 Q. Are you referring to the report
25 Dr. Solanky and his voter turnout statistics?

1 A. I am. Dr. Solanky presents two
2 tables on voter turnout. I think they are
3 Tables 2 and 4 in his report. One of the tables
4 looks at statewide turnout and finds substantial
5 disparities. I did between blacks and whites in
6 their turnout rates. Similarly, he wrote that
7 every congressional district, all 6 of them and
8 found that invariably in every one of those 6
9 congressional districts, black turnout lagged
10 white turnout sometimes up into the double
11 digits.

12 Q. Is reduced political participation
13 demonstrated in other ways?

14 A. Yes. As I explain in my reports, a
15 lack of sources, lack of educational
16 pro-efficiency, attainment impedes participation
17 in other ways. I give two examples: One is
18 lobbying of public officials very important for
19 participating in the political process and
20 influencing the outcomes which has we see you
21 know quite different whites and blacks in
22 Louisiana and I present survey data showing that
23 whites are substantially more likely in Louisiana
24 to contact public officials. Again, a
25 recollection of all of these many socioeconomic

1 differences.

2 The second area is political
3 contributions. Not surprisingly the disparity in
4 resources evident between blacks and whites in
5 Louisiana manifests itself and again, I present
6 survey data, recent survey data on this, that
7 whites are far more likely than blacks to make
8 political contributions and of course, I didn't
9 actually present tables on this, but it certainly
10 makes sense that groups that have lower levels of
11 education fewer resources makes it more difficult
12 to find candidates to run and to run political
13 campaigns so while turnout is the most obvious,
14 there are other very important ways in which
15 these disparities reflected discrimination impact
16 the ability of African-Americans in Louisiana to
17 participate fully in the political process and
18 elect candidates of their choice.

19 MR. HAWLEY:

20 Mr. Mortenson, will you please pull
21 up page 85 of GX-3?

22 THE WITNESS:

23 Wow, I actually see it.

24 BY MR. HAWLEY:

25 Q. Excellent. Dr. Lichtman, does this

1 table look familiar to you?

2 A. It does. It's right from the
3 appendix of my report.

4 Q. And what does it show?

5 A. It shows that in critical areas
6 according to the U.S. news state rankings these
7 are not outline, but in other rankings you have
8 similar answers in critical areas are very
9 important to a group that's vulnerable like
10 African-Americans and has the burden of very
11 significant socioeconomic disparities not only
12 are they facing these present day disparities,
13 but they are dealing with a state that ranks at
14 or near the bottom in critical areas, 45th in
15 health care 48th in education, 49th in economy,
16 50th in opportunity, 48th in infrastructure, 50
17 in crime and corrections, 43rd in fiscal
18 stability, 50 in quality of life 50 overall.
19 This shows the impediments faced by
20 African-Americans in Louisiana and it also
21 documents the present day ramifications of
22 historical and ongoing discrimination in
23 Louisiana.

24 Q. Thank you, Mr. Mortenson. We can
25 pull down GX-3. Moving to Senate Factor 6,

1 Dr. Lichtman. Have Louisiana's campaigns been
2 marked been racial appeals?

3 A. Yes. They have been marked by both
4 subtle and overt racial appeal and almost all my
5 examples except for maybe one are 21st century
6 examples, I'm not going back to the old year of
7 Jim Crow the old ones from the 1990s. And these
8 examples go all the way up to 2022, and they
9 don't just involve French candidates you talking
10 about some of the leading Republican politicians
11 in the State of Louisiana, David Vitter, Mike
12 Foster, Steve Scalese, one of the members of the
13 Republican leadership, U.S. representative Mike
14 Johnson, U.S. Senator John Kennedy, as well as
15 important Republican affiliated organizations in
16 the State of Louisiana.

17 Q. Is it safe to say then racial
18 appeals have been employed by winning campaigns
19 in Louisiana?

20 A. Absolutely. David Vitter employed
21 this in 2010, and he certainly had a lengthy
22 campaign. Steve Scalese has consistently been
23 winning in Louisiana. Mike Johnson is a sitting
24 U.S. Representative, John Kennedy is a sitting
25 U.S. Senator.

1 Q. Moving down to Senate Factor 7.
2 Have black Louisianians historically been elected
3 to public office?

4 A. Not historically and --

5 Q. Dr. Lichtman?

6 A. I'm sorry. I lost your question
7 there. You somehow the technology fail and you
8 blacked out.

9 Q. Perhaps, it was me and not the
10 technology so I'll go ahead and ask it again.
11 Have black Louisianians historically been elected
12 to public office?

13 A. Not historically really since
14 reconstruction and not at present.

15 Q. Is there a disparity between the
16 black share of Louisiana's population and their
17 representation in Congress and the state
18 legislature?

19 A. Yes. When you look at the -- the
20 voting representation of blacks in Louisiana,
21 it's a little bit north of 31 percent and there's
22 a wide disparity in terms of black
23 representation. Now, I want to be clear. I'm
24 not making a legal conclusion here. In fact,
25 throughout my testimony in the report, I'm never

1 making legal conclusions to the extent I look at
2 things like briefs or court decisions so
3 substantive not to draw a conclusion. So I'm not
4 legally saying at all that any group including
5 African-Americans must have proportional
6 representation. I am simply responding to the
7 impact of this query which is to consider the
8 extent to which black representatives have been
9 elected to public office in Louisiana. And there
10 is a vast discrepancy between black voting age
11 population and black representation. No black is
12 elected to any statewide executive office in the
13 State of Louisiana. That's a 0 percentage, no
14 black is elected statewide to a U. S. Senate
15 position that is a 0 percentage. When you look
16 at the state legislature, blacks are
17 underrepresented by something like 4 to 9 in
18 Senate and house seats are only being elected in
19 majority black districts which really shut the
20 off and limits their ability to expand their
21 representation and in terms of the supreme court
22 and other judicial positions in Louisiana, blacks
23 are also substantially underrepresented. And as
24 I mentioned and same thing in -- as I mentioned
25 previously, these are not black dispute the

1 political strength of Republicans they are not
2 electing black Republican.

3 Q. Dr. Lichtman, have any black
4 candidates been elected to office since
5 reconstruction?

6 A. Not that I'm aware of.

7 Q. Moving down?

8 A. I think there were five during
9 reconstruction and none since.

10 Q. Thank you. Moving to Senate Factor
11 8. Based on your analysis has the State of
12 Louisiana been responsive to the needs of its
13 black citizens?

14 A. Well, I looked at responsiveness in
15 five areas that are fundamental and especially
16 important to a group like African-Americans that
17 already bears the burden of socioeconomic
18 disparities things like income, poverty,
19 education, homeownership. So I looked at
20 education health care, I looked at economic
21 opportunity, and I looked at environmental
22 pollution and found that in all of those five
23 areas, the state has not been responsive to the
24 particular rights and needs of its
25 African-American residents.

1 Q. And are these inequities in some
2 cases caused by official government policy?

3 A. Absolutely. As I point out in many
4 of these areas, all of these disparities, all of
5 these issues are part and parcel of government
6 policies and government policy with regard to
7 polluting industries in heavily black areas or
8 the long delay in adopting Medicaid expansion
9 something critical to the health of
10 African-Americans and so many failures in
11 criminal justice.

12 Q. Dr. Lichtman, would you consider
13 these findings to be either limited or
14 subjective?

15 A. It's certainly not limited. These
16 are areas of fundamental importance to a
17 vulnerable group like African-Americans and they
18 are the kinds of things social scientists would
19 look at the well-being and life chances of
20 African-Americans are fundamentally effected by
21 criminal justice, health care, education,
22 economic opportunity, and all the problems I
23 document for health with environmental pollution.
24 And they are not subjective. That is for each of
25 these five areas, I provide specific information.

1 I just don't throw out opinion and it is relevant
2 I think that as with the rest of my report, no
3 expert for defendants challenge any of the
4 information that I provided under Factor 8 in my
5 initial report.

6 Q. Lastly Dr. Lichtman, Senate Factor
7 9. Can the absence of a second black opportunity
8 congressional district be justified by core
9 retention?

10 A. Core retention is a criteria,
11 criteria of choice. It's not legally required.
12 It's not like one person, one vote conformity
13 with the voting rights. As a general matter
14 states certainly could adopt that as one of their
15 redistricting criteria, but here's the problem:
16 Here in Louisiana by adopting that the district
17 is heard as fundamental criterion redistricting
18 that freezes in the existing packing and cracking
19 under the previous plan. That is the previous
20 plan as I explained at length in my report packs
21 African-Americans into Congressional District 2
22 far beyond what is necessary for
23 African-Americans to elect Congress persons of
24 their choice and then cracks African-Americans
25 into overwhelmingly white Republican districts

1 where they have no chance whatsoever, no matter
2 how unhappy they might be with their white
3 Republican representatives they have no chance to
4 vote them out of office. They are freezing in
5 the inequities that you had previously
6 established, in fact, if core retention was the
7 fundamental talisman for redistricting as opposed
8 to other requirements then there never would have
9 been a remedy for a discriminatory redistricting
10 plan you would just be replicating that plan over
11 and over and over again like you are doing here.

12 Q. Dr. Lichtman, are you aware that the
13 previous 2011 congressional plan was pre-cleared
14 by the U.S. Department of Justice?

15 A. Absolutely. But all that means is
16 that the plan was not retro-aggressive that means
17 that it did not go to 0 African-American
18 opportunity districts as objection letters make
19 it crystal clear are letters not interposing an
20 objection. A pre-clearance does not mean that a
21 plan is free of violating the Voting Rights Act.
22 It simply means that the plan was not
23 retro-aggressive with respect to the previous
24 plan.

25 Q. Can the current congressional plan

1 be justified by an interest in compactness?

2 A. Absolutely not. As I point out in
3 my original report by freezing in essentially the
4 same district that you had in the post 2010
5 redistricting plan, you are freezing in place a
6 district that cannot be justified on the
7 traditional ground of compactness. In fact, the
8 district is highly non-compact as I explain in my
9 report. It reaches out a long finger, it is --
10 has areas of intrusions that are not smooth or
11 symmetrical and, in fact, it closely represents
12 from way back when the Elbridge Gerry:
13 Salamanderian that brought on the term
14 gerrymandering in the first place. It was
15 nothing about this district that's frozen in
16 place that could be justified by creating a
17 compact district that's not surprising when you
18 are packing African-Americans into a district and
19 then cracking them elsewhere, it's not surprising
20 that the district is does not conform to the
21 /PHR-FP conceivably in other states other
22 circumstances you can have a packed district that
23 would pack that but not here that's not what was
24 done and the plan cannot be justified on that
25 basis.

1 Q. And just to clarify. The district
2 you are referring to there is the second
3 congressional district the mass majority black
4 congressional district?

5 A. That's correct. It's overwhelmingly
6 black overly Democrat it's the pack packed
7 district and all the other districts are the
8 crackers.

9 Q. Is the current age of that district
10 needed for the black voters there to elect their
11 preferred candidates?

12 A. Absolutely not it's way beyond what
13 is necessary for blacks to elect candidates of
14 choice. I think an analysis that I present it
15 represents the fourth highest black population in
16 the country African-Americans are winning that
17 district by an average of 80 percent or more. No
18 chance that an African-American candidate of
19 choice would not win that district as I said the
20 Cook Political reforms in terms their partisan
21 voter index that measures Patterson strength
22 that's that district about the D plus 25 that
23 means it's 25 percent more 25 percentage points
24 more than the average Democrat vote in the last
25 two presidential elections both of which were

1 majority Democrat and so and if you look also
2 nationwide as I point out in my report black
3 candidates of choice almost invariably win even
4 in district below 40 percent to the 50 percent
5 and it's very simple that in the 40 percent range
6 blacks dominant the Democrat primary get to
7 nominate a candidate of their choice they then
8 vote overwhelmingly in that candidate that and
9 general election for that candidate to win in a
10 district that's within the 40 percent range.

11 Q. Dr. Lichtman, did you review the
12 report prepared by Mr. He have /TPHER in this
13 case?

14 A. I did.

15 Q. How does Mr. He have /TPHER attempt
16 to analyses communities of interest?

17 A. Yeah. Mr. He have /TPHER indicates
18 in his report that he can't give us a hard and
19 fast objective specific definition of what
20 constitutes a community of interest, in fact, he
21 says to a great extent up to the perceptions of
22 the people that we are looking at in a given
23 area. He just ticks off some general boxes like
24 politics, economy, culture residents occupation
25 then in order to analyze communities of interest

1 in the existing plan, I presume though he doesn't
2 address my report to say that it wasn't tenuous
3 because of the respective he looks at five broad
4 regions. These regions are much too broad to
5 analysis what's going on within a congressional
6 district which of course cuts across these
7 regions. In addition it's not good enough to
8 look at regions as compared to one another
9 because they are so big five of them to the whole
10 state you've got to look within. This is the
11 standard social science within differences as
12 compared to between differences. So I took, for
13 example, one of his regions anchored in the city
14 of New Orleans and I looked at the extent to
15 which blacks and whites in the city of
16 New Orleans according to his criteria basically
17 comes to a community of interest. And of course,
18 they don't share a common history of
19 discrimination they don't share a common
20 ancestor, they don't share common politics or
21 political values, they don't it -- let me see.
22 They don't have the same occupations. And I
23 drilled further I looked at do they share the
24 same residence and do they go to the same schools
25 beyond all of these other factors in other words

1 to what extent are they really integrated within
2 the city of New Orleans as a community and I
3 looked at the measures of segregation and found
4 that the measures of segregation were quite
5 extreme in New Orleans more than 60 percent of
6 blacks would have to relocate during integration
7 and that there was also similar lack of
8 integration for the school. So we look at the
9 city of New Orleans an anchor of one of the five
10 regions we see blacks and whites have very little
11 in common to constitute within that region a
12 community of interest.

13 Q. And did Mr. He have /TPHER show that
14 black and white Louisianians in the five majority
15 white districts in the congressional map share
16 commonalities?

17 A. No his analysis couldn't possibly
18 show that because again, it's based upon these
19 broad regional -- these regional areas which
20 congressional districts cut across and what he
21 doesn't analyze within as opposed to between. So
22 I looked at the commonality between whites and
23 blacks across and again they don't have common
24 ancestry, they don't have common politics they
25 don't have common experience in the history

1 discrimination they don't have commonality in
2 terms of the failure of states to meet their
3 particularized needs I also looked at residential
4 and school segregation across Louisiana and found
5 that blacks and white the don't live together,
6 they don't go to the same schools. I also looked
7 at a variety of other indicators highlighted by
8 Mr. He have /TPHER. I found that across
9 Louisiana blacks and whites don't have the same
10 family structure, they don't have the same levels
11 of income or poverty or dependence upon welfare
12 programs or unemployment. They don't live in the
13 same kinds of homes with African-Americans far
14 more likely to be renters than homeowners there
15 aren't the same access to vehicles or broadband
16 internet they don't have the same educational
17 attainment and they don't have the same
18 educational pro-efficiency and they don't work in
19 the same jobs and occupations so there is no
20 basis for Dr. Alford doesn't analyze it and look
21 any deeper there is no basis for claiming that in
22 these five white Republican dominated districts
23 that the African-Americans in those districts
24 share a community of interest with whites.

25 Q. At the end of the day Dr. Lichtman

1 how many of Senate factors support a finding of
2 vote delusion in the Louisiana essentially all of
3 them with when I look at the slating factor and
4 it's important to understand the thing I alluded
5 to earlier in my testimony. That these factors
6 do not operate in isolation. They are suited
7 just -- they combine to impede the opportunities
8 for African-Americans to participate in the
9 process and elect candidates of their choice. So
10 this horrible and ongoing discrimination leads to
11 socioeconomic disparities which in turn lead to
12 impediments for African-Americans to participate
13 in the voting process and elect candidates of
14 their choice some to the majority vote runoff
15 requirement contributes to that and in turn that
16 contributes to a lack of representation in a
17 government dominated by whites at every level in
18 Louisiana which in turn leads to the failure of
19 the states to meet the particularized needs of
20 African-Americans and in turn leads to the
21 adoption of a redistricting plan that freezes in
22 place a plan that packs African-Americans into a
23 non-compact district and then cracks
24 African-Americans into other districts where they
25 have no chance to elect candidates of their

1 choice standard vote delusion packing and
2 cracking. So you can't just look at these
3 factors in isolation you have to see how they one
4 impacts another?

5 Q. Thank you Dr. Lichtman Your Honor
6 I'd like to move exhibits GX-3 and GX-31 into
7 evidence those are Dr. Lichtman's initial report
8 and his rebuttal expert report?

9 THE COURT:

10 Is there any objection?

11 MR. FARR:

12 No objections, Your Honor.

13 MR. HAWLEY:

14 I have no other questions at this
15 time, Your Honor.

16 THE COURT:

17 Cross-examination?

18 MR. BRADEN:

19 My name is Mark Braden.

20 THE WITNESS:

21 I lost you.

22 THE COURT:

23 We still have you.

24 THE WITNESS:

25 I don't see you for some reason.

1 Our camera may be -- just give us a
2 second.

3 THE COURT:

4 Is that better?

5 THE WITNESS:

6 Much better. Thank you.

7 THE COURT:

8 Spell your last name counsel.

9 MR. BRADEN:

10 Mark Braden, B-R-A-D-E-N, and I
11 represent the defendant intervenor
12 legislature groups.

13 CROSS-EXAMINATION BY MR. BRADEN:

14 Q. Dr. Lichtman, good to see you again.

15 A. Good to see you again. Always a
16 pleasure.

17 Q. Thank you. I'm sorry that you were
18 not able to attend in person. We certainly would
19 have enjoyed your testimony in person here rather
20 than remote. I try not to take up --

21 A. Thank you.

22 Q. -- too much of the rest of your
23 afternoon, but I do have some specific questions.

24 MR. BRADEN:

25 If we could go to your report, in

1 page 28 of your report, if we could bring
2 that up. That's GX-3 or GX-3 or 003, and
3 if we could go to page 28.

4 TRIAL TECH:

5 (Complied.)

6 THE WITNESS:

7 Okay.

8 BY MR. BRADEN:

9 Q. So, and I believe you just testified
10 to this but let me just simply confirm. It's you
11 testified as to white crossover voting earlier I
12 believe?

13 A. I testified both to black cohesion
14 and white crossover voting, isn't that correct.

15 Q. So on your report here you're
16 projecting in some races what crossover in excess
17 of 25 percent or more than a quarter?

18 A. I'm not projecting. These are exit
19 poll results subsequent to the election. They
20 are not a projection on these elections.

21 Q. Okay. That's correct. And you have
22 a chart showing this too, I believe? This would
23 be chart one?

24 A. Sure you want to go to that.

25 Q. You should absolutely go to that.

1 If we could bring that up.

2 A. What page?

3 Q. I believe that is 0068, chart
4 one. So?

5 A. Got it.

6 Q. So it's your -- it's your view that
7 the record shows white crossover voting ranging
8 from 20 percent to 26 percent in the three
9 elections on the chart?

10 A. That's correct.

11 Q. Okay. So and you also believe if
12 you go to page 62 of your report and I also
13 believe you just testified to this but let me
14 just confirm it. That the black candidate of
15 choice can win in a district as low as 40 percent
16 minority population?

17 A. In the 40 percent range. You know
18 maybe not quite at 40 but certainly in -- below
19 50 percent in a 40 percent range, absolutely.
20 And the crossover and cohesion numbers bear that
21 out so you would have 45 percent African-American
22 voters in a district I could do the math for you.

23 Q. Uh-huh (affirmatively)?

24 A. As soon as I get on my.

25 Q. Please do.

1 A. Yeah. Okay. So we got 45 percent
2 times 95, that's 42.75 then we can round that off
3 to 43 to make it easy. Okay. And then we have
4 55 percent non black and by the way the non black
5 would include not just blacks you got to
6 understand that it would also include Hispanics
7 and others but let's just assume it's just blacks
8 and it's 25 percent. So that's 13.75 and round
9 it off to make it simple an even 13 that's
10 56 percent of the black candidate of choice.

11 Q. Okay. So if I understand those
12 numbers right, there would be no compelling need
13 for the State of Louisiana to create districts of
14 more than 50 percent to elect a black candidate
15 of choice in congressional analysis?

16 A. Well you would have to do the
17 district specific analysis. This is just generic
18 but if you could -- in my view and this is
19 generic I haven't done the detail district
20 specific analysis but, for example, in my North
21 Carolina testimony in the Covington case where
22 the court accepted it I pointed out indeed
23 African-American candidates could win in the
24 40 percent range. And that was particularized
25 analysis of each district but I certainly

1 wouldn't rule out if the state could create two
2 districts about a 45 percent in African-American
3 in their voting age population given that there's
4 going to be Hispanics and others in that district
5 who do tend to vote Democrat but again depending
6 on the district specific analysis that could give
7 African-Americans an opportunity to elect
8 candidates of choice again I'm speaking in
9 narrative.

10 Q. Thank you. Dr. When were you first
11 contacted about working on Louisiana
12 congressional redistricting this cycle?

13 A. I really don't remember. I've been
14 involved in maybe ten cases in this past 20
15 thousands several months ago at least.

16 Q. Okay. Do you know if you were
17 working on this prior to the legislative session
18 that resulted in the passage of the first plan
19 and second plans the veto override plan do you?

20 A. Refresh me is this February 2022.

21 Q. Yeah. February were you working in
22 February on it?

23 A. I'm sure I was working in February.

24 Q. Okay. And do you know who contacted
25 you in regards to that?

1 A. The alliance attorneys.

2 Q. Okay. And did you play any role or
3 play any information to the legislature during
4 the process?

5 A. No.

6 Q. So is this a little like do have a
7 view with you weren't you the expert witness in
8 1990 on the Louisiana congressional
9 redistricting?

10 A. I don't remember it very well but
11 that was one of those short cases when working
12 for the United States Department of Justice and I
13 think it was a very different clearly it was
14 30 years ago.

15 THE COURT:

16 Just a minute. Okay. We -- she
17 wasn't able to take any of that testimony.
18 Dr. Lichtman, is there a possibility that
19 you are interfering maybe with your
20 microphone or something because we -- the
21 court reporter, none of us could make out
22 any of that any of your last answer.

23 A. Oh. I didn't hear anything. I can
24 turn it down more if you want.

25 ***FINISHED THROUGH END

1 THE COURT:

2 No, I don't think it's --

3 THE WITNESS:

4 I'm 75 and technologically
5 challenged. Is it better, Your Honor?

6 THE COURT:

7 Yes, it seems better.

8 THE WITNESS:

9 I'll try it again. Let me know if
10 it works. I'll try to replicate it.

11 THE COURT:

12 If you have --

13 THE WITNESS:

14 So, as I said, I don't remember -- I
15 don't remember it well, but I do remember
16 I was hired I believe by the United States
17 Department of Justice to defend their
18 policies, and I don't believe that we were
19 plaintiffs in that case. We might have
20 been defendants and, you know, like that
21 whole round of those short cases.

22 BY MR. RIZZUTO:

23 Q. You don't?

24 A. Defendants had very little chance.

25 Q. Might you have been hired by the

1 Democratic leadership of the state, let's say the
2 governor, the legislature, the defendants in the
3 case?

4 A. Anything is possible. I know for
5 some of those cases I was hired by justice. I
6 don't remember because it was 30 years ago who I
7 was hired by in this case. I kind of assumed it
8 was justice, but I don't recall.

9 Q. I would represent to you and to the
10 court my understanding is that you were an expert
11 for the defendants, which was the State of
12 Louisiana, at least that's the way --

13 A. I know I represented the defendants.
14 I don't know if I was hired by the State of
15 Louisiana or by justice. I won't argue with you
16 because I don't have a recollection.

17 Q. Yeah.

18 A. So whatever you say, I'm not going
19 to disagree.

20 Q. Do you remember that you were
21 arguing on behalf of a plan, a 1990s plan that
22 had seven districts of which two were black and
23 five white?

24 A. I don't remember. I don't remember
25 that detail; but, again, if you want to represent

1 that --

2 Q. Okay.

3 A. -- I'm not going to argue, but I
4 don't recall the specific composition. When you
5 say two are black, would that be majority
6 black --

7 Q. Yes, two.

8 A. -- or 40 percent black? I don't
9 remember.

10 Q. Yes. Two black majority. There
11 were more congressional districts, one more in
12 that cycle, so at that time, my understanding of
13 reading the record and -- is that you were
14 working as an expert for the defendants trying to
15 defend the two black districts in the
16 7th District plan and that the court held that
17 the plan was an institutional gerrymander. Does
18 that ring any bells with you?

19 A. ***not all of this, but definitely I
20 truly that case like all the other cases. I.

21 Q. And now that you are in the court
22 here with the plaintiffs who are arguing for two
23 black seats in a six member district plan,
24 correct?

25 A. I have not examined any plans

1 presented by plaintiffs, but I presume that's
2 what we are doing.

3 Q. Okay. And you don't remember
4 whether or not the court in the Hayes case versus
5 the State of Louisiana in 1993, you don't
6 remember whether or not the court credited your
7 testimony?

8 A. I'm sure they didn't. We lost the
9 case.

10 Q. Yeah?

11 A. Normally when you lose a case work
12 was not credited your testimony but that's all I
13 remember.

14 Q. Yes. If we could -- I think maybe I
15 can refresh your recollection. If you go to --
16 we can bring up a copy of the heys versus State
17 of Louisiana. It's at 839 fed sup 1188. I wish
18 I could hand you a copy of it but I believe we
19 can bring it up on the screen and just really
20 quickly I believe there's a footnote 48 H A Y S.
21 48 at page 1203 if I've got to right. So if you
22 could take a minute and look at paragraph 48,
23 footnote 48 and see whether or not that refreshes
24 your recollection as to the court's view on your
25 testimony.

1 A. I don't see it. I'm sorry. I don't
2 see the heading.

3 Q. Okay. There's a footnote 48 either
4 on I believe it's -- bring up page 46 of 50. I'm
5 sorry I'm looking at this item in my hand and it
6 doesn't do you any good I printed a copy out here
7 for you but it doesn't do you much good to try to
8 hand you a printed copy I presume.

9 There we are. That's footnote 48.
10 Could you just highlight it for him and bring it
11 up and make it larger he has probably the same
12 eyesight I do.

13 A. Okay. Now, I can see it.

14 Q. Okay. Great and it's easy to pick
15 out there's a couple of references to you which
16 have been italicized.

17 A. Let me read it.

18 Q. Yeah.

19 A. Because I don't remember it.

20 Q. Great?

21 A. But I'm sure this will help refresh
22 my memory but I need a minute or two.

23 Q. Oh absolutely.

24 A. I old and slow.

25 Q. Absolutely.

1 A. Got it.

2 Q. Okay?

3 A. It doesn't refresh my memory
4 particularly but I understand it the same so you
5 can ask me questions.

6 Q. So?

7 A. It's pretty self explanatory.

8 Q. And it should be I believe here that
9 the court rejected your expert testimony in
10 support of a plan with two black seats am
11 consider correct?

12 THE COURT:

13 You have to.

14 A. That's correct. But that's the
15 exact opposite of what we have here where the
16 defendants have packed blacks into a single
17 district far beyond what was necessary to elect
18 black candidates of choice, so I don't see how
19 this criticism -- I'm not disputing what the
20 court says relates to the current situation in
21 Louisiana.

22 THE COURT:

23 Counsel, Mr. Hawley is about to
24 internally combust.

25 MR. HAWLEY:

1 I'm sorry. Mr. Braden, do you have
2 another copy of the --

3 THE COURT:

4 Mr. Hawley, we can't hear you.

5 MR. HAWLEY:

6 I'm sorry. I was just asking
7 Mr. Braden for a copy of the
8 demonstrative.

9 MR. BRADEN:

10 My apologies. I actually should
11 have given it to you upfront.

12 MR. HAWLEY:

13 Thank you.

14 THE COURT:

15 Okay. Emergency averted. You may
16 continue.

17 BY MR. BRADEN:

18 Q. And so you don't remember holding
19 this case rejecting the plan as a racial
20 gerrymander had two black seats you just don't
21 have any recollection of that?

22 A. I do remember the state lost the
23 case. I don't remember the details of the
24 finding, but it probably was racially
25 gerrymandering. I think it's the same case as

1 what the state is doing now.

2 Q. If you can't remember, we will just
3 move on from there.

4 In -- in your report in this case,
5 do you provide any geographic analysis showing
6 whether or not the black population has become
7 more compact in the case or geographically
8 concentrated since the 1990 geography?

9 A. I've not analyzed plans --

10 Q. Okay.

11 A. -- in this case -- so.

12 Q. It's really more --

13 A. I can't answer that question --

14 Q. Okay.

15 A. -- one way or the other. You have
16 to ask the plan drawers.

17 Q. I really wasn't asking you about the
18 plans. I was asking you about the dispersion of
19 the black population in the State of Louisiana.
20 Do you have any familiarity with that?

21 A. I didn't look at that.

22 Q. Okay. And I just -- let me use
23 Maryland as an example. So maybe this will
24 enable you to answer the question as to whether
25 there's been a change in that.

1 In Maryland, the black population is
2 essentially concentrated in -- in one or two
3 urban areas, depending how you define urban
4 areas, the Washington Baltimore corridor and the
5 rest is predominantly white?

6 A. Washington, although it's not quite
7 the corridor because you have in the Washington
8 suburbs two very large counties, Prince George's
9 County and Montgomery County, so not necessarily
10 the corridor. And Prince George's County is very
11 heavily black; and while Montgomery County is not
12 majority black, it has a very substantial black
13 population as well and it's very big. It's got
14 over a million persons in large geographically,
15 so it's certainly not true that in my home state
16 the African-American population is very narrowly
17 concentrated in confined geographical areas.

18 Q. So you wouldn't -- you don't believe
19 that a majority of the black population in
20 Maryland lives in -- in what would be considered
21 to be urban or suburban areas?

22 A. It's -- you know, Montgomery you can
23 call urban. It's really suburban. Certainly
24 there is a correlation between geographic area
25 and black population, absolutely. There

1 certainly is a degree of concentration there that
2 can effect the drawing of districts.

3 Q. So --

4 A. But it's not just confined to a very
5 narrowly circumscribed city.

6 Q. And so you don't understand -- I'm
7 going to waste your time here for just a second.
8 You don't understand or not -- you didn't opine
9 in any way that the -- that Louisiana is
10 different than many other states in the sense
11 that it has large urban black populations in a
12 couple locations but very dispersed rural black
13 populations in virtually every parish in the
14 state?

15 A. I can't answer your question. As I
16 told you, that's beyond the scope --

17 Q. Beyond the scope?

18 A. -- of my expertise.

19 Q. So do you happen to know how many
20 black elected officials there are in the state?

21 A. Not for every jurisdiction, but I
22 can tell you there is no statewide, none in the
23 U. S. Senate, one in Congress and something like
24 34 maybe in the legislature and something like 7
25 in the -- I forget how many, but over 20, close

1 to 30 mayoral situations and municipalities that
2 are comfortable overall.

3 THE COURT:

4 Mr. Braden, I'm going to ask that
5 you speak up or use the microphone. I'm
6 having trouble hearing you and I know
7 Dr. Lichtman has already said that he has
8 a -- a little bit challenge in determining
9 his ability in hearing.

10 MR. BRADEN:

11 My apologies.

12 THE COURT:

13 Thank you.

14 BY MR. BRADEN:

15 Q. Now, as to gubernatorial elections
16 in Louisiana, did the candidate of black choice
17 win?

18 A. In which elections.

19 Q. The last two gubernatorial races?

20 A. In the majority race s.

21 Q. Last two races for governor in the
22 State of Louisiana?

23 A. Oh, yes of course John Bel Edwards
24 you know one swallow does not make a sprig and
25 he's not black.

1 Q. Okay. And you talked about racial
2 from the 1990s, the runoff race between the clan
3 candidate and Edwin Edwards and I guess would
4 could come up with some colorful descriptions of
5 that race but we won't go that way but my
6 understanding is you testified that it showed the
7 impact of slating but didn't the black preferred
8 candidate win in that race too?

9 A. I did not testify at all about that
10 race as an example of slating. I simply said in
11 a different factor, factor relating to runoff and
12 at large elections and it's factor three not
13 factor four that that was an example of a runoff
14 election that caught nationwide attention that
15 was well before the foster decision. I didn't
16 put it in the context of slating at all
17 /STKPWHR-T and so I heard you say that -- that
18 black candidates don't win at large elections.
19 Do you know whether the mayor I don't think I can
20 see it. I don't think we are in East Baton Rouge
21 I think we are in Baton Rouge parish. I could be
22 wrong about that but my understanding is that the
23 mayor of East Baton Rouge is black. Do you know
24 that.

25 A. Let me check. I might have that

1 information. I'm not sure.

2 THE COURT:

3 We are in East Baton Rouge Parish
4 and the mayor of the Baton Rouge
5 metropolitan greater Baton Rouge is
6 African-American.

7 THE WITNESS:

8 You are talking about the mayor of
9 Baton Rouge city.

10 MR. BRADEN:

11 The /SKWRUPBL graciously answered
12 the question for us.

13 THE COURT:

14 No I didn't answer you that we are
15 not in east parish there's an East Baton
16 Rouge Parish and the Mississippi River and
17 one bridge connects those actually bridges
18 I guess.

19 THE ATTORNEY:

20 Q. And I understood from you that the
21 mayor of East Baton Rouge is black wit I can
22 answer you yeah Baton Rouge is a black city and
23 likely a black mayor that's exactly my point
24 blacks can win in black jurisdictions and they
25 are getting shut out in white districts statewide

1 and white justifications and none of the blacks
2 are Republicans?

3 Q. Is it your position that it's a
4 majority black parish?

5 A. I didn't look at the parish. I
6 looked at the city.

7 MR.

8 Okay. No further questions,

9 Your Honor.

10 THE COURT:

11 Okay. Is there any redirect?

12 MR. HAWLEY:

13 It's brief, Your Honor. Thank you.

14 REDIRECT EXAMINATION BY MR. HAWLEY:

15 Q. Dr. Lichtman, just a few moments ago
16 Mr. Braden asked you about some of the particular
17 of of your expert testimony in the Hayes case in
18 the '90s. Do you recall that?

19 A. I recall the questions, yeah.

20 Q. Yes?

21 A. And it did help me refresh a bit on
22 heys which I didn't remember in detail.

23 Q. Here I will represent to you since
24 we no longer have it on the screen that the core
25 characterized the defendants objective in that

1 case as to quote prove that factors other than
2 race could explain district four. My question is
3 that the inquiry you were asked to undertake in
4 this case to explain what factors explain a
5 challenged district?

6 A. If you correctly I don't remember
7 but I assume you correctly characterized that my
8 query here is quite different.

9 Q. And what is your inquiry here?

10 A. Well my inquiry here is to look at
11 the factor and look at effectiveness fact ares to
12 determine whether the five white majority
13 districts established communities of interest
14 between blacks and whites to assess the rational
15 of maintaining continuety of districts and to
16 assess the rational with respect to the
17 traditional redistricting requirement of the
18 packs all the A L S Senate tact for related to
19 the different matter s.

20 Q. And ultimately the Senate factor
21 inquires a Senate. Whether the particular legal
22 claim or particular district at issue is that
23 fair to say?

24 A. I don't want to give you a legal
25 opinion. I can say I have done Senate factor

1 analyses under very different cases and
2 situations.

3 Q. Thank you. Dr. Lichtman. No
4 further questions. Thank you?

5 THE COURT:

6 Okay. Thank you, Dr. Lichtman. We
7 are going to let you go for the afternoon.
8 Okay. It's --

9 THE WITNESS:

10 Thank you, Your Honor.

11 THE COURT:

12 Thank you, sir. It's quarter to
13 5:00. Have we got any other witnesses
14 that we can go until 5:30?

15 MR. RIZZUTO:

16 Yes, Your Honor. My name is Ryan
17 Rizzuto, and I represent the Robinson
18 plaintiffs. This is my first appearance
19 before the court.

20 THE COURT:

21 Give me the last name, spell it for
22 me.

23 MR. RIZZUTO:

24 R-I-Z-Z-U-T-O.

25 THE COURT:

1 Okay. Mr. Rizzuto, your witness.

2 MR. RIZZUTO:

3 Plaintiffs call Dr. R. Blakeslee
4 Gilpin, G-I-L-P-I-N.

5 ROBERT BLAKESLEE GILPIN, Ph.D,
6 after having first been duly sworn by the
7 above-mentioned Court Reporter did testify as
8 follows:

9 DIRECT EXAMINATION BY MR. RIZZUTO:

10 Q. Could you please state your full
11 name for the record?

12 A. Yep. My name is Robert Blakeslee
13 Gilpin. The standard spelling of Robert,
14 B-L-A-K-E-S-L-E-E, G-I-L-P-I-N.

15 THE COURT:

16 Go ahead, counsel.

17 DIRECT EXAMINATION BY MR.

18 Q. Good afternoon, Dr. Gilpin. Could
19 you please introduce yourself to the court?

20 A. Yes. My name is Dr. Robert
21 Blakeslee Gilpin. I am an associate professor of
22 history at Tulane university and the director of
23 graduate studies at the history department there.

24 Q. Can you tell us about your educate
25 o'clock background?

1 A. Yes, I received my BA and M A
2 simultaneously in Yale university in 2001 in
3 American history and M fill if from canal bridge
4 university in 2002 in British history and then an
5 M fill from PhD Y. From jail in 2009.

6 Q. And /KWRUPBGZ mention that you were
7 at Tulane could you speak to your role there?

8 A. Yes so I teach a variety of classes
9 on American history U.S. history in law civil
10 construction southern interest electric cull and
11 culture history and mentor and advise
12 undergraduate and graduate students.

13 Q. And do any of those courses you just
14 mentioned cover Louisiana's history of official
15 discrimination against black voters?

16 A. Yes all the courses touch directly
17 on that subject.

18 Q. Have you ever written anything that
19 has covered the history of voters registration in
20 Louisiana?

21 A. Yes I've written chapters and
22 volumes about the reconstruction period moving
23 into the 20th century that deal directly with
24 that subject matter.

25 Q. Professor Gilpin, is this your first

1 time testifying as an expert witness in a case?

2 A. It is indeed.

3 Q. Your Honor, we in southern history?

4 THE COURT:

5 Any objection.

6 MS. MCKNIGHT:

7 We have no objection.

8 THE COURT:

9 Okay. Dr. Gilpin will be allowed

10 and admitted.

11 BY MR. RIZZUTO:

12 Q. PR-13 and 88.

13 THE COURT:

14 You may.

15 BY MR. RIZZUTO:

16 Q. Now, Professor Gilpin, I just handed

17 you what is marked as PR-13 and PR-88. Do you

18 recognize those?

19 A. Yes, I do.

20 Q. What's PR-13?

21 A. PR-13 is the main report I was asked

22 to produce for this case.

23 Q. And PR-88?

24 A. Is the supplemental report I was

25 asked to produce.

1 Q. Now, let's start with your first
2 report PR-13. Can you speak to its purpose?

3 A. The purpose of the report was to
4 talk about the State of Louisiana's long history
5 of discrimination against its black citizens and
6 specifically how that history fed into voter
7 discrimination particularly after the franchise
8 was granted in the late 18 '60s.

9 Q. And what was the scope of your
10 inquiry in that report?

11 A. So my report began in pre American
12 Louisiana which is really when the racial
13 categories that are going to later be used by
14 the State of Louisiana both pre suffrage and post
15 suffrage were created and sort of hone bid the
16 state and were used up until the present day.

17 Q. Broadly speaking what were your
18 conclusions?

19 A. So from the very beginning, the
20 state has been quite seriously invested in
21 categorizing its citizens by race and
22 specifically to used those categories to
23 discriminate against black freedoms and after the
24 18 '60s particularly or specifically against the
25 right to vote. So that was really the target of

1 a huge number of efforts by the State of
2 Louisiana throughout the post 1868 period.

3 Q. I'd like to start from the beginning
4 of that history Dr. Gilpin can you speak to the
5 historical roots of official discrimination in
6 Louisiana?

7 A. Yeah. So as I was just mentioning
8 that process began with categorizing an its
9 citizens and there was a period of fluidity
10 before the state became much more rigid about
11 defining who was black and who was white and
12 there was a middle category that began to be
13 erased in 18 '40s and '50s when the state became
14 very concerned with the influx of immigrants that
15 didn't really fit any of the categories they had
16 and that was when the State of Louisiana created
17 a lot of methods and tools that they would use to
18 disenfranchise black voter the so property
19 requirements poll taxes, and things like this
20 literacy tests were actually developed in the 18
21 '40s and '50s and then repurposes later so so
22 that's really the antebellum roots of modern
23 voter discrimination in the State of Louisiana.

24 FINISHED THROUGH END

25 Q. What's the purpose within your

1 report of letting out this antebellum history?

2 A. Well, as I was just mentioning, the
3 sort of connection between these things is often
4 quite concrete. So literally the white elites in
5 the postbellum period simply just sort of went
6 back into their own history to find these tools
7 and repurpose them, but basically that the -- the
8 foundation of both racial categorization and
9 voter discrimination itself is really firmly
10 established in the antebellum period and then
11 carried through very kind of intentionally in the
12 postbellum period.

13 Q. Now, moving forward in history to
14 efforts of before, how did voter discrimination
15 against black Louisianans evolve after the Civil
16 War?

17 A. So in the first constitutional
18 regression, which had actually happened in the
19 middle of the Civil War is the first effort by
20 white Louisianans to kind of refashion old laws
21 and maintain some of the racial hierarchies that
22 they established in the antebellum period.

23 The black codes that were written in
24 1865 are the first examples of that and are
25 really quite explicitly understood as a way of

1 commonly bringing together as much of the slavery
2 rules that they could. It's not until the 1890s
3 that those had kind of taken a much more
4 explicitly political form, and that is most
5 notably with the adoption of the grandfather
6 clause, which was created by white Louisianians
7 in 1898 that establishes a rule where black
8 voters have to be able to trace their ancestry of
9 either a father or a grandfather, they had to
10 have voted before January 1st of 1867, which was
11 an illogical impossibility because black people
12 can't -- could not vote before that date. So it
13 was an effective way of taking black Louisianans
14 out of politics.

15 At the time of the grandfather
16 clause, they represented about 44 percent of the
17 electorate in Louisiana, which has never been
18 reached ever since then. Within two years, that
19 was below 1 percent because of the effectiveness
20 of the grandfather clause, so it took black
21 voters from about 130,000 down to about 5,000 in
22 two -- just two years.

23 Q. And did tactics like the grandfather
24 clause and the other tactics you mentioned
25 continue into the 20th century?

1 A. Yes. The grandfather clause was
2 struck down by the Supreme Court in 1915, but the
3 variety of total conventions that Louisianians
4 had developed in the 1840s and '50s ***tests poll
5 /TAGSs understanding clauses and really investing
6 a lot more power in white registrars of voters
7 was something that was -- really the weight of
8 the state was putting behind that. So to the
9 degree where you could have a white registrar
10 reject voter if they could not count the number
11 of jelly beans in a jar that was at the polling
12 station.

13 Q. Now, moving a bit farther into the
14 20th century, how well did voting discrimination
15 in Louisiana change after the Voting Rights Act
16 was passed in 1965?

17 A. So it's not so much the
18 discrimination change, especially in terms of
19 magnitude or the determination by the State of
20 Louisiana to disenfranchise its black voters.
21 What the Voting Rights Act really did was make
22 both citizens in Louisiana in both the state and
23 federal government aware of these attempts to
24 disenfranchise black voters. And this is
25 particularly through the pre-clearance clause

1 that made it possible for the -- sort of kind of
2 dizzying extent of these efforts were kind of
3 brought to light, and then also it gave a
4 possibility for those efforts to disenfranchised
5 black voters to actually contest it in court.

6 Q. Can you speak about any of these
7 Section 2 violations that you note in your
8 report?

9 A. Yeah. So I think the one that I
10 find most compelling is the -- is the Chisom
11 versus Roemer case of 1991 because it bears such
12 a strong resemblance to things that have happened
13 in the last calendar year in the State of
14 Louisiana whether up in West Monroe or in
15 Baldwin.

16 So these are the exact same themes
17 30 years apart. The first one we were made aware
18 of because of pre-clearance. The second one is
19 just through the doggedness of -- I'm sure some
20 of the people in this room could actually bring
21 those kinds of things to light because the
22 determination of the state has remained
23 inexplicably unaltered. The mechanism of making
24 us aware of them has drastically changed after
25 2013.

1 Q. Now, turning to your second report,
2 PR-88, what was the purpose of that report?

3 A. So that report is -- the purpose was
4 to talk about the history of racial
5 classification by the State of Louisiana, again,
6 stretching back to the pre-American Louisiana,
7 which is when these racial categories sort of
8 started to be formulated; but particularly after
9 the Treadaway case of 1910, which is when the
10 State of Louisiana adopted this one-drop rule.
11 If anyone could be proven to have 1 percent
12 ancestry, they were going to be considered black
13 by the State of Louisiana.

14 Q. Now, how long was this one-drop rule
15 on analog and in place in Louisiana?

16 A. So that remained in place until 1970
17 when it was replaced by the 132nd law. That was
18 very vigorously contested in the 1970s actually
19 by white Louisianians or people who considered
20 themselves white who sued the state to try and be
21 reclassified. That law was changed in 1983 to
22 try to lower the standard by which -- what the
23 state would accept, although during that case I
24 think quite interestingly the state was citing
25 ancestry going back to Mobile, Alabama in 1760 to

1 prove that the citizen in question was black, at
2 least by the standards of the state.

3 So, again, it's really interesting
4 how invested the State of Louisiana is in those
5 categories and how they were used quite
6 explicitly then to disenfranchise voters.

7 Q. Stepping back a moment to something
8 more generally, what was your conclusion in your
9 report?

10 A. Most particularly that those
11 categories have been used over -- certainly over
12 the course of the 20th and 21st centuries to
13 disenfranchise black voters, but overall that
14 there is just such a basic absurdity to racial
15 categorization because there's real no science
16 behind it but the state remains very invested in
17 making those distinguishing categories so that
18 they then can be used in cases like this.

19 Q. Did you find anything related to how
20 the history may effect the ways that multiracial
21 Louisianians might identify today?

22 A. Yeah. Well, I think one of the
23 things you have to take into consideration, we
24 are talking about over 300 years of history and
25 Louisianians of all colors are keenly aware of

1 the consequences of what their category is both
2 in terms of their self identification and how the
3 state identifies them. And so there's just --
4 there is an enormous amount at stake in terms of
5 what they identify as and what the state
6 identifies them, and they are very aware of that
7 and that sort of guides a lot of the idea going
8 forward.

9 Q. And just to be clear, this history
10 timeline is the history you discussed in your
11 original report?

12 A. Yes. I mean, I think it is -- it's
13 pretty much -- it's a real cornerstone of
14 everything that's discussed in the first report
15 is what I'm discussing in the second report.

16 Q. Dr. Gilpin, how would you respond to
17 the critique that your reports don't include
18 enough examples of race discrimination?

19 A. Well, I disagree pretty
20 fundamentally with that premise most particularly
21 because after the Voting Rights Act was renewed
22 in 1982, to me, everything that's come since then
23 -- and we are talking about the last four decades
24 I recall in recent history and also particularly
25 I recall that because of the remarkable

1 consistency with which white Louisianians have
2 attempted to disenfranchise black voters. This
3 is not something that sort of stopped at any
4 given point, but it's really been a threw line in
5 the entire history of Louisiana even if we are
6 talking about pre-suffrage, but particularly we
7 are talking about post 1982 where the state has
8 just displayed a remarkable degree of continuity,
9 doggedness, determination to stop black people
10 from voting.

11 Q. Could you please outline for the
12 court one of the examples of recent
13 discrimination that you outline in your report?

14 A. Sure. I mean, I mentioned a few
15 minutes ago the West Monroe Baldwin case which I
16 think is probably the most scrutinized thing
17 that's been used by the Louisiana politicians to
18 try and disenfranchise black voters. That is the
19 ***elections in the state and in West Monroe.
20 The Hardy versus Edwards case is also a very,
21 very recent example. We are talking about in the
22 last calendar year of these, of a variety of
23 schemes, basically whatever people can come up
24 with in order to disenfranchise black voters.
25 That's always the goal and it's really whatever

1 tools are at their disposal to do that, they will
2 try to utilize.

3 Q. Dr. Gilpin, in your view, are
4 similar practices made by -- made against black
5 voters a thing of the past?

6 A. I would say they are very much the
7 defining characteristics of Louisiana politics
8 past, present and certainly it looks like the
9 future.

10 Thank you, Dr. Gilpin. At this time, we
11 move PR-13 and PR-88 into evidence.

12 THE COURT:

13 Any objections.

14 MS. MCKNIGHT:

15 No objection Your Honor.

16 THE COURT:

17 PR-13 and PR-88 admitted any Rizzuto

18 Thank you, Your Honor.

19 THE COURT:

20 Any cross?

21 MS. MCKNIGHT:

22 Yes, ma'am.

23 CROSS-EXAMINATION BY MS. MCKNIGHT:

24 Q. Good afternoon, Dr. Gilpin. I'm
25 Kate McKnight with legislative intervenors, and I

1 have a few questions for you this afternoon or
2 this evening?

3 A. Okay.

4 Q. Let's start with PR-13 your report
5 in this case we are going to start on page 39.
6 Does he need to be switched? So Dr. Gilpin you
7 include in your report a section titled voting
8 rights in Louisiana, 1982 to 2013 do you see
9 that?

10 A. I do.

11 Q. Okay. And in this section you study
12 case law developments related to the Voting
13 Rights Act, right?

14 A. Yeah. I think that's one of the
15 things that are examined in this section.

16 Q. Okay. Now, during this time period
17 following the 1990 census Louisiana tried to
18 comply with a Voting Rights Act by drawing two
19 majority minority congressional districts,
20 correct?

21 A. I mean, I am aware of this I'm not
22 sure it's discussed at any length in the report.

23 Q. Okay. And Louisiana's effort to
24 draw a second congressional district after the
25 1990 census was struck down by courts as a racial

1 gerrymander, correct?

2 A. Again, I'm not sure if that's in the
3 scope of this report. I'm dimly aware of this
4 otherwise.

5 Q. Okay. So a Voting Rights Act case
6 in the early 1990s would not be within the scope
7 of your report which includes a section titled
8 voting rights in Louisiana 1982 to 2013?

9 A. No. I mean it would fall under that
10 heading perfectly comfortably but it may not have
11 been included for whatever reason.

12 Q. And what might that reason be?

13 A. Possibly that I overlooked it
14 possibly that the report was getting quite long.
15 I'm not entirely sure.

16 Q. Okay. So I understand that in your
17 report you do not address Louisiana's effort to
18 comply with the Voting Rights Act by creating a
19 second majority-minority district following the
20 1990 census, correct?

21 A. I mean, if you didn't find it, I'm
22 not sure that it's in there.

23 Q. Okay. And, in fact, you do not even
24 you cite a lot of case law but you did not even
25 cite one of the Hayes cases in the heys line of

1 cases?

2 A. No I don't believe I cited any of
3 the Hayes cases.

4 Q. Okay. Thank you. Let's move onto
5 page 45 in your report.

6 A. (Complied.)

7 Q. Dr. Gilpin you note toward the end
8 of the 4th paragraph the one that starts the
9 hotly contested, you note quote the changes to
10 the V R A in the wake of shell bee county meant
11 that states were no longer under the burden of
12 proving their laws to be non discriminatory, do
13 you see that?

14 A. Yes, I do.

15 Q. Okay. So before shell bee county,
16 which was a 2013 supreme court opinion, Louisiana
17 was under a burden of proving its voting laws to
18 be non discriminatory, correct?

19 A. Yeah. That's my understanding of
20 the Section 5 pre-clearance.

21 Q. Okay. And in 2011, so before shell
22 bee county, Louisiana's congressional map was
23 pre-clear, correct?

24 A. I'm not sure that I discuss that in
25 this report. I mean I heard it in the courtroom

1 today.

2 Q. Okay. So you understand that to be
3 true?

4 A. Sure.

5 Q. Okay. Thank you no further
6 questions. Dr. Gilpin.

7 THE COURT:

8 Any redirect? Rizzuto no redirect
9 Your Honor.

10 THE COURT:

11 Okay. Thank you. Dr. Gilpin, you
12 may go or you are released. Next witness?

13 MR. SAVITT:

14 Good afternoon, Your Honor. I'm
15 making my first appearance. I'm Adam
16 Savitt. That's S-A-V-I-T-T, on behalf of
17 the Robinson plaintiffs, and we would like
18 to call Ashley Shelton.

19 ASHLEY SHELTON,
20 after having first been duly sworn by the
21 above-mentioned Court Reporter did testify as
22 follows:

23 THE DEPUTY:

24 And would you please state your name
25 and spell it for the record, please?

1 THE WITNESS:

2 Sure. My name is Ashley,

3 A-S-H-L-E-Y, Shelton, S-H-E-L-T-O-N.

4 DIRECT EXAMINATION BY MR. SAVITT:

5 Q. Good afternoon, Ms. Shelton.

6 A. Good afternoon.

7 MR. SAVITT:

8 Could we please pull up PR

9 Exhibit 11?

10 TRIAL TECH:

11 (Complied.)

12 BY MR. SAVITT:

13 Q. And do you recognize this document,

14 Ms. Shelton?

15 A. I do.

16 Q. And what is it?

17 A. It is my declaration.

18 Q. Okay. Thank you very much. We can

19 put that down. Ms. Shelton where do you live?

20 A. In Baton Rouge.

21 Q. And how long have you lived in

22 Baton Rouge?

23 A. My whole life.

24 Q. Okay. And thank you and what is

25 your current job title?

1 A. I am a president and CEO for the
2 power coalition of equity and justice.

3 Q. And what does the power coalition
4 do?

5 A. We work: Historically
6 disenfranchised communities throughout Louisiana
7 engaging helping connect them back to their voice
8 their vote and their power.

9 Q. Thank you and would you say you
10 focus on communities of color in your power
11 coalition?

12 A. Yes.

13 Q. And, Ms. Shelton, why are you -- are
14 you here today?

15 A. I am here today because we did a ton
16 of work working across communities State of
17 Louisiana I participated in redistricting last
18 cycle and I probably could have shot a /KAPB none
19 through the capital and not hit one important and
20 this particular power coalition engaged over a
21 thousand citizens across the state that
22 participated in this process from census all the
23 way to the road show understand a then the
24 special session and so I am here today to
25 represent the folks that consistently asked for a

1 fair and equitable redistricting process and did
2 not receive that.

3 Q. Thank you Ms. Shelton and you
4 mention that the power coalition works
5 predominantly with communities of color based on
6 your experience working with power coalition do
7 black voters face discrimination related to
8 voting?

9 A. Yes.

10 Q. And could you describe that
11 discrimination?

12 A. Sure. I mean. You know, Gosh, so
13 for you know just in our own experiences, we
14 during COVID so 70 percent of the deaths from
15 COVID early on were African-American people so
16 disproportionately black people were dying from
17 COVID and in that -- you know in that process of
18 you know, the then the Secretary of State then
19 put into place during the primary several reasons
20 that votes could you know could request an
21 absentee valid especially if they have underlying
22 conditions but when we got to the general
23 election they did not want those reason to stand
24 and so we ended up having to organize and sued
25 the Secretary of State and the governor did stand

1 with us even though we had to name him in that
2 lawsuit that at the end of the day with so many
3 African-American votes dying early on in had
4 COVID with the continued this was before vaccines
5 before we understood how it was going to continue
6 to grow and change we were able to ensure that
7 black voters that disproportionately had
8 underlying conditions had access to their vote
9 also there is an example in baker baker is right
10 outside it's one of the many incorporated areas
11 of Baton Rouge right outside and during the 2020
12 election there was a white man who sat in his
13 chair with a very large gun outside of a black
14 precinct he was you know 600 yards away or feet
15 away which is the law but clearly sitting there
16 with a large gun in proximity to a black -- black
17 precinct you know was alarming and very squarely
18 the police were called FBI state troopers I mean
19 everyone was there but no one you know took
20 action. Because it clearly was you know voter
21 intimidation but nobody took action on that and
22 so basically multiple you know -- multiple you
23 know police groups just kind of sat and watched
24 him instead of removing him which black voters
25 were comfortable making their vote.

1 Q. Thank you and was power coalition
2 and its constituents present at that baker roll
3 eight poll?

4 A. Yes we were there had two staff
5 members and several mens of the community and we
6 had to move them back so they could be in a safe
7 distance as the police kind of worked out what
8 was going on but again he was able to sit there
9 for a good bit of the day.

10 Q. And so is it fair to say that you
11 didn't feel like your needs were adequately
12 responded to by the Louisiana officials?

13 A. They were not.

14 Q. Thank you. In your experience, are
15 there greater obstacles for black voters than for
16 white voters?

17 A. Yes.

18 Q. Could you describe some of them?

19 A. So in you know in Louisiana we have
20 transportation issues you know if you like even
21 New Orleans which probably has our best transit
22 system still lacking you know in many ways
23 Baton Rouge has a system that is not -- you know
24 that works but is not meeting the needs of our
25 entire city and Shreveport has even less of an

1 transit system those are our three largest metros
2 with Jefferson but you know but Jefferson has
3 none either and so the idea that black voters
4 have to like we provide ride to the polls so that
5 we can ensure that black voters can actually vote
6 in elections but again black voters
7 disproportionately experience poll enclosures and
8 poll changes they also too whenever they have a
9 polling location they also experience that their
10 polling locations also have issues with
11 disability accessibility and so for us the
12 ability to be able to engage black voters in a
13 sure black voters and ensure that they have
14 access to their voice and their vote is really
15 critical for us and one of the things that I love
16 in New Orleans we get to work with a funeral home
17 that they have a whole vehicles that they donate
18 to the process not the hurs so people understand
19 the importance of getting people to vote and in
20 the rural communities it's even harder but we do
21 work with partners and churches across the state
22 to make sure that people can access their right
23 to vote.

24 Q. So is it fair to say that lack of
25 access to transportation makes it harder for

1 black Louisianians to participate in the
2 political process?

3 A. Yes.

4 Q. And Ms. Shelton does power coalition
5 work to contact Louisianians by voting?

6 A. Yes.

7 Q. Can you describe some of power
8 coalitions efforts in that front?

9 A. Absolutely so we work we basically
10 build what we call a universe and usually for
11 statewide elections about 500,000 people and we
12 do text messages phone phone banking phone calls
13 as well as candidacies where we are door knocking
14 and talking to communities we also do candidate
15 surveys and candidate forums.

16 Q. And Ms. Shelton do black voters need
17 this extra out each in your experience?

18 A. Yes.

19 Q. And why is that?

20 A. One of the things that we found in
21 our work is that nobody was talking to black
22 voters or brown voters or indigenous or A B I and
23 that the work that you know we know that of our
24 universe of voters that we are reaching we are
25 sure you know historically disenfranchised

1 communities that we can get about 65 to
2 65 percent of our universe to turn out to vote
3 which proves to me that no one was addressing
4 them no one was addressing them no one was
5 including them in the process and a lot of our
6 work is reconnecting people to an agency as
7 voter.

8 Q. Thank you. In your experience
9 working with power coalition are there technology
10 barriers that make it difficult to reach black
11 voters?

12 A. Yes we I mean many folks have talked
13 to and it's no secret that broadband is an issue
14 throughout urban communities but it's also an
15 issue in the urban communities we work on votes
16 file phone numbers change constantly folks are
17 dealing with housing security and other issues
18 and certainly it's certainly an issue of access
19 and you know whether or not they can afford a
20 cell phone a house /TPA0EPB or whatever some of
21 those other ways that we would try and contact
22 them.

23 Q. Thank you Ms. Shelton and you
24 mentioned the impact of poll enclosures on the
25 communities you served are you aware of poll

1 closures that resulted from precinct

2 consolidation?

3 A. Yes.

4 Q. Could you speak to that issue?

5 A. So I mean, we have one you know

6 instance you know that kind of comes to clearly

7 to mind in New Orleans east they were closing and

8 consolidating a polling location that was

9 predominantly African-American and in that

10 polling location you know, we tried to work with

11 the Secretary of State to make it make sense for

12 the -- for the voters that were chronic voters

13 many of them in that area and what ultimately you

14 know their argument was well we are just moving

15 it a couple of miles but in moving it a couple of

16 miles meant that the community would have to you

17 know cross a dangerous highway and so again, on

18 paper it doesn't look like it is this big deal

19 but to those voters that are are trying to access

20 their vote and used to walk to the polls can no

21 longer do that in a safe way if they have got to

22 cross a major interstate to access their vote.

23 Q. Thank you Ms. Shelton I'd like to

24 shift gears could you please provide a brief

25 overview of power coalition activities relating

1 to the 202 on redistricting process?

2 A. Yes we started our process and
3 worked all over the state to engage rural
4 communities in the power census in being counted
5 try to address some of the fear and fear
6 monitoring that was happening about what did it
7 mean to take the census and we did that work
8 throughout the census process and then shifted
9 gears you know shortly thereafter to start
10 teaching people what redistricting was so we held
11 redistricting where we taught folks cracking
12 packing other definitions and we also worked with
13 them learned Mapitude they learned how to draw
14 their own maps we also have three redistricting
15 fellows that also did trainings across the state
16 I think they did had three trainings in
17 individual small clusters different parts of the
18 state and I think most importantly we supported
19 people to participate in the road shows and so I
20 mean again there were at almost every road show
21 there were at least a hundred people that came
22 and testified at each stop and overwhelmingly
23 the majority the testimony at every single road
24 show white and black old and young is they wanted
25 fair and equitable plan understand a they want

1 add second edge majority district it was clear it
2 was real that people said this all over the State
3 of Louisiana and they were ignored by house
4 governmental affairs and Senate governmental
5 affairs.

6 Q. Thank you Ms. Shelton hazard part of
7 power coalitions did it submit that contained
8 more than one majority black district?

9 A. We did.

10 Q. And why it was important to provide
11 those maps to the legislature?

12 A. It was important for us to prove
13 that it can could be done that you know again we
14 lost five percent in white population we gained
15 almost three percent in black and other you know
16 populations so for us this was about honoring the
17 fact that we have the second largest black
18 population in the country and that actually that
19 it could be drawn in many different ways to prove
20 that it wasn't just an idea or something that you
21 know that I wanted but that it actually was
22 something that was possible and necessary for a
23 fair and equitable maps in Louisiana.

24 Q. Thank you, Ms. Shelton. How did
25 power coalition and its constituents during the

1 radio shows and legislative sessions?

2 A. We were treated -- it was
3 unfortunate because I think for many of the road
4 shows you could see how Senate governmental
5 affairs Senate affairs members doodling and not
6 looking up people are telling their stories of
7 voting generations work to ensure that their
8 folks had a right to vote and folks are looking
9 down and not paying attention and then when we
10 went to the capital and we also we had over you
11 know for the opening of the redistricting session
12 there were over 250 you know people of color
13 white alleys that shows up to say we are here we
14 are watching you this is what we said we wanted
15 and we are going to continue to say what we want
16 and even in the legislative commute rooms
17 legislators walking around not paying attention
18 basically waiting to see when all the all the
19 testimony would be done so they could vote not
20 one map that included a second majority minority
21 district get out of a committee we they wouldn't
22 even allow it to be discussed on the floor.

23 Q. And Ms. Shelton were there any other
24 instances that you felt that you were not heard
25 by the legislature during that time?

1 A. Yes so on the day when they were
2 overriding the receipt owe we were all at the
3 capital we were in the house voted before the
4 Senate you know the house voted I mean it came to
5 down to a couple of votes right and at the end of
6 the die we didn't you know the veto was over
7 turned basically they knew in the house that it
8 was over turned because the votes on the Senate
9 side and once that happened once the vote was
10 made they cheered they celebrated the vote was a
11 long racial lines and then you walk across the
12 hallway to the Senate chamber and it is like a
13 funeral it is somber it is quiet the black
14 Senators testified and said you know we can't
15 change their mind us but this is the historical
16 nature of what we are trying to do here and
17 again, the vote of course the governor's veto was
18 over turned.

19 Q. And just for the record who cheered?

20 A. The conservative members of the
21 house and and members of the Senate because they
22 both came to both sides.

23 Q. And could you please describe what
24 it felt like to you and power coalition's
25 constituents when the legislature over road the

1 veto?

2 A. I mean, I think it's, you know,
3 deflating and it's also /TPWEPB like a true sign
4 of disenfranchise /-PLT so how is it thousands of
5 people participate and they say specifically two
6 key message understand a the message that I gave
7 them the messages that were on their card that
8 were messages that had you know like again a
9 familiar /KWRAL fight for them around having
10 their voice and their vote and to then you know,
11 one get a community out crew cry for the governor
12 to veto and then to have that veto over turned it
13 just basically tells voters that we have worked
14 so hard to give agency to as a voter and remind
15 them that their vote and voice actually has power
16 it just basically says to them it's politics as
17 usually it doesn't matter and so they disengage
18 and so it makes our work doubly hard.

19 Q. And following that Ms. Shelton how
20 did the impact the power?

21 A. So for power coalition you know we
22 have got mid terms coming up in the fall and so
23 this current you know like so we do a lot of
24 education work with our communities the
25 historically disenfranchised communities in

1 Louisiana and in the process of doing that work
2 right like we have got to we have got to educate
3 them on like what district do they live in what
4 changes have happened and then also too engage
5 them in the process of understanding you know
6 what and when they are going to vote and I think
7 the specifically for power coalition again we are
8 -- we are doing touches right like you know last
9 last year we did over I want to say over a
10 million touches and when you talk about a million
11 touches that means that you know we are touching
12 voters at least three times so phone call door
13 knock you know a text message or a whole bunch of
14 other things and so the difference is me having
15 to do double work because I'm dealing with
16 disenfranchised voters you told me that if we
17 engage and we provided our voice that it would be
18 okay and so they are deflated and disconnected
19 and so again double work right versus working
20 with a population and group of voters who don't
21 feel /TKEUS /EPB /TPRAPB /KHAEUZed who do feel
22 like they do have a voice in power and that they
23 are going to be elect candidates of choice and we
24 know that being able to elect a candidate of
25 choice drives voter interest and voter excitement

1 in these processes and so on -- so again this map
2 that is enacted I've got both a disenfranchised
3 and /TKEUS inflated group of people who feel this
4 system doesn't work.

5 Q. Thank you Ms. Shelton shifting gears
6 you said lived in /TKPWRAOUPBLG your whole life?

7 A. Yes.

8 Q. Are there differences between north
9 Baton Rouge and south Baton Rouge?

10 A. Yes.

11 Q. I think it's Baton Rouge is a tail
12 of two cities basically /WEFR the worst and the
13 best quality of life within a few square mail
14 miles of each other north Baton Rouge being
15 predominant African-American south Baton Rouge
16 being white and the income certainly the south
17 Baton Rouge is more and /PHOD re lat income and
18 south Baton Rouge is a much more /WELTDZ /AOE
19 community and then also too political Chi it's
20 been interesting because basically voters in the
21 State of Louisiana in the state city of
22 Baton Rouge basically they have voted to success
23 seed from north Baton Rouge is the best way I
24 could put it it is currently in court but it
25 gives you an idea of how powerful that difference

1 is or that division between communities in East
2 Baton Rouge Parish?

3 Q. Thank you. And you mentioned that
4 north Baton Rouge was predominantly people of
5 color would you say that north Baton Rouge or the
6 people of north Baton Rouge have common needs
7 that go beyond race?

8 A. Yes.

9 Q. And could you speak to those please?

10 A. Yeah I mean I think that we have you
11 know second we are the second etc. Poorest state
12 I think maybe some of the data we saw today maybe
13 we beat Mississippi to be the poorest state in
14 north Baton Rouge we have got housing insecurity
15 we have got food insecurity we have absolutely
16 food deserts as well as no opportunities for
17 economic -- you know economic growth and you
18 know, and yeah.

19 Q. Thank you Ms. Shelton. Shifting
20 gears again, the defendants argue that political
21 party rather than race is responsible for voting
22 patterns in Louisiana. In your experience as
23 president and CEO of power coalition do you find
24 that black voters vote for Democrats just because
25 they are Democrats?

1 A. No I think that vote for -- I mean I
2 think they vote for who is going to care about
3 theirselves interest does that happen to be
4 /TKPHREBGs most most of the time more than likely
5 however I think it is also true that I don't
6 think the black community is /*EFRBed well by
7 either side.

8 Q. Thank you Ms. Shelton just one more
9 topic why is it important to power coalitions
10 constituent to be an additional black majority
11 district?

12 A. Because again I think that one of
13 the things that was so beautiful when we started
14 the redistricting journey as /APBZ /O*RZ an
15 trying to engage people very dense content it's
16 not like anything that we have been talking about
17 easy to understand and multiple /TK-FRPZs and so
18 to be able to engage that many people in the
19 process to have them show up at the capital every
20 day and have them feel engaged and only powered
21 and this was right the way that again there was
22 several different ways that they could have
23 gotten a second district and then to have the
24 legislature tell them no at every turn from the
25 road show to the redistricting special session to

1 the veto override and so the power coalition this
2 is about voice and power and you know about black
3 people being able to have -- to be elect
4 candidates of choice and by packing us all into
5 one district we basically minimize the ability of
6 black voters to elect candidates of choice.

7 Q. Thank you Ms. Shelton no further
8 questions?

9 THE COURT:

10 I have two just before cross if you
11 don't mind ma'am. One is you mentioned
12 the precinct consolidation in New Orleans
13 east. You said it moved a few miles but
14 across a dangerous highway can you tell me
15 what highway that was.

16 A. I'm pretty sure it was -- it's I- 10
17 I think it's still I- 10.

18 THE COURT:

19 It's I- 10.

20 THE WITNESS:

21 Yeah.

22 THE COURT:

23 You said highway and I didn't know
24 internist highway my other question was
25 you said two messages came through in

1 these road shows from various people that
2 power coalition encouraged to participate
3 in the political process. You didn't say
4 what those two messages were.

5 A. Oh sorry that they want add fair and
6 equitable redistricting process and that they
7 wanted a secretary majority maritime district to
8 honor the change in population and shift in
9 population.

10 THE COURT:

11 Okay. Thanks that may have provoked
12 additional questions which I'm certainly
13 going to allow counsel to have. Cross?
14 Jeff Jeff thank you. Your Honor hi Ms.
15 Shelton my name a Jeffrey /WAEL attorney
16 for the state and I'll be asking you a few
17 questions this afternoon.

18 A. My.

19 Q. How long has the power of /KAOLGDZ
20 just?

21 A. Yes.

22 Q. And called power coalition?

23 A. Yes.

24 Q. Everybody refer to it as power
25 coalition how long has power coalition existed in

1 the state?

2 A. Gosh since so about 2015.

3 Q. 2015 okay?

4 A. And I think there's a little bit of
5 gray because we did spin out of another nonprofit
6 organization onto our own and so and so and also
7 too we are physically sponsored by another
8 nonprofit and so again probably within the you
9 know Secretary of State's registry that date
10 might be different.

11 Q. What are that what is that nonprofit
12 that you-all split from?

13 A. It's called one voice.

14 Q. One voice?

15 A. Uh-huh (affirmatively).

16 Q. And what's the nonprofit that you
17 are financially sponsored by?

18 A. Public Alice Washington eyes.

19 Q. Public Alice Washington eyes /AUPBZ
20 so from that is a that the sole source of
21 your funding or you have other contributors and
22 donors and things of that nature?

23 A. No they are our individual sponsor
24 and so we raise other funds from.

25 Q. Do you /STHRO your to your don't

1 ignores?

2 A. It is released within public Alice
3 Washington eyes within their 990 and I mean they
4 have to still report our our grants and our
5 information because we are a fiscally responsible
6 project.

7 Q. Okay. And in I've been looking at
8 you website on so I know you partner south of
9 your organization what are some /THOERZ organize
10 /-Z you partner with?

11 A. Yes power of coalition /E serve
12 people in and to address policy add /SRAS issues
13 you have to work with directly impacted people so
14 voice of experience holds they all have specific
15 content area expertise so vote works around
16 criminal justice the Louisiana housing alliance
17 around housing the I'm trying to think go around
18 the table basically that works within the
19 Vietnamese community in New Orleans east and so
20 again it's a broad spectrum of groups that has
21 specific area content expertise.

22 Q. And Louisiana budget project?

23 A. Yes yes and Louisiana partnership
24 for children and families as well as Louisiana
25 policy institute. And women with a vision so yes

1 there are several -- several different groups and
2 the /PWEUPBLT project although not a base
3 building group does provide found Alice
4 Washington expertise on budget and
5 ^ testimony ^ fiscal issues that impact poverty
6 stricken communities across Louisiana.

7 Q. So in paragraph 15 of your
8 declaration that you made in this case you state
9 /TH-T your member board are directly impacted by
10 vote delusion and so my question for are
11 organization organizations do organizations have
12 a right to vote?

13 A. Organization /-GZ do not have a
14 right to vote I think what we are specifically
15 talking about is that these organizations
16 represent a base which means that they have a
17 membership and so, for example, vote has several
18 hundred members in New Orleans they have about a
19 hundred members here in Baton Rouge they have got
20 members in Shreveport and all over the state and
21 so again it's not the individual organization it
22 is the people /TH-T they represent and the people
23 that they work with.

24 Q. So you had testified that you were
25 engaged in the redistricting process and power

1 coalition was engaged in the redistricting
2 process?

3 A. In the most recent.

4 A. Yes.

5 Q. Redistricting session correct?

6 A. Right.

7 Q. And so at the road show understand
8 an at the capital every member of the power
9 coalition who attended could turn in a card in
10 support or opposition to any bill proposed,
11 correct?

12 A. Correct.

13 Q. And everyone had the opportunity to
14 provide public comment at those events?

15 A. Most of the time I mean there were a
16 lot of people some days and so we couldn't they
17 had to break and we couldn't get to everybody
18 especially on the first day, but for the most
19 part.

20 Q. Okay. And does the power coalition
21 typically engage in the legislative process?

22 A. We do.

23 Q. On many different issues?

24 A. Yes.

25 Q. And as far as legislative activity

1 would that include encouraging the governor to
2 vet veto bills than you were in opposition to?

3 A. Yes I mean it's add /SRAS you have
4 the power we are the power coalition so we look
5 for the path that will get people what they
6 deserve and what they need.

7 Q. And in the future you would continue
8 to fight for laws or bills that you support or
9 oppose either support or oppose at the
10 legislature correct?

11 A. Restate.

12 Q. So in the future let me restate
13 that. If this enact -- the enacted map goes
14 forward the enacted map is allowed you'll
15 continue to fight for issues that the power
16 coalition cares about, correct?

17 A. We will and I think the difference
18 though that's very important that I want to
19 continue to make is that am I working to you know
20 move people that are excited and feel like they
21 are living in a state that's listening to them
22 and giving them equal voice or are they living or
23 are they actually living in a state that like
24 does not do that so it's one about moving
25 disenfranchised folks which is the work we have

1 done for years so it undermines and forces us to
2 have to do double work because we have got to
3 reconnect to their agency as a voter.

4 Q. So for the -- the past decade you've
5 had the previous congressional map that only had
6 one majority maritime district correct?

7 A. Correct.

8 Q. And the power coalition was able to
9 encourage individuals to register to vote under
10 that map?

11 A. Yes.

12 Q. All right. And you had attempted as
13 you had stated early you reached out and did text
14 messages phone calls encouraging both
15 registration and turn out, correct?

16 A. Uh-huh (affirmatively).

17 Q. And all right and you had said
18 something earlier about candidates of choice.
19 Are so the power coalition members does have
20 candidates of choice?

21 A. I mean, the members that live in
22 District two.

23 Q. All right. And District two they
24 do?

25 A. I mean in this yes that's a

1 /PHAEURPBLGT African-American district
2 congressional District two but I currently live
3 in congressional district six and I do not have
4 the opportunity to pick a candidate of choice.

5 Q. So you don't have an opportunity to
6 elect a candidate of choice in district six
7 that's your testimony?

8 A. Yes.

9 Q. And is your candidate of choice is
10 that limited to any particular political party
11 stated across way can your candidate of choice
12 with be a conservative Republican?

13 A. My candidate anybody that is going
14 to center the issues I care about I have a black
15 mother I have a beautiful goofy son that's
16 64200 pounds his voting record does not vote for
17 anything that care about including the
18 infrastructure that just passed he voted against
19 that and our city is our state is come /PWHREUPBG
20 in terms of infrastructure. And so even when it
21 made sense he voted against it.

22 Q. But you would say a candidate of
23 choice could be conservative and could be
24 Republican?

25 A. Yes.

1 Q. And they could be white?

2 A. I mean it's not been my experience
3 to date but I mean I guess it's possible.

4 Q. And just are one more question on
5 for you on December 14th you wrote a letter
6 stating we conducted an analysis of recompiled
7 election result understand a /E are majority
8 districts in the coalition maps CD2 and CD5 was
9 re /HRAOE lie performed by a candidate to perform
10 by black voters to prevail do you recall this
11 letter?

12 A. Yes I don't -- I mean if you want to
13 put it up.

14 Q. Yeah we can. It's Exhibit 9 if that
15 helps at all my question is you mentioned
16 analysis in there on page 2 of why was this
17 /APBLGS never provided to the legislature?

18 A. So as we sat up in committee day
19 after day throughout the redistricting process
20 you know representative John self self you know
21 asked that question and I think that part of what
22 even in that space you know like I think it is
23 the work is there right like maps were drawn by a
24 nationally recognized demography whom this court
25 has had the opportunity to talk to /E it's like

1 at the end of the day like why did we have to do
2 the state's work for them I mean at the end of
3 the day we were able to show what was necessary
4 for the record and what was necessary for them to
5 make a decision about whether or not you know,
6 whether or not these seven maps that met all of
7 the traditional redistricting principles that
8 showed a second majority minority district all of
9 those things were met and so.

10 Q. But you didn't feel the need to show
11 that to the legislature?

12 A. Again, I mean, we worked with lots
13 of partners and so I don't want to -- you know I
14 mean it wasn't my decision but I do think that at
15 the end of the day I do agree it's not our job to
16 to do every single part I mean like we have done
17 every single part of this process for the state
18 to fight for African-American communities to have
19 voice and the idea that like I got to also show
20 you my math and show you my homework even though
21 I do in the sense that there were seven maps
22 submitted with that letter that show that it's
23 possible for African-American for a second
24 majority maritime district to honor the
25 /TKPWROEDZ in black population which is the

1 purpose of redistricting which is to honor
2 changes in population.

3 Q. You said the court had heard from
4 that demography who drew that for you which one
5 was that?

6 A. Well, I mean one of the two that's
7 -- but either one of the two that spoke today I
8 want to say it was Tony Fairfax but I -- but one
9 of the two that were here today well yesterday.

10 Q. And just short just some couple more
11 really questions how long have you lived in
12 Baton Rouge /-FPL all my life I'm 46?

13 Q. All your life?

14 A. I'm 46.

15 Q. So /KWHURP here when kin holding was
16 elected?

17 A. Yes.

18 Q. And Sharon broom was elected
19 obviously?

20 A. Yes.

21 Q. And they were elected parish wide
22 correct?

23 A. Yes.

24 Q. And was kin holding elected when
25 East Baton Rouge Parish was a majority white?

1 A. I'm not sure.

2 Q. Okay. Thank you very much. That's
3 all the questions I have.

4 THE COURT:

5 Any redirect /SA*F /SAF no
6 Your Honor.

7 THE COURT:

8 All right you are free for go thank
9 you for your helping. It's almost 540 we
10 will reconvene at 930 but before that can
11 you give the court a sense of whereabouts
12 you are it's looking like that you are
13 going to make be able to close this thing
14 out on Friday? I have I haven't counted
15 heads so I don't have a sense in my mind
16 how many how many -- how many witnesses we
17 are into your witness lists.

18 MS. KHANNA:

19 I believe we will be fine to close
20 out on Friday Your Honor tomorrow the
21 plaintiffs will have I would say no more
22 than one to two relatively shortnesses and
23 I imagine the defendants will being able
24 to put on their case in chief in the
25 morning.

1 THE COURT:

2 The plan tomorrow is we will convene
3 at 930. Yeah that's correct. We will be
4 able to convene at 930. We will break
5 early tomorrow there's a court wide
6 function that I'm really -- really need to
7 go to. But I'll play it by ear I can go
8 late I mean my goal would be to break
9 around 330 but if we are in a spot where
10 we need to go until four or a little after
11 four we can -- we can do that okay but we
12 do need to plan to break a few minutes
13 early tomorrow. All right. Rest well.
14 See you in the morning at 9:30 a.m.

15 * * *

16

17

18

19

20

21

22

23

24

25

EXHIBIT 3

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

3

4 PRESS ROBINSON, et al, CASE NO.
5 Plaintiffs, 3:22-cv-00211-SDD-SDJ
6 v

7 KYLE ARDOIN, in his
8 official capacity as c/w
9 Secretary of State for
10 Louisiana,
11 Defendant.

12
13 EDWARD GALMON, SR., et
14 al, CASE NO.
15 Plaintiffs, 3:22-cv-00214-SDD-SDJ
16 v

17 R. KYLE ARDOIN, in his
18 official capacity as
19 Louisiana Secretary of
20 State,
21 Defendant.

22

23 PROCEEDINGS

24 INJUNCTION HEARING

25 Held on Monday, May 11, 2022

Before The

HONORABLE SHELLY DICK

Judge Presiding

Baton Rouge, Louisiana

26

27 REPORTED BY:CHERIE' E. WHITE
28 CCR (LA), CSR (TX), CSR (MS), RPR
29 CERTIFIED COURT REPORTER

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4

5 ABHA KHANNA, ESQUIRE

6 JONATHAN P. HAWLEY, ESQUIRE

7 LALITHA D. MADDURI, ESQUIRE

8 OLIVIA N. SEDWICK, ESQUIRE

9 JACOB D. SHELLY, ESQUIRE

10 SAMANTHA OSAKI, ESQUIRE

11 SARAH BRANNON, ESQUIRE

12 JOHN ADCOCK, ESQUIRE

13 STUART NAIFEH, ESQUIRE

14 KATHRYN SADASIVAN, ESQUIRE

15 VICTORIA WENGER, ESQUIRE

16 SARA ROHANI, ESQUIRE

17 JONATHAN H. HURWITZ, ESQUIRE

18 AMITAV CHAKRABORTY, ESQUIRE

19 ADAM P. SAVITT, ESQUIRE

20 DARREL J. PAPILLION, ESQUIRE

21 JENNIFER WISE MOROUX, ESQUIRE

22

23

24

25

1 Representing the Defendant:

2 PHILLIP J. STRACH, ESQUIRE

3 THOMAS A. FARR, ESQUIRE

4 ALYSSA M. RIGGINS, ESQUIRE

5 JOHN C. WALSH, ESQUIRE

6

7 Representing the Legislative Intervenors, Clay

8 Schexnayder, in his Official Capacity as Speaker

9 of the Louisiana House of Representatives, and of

10 Patrick Page Cortez, in his Official Capacity as

11 President of the Louisiana Senate:

12 MICHAEL W. MENGIS, ESQUIRE

13 PATRICK. T. LEWIS, ESQUIRE

14 KATHERINE L. MCKNIGHT, ESQUIRE

15 E. MARK BRADEN, ESQUIRE

16 ERIKA DACKIN PROUTY, ESQUIRE

17

18 Representing the Defendant/Intervenor, State of

19 Louisiana, through Jeff Landry in his Official

20 Capacity as Attorney General:

21 ANGELIQUE DUHON FREEL, ESQUIRE

22 CAREY TOM JONES, ESQUIRE

23 JEFFERY M. WALE, ESQUIRE

24 JASON B. TORCHINSKY, ESQUIRE

25 PHILLIP M. GORDON, ESQUIRE

1	I N D E X	
2	Plaintiffs' Witness:	PAGE
3	MATTHEW BLOCK	
4	Direct Examination by Mr. Hawley	16
5	Cross-Examination by Ms. Freel	27
6	Redirect Examination by Mr. Hawley	44
7		
8	Defendants' Witnesses:	
9	THOMAS BRYAN	
10	Direct Examination by Mr. Gordon	52
11	Cross-Examination by Ms. Khanna	101
12	Redirect Examination by Mr. Gordon	154
13		
14	TUMULESH K.S. SOLANKY, Ph.D	
15	Direct Examination by Ms. Riggins	164
16	Cross-Examination by Mr. Hurwitz	207
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 EXHIBIT INDEX

2 Plaintiffs' Exhibits:

3

4

5 Defendants' Exhibits:

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 THE COURT:

3 Okay. Good morning. Be seated.

4 Okay. As a matter of housekeeping, we
5 learned that one -- one of the lawyers who
6 was a witness yesterday tested positive
7 for COVID last night. The same rules
8 apply. The court's general order is that
9 you may wear a mask if you chose. You
10 must wear a mask if you are not
11 vaccinated. If you are unvaccinated and
12 you are not wearing a mask, you are in
13 violation of this court's general order.

14 Don't let the fact that I'm wearing
15 a mask dictate what you think you should
16 do. If you need to be wearing one to
17 protect your own personal health and
18 safety, I'm wearing a mask out of, you
19 know, caution. I am fully vaccinated, so
20 there we have it. Next witness?

21 MR. NAIFEH:

22 Your Honor, may I raise one issue
23 this morning?

24 THE COURT:

25 I'm sorry. I didn't hear you.

1 MR. NAIFEH:

2 This is Stuart Naifeh for the
3 Robinson plaintiffs. May I raise one
4 issue?

5 THE COURT:

6 You may, but will you come to the
7 podium where I --

8 MR. NAIFEH:

9 Yes.

10 THE COURT:

11 Just I need to be able to hear you.

12 MR. NAIFEH:

13 Your Honor, some of our co-counsel
14 have concerns about COVID exposure and
15 requested that they may be able to appear
16 as Zoom attendees remotely, if possible?

17 THE COURT:

18 Is there any objection to that?

19 MR. WALSH:

20 Not from the defendants, Your Honor.

21 THE COURT:

22 No objection from the defendants.

23 So let me understand. Your lawyers are
24 going to be remote on videoconference and
25 your witness is going to be in the

1 courtroom?

2 MR. NAIFEH:

3 Well, this would be for
4 cross-examination, but yes. Well, I think
5 some of the witnesses may be remote also.

6 MS. FREEL:

7 Your Honor, I'm just being honest --

8 THE COURT:

9 Ms. Freel, you want to introduce
10 yourself?

11 MS. FREEL:

12 Yes. This is Angelique Freel with
13 the defendant, Louisiana, State of
14 Louisiana. There have been a lot of
15 attorneys that have just appeared for the
16 first time yesterday, so it's not even
17 clear as to who is in this room. It's
18 actually not clear who is a plaintiff's
19 lawyer and who is an audience member. And
20 if we can at least know who those people
21 would be that may be questioning witnesses
22 remotely, I would appreciate that
23 consideration.

24 THE COURT:

25 Okay. Who wants -- who wants to

1 attend remotely? Because I'm not aware.

2 MR. NAIFEH:

3 John Adcock is the attorney who has
4 requested that on our team.

5 THE COURT:

6 Okay. Granted. Anybody else?

7 MR. NAIFEH:

8 Not that I'm aware of at this time.

9 THE COURT:

10 All right.

11 MR. NAIFEH:

12 Thank you, Your Honor.

13 THE COURT:

14 There is somebody in the waiting
15 room, Aaron Day.

16 MS. FREEL:

17 She is not an attorney in this case.

18 She is an attorney for the state. I guess

19 she just wants to observe, so if that's

20 not allowed --

21 THE COURT:

22 Ms. Freel, I can't hear you.

23 MS. FREEL:

24 She's not an enrolled attorney with

25 the -- in the case. She is an attorney

1 for the case. I assume she believes that
2 she can observe. I'm familiar with the
3 name. That's all. If she's not, I can
4 let her know.

5 THE COURT:

6 I mean, it's a public hearing, but
7 without permission of the court, I mean,
8 what's -- what's her reason for being on
9 -- on a video call?

10 MS. FREEL:

11 Well, probably to hear the testimony
12 of the first witnesses the plaintiffs are
13 calling.

14 THE DEPUTY:

15 We have it on audio. It's on audio.

16 MS. FREEL:

17 I don't know. I do not know. I
18 don't know. You just asked if anyone
19 knows the name, and I'm just letting you
20 know I am familiar with the name.

21 THE DEPUTY:

22 We can provide the phone, the
23 call-in number and the -- the access code
24 for anyone who wants to participate to
25 hear it on audio that wants to hear it.

1 MS. FREEL:

2 It's not necessary.

3 THE COURT:

4 Okay. So, for the record, the court
5 has offered to provide the -- the attorney
6 for the state who is unenrolled who has
7 requested apparently or is in the waiting
8 room and thus waiting admission via
9 videoconference, the court will not grant
10 videoconference admission to unenrolled
11 counsel.

12 The state has advised by the court
13 deputy that any -- there could be any
14 observer in this matter including
15 unenrolled counsel. They can either come
16 to court, they can come to the overflow
17 room, or they can participate and listen
18 -- not participate. They can listen by
19 audio.

20 With those provisions having been
21 made available to them in public, we will
22 not allow participation by video -- the
23 court will not allow participation by
24 videoconference.

25 Okay. Are there any -- oh, let me

1 say one other thing. If you have a
2 witness -- I'm sorry, Ms. Khanna. If you
3 have a witness who prefers to remain
4 masked, when they take the witness stand,
5 we can provide them with a shield when
6 they testify, with a shield -- testify
7 with a shield, so we can see their face
8 and then, upon leaving the witness stand,
9 they can resume with the mask. That's
10 kind of our standard protocol. Thank you,
11 Ms. Khanna.

12 MS. KHANNA:

13 Thank you, Your Honor. I just
14 wanted to provide the time clock.

15 THE COURT:

16 Yes. Thank you.

17 MS. KHANNA:

18 I believe we have all agreed that
19 the plaintiffs have taken up 383 minutes
20 and the defendants have taken up
21 254 minutes as of close of business
22 yesterday.

23 THE COURT:

24 All right. Thank you.

25 MS. KHANNA:

1 Thank you.

2 THE COURT:

3 All right. Any other housekeeping
4 matters? Okay. Next witness?

5 MR. HAWLEY:

6 Good morning, Your Honor. Jonathan
7 Hawley for the Glamon plaintiffs.
8 Plaintiffs call for Mr. Matthew Block.

9 MS. FREEL:

10 Your Honor, this is Angelique Freel
11 for the defendant intervenor for the State
12 of Louisiana. I'd like to enter an
13 objection on the record.

14 Your Honor indicated parties were to
15 follow a witness list on Friday, April
16 29th, so that there would be time to do
17 depositions, if desired. Mr. Block was
18 not on the witness list and, in fact, he
19 wasn't added until around midnight after
20 this case already started trial on
21 May 9th, 2022.

22 In addition, he's listed as a
23 witness to testify regarding election
24 administration. Because he was not listed
25 timely, we are not allowed to do any

1 discovery, it's not clear as to how that's
2 even possible because we have a separately
3 elected constitutional officer in
4 Louisiana that, pursuant to Louisiana
5 Constitution Article 4, Section 7,
6 specifically is charged with administering
7 the election laws, so I just want to put
8 that objection on the record.

9 THE COURT:

10 Mr. Hawley, do you want to address
11 the objection?

12 MR. HAWLEY:

13 Yes. When the Galmon plaintiffs
14 filed our initial witness -- witness list
15 at the deadline, we indicated -- we
16 included the possibility that we might
17 include a to-be-determined election
18 administration witness.

19 Given the speed of the proceedings,
20 we wanted to ensure that we let the other
21 side know that we might have such a
22 witness. As soon as we confirmed
23 Mr. Block's participation in these
24 proceedings, we updated the witness list
25 accordingly. On throughout these

1 proceedings, the way things have been
2 moving, the witness and exhibit lists have
3 been amended and we have been sort of
4 going under that, but we made sure that we
5 left this possibility open and that we
6 informed defendants as soon as we could
7 once we knew Mr. Block would be
8 testifying.

9 As to his qualifications, I'm
10 confident that is something that can come
11 out on cross, so -- but as we believe
12 Mr. Block is qualified to testify in this
13 case, we disclosed his participation as
14 soon as we could and would like to move
15 forward with his testimony.

16 THE COURT:

17 All right. The objection is noted
18 and overruled. Mr. Block, you may come
19 forward.

20 MATTHEW BLOCK,
21 after having first been duly sworn by the
22 above-mentioned Court Reporter did testify as
23 follows:

24 THE COURT:

25 Okay. Two people came in after the

1 court -- I'm sorry, Mr. Hawley. Just give
2 me a minute. Two people came in after the
3 court discovered the current COVID
4 situation that wasn't part of the court's
5 business and was noted in the courtroom
6 yesterday.

7 If you came in after I made my
8 announcement, if you wish to wear a mask
9 with that -- with that disclosure, please
10 feel free to do so as you shall so chose
11 -- you so shall chose or as you feel best
12 protected for your health and safety.

13 And, Mr. Block, if you want to wear
14 a shield, we will provide one for you.
15 It's your call.

16 THE WITNESS:

17 I'm okay, Your Honor.

18 THE COURT:

19 All right.

20 EXAMINATION BY MR. HAWLEY:

21 Q. Good morning, Mr. Block.

22 A. Good morning.

23 Q. Could you please state your full
24 name for the record?

25 A. Sure. My name is Matthew Block.

1 Q. And what is your current position?

2 A. I am Governor Edwards' executive
3 counsel.

4 Q. And how long have you been the
5 governor's executive counsel?

6 A. I've been his -- his executive
7 counsel the entirety of the time that he has been
8 officed -- in office. I believe that's since
9 January 11th, 2016.

10 Q. And could you just generally
11 describe some of your responsibilities?

12 A. Sure. I'm his executive counsel.
13 I'm his chief legal counsel which, amongst other
14 things, involves issues with the legislature and
15 it's a -- it's a pretty broad portfolio of -- of
16 issues that -- that I -- I cover with -- with the
17 governor there. We have a fairly small team and
18 we don't have particularly defined roles, so
19 whatever the governor needs me to do is what I'm
20 -- I'm going to do.

21 Q. And have those activities involved
22 Louisiana's elections?

23 A. So in -- in a couple of different
24 ways. The -- the governor is the -- the officer
25 who calls special elections in the state, so at

1 least outside of the -- outside of legislative
2 elections, so those are all issues that come --
3 come across my desk and the governor calls
4 special elections from mayors to judges and --
5 and everything in between.

6 In -- in addition, we have had a lot
7 of work with the Secretary of State's office on
8 -- on issuing special election plans that have
9 come about as a result of emergencies or natural
10 disasters, and so that's something that we have
11 worked closely with the Secretary of State
12 because the Secretary of State has a role in that
13 as does the governor. It's ultimately the
14 governor's order that implements a -- a movement
15 of election dates or qualifying dates, whatever
16 it may be.

17 Q. And can you give some examples of
18 when elections, election dates, election
19 deadlines, have been moved in those sorts of
20 circumstances?

21 A. Sure. So by my recollection, it's
22 somewhere around -- there -- there are two
23 different procedures. There -- there's a
24 procedure that involves just the Secretary of
25 State and the governor and then there's a -- a

1 procedure which I know this court is very
2 familiar with that -- that involves a -- an
3 action taken by the legislature as well to
4 approve an emergency election plan that alters
5 voting -- voting regulations, etc. But for --
6 for the movement of dates or polling locations or
7 qualifying dates, that I believe that's -- that's
8 been done nine times since we have been in
9 office, the most recent being just last year
10 after Hurricane Ida.

11 Obviously there was widespread
12 devastation throughout the southeast Louisiana
13 and so the Secretary of State and the governor
14 worked together on moving the -- the October,
15 November elections to November, December of last
16 year; and so that requires a -- the secretary to
17 issue an emergency declaration. That emergency
18 declaration is then ratified by executive order
19 by the governor and the governor then, per his
20 order, moves the election dates. And so that was
21 done last year, again, moving the election dates
22 from October, November to November, December.

23 Q. You specifically mentioned that
24 alterations to polling places, moving some
25 deadlines; and can you give examples of other

1 election details that have been changed in
2 response to -- to disasters and other
3 emergencies?

4 A. So almost anything involving the
5 election then has to -- the dates have to be
6 moved. Qualifying dates can -- can be moved via
7 the same order, but the early voting dates can --
8 obviously by necessity need to be moved when the
9 -- when the election date is moved; and so there
10 -- I mean, for example, there have been times
11 where we have had to curtail early voting dates
12 because of certain issues we have -- we've had to
13 move early voting locations, all of which, again,
14 have been done in cooperation with the Secretary
15 of State's office and -- and through those two
16 separate orders done.

17 Q. So you mentioned that even election
18 dates have been changed in the past?

19 A. That's right. I mean, it's -- it's
20 been done on -- unfortunately, we've -- we have
21 had a lot of experience with this in the last two
22 years. And for in '20, the original April, May
23 elections of the spring of '20 were moved twice.
24 They were moved from -- from -- from April and
25 May to June and July and then from June and July

1 to July and August, so those were -- were
2 obviously done as a result of the -- the raging
3 COVID outbreak that we had in -- in the spring
4 and the early summer of '20. And then, as I
5 said, in just last year, we moved the election
6 dates for Hurricane Ida.

7 Q. So if election dates have been
8 changed, then certainly the pre-election deadline
9 could have been changed as well?

10 A. That's correct. It's a -- when the
11 Secretary of State issues his emergency
12 declaration, the way this has been done in
13 practice at least is that the secretary issues a
14 written emergency certification that has a
15 request for a number of different items to be
16 moved normally in correlation to the exact dates
17 that they would have otherwise been, but just the
18 dates have been backed up and so then the
19 governor's order essentially mirrors the
20 Secretary of State's request. At least in -- in
21 all of these -- in using this procedure, I can't
22 remember a time where -- where there wasn't an
23 agreement between the governor and the Secretary
24 of State.

25 Obviously, there -- there was a

1 disagreement in -- in using the other procedure
2 for the -- for the fall '20 elections, but that
3 was done through the different procedure that
4 involve the legislature to actually approve of a
5 voting plan.

6 Q. And, in some cases, have these
7 changes been close in time to elections?

8 A. They have, and usually because we
9 are having to respond to some event that has
10 happened that is going to cause a -- a need for a
11 delay. So I believe that the -- the order for
12 the Ida elections happened in early September, at
13 least I think that hurricane came -- came and hit
14 on the 29th of August, so in the immediate
15 aftermath, we knew there was going to be an issue
16 and those elections were scheduled for October,
17 and -- and so we -- we needed to give a --
18 respond pretty quickly. So, you know, all of
19 these are done within a month or two of -- of the
20 election. It's not normally something we can
21 plan months and months in advance for.

22 Q. So in the past when deadlines have
23 been altered when other election details have
24 been changed, were -- was the state still able to
25 successfully administer these elections?

1 A. I believe so. I mean, the --
2 obviously, it's -- it's a huge challenge, but
3 it's something that -- that we have a lot of
4 experience with. And I say "we have a lot of
5 experience with." The secretary has a lot of
6 experience with, that the local election
7 officials have a lot of experience with pulling
8 these off. It's not -- not easy, but I -- I
9 think for the most part that has been very
10 successful in -- in getting those changes made
11 and administered.

12 Q. The Secretary of State's office was
13 able to implement those elections?

14 A. I've heard nothing to -- to be able
15 to speak to that.

16 Q. And the Secretary of State's office
17 was actually able to -- to inform voters of any
18 changes?

19 A. I think that's correct, yes. I
20 mean, I can't assure you that every single voter
21 was -- was notified in the way they should, but I
22 believe globally and generally and -- and that
23 voters were given the information they need.

24 Q. And Louisianians had the ability to
25 cast their ballots?

1 A. Yes.

2 Q. Did electoral chaos ensue?

3 A. Not that I'm aware of, no.

4 Q. Is it fair to say that the State of
5 Louisiana has an election system that is able to
6 adjust when things change?

7 A. Yes.

8 Q. Mr. Block, is the legislature
9 currently in session?

10 A. They are currently meeting as we
11 speak.

12 Q. Until when?

13 A. June 6th at 6:00 p.m.

14 Q. If required by this court to draw a
15 remedial map, could the legislature do so during
16 its session in the next three and a half weeks?

17 A. Yes. They -- they -- they are
18 constitutionally authorized to do so and -- and
19 there would be a time to do so. There's even a
20 -- a bill that was -- was filed previous to the
21 session beginning that by the chairman of the --
22 the house and governmental committee that's
23 regarding redistricting of congressional maps.

24 MS. FREEL:

25 I'm going to object to this line of

1 questioning. He's an attorney. He's
2 evaluating allegations in this case. He's
3 essentially applying what he believes to
4 the correct framework, and I think that's
5 the appropriate job of the judge.

6 MR. HAWLEY:

7 Your Honor, Mr. Block is testifying
8 as the governor's legal counsel; and, as
9 he mentioned, he's had extensive
10 experience working with the legislature
11 and the other agencies of the state
12 government.

13 THE COURT:

14 Okay. The court considers the
15 testimony and the nature of an explanation
16 of the systems that are in place not legal
17 opinions in that regard. The objection's
18 overruled.

19 BY MR. HAWLEY:

20 Q. Mr. Block, if the legislature were
21 required to adopt a removal plan and did not
22 during the current session, could the governor
23 call an extraordinary session to accomplish that?

24 A. Either the governor or the
25 legislature itself could -- could call the

1 legislature into session for any reason that is
2 enumerated in the special session call.

3 MR. HAWLEY:

4 Thank you, Mr. Block. No further
5 questions.

6 THE COURT:

7 Cross?

8 MS. FREEL:

9 Angelique Freel here on behalf of
10 the defendant intervenor of the State of
11 Louisiana. Your Honor, I'm going to ask
12 permission to be a little liberal in cross
13 to the point that I was not allowed to
14 depose this witness and believe that he
15 does have information that is very
16 relevant to the -- the plaintiffs' claims
17 that are pending before the court.

18 THE COURT:

19 Okay. Well, I'm not -- I don't know
20 what you're asking for, so I'm not going
21 to grant anything right now. Let's see
22 how it goes. If they object, you can
23 respond to their objections.

24 MS. FREEL:

25 Thank you, Your Honor.

1 CROSS-EXAMINATION BY MS. FREEL:

2 Q. Good morning, Mr. Block.

3 A. Good morning.

4 Q. I'm sorry. When were you contacted
5 by the plaintiffs?

6 A. I believe it was sometime last week.
7 I mean, and -- and I -- I guess -- I'm not sure
8 if you're asking me about plaintiffs' counsel.
9 Is that what you're asking?

10 Q. Plaintiffs or plaintiffs' counsel,
11 either one. If you can just --

12 A. I don't believe I've had any
13 communications with the plaintiffs in this case
14 that I'm aware of. I'm not even sure who all the
15 plaintiffs in the case are. I can't tell you
16 that for sure and -- and there might be some
17 individual that I -- I was in contact with who I
18 just don't know as a plaintiff in the case; but
19 about my testimony here today, I was contacted
20 last week, I believe.

21 Q. Okay. And who was it that contacted
22 you?

23 A. Mr. Papillion.

24 Q. So since last week, you've had an
25 idea that you may be called as a witness for this

1 case?

2 A. I -- that's when the discussion
3 occurred about when potentially the need was for
4 me to -- to be a witness in the case.

5 Q. Okay. Mr. Block, you have never
6 served as an election commissioner; is that
7 right?

8 A. That's correct.

9 Q. And you've never served as an
10 election commissioner in charge, correct?

11 A. That's correct.

12 Q. You've never served on the parish
13 board of election supervisors; is that correct?

14 A. I have not.

15 Q. You have never served on the state
16 board of election supervisors?

17 A. I have not.

18 Q. You did serve on a local Democratic
19 party for Lafourche Parish --

20 A. That's correct.

21 Q. -- is that right? And the
22 Democratic State Control Committee; is that
23 right?

24 A. That's correct.

25 Q. And you've never worked for the

1 clerk of court; is that correct?

2 A. I worked for the clerk of court when
3 I was in high school in Lafourche Parish --

4 Q. Oh, okay.

5 A. -- but I -- I was not involved with
6 elections.

7 Q. Okay. And you have not been --
8 worked for a registrar's office during elections?

9 A. I have not.

10 Q. Okay. So the governor,
11 John Bel Edwards, he's a Democrat, correct?

12 A. He is.

13 Q. And we heard over several
14 plaintiffs' experts over the course of two days
15 that testified that Governor Edwards was a black
16 candidate choice. Do you agree with that?

17 A. I -- I mean, I don't know if that's
18 some -- some legal standard. I know what the --
19 what the polling showed and -- and what the
20 results showed, that -- that the governor was
21 overwhelmingly supported by -- by
22 African-American voters.

23 Q. And then, would you agree that
24 Governor Edwards makes an effort to be responsive
25 to any needs of the black community?

1 A. I -- I think that the governor
2 certainly does get along with trying to be
3 responsive to the entire community, not just one
4 community; but yes, I -- I agree. The answer's
5 yes to your question.

6 Q. And one of his first official
7 actions was to expand Medicaid to 420,000
8 citizens in Louisiana; is that correct?

9 A. That was done on -- on the second
10 day he was in office. I mean, it's -- it's a lot
11 more than 420,000 citizens at this point in time
12 right now.

13 Q. And many of those citizens are
14 black; is that right?

15 A. That is correct.

16 Q. And that was done around -- right
17 when he came into office in 2016, so --

18 A. That's right.

19 Q. -- roughly six years ago?

20 A. That's right. His first -- first
21 official act in office, I believe.

22 Q. And Governor Edwards is a big
23 proponent of -- of criminal justice reform, is he
24 not?

25 A. Yes, he is.

1 Q. And, in fact, he signed a bill in
2 2018 that restored voting rights to tens of
3 thousands of felons; is that correct?

4 A. I can't assure you that the number
5 of tens -- tens of thousands is correct, but --
6 but he did sign the bill you are referring to.

7 Q. And House Bill 265 in 2016?

8 A. Yeah. I believe that's the --
9 that's the voting rights bill you are referring
10 to. I just don't know if the number is -- is
11 correct. I've never seen a total.

12 Q. And that bill was passed even with a
13 GOP led house; is that right?

14 A. That's correct.

15 Q. And he's -- and Governor Edwards
16 supported the constitutional amendment that was
17 passed for all citizens of the human race by
18 requiring the unanimous jury verdict; is that
19 right, he supported that?

20 A. Yes, he did.

21 Q. Okay. And even though the governor
22 is a Democrat, he is moderate on some issues.
23 Would you agree with that?

24 A. I don't know what the term
25 "moderate" means. I mean, I -- I think that

1 would be a -- a general classification for that.

2 My -- my guess is that you and I
3 might have different meanings of what that word
4 might be, so I don't -- if you want to ask me a
5 specific position.

6 Q. Is Governor Edwards pro-life?

7 A. He is pro-life.

8 Q. And does he support the second
9 amendment right to bear arms?

10 A. He does.

11 Q. And Governor Edwards, was he in the
12 military, attended West Point; are those all
13 things that are important to him?

14 A. Yes, very much so.

15 Q. And in this time as governor, isn't
16 it true that the governor has appointed many
17 blacks to head his cabinets in high ranking
18 positions?

19 A. He has.

20 Q. And the head of the Department of
21 Health is a -- is a black female; is that
22 correct?

23 A. She is.

24 Q. And let me see. Her name is?

25 A. Dr. Courtney Phillips.

1 Q. And she administers the largest
2 budget in the state, which is 14 billion for an
3 agency; is that accurate?

4 A. I can't tell you if that exact
5 number is correct, but it's certainly the largest
6 budget unit in the state.

7 Q. And ultimately it falls within the
8 executive branch, correct?

9 A. Yes, it does.

10 MS. FREEL:

11 Hold on. I'm going to turn this
12 off. I'm sorry. I was going to refresh
13 your memory on this, but it's okay. I'm
14 not going to worry about it.

15 BY MS. FREEL:

16 Q. And then he also appointed a black
17 female to head the department of revenue,
18 Ms. Kimberly Robinson; is that correct?

19 A. Right. She is -- she is no longer
20 the secretary of revenue, but she was secretary
21 of revenue until early this year from 2016.

22 Q. And she left on her own accord to
23 take a -- a very high position with LSU; is that
24 accurate?

25 A. That is correct.

1 Q. And as the head of department of
2 revenue, part of her job was preparing the
3 state's budget; is that correct?

4 A. The -- the secretary -- like I -- I
5 said at the beginning, we -- we don't have -- the
6 governor does not have a lot of defined roles.
7 That -- technically, the commissioner of
8 administration is the one who prepares the -- the
9 state budget, but the secretary is with a lot of
10 other officials within the governor's cabinet who
11 have significant roles: Secretary, Robinson --
12 Secretary Lewis, excuse me, in -- in particular
13 had -- had a very large role as an advisor to the
14 governor, but technically it's the commissioner
15 of administration who prepares the governor's
16 budget.

17 Q. But you would agree that as
18 secretary Kimberly Robinson played an important
19 role in the State of Louisiana?

20 A. I -- I can't -- I can't say enough
21 of the -- the role that she played in the
22 governor's cabinet.

23 Q. And the governor appointed Colonel
24 Lamar Davis as the superintendent of Louisiana
25 State Police, and he's a black man; is that

1 correct?

2 A. Technically, that -- that
3 appointment is made by the secretary of
4 corrections, but it was certainly the governor's
5 choice that -- that Colonel Davis be appointed to
6 that position.

7 Q. And the governor appoints the head
8 of department of corrections?

9 A. That is correct, yes.

10 Q. And the governor appointed a black
11 female to head the Louisiana Workforce
12 Commission; is that correct?

13 A. That is correct.

14 Q. And that's Ava Cates, and she's the
15 wife of a -- a New Orleans judge; is that right?

16 A. That is correct.

17 Q. And you're aware that under the
18 governor's leadership, the Department of Health
19 has programs for African-American health; is that
20 correct?

21 A. That's right.

22 Q. And under Governor Edwards,
23 Department of Health has the Bureau of Minority
24 Health Access; is that correct?

25 A. I believe that's right.

1 Q. And the governor declared Juneteenth
2 as a holiday in -- in Louisiana; is that
3 accurate?

4 A. He did.

5 Q. Okay. And he created a task force
6 to track racial inequities in health care; is
7 that correct?

8 A. Absolutely.

9 Q. And that -- and that task force was
10 immediately assigned to make sure communities
11 with health disparities are blanketed with good
12 information on COVID-19 safety; is that accurate?

13 A. I believe that's one of the things
14 that that task force was charged with.

15 Q. And also, they were charged with
16 prevention of COVID, providing the medical
17 community best practices and protocols for
18 treating communities with underlying conditions
19 in health disparities. Would you agree with all
20 of that?

21 A. Yes.

22 Q. And ensuring that testing was
23 available and that there was ease of access for
24 all communities; is that accurate?

25 A. Yes. I mean, that wasn't -- that

1 task force was not the only one assigned with
2 that responsibility; but yes, it was one of the
3 many things that that task force was responsible
4 for.

5 Q. And COVID vaccines were offered free
6 of charge in general in Louisiana; is that
7 accurate?

8 A. That is correct.

9 Q. And the state had a lot of
10 initiative things to encourage people to get
11 vaccinated; is that correct?

12 A. That continues to this day.

13 Q. And COVID tests were free in
14 Louisiana; is that accurate?

15 A. That is true.

16 Q. And the Paxlovid anti-viral drug is
17 available for people with healthcare coverage and
18 -- and Medicaid and things of that nature for
19 free; is that right?

20 A. It is.

21 Q. Okay. And -- and, in fact, the
22 governor pushed for a regulation to add COVID-19
23 vaccines to the mandatory schedule of
24 vaccinations for -- for school children; is that
25 accurate?

1 A. Yes.

2 Q. And --

3 A. He did. I mean, it was -- I mean, I
4 know we are -- I don't want to seem like it, but
5 it's picky, but it was a rule passed by the
6 Department of Health that the governor strongly
7 supported.

8 Q. And -- and Louisiana is the only
9 state besides California that's done that?

10 A. I don't know if that's true or not.

11 Q. Okay. And the governor declared a
12 state of emergency for roughly two years for
13 COVID; is that accurate?

14 A. He did, yes, roughly two years.

15 Q. And New Orleans is a majority black
16 city; is that right?

17 A. I -- I can't tell you if I know the
18 exact numbers, but I -- I believe that to be the
19 case.

20 Q. And the mayor is a black female,
21 Latoya Cantrell; is that accurate?

22 A. That is correct.

23 Q. And Mayor Cantrell set her own --
24 set her own COVID restrictions which were even
25 more stringent than that of the states; is that

1 accurate?

2 A. At times were more stringent than
3 the state, yes.

4 Q. And you would agree that the -- the
5 governor has aligned himself with a black office
6 on a number of occasions while -- while he served
7 as governor; is that accurate?

8 A. I -- I guess so. I'm -- I mean,
9 certainly the governor's worked closely with the
10 black caucus on -- on a number of different
11 issues, so I guess that would mean he's aligned
12 himself with them, yes.

13 Q. Okay. And he partnered with the
14 black caucus to celebrate the -- the first black
15 Governor P.B.S. Pinchback that the -- in honor of
16 the retired supreme court justice Burnett
17 Johnson; is that correct?

18 A. That is correct.

19 Q. And he recently partnered with a
20 black caucus or -- or when they were upset with
21 regard to the congressional maps and he vetoed
22 House Bill 1 and Senate Bill 5; is that right?

23 A. He certainly did veto that bill, the
24 two bills.

25 Q. And then -- I'm sorry. I didn't

1 mean to cut you off. And the reason for vetoing
2 these bills he's stated on his veto statement on
3 March 9th; is that right? We've got it right
4 here.

5 A. I can't recall the exact date, but I
6 assume that's the right date, yes.

7 Q. But in his letter, the reasons for
8 the veto were there, correct?

9 A. Yes, correct.

10 Q. And, Mr. Block, you are familiar
11 with redistricting having worked, you know, with
12 the Democratic party and now with the -- the
13 governor, right?

14 A. I -- I never worked redistricting
15 before this -- this past session and the issues
16 here, so I -- I don't believe I ever had anything
17 to do with redistricting with the Democratic
18 party.

19 Q. But, you know over the years there's
20 been some lawsuits where I -- I talked to you
21 about the Terrebonne case when it was going on
22 here?

23 A. Yeah. Sure, sure. That was a
24 redistricting case, but it certainly -- I'm --
25 I'm very -- I mean, I was counsel for the

1 governor in that case.

2 Q. Right. I get that. But could you
3 -- you agree that incumbency is the factor that's
4 taken into consideration for redistricting?

5 A. Taken into and factored by --

6 Q. By --

7 A. By the legislators?

8 Q. By the legislature when they are
9 drawing?

10 A. Oh, certainly, yes.

11 Q. Okay. And when the legislature met
12 to override the governor's veto this session,
13 that was a GOP led House and Senate; is that
14 accurate?

15 A. Yes.

16 Q. And -- and when there was a
17 disagreement between the Secretary of State and
18 the governor with regard to that emergency
19 election plan for COVID, you would agree that one
20 of the biggest issues was partisan office
21 opposition to the -- the absentee mail ballot?

22 A. You mean that one of the biggest
23 issues with -- in why we couldn't get an election
24 plan to the governor approved?

25 Q. Yes.

1 A. I think that's right. I think
2 that's what the secretary indicated, and I
3 believe publicly that he -- he did not believe he
4 could get the plan that was used in July and
5 August, that -- that was approved by the
6 legislature. I -- I believe he said publicly
7 that he could not get that passed by the
8 legislature for the -- the November presidential
9 election.

10 Q. Because of the partisan opposition
11 expanding by mail, the absentee by mail?

12 A. I think there's some other reasons,
13 but that was certainly one of them, yes.

14 Q. And you talked briefly about the
15 governor's role with regard to the Secretary of
16 State and special elections and -- and so the --
17 the -- officially the Secretary of State issued a
18 -- a written emergency certification and that
19 triggers the governor's involvement; is that
20 right?

21 A. Right. That's right.

22 Q. And you don't disagree that the
23 Secretary of State administers elections pursuant
24 to the constitution, correct?

25 A. I certainly do not.

1 Q. And you -- you indicated that the
2 governor's order mirrors the Secretary of State's
3 request?

4 A. I -- I can't think of a time where
5 it did not mirror the secretary's request.

6 Q. And the Secretary of State contacts
7 the governor's office and you-all work through
8 these issues, correct?

9 A. That's right.

10 Q. And the Secretary of State does not
11 talk to you at all about the issues for the
12 congressional plan?

13 A. For the --

14 Q. With the -- if it were necessary to
15 move an election, the Secretary of State hasn't
16 come and talked to you about that, correct, the
17 new certification plan?

18 A. You mean about elections for the
19 upcoming elections for this fall?

20 Q. Correct.

21 A. No. That's correct.

22 MS. FREEL:

23 That's all the questions I have.

24 THE COURT:

25 Redirect?

1 MR. HAWLEY:

2 Thank you.

3 REDIRECT EXAMINATION BY MR. HAWLEY:

4 Q. Mr. Block, you and Ms. Freel just
5 discussed a number of the appointments of black
6 officeholders and black officials that Governor
7 Edwards has made and other things he has done on
8 behalf of the black community, correct?

9 A. I think -- I think that's a fair
10 characterization of what we discussed.

11 Q. Who was Governor Edwards'
12 predecessor in the governor's mansion?

13 A. Governor Bobby Jindal.

14 Q. Did Governor Jindal similarly
15 appoint black cabinet heads and other black
16 officials in his administration?

17 A. I -- I think he --

18 MS. FREEL:

19 Object on the grounds of hearsay.

20 There's no -- no foundation that he -- he
21 knows that. He was not part of that
22 administration.

23 THE COURT:

24 Your objection as to hearsay, your
25 objection is overruled.

1 THE WITNESS:

2 I would say that Governor Jindal did
3 appoint black officials. I'm not sure
4 that I can agree that he similarly
5 appointed black officials to -- to his
6 cabinet.

7 BY MR. HAWLEY:

8 Q. Did Governor Jindal or any of his
9 predecessors expand Medicaid as Governor Edwards
10 did?

11 A. No.

12 Q. Did Governor Jindal or any of his
13 predecessors make Juneteenth a holiday as
14 Governor Edwards did?

15 A. Not that I'm aware of.

16 Q. And is the governor the only
17 officeholder in office who deals with healthcare
18 and these other issues?

19 A. I mean, I'm not sure how to answer
20 that question. The Louisiana Department of
21 Health is an executive branch agency under the
22 governor's appointed power and authority, so, I
23 mean, it is Louisiana Department of Health that
24 is primarily responsible for that, but every
25 agency has some issues that they certainly --

1 over the last two years in particular, that they
2 have dealt with involving health issues.

3 Q. Would you agree that the state
4 legislature has a role to play in shaping health
5 policy and other issues that effect Louisianians?

6 A. Sure, of course.

7 Q. And the state's delegation to the
8 U.S. House of Representatives does the same?

9 A. Of course.

10 Q. Is it your view -- sorry. You
11 mentioned with Ms. Freel that black voters in
12 Louisiana tend to support Governor Edwards; is
13 that a fair assessment?

14 A. I mean, that has certainly been a --
15 a big part of his two elections to the -- be
16 governor.

17 Q. Is it your view that black
18 Louisianians support Governor Edwards because of
19 his party affiliation or because of all of the
20 initiatives and things that he has done for the
21 black community that you just discussed with
22 Ms. Freel?

23 A. I -- I don't know how -- how to
24 answer that question. I would -- I would think
25 it would be globally they support him because of

1 who he is, what he's done. I'm sure some of it
2 is because of his party affiliation as well. I
3 think it's probably a -- a number of factors.

4 Q. The governor vetoed HB-1, the
5 enacted congressional map, correct?

6 A. And as -- as well as the matching
7 Senate bill, correct.

8 Q. What was the stated reason the
9 governor gave for his veto?

10 A. I mean, it was a fairly lengthy veto
11 message that -- that the governor provided, but
12 essentially the governor believed that there
13 should be a second majority-minority
14 congressional district.

15 Q. Did the governor -- was the
16 governor's position that the new congressional
17 map violated the federal Voting Rights Act?

18 MS. FREEL:

19 Objection. That's leading.

20 THE COURT:

21 You want to rephrase that?

22 BY MR. HAWLEY:

23 Q. Did Governor Edwards give any legal
24 justifications for his veto in his message?

25 A. Yes. Amongst other things, he

1 indicated that he did think it violated Section 2
2 of the Voting Rights Act.

3 Q. And did he previously state his view
4 on what a fair congressional map would contain?

5 A. On multiple occasions, yes, he did.

6 Q. And what was that?

7 A. That he believed that Louisiana
8 should -- should have a second majority-minority
9 congressional district.

10 Q. And the legislature overrode the
11 governor's veto?

12 A. That is correct.

13 MR. HAWLEY:

14 Thank you. No further questions.

15 THE COURT:

16 Thank you, Mr. Block. You may step
17 down. Next witness?

18 MS. KHANNA:

19 Your Honor, the plaintiffs rest
20 their case in chief now.

21 I just wanted to clarify. Normally,
22 we would want to take the opportunity to
23 confirm that all the exhibits that we
24 moved in are, in fact, admitted, but we
25 are happy to do that during a break, if

1 that's easier, as long as the record can
2 stay open for that purpose.

3 THE COURT:

4 Yes. The court will leave the
5 record open, subject to the plaintiffs
6 conferring with the deputy pursuant to
7 those being admitted; and we can try and
8 work that out if there's some kind of
9 discrepancy.

10 MS. KHANNA:

11 Thank you, Your Honor.

12 THE COURT:

13 Defendants, call your first witness.

14 MR. GORDON:

15 Hello, Your Honor. Phil Gordon for
16 the State of Louisiana. Defense calls
17 Thomas Bryan, Thomas Bryan, B-R-Y-A-N.

18 THE COURT:

19 Mr. Gordon, do you represent the
20 Secretary of State or the state
21 intervenors?

22 MR. GORDON:

23 The state intervenor.

24 THE COURT:

25 Thank you.

1 THOMAS BRYAN,
2 after having first been duly sworn by the
3 above-mentioned Court Reporter did testify as
4 follows:

5 THE DEPUTY:

6 And would you state your name and
7 spell it for the record, please?

8 THE WITNESS:

9 Thank you. My name is Thomas Mark
10 Bryan, T-H-O-M-A-S, M-A-R-K, B-R-Y-A-N.

11 THE COURT:

12 You may be seated, sir.

13 THE WITNESS:

14 Thank you.

15 MR. GORDON:

16 Thank you, Mr. Bryan.

17 At this time, I'd like to seek a
18 specification as to the tender of
19 Mr. Bryan as to demographics,
20 redistricting and census data. Is there
21 an objection?

22 THE COURT:

23 Demographics, redistricting -- I
24 didn't hear the last word.

25 MR. GORDON:

1 And census data, Your Honor.

2 MS. KHANNA:

3 No objection, Your Honor.

4 THE COURT:

5 Mr. Bryan -- without objection,
6 Mr. Bryan is accepted by the court in
7 demographics, redistricting and census
8 data and may give opinion testimony in
9 those areas.

10 MR. GORDON:

11 Thank you, Your Honor. I ask to
12 move for admission of Mr. Bryan's report.
13 It is on page 102 through 119 of his --
14 his expert report, which is at
15 Document 108-1, if we could see that.

16 THE COURT:

17 Document 108-1. Any objection to
18 the CV?

19 MS. KHANNA:

20 No objection, Your Honor.

21 THE COURT:

22 Okay. The CV pages 108-1 and pages
23 102 through 119 is admitted.

24 MR. GORDON:

25 Thank you, Your Honor.

1 EXAMINATION BY MR. GORDON:

2 Q. Hello, Mr. Bryan?

3 A. Good morning.

4 Q. Thank you for being here today.

5 A. Thank you.

6 Q. So let's just go through some very
7 basic preliminary matters. Where are you
8 currently employed?

9 A. I currently own a company called
10 BGD, BryanGeoDemographics. That's based in
11 Richmond, Virginia, but the company works
12 nationally for redistricting cases all around the
13 United States.

14 Q. And you said you are the owner of
15 that company?

16 A. Yes. I am the president and owner.

17 Q. And do you hold -- do you hold any
18 advanced education?

19 A. Yes, I do. I've got a degree,
20 master's with urban studies with my studies in
21 demography and statistics, and I also have a
22 degree in management and information systems
23 technology from George Washington University.

24 Q. And where was that? I don't think I
25 heard. Where was the master degree and the urban

1 studies degree?

2 A. That was in Portland State
3 University in Portland, Oregon.

4 Q. Great. Now, we are calling Bryan
5 Demographics BGD, which I think is an easier
6 thing to say.

7 A. Yes.

8 Q. What other positions have you held?

9 A. I started my career in demography
10 when I was a graduate student working for Oregon
11 Data Center almost 30 years ago. After my
12 graduate studies, I went to work for the U.S.
13 Census Bureau from 1998 through 2001 in the area
14 of population estimates and projections and also
15 in the development of the American Community
16 Survey.

17 After I left the Census Bureau, I
18 went to work as a demographer for a software
19 company named E-S-R-I or Esri, who was the
20 company responsible for building and delivering
21 probably the largest geographic information
22 system software in the world.

23 Q. And what software do you use
24 typically in your work?

25 A. It's called ArcMap or sometimes

1 called Arc G-I-S in the community.

2 Q. And who develops that software?

3 A. Who developed the software?

4 Q. Who owns or publishes that software?

5 A. Yeah. It's a privately-owned

6 company by a gentlemen named Jack Dangermond.

7 His entire career and company is built around GIS

8 software.

9 Q. Okay. And so in total, how many

10 years have you worked in the field of

11 demographics using census data?

12 A. I studied demography and work

13 actively as I was a demographer for 30 years. I

14 have applied that in the field of redistricting

15 for 20 years.

16 Q. Okay. And so let's begin to talk

17 about any other cases you've testified in. Have

18 you testified previous to -- to this occasion?

19 A. Yes, I have.

20 Q. And where was that?

21 A. That was in the case, the Singleton

22 case in Alabama earlier this year.

23 Q. And -- and I think the procedure of

24 that case is a bit different, but both Singleton

25 and Caster, they were consolidated cases?

1 A. That's my understanding, yes.

2 Q. And what do you -- and if I refer to
3 the Alabama case, you'll know what I'm speaking
4 about?

5 A. I will, yes.

6 Q. Okay. Were you qualified as an
7 expert in the Alabama case?

8 A. Yes, I was.

9 Q. And how much weight did the court
10 end up giving your testimony in that case?

11 A. The court ended up giving what was
12 reported to be little weight to my testimony in
13 that case.

14 Q. All right. So let's talk about what
15 you did in Alabama just briefly.

16 What were some of the things you
17 analyzed in the -- the Alabama litigation?

18 A. Yes. I analyzed numerous things.
19 We analyzed communities of interest, core
20 retention, we did a compactness analysis and then
21 we ran the demographic characteristics in detail
22 of the state plan and other plans that were
23 presented during the case.

24 Q. So what of those things have you
25 done in this litigation?

1 A. Yeah. In this particular case, I
2 was asked to just simply focus on the
3 demographics. I did not do a community of
4 interest, core retention compactness or other
5 traditional redistricting principle assessment.

6 Q. And was Alabama the only other case
7 you testified in prior to today?

8 A. Yes.

9 Q. So this is your second rodeo?

10 A. Yeah.

11 Q. Well, welcome to the show.

12 A. Thank you.

13 Q. So what is the current status of the
14 Alabama litigation?

15 A. My understanding, it's been stayed
16 and it's sitting with the U.S. Supreme Court
17 currently.

18 Q. All right. So moving on to your
19 reports in this case, how many reports did you
20 provide here?

21 A. I provided two, an initial and a
22 supplemental.

23 Q. So what is contained in your
24 supplemental report?

25 A. Sure. The supplemental report was

1 delivered after I received another plan. I
2 received something called an Illustrative 4 plan,
3 and so I did the same analysis of that plan as I
4 had done for the enrolled plan and for the other
5 illustrative plans I had been presented earlier.

6 The supplemental report also
7 included some additional detailed information on
8 the measurement of the black population in
9 combination with other races as well as in
10 combination with the Hispanic ethnicity
11 measurement.

12 Q. And who's report were you responding
13 to in your supplemental report?

14 A. The supplemental report responded to
15 a plan presented. I believe Mr. Cooper was the
16 author of that. That's the Illustrative 4 plan.
17 I did not analyze any other plans in that
18 supplemental report.

19 Q. And Cooper -- and Mr. Cooper, excuse
20 me, was the witness for the Glamon plaintiffs?

21 A. I believe so, yes.

22 Q. And did you review -- Mr. Fairfax
23 also has presented us a -- a revised plan as
24 well. Did you review that?

25 A. No. I received no information about

1 the other revised Robinson plan. I did not look
2 at it.

3 Q. And then you also produced recently,
4 I think yesterday morning, a corrected appendix
5 and supplemental report. Why did you do that?

6 A. Yeah. There's a -- an analysis of
7 what we call splits. There's a split, detailed
8 splits analysis we provided for all of the plans;
9 and for one of the plans, the percent black share
10 of the population in one of the cables was
11 reported as the share of the population within
12 that piece or that split of the city rather than
13 as a share of the black population in this city.
14 The -- the map is slightly different, but the
15 conclusions are exactly the same.

16 Q. Okay. And so what were you asked to
17 do? I think you testified to this earlier, but
18 what were you asked to do in this case?

19 A. Okay. In this case, I was asked to
20 do two things: I was asked to test and measure
21 the performance of the enrolled plan and the
22 illustrative plans in terms of numerosity and
23 remedial to deeply understand if and how the
24 different plans met the numerosity requirements
25 for the black population for the

1 majority-minority district. And then I was asked
2 to, in the course of my analysis, come to an
3 opinion about whether race was the prevailing
4 factor in the design of the illustrative plans
5 that I was presenting.

6 Q. Okay. And so -- so just for all, I
7 want to go through some things that maybe you
8 didn't do and you can confirm those for us. Did
9 you do arraign analysis of communities of
10 interest in this case?

11 A. No.

12 Q. Did you do a racially polarized
13 voting analysis here?

14 A. No.

15 Q. Did you opine a population -- oh,
16 well, excuse me -- that the black share voting
17 population -- population is the correct or
18 preferred version for this case?

19 A. No.

20 Q. Did you look at the core retention
21 of districts?

22 A. No.

23 Q. And did you do any analysis of
24 traditional redistricting principles?

25 A. No.

1 Q. Okay.

2 THE COURT:

3 Mr. Gordon, can I just interrupt one
4 second? I want to make sure that I
5 understand the terminology that the
6 witness is using.

7 You are saying "enrolled plan." Up
8 to this point, we have been using the
9 terminology, not me, the parties have been
10 using the enacted plan as the terminology
11 that's been used. Is that what you are
12 referring to?

13 THE WITNESS:

14 Yes, ma'am.

15 THE COURT:

16 I think that's going to be very,
17 very helpful for the record. So enrolled
18 plan equals enacted plan.

19 MR. GORDON:

20 Yes, Your Honor. I'm sorry.

21 THE COURT:

22 I think we need to keep the record
23 straight in what terms we use.

24 THE WITNESS:

25 And there the language is subtle.

1 There's also plans that were engrossed
2 plans similarly named, so thank you for
3 the clarification.

4 THE COURT:

5 Okay. I just wanted to make sure we
6 all knew what we were talking about.

7 MR. GORDON:

8 All right. So now let's turn to the
9 substance of your report, which is State's
10 Exhibit 2; and I'm going to refer to
11 page 18, and that's your table. Can you
12 bring it up for me?

13 TRIAL TECH:

14 (Complied.)

15 THE WITNESS:

16 I can see it.

17 BY MR. GORDON:

18 Q. Great. I don't have to ask that
19 what is this table of?

20 A. So this is a table that shows the
21 percent of the black population by three
22 different definitions for the enacted plan, the
23 plan for the -- the HB-1, SB-5 plan.

24 Q. Okay. So what -- let's just get our
25 terminology right so we are all clear.

1 Can you define for me what each of
2 these three columns of black refer to?

3 A. Yes. So the black alone number is
4 the share of the black not Hispanic, not in
5 combination with any other race population.
6 That's what we sometimes refer to as B-N-H, black
7 not Hispanic alone. The next definition, what I
8 call the black DOJ definition is from basically
9 what I'll -- we will call the first tier or the
10 first step of the DOJ's definition of a black
11 minority population; and that population is black
12 in combination with white alone, two races in
13 combination, not Hispanic.

14 The last definition, the any part
15 black definition is the most liberal or the most
16 expansive definition you could use to define a
17 black population, and that definition includes
18 black in combination with any other race, whether
19 it is in combination with Hispanic or not. It is
20 any part, literally any part black with any other
21 race or -- and/or in combination with the
22 Hispanic population.

23 Q. And for the purposes of the census,
24 Hispanic is treated -- how is Hispanic treated as
25 any differently from race?

1 A. Thank you. Hispanic is what we
2 would refer to in demography as ethnicity. It's
3 a separate construct from what we would call
4 race, and the ethnic combination is something
5 that we use frequently in combination with race
6 to define populations. They can be both race and
7 then whether or not they are the Hispanic, I
8 think, origin or not.

9 Q. And even though that's not listed on
10 this table, I think we will see some examples of
11 it, what measurement of -- of whites did you use
12 when you used the white measurement?

13 A. We used white not Hispanic
14 population. It's the most exclusive of the
15 definition of the white population throughout.

16 Q. Great. And then focusing just
17 briefly on DOJ black, are you aware of a second
18 set in the DOJ black process?

19 A. Yes. The direction provided by the
20 DOJ in the document they published online
21 provides two different steps. The first tier or
22 the first step is, as I described, the black and
23 the white in combination; and then the second
24 step is they go into quite a bit more detail
25 about black being in combination, potentially

1 being in combination or in combination with
2 different races, you know, ethnic origins, and
3 that can be open to demographic interpretation.

4 Q. So in -- in your view, is the second
5 step of the DOJ black incorporated into your
6 tables here?

7 A. Yes, it is. The most expansive
8 definition of the second tier is what we call the
9 any part black, and that's the definition that
10 I've seen in -- that I used in my report and that
11 I saw in other expert reports throughout the
12 case.

13 MR. GORDON:

14 Thank you. And, Your Honor, first,
15 I forgot to approach the witness to give
16 him his report. With your permission,
17 I'll do so.

18 THE COURT:

19 You may.

20 THE WITNESS:

21 Thank you.

22 THE COURT:

23 And, Mr. Bryan, will you just verify
24 for the court and the opposing counsel
25 that what's before you are only your two

1 reports?

2 THE WITNESS:

3 Yes.

4 MR. GORDON:

5 I will also represent for the court
6 that includes the corrected Appendix 2
7 that was resubmitted as Exhibit 2C. It
8 just substitutes for page 17 of his
9 supplemental report.

10 THE COURT:

11 Okay. Thank you.

12 BY MR. GORDON:

13 Q. Okay. So now that we have sort of
14 terminology straight, what does this table tell
15 us about District 2 under the enacted plan?

16 A. Sure. So this table would tell us
17 that we have one majority-minority district. The
18 black alone definition would say that there are
19 56.3 percent blacks by the black definition of
20 black alone. There's incrementally a slightly
21 higher percentage, 57 percent, using the first
22 tier DOJ definition; and then further when you
23 use the any part black definition, the percentage
24 goes up a little more to about 58.65 percent.

25 If you look at the other districts

1 in the plan, they -- they range from anywhere
2 from 12 percent up to about 30 percent. Those
3 two districts are right around 30 percent black
4 population outside of the majority-minority
5 District 2.

6 Q. So as you increase the leniency of
7 who you include in the definition of black --

8 A. Yes.

9 Q. -- you increase the number of
10 people; is that right?

11 A. Yes.

12 Q. So if we can switch now to Table 384
13 on page 19 of your report. See it on the screen?

14 A. I see it.

15 Q. Great. This is the Robinson first
16 illustrative plan. Can you describe to us what
17 this table shows?

18 A. Yes. So this plan has the same
19 layout and the same math as the plan that you
20 showed with me just a moment ago. This shows
21 that there are two districts that have sizable
22 black populations: There's District 2 and
23 District 5.

24 In District 2, the black alone
25 definition results in a black population that is

1 48.7 percent of the population of the VAP, voting
2 age population, VAP for that district. The DOJ
3 definition adds black in combination with white
4 non-Hispanic resulting in still not quite
5 50 percent, about 49.4 percent. And then when
6 you get to an any part black including any race
7 in combination, including with Hispanic, you get
8 over the 50 percent threshold, just about a
9 51 percent black population.

10 When I look at District 5,
11 District 5 has a majority black population, 50.6
12 by the black alone definition. If you look at
13 the black DOJ definition in first tier, again,
14 similar to the first plan, it goes up. It's
15 51.2 percent.

16 And then, finally, with the any part
17 black definition, the number of the majority
18 black number rises to just over 52 percent.

19 Q. All right. And then let's do one
20 more example of this. If you turn to page 20 of
21 the report, Table 385, the -- the top.

22 A. Okay. I see it.

23 Q. And this is, again, an illustrative
24 plan. What does this table show?

25 A. Thank you. Again, this table was

1 created with the same math and framework as the
2 first two tables.

3 In this plan, it's notable because
4 while Districts 2 and 5, in both districts, the
5 black alone population does not rise to
6 50 percent, a majority threshold. The black DOJ
7 first tier definition does not rise to a
8 50 percent threshold. Only when you get to an
9 any part black, the most expansive definition, do
10 you get to a majority status.

11 And that majority level or majority
12 threshold for District 2 is approximately
13 50.2 percent and District 5 that majority would
14 be 50.04 percent.

15 Q. Okay. And so I'm not going to go
16 through all of these tables. We would be here
17 for forever.

18 A. Sure.

19 Q. But generally speaking, what does
20 the data show for the remaining illustrative
21 plans that you reviewed?

22 A. All of the plans only achieve the
23 two black majority-minority districts with the
24 use of the most expansive interpretation of any
25 part.

1 Q. And so just to make sure we are
2 clear. Did any of the illustrative plans that
3 you reviewed have two majority-minority districts
4 go over the percent of the black voting
5 population for the black alone or black DOJ
6 formulation?

7 A. No.

8 Q. And I forgot to mention there was an
9 amicus brief in this case that had a plan
10 attached to it. Did you review that plan at all?

11 A. I heard there was. I did not
12 analyze it. I was -- I was not -- I was not
13 given the plan.

14 Q. All right. So let's switch gears a
15 little bit to the second part of your report.

16 A. Okay.

17 Q. This is the Section B under your
18 report, which is called District Boundaries and
19 Parish Geographic Split, the Analysis. Generally
20 speaking, what did you do in this section of your
21 report?

22 A. Sure. So when you do a splits
23 analysis, there's typically two pieces of that
24 analysis. The first piece just goes to look at
25 numerically how many pieces of geography are

1 split by a plan, and typically we would look at
2 things such as parishes, places which can be
3 either cities or towns. And then you would also
4 look at VTEs, sometimes you look at other types
5 of geography.

6 In Louisiana, those are the three
7 that are relevant. So the first step is to
8 simply measure the number of splits. The second
9 step is then to do an assessment of the
10 demographic impact of those splits; that is to
11 say, if there is a split somewhere, how many or
12 what kind of people are impacted by those splits.
13 So those were the two types of analysis we did
14 under what I call my splits analysis.

15 Q. And when doing the second part of
16 that analysis, in paragraph 39 of your report on
17 page 23, you say you use a methodology called
18 "index of misallocation"?

19 A. That's correct.

20 Q. What is an index of misallocation?

21 A. Sure. An index of misallocation is
22 a standard regularly used, a demographic tool to
23 analyze the differences in population from what
24 they are compared to what you would expect. It's
25 a tool that is used regularly in assessing

1 population estimates and projections and other
2 analyses such as federal fund allocation.

3 Q. And is this a type of analysis
4 you've done during your normal work?

5 A. Frequently, yes.

6 Q. Now, let's start at the -- let's
7 start at the beginning with the end.

8 What conclusions did you draw from
9 the misallocation analysis you did in Section B?

10 A. Sure. The index of misallocation is
11 a beneficial tool because what it enables us to
12 do is to compare different plans and how much one
13 plan splits or differentiates a population versus
14 another one. There is no bright line, right
15 number or wrong number. All it does is enable us
16 to compare one plan to another plan.

17 So what I was able to do with an
18 index of misallocation is simply say, using the
19 enacted plan as a starting point, how much more
20 do the other illustrative plans; that is, the
21 Robinson illustrative plan and the other Edward
22 Galmon one, two, three, four plans, how much more
23 or less do they allocate or differentiate the
24 black minority populations compared to the
25 enacted plan.

1 Q. So I think it would be helpful for
2 all of us if we look at an example to make this
3 slightly more concrete.

4 MR. GORDON:

5 I'm going to show you Appendix 2 of
6 your initial report.

7 TRIAL TECH:

8 (Complied.)

9 THE WITNESS:

10 Okay.

11 MR. GORDON:

12 And turn to page 38.

13 TRIAL TECH:

14 (Complied.)

15 THE WITNESS:

16 Okay.

17 MR. GORDON:

18 Great.

19 BY MR. GORDON:

20 Q. And so we are going to be talking
21 about Baton Rouge quite a bit today, so let's
22 start with the -- well, first, before we get
23 there. What does this table generally show us?

24 A. Sure. So this is the -- this table
25 reflects the second part of the splits analysis.

1 This is the after we counted how many splits
2 there were.

3 So you can see in this table that, I
4 think there's approximately 20, 19 or 20
5 different cities and towns in the enacted plan
6 that are split by the plan. And what this table
7 shows us is that when a town is split by the plan
8 into, in this case, two different districts, no
9 -- no towns or cities were split into three
10 districts with this plan. What this tells us is
11 how many of the total population went into each
12 piece and how much of the white population went
13 into each piece and how much of the black
14 population went into each piece, and this enables
15 us to study and examine and understand how much
16 differently a black population may have been put
17 into one part or another part of a split city
18 than the white population and then the population
19 as a whole.

20 Q. Now, are -- so this is the enacted
21 plan. Are all of these splits -- do all of these
22 splits contain at least one majority-minority
23 district?

24 A. There are a couple of the towns that
25 are split. For example, Eunice, the city, is

1 split between Districts 3 and 4, so not all of
2 them are majority-minority splits for District 2.

3 Q. Okay. So let's look at one that
4 does contain District 2, the current
5 majority-minority district in Louisiana. Let's
6 look at the city of Baton Rouge.

7 A. Okay.

8 MR. GORDON:

9 If you could, zoom in on that
10 please, real quick.

11 TRIAL TECH:

12 (Complied.)

13 MR. GORDON:

14 Okay. So now we are looking at the
15 City of Baton Rouge.

16 BY MR. GORDON:

17 Q. Can you describe for the court what
18 these numbers tell us?

19 A. Sure. So in Baton Rouge in the
20 enacted plan, it's split between two different --
21 two districts: District 2, the majority-minority
22 district, 79,000 people in that split or that
23 piece; and District 6 has about 148,000.

24 So out of the approximately 230,000
25 people in Baton Rouge, there's one-third are in

1 the majority-minority District 2 and two-thirds
2 of the total population are in the
3 non-majority-minority District 6, so it's very
4 close to a one-third, two-thirds slope.

5 Q. Okay. And what numbers are you
6 looking at to compare in order to formulate your
7 opinions with respect to this section of your
8 report?

9 A. I'm sorry. Can you rephrase the
10 question?

11 Q. Sure. And forgive me if I'm
12 misunderstanding this, but this table shows the
13 allocation of percentage of population between
14 the -- each of the districts as in terms of the
15 whole number of persons in the city; is that
16 correct?

17 A. Yes.

18 Q. Okay. And so what percentages do
19 you -- are you focusing on when you are
20 conducting your analysis of whether there was a
21 racial foundation with regards to this or any of
22 the other plans?

23 A. Thank you. So the reason that we
24 include the -- the number of white non-Hispanic
25 and the any part black population is to enable us

1 to look at how many of the white population, how
2 many of the any part black population ended up in
3 each one of these two pieces of Baton Rouge
4 basically to, you know, roll up to this total
5 population -- one-third, two-third total
6 population of Baton Rouge.

7 So what we found is that in
8 Baton Rouge, only approximately 5 percent of the
9 white population in Baton Rouge were put into
10 District 2 and approximately 95 percent were put
11 into District 6. When we look at the -- the
12 black population, there's about 57 percent that
13 are in District 2 and about 43 percent that are
14 in District 6, so there's -- there's some
15 evidence there was some misallocation in
16 Baton Rouge in this plan, some.

17 Q. And -- and so to arrive at that, are
18 you comparing that 57.2 number for black voting
19 age population percentage with the total
20 population in the District 2?

21 A. Yes. That's comparing the 57 to the
22 34.7 percent number, yes.

23 Q. Thank you.

24 MR. GORDON:

25 And you can Zoom back out.

1 TRIAL TECH:

2 (Complied.)

3 BY MR. GORDON:

4 Q. Are the cities of Monroe or

5 Lafayette split in the enacted plan?

6 A. No.

7 Q. Okay. So now let's -- now, let's

8 look to some of the illustrative plans, turning

9 to Appendix 2-B, which is the first Robinson

10 illustrative plan, which is at 2D, page 39 of his

11 report.

12 A. Okay.

13 Q. Great.

14 MR. GORDON:

15 And obviously, it's technologically

16 complicated. If we could also pull up the

17 -- the map of the split Robinson plan 1,

18 which is at Appendix 4BB, page 82.

19 TRIAL TECH:

20 (Complied.)

21 MR. GORDON:

22 And this is the -- the -- that's

23 Baton Rouge. Okay. So first, let's turn

24 to your table and look -- and let's zoom

25 in on the numbers for the City of

1 Baton Rouge under the -- sorry. I need

2 the -- the ID of the second one there.

3 Page 39 on the left side, please.

4 TRIAL TECH:

5 (Complied.)

6 MR. GORDON:

7 There we go. We will get the

8 technology straightened up. Zooming out

9 in the City of Baton Rouge under the First

10 Robinson illustrative plan.

11 TRIAL TECH:

12 (Complied.)

13 THE WITNESS:

14 Yes.

15 BY MR. GORDON:

16 Q. Now, what does -- what does -- what

17 do these numbers show us in terms of the City of

18 Baton Rouge in the 1st Illustrative Plan for

19 Robinson?

20 A. So there's a couple of observations

21 here. The first is that this is the only

22 illustrative plan which cuts Baton Rouge into

23 three separate pieces. Two of these pieces we

24 can see a -- are part of the black -- the black

25 majority districts for this plan, Districts 2 and

1 5. District 6 is not. And so we can see that in
2 total, there's about 15 percent of the population
3 goes off into District 2, and then roughly equal
4 parts two into Districts 5 and 6.

5 When we read across these lines and
6 we look at the share of the white population,
7 here you can see that the majority,
8 68.64 percent, of the white population ended up
9 being excluded from Districts 2 and 5. That gets
10 put into District 6. And what we can see here
11 that what's notable is that if -- if all else was
12 equal, if whites were allocated and blacks, for
13 that matter, in the same way as the total
14 population is distributed, you would expect the
15 white number in District 6 and, for that matter,
16 the black number at District 6 to be 40 percent.

17 What we find instead is that the
18 white population is significantly over indexed as
19 28 percentage points more white than total and
20 then proportionally it's lower shares in the two
21 minority districts. Conversely, what we can see
22 in Districts 2 and 5 is that, especially in
23 District 5, there's proportionately significantly
24 higher -- a significantly higher black population
25 in District 5 than is represented for the total

1 population.

2 MR. GORDON:

3 Okay. And we can un-zoom that out
4 and let's turn right now to the map of the
5 plan.

6 TRIAL TECH:

7 (Complied.)

8 BY MR. GORDON:

9 Q. What does the map show in terms of
10 the data you just showed us with regard to the
11 population --

12 A. Sure.

13 Q. -- distribution of the districts?

14 A. Sure. So what this map shows us is
15 a -- an outline of the -- the city boundaries.
16 The black line that you see kind of crossing, you
17 know, going across the -- the middle of the city,
18 that kind of roughly follows Government and
19 Florida Streets and the -- dividing the city
20 north and south. So that -- that black line
21 across the middle isn't a city boundary, it's
22 just there to show you where the district
23 boundary is and where the city is divided.

24 The colors that are used here, we
25 look at the gray color, the zero percent, that

1 frequently just means that there's no population
2 there. Sometimes that could mean that that is a
3 100 percent white block, but that's very rarely
4 the case.

5 The other numbers are what we would
6 call in statistics quartiles. The orange
7 represents areas that are under 25 percent black,
8 yellow represents 25 to 50 and the 50 percent
9 number is important here because this is the
10 number where we need to understand which areas
11 are over 50 and contributing to a majority
12 district or which ones are under.

13 So the light green is then 50 to
14 75 percent and green, the dark green is
15 75 percent or more, what -- what we would call a
16 very high concentration black mirror there.
17 These data are shown for the 2020 census block
18 level geography, the highest detail created, or
19 HRV, we demographers have available to us.

20 Q. So it would be -- then there's a
21 yellow squiggly line box and -- and next to it
22 like a darker green squiggly line box, those
23 represent what?

24 A. Can you please state that again?

25 Q. Yeah. Sorry. I'm not describing

1 that well at all.

2 A. Sure.

3 Q. So there are orange and green for
4 those you just described on these and some of
5 them are next to -- to others. You were talking
6 about the level of geography. What was that
7 again? I'm sorry.

8 A. Yeah. They were -- this is shown at
9 2020 census block level geography. There's
10 approximately 150,000 of them that comprise
11 Louisiana.

12 Q. And that's data that's published by
13 the Census Bureau, right?

14 A. It is.

15 MR. GORDON:

16 And then turning quickly, if we
17 could, zoom out on this map and pull up
18 just on the right side Lafayette, which is
19 Appendix 4HH, page 90, and leave this
20 table up, please.

21 TRIAL TECH:

22 (Complied.)

23 MR. GORDON:

24 Great.

25 BY MR. GORDON:

1 Q. This is the Robinson --

2 A. Yes.

3 Q. -- illustrative plan split.

4 MR. GORDON:

5 Can we zoom in on that map now,
6 please?

7 TRIAL TECH:

8 (Complied.)

9 BY MR. GORDON:

10 Q. Now, what does this map tell you
11 about the way in which the lines were drawn in
12 the Robinson 1 plan?

13 A. Yes. Similar to what we see in the
14 Baton Rouge illustrative plans, the line again
15 through the middle is not a city boundary. That
16 line through the middle is so where the split of
17 the city is between Districts 3 and 5. So when
18 -- when we look at the line, and you look at the
19 areas that are green and dark green, you can see
20 that the -- the map drawer -- and I don't know
21 who the map drawer is -- drew a line through the
22 middle of Lafayette here. It's down for some
23 part of this. This is through a rail yard. It's
24 a geographic feature that partially
25 differentiates north and south of the city, but

1 most of -- most of the line from the north to the
2 south of the city is drawn to the block precisely
3 to the edge of where the majority black
4 neighborhoods are and then to the south where
5 there is very little to no black population.

6 MR. GORDON:

7 All right. Now, let's zoom out from
8 that and we will change it up with turning
9 to Appendix 2C on page 40 of your report,
10 which is the first Galmon illustrative
11 plan. And then, Steve, also let's bring
12 up -- it's the map counterpart for
13 Baton Rouge at F4CC, page 83.

14 TRIAL TECH:

15 (Complied.)

16 MR. GORDON:

17 Okay. Let's first zoom in on for
18 the data for the City of Baton Rouge,
19 please.

20 TRIAL TECH:

21 (Complied.)

22 BY MR. GORDON:

23 Q. Okay. And could you describe what
24 this table shows for the City of Baton Rouge for
25 the first Galmon plaintiff?

1 A. Thank you. The Baton Rouge number
2 shows that in District 5 there's approximately a
3 -- a two -- there's a two-thirds share of the
4 total population in Baton Rouge that's in
5 District 5 and just over a third of the
6 population is in District 6.

7 When I read across, we look at the
8 -- the white population and its contribution, you
9 can see those numbers are basically flipped.
10 There's about one-third of the white population
11 is in District 5 and approximately two-thirds of
12 the white population is in District 6.

13 When we read further across to the
14 black statistics for Baton Rouge, you can see
15 that the -- the overwhelming majority of the
16 black population of Baton Rouge was put by the
17 map drawer in District 5, although there were
18 some black population in either districts.

19 MR. GORDON:

20 All right. If we can zoom out from
21 that and to the map.

22 TRIAL TECH:

23 (Complied.)

24 BY MR. GORDON:

25 Q. And can you describe for us briefly,

1 same as you did last time, what this map shows to
2 you about the distribution of people vis-a-vis
3 the map drawing process?

4 A. Sure. Generally, generally
5 speaking, this map shows that the -- the division
6 of the city happens along Government Road (sic),
7 Florida Road, north of which is significant black
8 populations. The plan also loops down to the
9 southwest, an area I would describe as kind of
10 being around Buchanan Street, Buchanan
11 neighborhood, and then taking some pieces of LSU
12 further down to the outer edge with District 6.

13 Q. And what does it show you about the
14 -- the map drawing choices that went into drawing
15 the split?

16 A. The map -- I'll say that the -- the
17 map and the -- the table talk to each other. It
18 makes sense that when you look at the 80 plus
19 percent of the black population in the table
20 that's in District 5 and then you look at the map
21 that shows District 5 and visually how much of
22 the black, heavy black population in the city is
23 in that district, the -- the table and the map
24 are largely in agreement saying that District 5
25 has a large share of the Baton Rouge black

1 population.

2 MR. GORDON:

3 All right. And now, if we could,
4 zoom out of the map and replace the map
5 with Appendix 4II, page 91. And this is
6 Lafayette for the Galmon Illustrative 1
7 Plan. Can we zoom in on that?

8 TRIAL TECH:

9 (Complied.)

10 BY MR. GORDON:

11 Q. Now, just as we discussed with the
12 -- with the Baton Rouge --

13 MR. GORDON:

14 Well, actually zoom this out,
15 please. I'm sorry. And can we zoom out
16 on Lafayette city on the table first?
17 Let's see Lafayette.

18 TRIAL TECH:

19 (Complied.)

20 BY MR. GORDON:

21 Q. And describe what this -- what this
22 data shows for the City of Lafayette?

23 A. Thank you. Similarly, with the
24 Baton Rouge analysis, Lafayette is split
25 70 percent District 3, 30 percent in District 5.

1 When you look at the white
2 population, virtually all of it, 88 percent, is
3 in District 3. Very little of the white
4 population, only 12 percent, remains in District
5 5. By comparison, one-third of the black
6 population in this plan is in District 3 and
7 two-thirds of the black population is in District
8 5.

9 So, in this case, there's a --
10 almost a 39 percentage point differential between
11 the share of the total population in District 5
12 and the black share of the population that is in
13 District 5.

14 Q. And so if the map drew -- was drawn
15 to where it distributes the population evenly,
16 what would the data show?

17 A. If it were drawn evenly race -- race
18 blind, what you would find is there would be
19 roughly equal amounts of the white and black
20 population in District 3 and District 5
21 consistent with the total population. That's all
22 else being equal.

23 MR. GORDON:

24 Okay. Zoom out on the data table
25 and zoom out on the map, please.

1 TRIAL TECH:

2 (Complied.)

3 BY MR. GORDON:

4 Q. And just like we discussed before,
5 what does the split in the City of Lafayette in
6 Galmon Illustrative 1 tell you about what the map
7 drawer did?

8 A. Yeah. Virtually, all of the
9 illustrative plans -- all of the plans had just
10 subtle differences in how they drew these
11 boundaries north and south dividing the city
12 between District 3 and District 5 on the ground.

13 Close-up examination of these lines
14 show that they were drawn in a way that literally
15 were very, very precisely drawn with blocks that
16 were 50 percent or more black population on one
17 side of the line and less than 50 percent,
18 sometimes less than 25 percent of the population
19 on the other side of the line being white
20 population.

21 Q. All right. Thank you.

22 MR. GORDON:

23 Let's then move on to the second
24 Galmon illustrative plan, Appendix 2D on
25 page 41. And then on the right side, go

1 towards 4DD, page 84. I'm sorry.

2 Appendix 4DD on page 84.

3 TRIAL TECH:

4 (Complied.)

5 MR. GORDON:

6 Thank you.

7 BY MR. GORDON:

8 Q. And, first, let's look at the City

9 of Baton Rouge up at the top there, the data.

10 And can you describe to us what this data shows

11 for the City of Baton Rouge?

12 A. Sure. Similar to the -- my analysis

13 of the other plans, Baton Rouge is split 58,

14 42 percent, 58 percent in District 5. There's a

15 much lower percent of the white population in

16 Baton Rouge that is in District 5, and a much

17 higher 81 percent of the black population who is

18 located in District 5, so, again, significant

19 deviations of white and black from the total

20 population characteristics of the city.

21 MR. GORDON:

22 All right. Can you zoom out on that

23 and zoom in on the Baton Rouge map?

24 TRIAL TECH:

25 (Complied.)

1 THE WITNESS:

2 Okay.

3 BY MR. GORDON:

4 Q. And, once again, the same thing.

5 What does the -- this map show you about the map
6 drawer when they are creating the splits in the
7 City of Baton Rouge in Galmon 2?

8 A. Yes. So, again, the black line
9 through the middle of the city is not a city
10 boundary. That's the line that divides District
11 5 and District 6, and that east/west line follows
12 Government and Florida. And then what is
13 notable, particularly notable in Galmon 2 and
14 Galmon 3, is that when the district boundary
15 turns south off of Florida, it goes down into
16 this Buchanan Street near just above LSU; and a
17 detailed examination of this shows literally
18 block to block to block movement of the
19 districts.

20 The -- the census data there show
21 very high concentrations of black on certain
22 blocks and one or two blocks over very white
23 populations; and in an examination of that jagged
24 line, you can see on this map it shows that the
25 line was drawn to the block exactly precisely

1 dividing the black and the white populations

2 there.

3 Q. Okay. Thank you.

4 MR. GORDON:

5 You can zoom out on that.

6 TRIAL TECH:

7 (Complied.)

8 MR. GORDON:

9 And let's do one more. Let's go

10 with the data for the City of Lafayette.

11 TRIAL TECH:

12 (Complied.)

13 BY MR. GORDON:

14 Q. Just like before, what does this

15 data show for the City of Lafayette?

16 A. Oh, for Lafayette, sure. So, again,

17 this is a case where you've got a one-third,

18 two-thirds split of the population, total

19 population between 2 and 3. District 3 has

20 overwhelmingly a much higher share of the white

21 population and then the black population has very

22 -- a significantly higher share of District 2,

23 the -- the majority-minority district in the

24 plan.

25 MR. GORDON:

1 And then if we zoom out on that and
2 bring up Lafayette for a minute,
3 Illustrative Plan 2, which I believe is on
4 page 92, and it's 4JJ. And if you can
5 zoom out on this real quick.

6 TRIAL TECH:

7 (Complied.)

8 BY MR. GORDON:

9 Q. And what does this map tell you
10 about the line drawing process when it comes to
11 splitting Lafayette in Illustrative Plan 2 for
12 the Galmon plaintiffs?

13 A. Yeah. Again, the line through the
14 middle of the city differentiates the two
15 districts not the city boundary. This is notable
16 in that this particular plan was notable in
17 District 3, deviates a little bit from the other
18 illustrative plans insofar as it goes up just a
19 little bit north into the black neighborhoods of
20 District 2.

21 You can see there's like a little
22 piece of the neighborhood that is cut out there,
23 and then the line goes south rather than exactly
24 following the black neighborhoods, and then
25 captures a -- a couple of neighborhoods, I

1 believe it's called the -- locally it's called
2 the Saint neighborhoods because of the names of
3 the streets there.

4 The District 2 actually goes down
5 and grabs some of those more predominantly white
6 neighborhoods before the plan cuts back to the
7 east and begins following the black blocks and
8 black neighborhoods, okay.

9 Q. All right. And does the fact that
10 this plan incorporates a little dip into the
11 predominantly white areas, a little dip into the
12 predominant black areas, change your opinion in
13 any way?

14 A. No. The -- again, the table data
15 and the map talk to each other in showing that
16 the majority, a disproportionate majority share
17 of the black population is to the north in
18 District 2 and a disproportionate majority of the
19 white population is in District 3.

20 Q. Okay. Now, skipping ahead a little
21 bit, I just want to look at Monroe real quick --

22 A. Sure.

23 Q. -- before we wrap up here today.

24 MR. GORDON:

25 If you could, put up Appendix 4PP at

1 page 99 and Appendix 4QQ at page a 100.

2 Side by side for us, please.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. GORDON:

6 Q. Okay. So what we have here is

7 Monroe, the City of Monroe for the Robinson

8 illustrative plan and Galmon Illustrative Plan 2.

9 Do you see that on the screen?

10 A. Yes.

11 Q. And without digging back into the

12 detail data, what do the maps here show us about

13 the map drawing process when this came to Monroe?

14 A. Sure. Monroe, similar to Alexandria

15 and other cities in Louisiana, has a very unusual

16 city boundary. It zigs and zags and moves

17 around. It's not a very clean geometric shape;

18 but nonetheless, we took the boundaries as they

19 are and then looked at where they -- these plans

20 split the City of Monroe.

21 And what we found across each one of

22 the different plans again is that there's a

23 northwest to southeast split, right. So you have

24 District 4 in the upper left-hand corner, the

25 northwest corner of the city almost exclusively

1 white and very, very high number percent share of
2 white population in that part of the city, then
3 in each -- each one of the plans draws a line
4 vicariously, cuts that white population out of
5 the city and then conversely keeps all of the
6 black population, especially notably the far
7 south part of this city, the very heavily black
8 -- black part of the city is kept in the
9 majority-minority district away from the much
10 more white non-Hispanic District 4.

11 Q. All right.

12 MR. GORDON:

13 I think we can take these down.

14 TRIAL TECH:

15 (Complied.)

16 BY MR. GORDON:

17 Q. So, you know, rather than go through
18 the rest of the plaintiffs' plans that you
19 analyzed, is it fair to say that the remainder of
20 the plans we looked at which would be Robinson 1
21 and Galmon 1 through 4, they follow the same
22 trajectory that you discussed with the ones that
23 you just looked at?

24 A. They are very consistent with small
25 deviations by plan, but the conclusion and the

1 observations are the same.

2 Q. Okay. And so -- and so we looked at
3 a lot of tables and maps today, and thank you
4 everyone for preparing those here.

5 In the plaintiffs' split contained
6 in your report for the illustrative maps you
7 reviewed, is there any example where a place,
8 meaning a city or town, was split and -- and
9 where at least one majority-minority district did
10 not get more than it's share of black voting age
11 population?

12 A. In looking at all of the place
13 splits and all of the parish splits, there is not
14 one place that was split that was not in a way
15 that put a disproportionate majority share of the
16 black population into a majority-minority
17 district. There wasn't some of the places or
18 parishes, it was every one of them.

19 Q. Okay. And then what did you
20 conclude about the illustrative maps that were
21 produced by plaintiffs in this case that you
22 analyzed?

23 A. Yes. Focusing on my analysis of the
24 race and where the population is either over or
25 under 50 percent black, I arrive at the

1 conclusion looking at the -- the tables of data
2 and the way the maps were very precisely drawn
3 around these different levels of census
4 geography, that race was a prevailing factor in
5 the design of those plans.

6 Q. And really quick before I finish up,
7 Mr. Fairfax takes issue with you in your
8 supplemental report that you didn't take into
9 consideration socioeconomic factors.

10 Did you look at those when drawing
11 your analysis here?

12 A. No.

13 Q. Okay. And you believe what you did,
14 it would not change anything about the
15 conclusions in your report?

16 MR. NAIFEH:

17 Objection.

18 MR. GORDON:

19 I'll withdraw the question. No
20 further questions.

21 THE COURT:

22 Okay. Before I tender, the court
23 has three questions I want to ask because
24 I want to make sure you are able to answer
25 any questions that this may provoke on

1 redirect.

2 Mr. Bryan, was this misallocation
3 theory or the misallocation analysis that
4 you used here in this case, did you use
5 that in the Alabama case?

6 THE WITNESS:

7 No.

8 THE COURT:

9 Was it ever -- have you ever used it
10 before?

11 THE WITNESS:

12 Yes.

13 THE COURT:

14 And -- and used it in testimony or
15 in private opinion that was ultimately
16 used as the basis of your opinion
17 testimony?

18 THE WITNESS:

19 Yes.

20 THE COURT:

21 And is it used by any other
22 professionals in your field?

23 THE WITNESS:

24 Yes.

25 THE COURT:

1 Thank you.

2 MR. GORDON:

3 Your -- your Honor, if I may, based
4 on your questions, I just want to clarify
5 one thing.

6 THE COURT:

7 Well, since I asked questions, you
8 can do it now or you could do it on
9 redirect, but go ahead.

10 MR. GORDON:

11 I know. I just want to clarify one
12 thing.

13 BY MR. GORDON:

14 Q. I just want to be clear that, other
15 than today and Alabama, you've never otherwise
16 testified in a case?

17 A. No.

18 Q. So that means you relied on a
19 misallocation analysis that was advising other
20 clients not in litigation, but in your job as a
21 consultant?

22 A. Yes.

23 THE COURT:

24 Thank you.

25 MR. GORDON:

1 Thank you.

2 THE COURT:

3 Cross.

4 MS. KHANNA:

5 Your Honor, can I request a short
6 break so I can consult with Robinson
7 plaintiffs' counsel? I want to make sure
8 I consult with them on their notes as well
9 or I can do it after.

10 THE COURT:

11 That's fine. We can take a break
12 right now. The court is now in recess.

13 (A short recess was taken.)

14 THE COURT:

15 Okay. Be seated. Next witness?

16 Sorry, not next witness.

17 Cross-examination.

18 MS. KHANNA:

19 Thank you, Your Honor.

20 CROSS-EXAMINATION BY MS. KHANNA:

21 Q. Good morning, Mr. Bryan.

22 A. Good morning.

23 Q. I'm Abha Khanna, counsel for the
24 Glamon plaintiffs. Good to see you again.

25 A. Good to see you.

1 Q. You've been retained as an expert
2 for the State of Louisiana in this state; is that
3 right?

4 A. Yes, the attorney general's office.

5 Q. Who reached out to you to ask for
6 your participation in this case?

7 A. That would have been counsel for the
8 attorney general, Jason Ferguson.

9 Q. Okay. And -- and when did you first
10 get that outreach?

11 A. Between three and four weeks ago.

12 Q. Was it before or after the
13 governor's veto of the map; do you know?

14 A. I believe it would have been after.

15 Q. So you mentioned on direct
16 examination with Mr. Gordon that this is the
17 second time that you've served as a testifying
18 expert in court; is that right?

19 A. Yes, that's right.

20 Q. The first time was just a few months
21 ago in the quote, unquote, Alabama case?

22 A. Yes. That's true.

23 Q. And, in fact, that's the last time
24 you and I spoke to -- spoke to each other under
25 rather similar circumstances, correct?

1 A. Yes.

2 Q. So your expert report in this case
3 addresses two topics, as you state in your report
4 first, is whether the plans meet the numerosity
5 criteria for the first Gingles; and the second is
6 if there is evidence that race appeared to
7 dominant in a district any of the plans. Did I
8 read that correctly?

9 A. That's correct. Yes.

10 Q. So I'm going to talk about that
11 first topic first.

12 A. Okay.

13 Q. And that first topic is one that you
14 did testify in Alabama about as well, correct?

15 A. Yes.

16 Q. And, in that case, just like in this
17 one, you testified about the various possible
18 definitions of who counts as black for purposes
19 of the first Gingles project, correct?

20 A. Yes.

21 Q. And in the Alabama case, the judges
22 there unanimously determined that the any part
23 black metric was the proper metric for evaluating
24 Gingles 1?

25 A. That's my understanding.

1 Q. Now, on page 17 of your report in
2 this case, you refer to the U.S. Department of
3 Justice guidelines under Section 2; is that
4 correct?

5 A. Yes.

6 Q. And you discuss that same document
7 in your Alabama report; is that correct?

8 A. Yes.

9 Q. And you would agree with me that
10 those DOJ guidelines provide authority for the
11 use of the any part black metric in the two
12 cases, correct?

13 A. Yes.

14 Q. And those DOJ guidelines expressly
15 cite the Georgia V. Ashcroft case from the
16 United States Supreme Court; is that right?

17 A. I believe so, yes.

18 Q. And you cite that same case in your
19 reproduction of the guidelines in your report; is
20 that right?

21 A. Yes.

22 Q. Did you review that case in
23 preparing your report?

24 A. No.

25 Q. Do you have any basis to disagree

1 with me that the Georgia v. Ashcroft case,
2 specifically Footnote 1 as cited in both your
3 report and the guidelines, instructs that where a
4 case involves the examination of one minority
5 group's effective exercise of the electoral
6 franchise, it is proper to look at all
7 individuals who identify themselves as black?

8 MR. GORDON:

9 Objection, Your Honor. This calls
10 for a legal conclusion.

11 MS. KHANNA:

12 Your Honor, may I respond?

13 THE COURT:

14 You may.

15 MS. KHANNA:

16 Mr. Bryan includes this cite in his
17 report. He has stated in his report that
18 he relied on all of the data sources cited
19 in his report. I think it's fair to ask
20 him about the cases he cited.

21 THE COURT:

22 The preceding question asked him if
23 he had -- had cited Georgia v. Ashcroft in
24 his report and he indicated -- indicated
25 that he did and it's in his report;

1 therefore, I'm going to overrule the
2 objection.

3 BY MS. KHANNA:

4 Q. Would you like me to repeat the
5 question?

6 A. Yes, please.

7 Q. Would you agree that the Georgia v.
8 Ashcroft case specifically Footnote 1 that is
9 cited indicated that it is proper to look at all
10 individuals who identify themselves as black
11 where the case involves the foundation of one
12 minority group effective electoral -- effective
13 access to the electoral franchise?

14 A. I'm not an attorney and I don't have
15 an opinion on whether the decision in Georgia v.
16 Ashcroft is generalized all to this case.

17 I reviewed the language in the DOJ
18 document carefully and it says two things in
19 deciding whether to use the any part black
20 definition or not, and one of the terms that they
21 use is "significant," you have to consider
22 whether it is significant or not; so I don't know
23 whether a finding of significance of Georgia v.
24 Ashcroft is relative to a finding of significance
25 here.

1 And, secondly, the document goes on
2 to discuss that if a significant population is
3 found, it's subject to a demographic process of
4 allocation; and it is not clear how that
5 allocation takes place. And neither I nor any
6 demographers I know what that allocation process
7 is, so I -- I cannot say that because that was
8 found to be the case, the definition of
9 significance in Georgia v. Ashcroft, that that's
10 relative or generalizable in this case or not. I
11 don't know.

12 Q. And what you just mentioned about
13 significance and allocations --

14 A. Yes.

15 Q. -- that's not coming from Georgia v.
16 Ashcroft, that's coming from the DOJ guidelines;
17 is that correct?

18 A. That's correct, yes.

19 Q. And isn't it true that in the
20 Alabama case, the court there found that you
21 conceded on the record that Georgia v. Ashcroft
22 indicated that it is proper to look at all
23 individuals who identify themselves as black at
24 least in that case; is that correct?

25 A. If it's a significant population,

1 then it is appropriate. I cannot defend what is
2 or is not a significant population.

3 Q. Thank you. And your report does not
4 cite a single Section 2 case that uses the -- the
5 black alone metric in determining whether
6 Gingles 1 is satisfied, does it?

7 A. No.

8 Q. Mr. Bryan, are you familiar with the
9 one-drop rule?

10 A. No.

11 Q. Are you -- you've never heard of the
12 term the one-drop rule in --

13 A. Correct. I've heard the concept. I
14 admit I don't deeply know, understand the
15 demographic or the historic context of the term.

16 Q. And you were here in court yesterday
17 when Dr. Gilpin testified about the one-drop
18 rule's use in Louisiana history?

19 A. No.

20 Q. Are you aware that the one-drop rule
21 was historically the method by which the State of
22 Louisiana defined people as black for purposes of
23 discrimination?

24 A. No.

25 Q. Do you have any basis to disagree

1 with me that the one-drop rule was a very
2 inclusive definition of who is black?

3 A. Not knowing, especially in the
4 historic context of Louisiana what that is, I
5 can't provide an opinion.

6 Q. You would agree with me, however,
7 that the any part BVAP metric is an inclusive
8 definition of who is black, correct?

9 A. I would agree with -- with that,
10 yes.

11 Q. And I believe on your direct
12 examination you characterized it as a liberal or
13 an expansive definition?

14 A. Yes. There's numerous populations
15 between the first tier DOJ definition of black
16 and white non-Hispanic, and then as I point out
17 in my report, there's numerous other combinations
18 that ladder up to the -- the most broad or
19 expansive definition of any part, although with
20 different races or in combination with Hispanics.

21 Q. And do you know whether historically
22 the one-drop rule was also a liberal or expansive
23 definition of who constitutes -- or who, in fact,
24 is black?

25 A. Again, since I'm not familiar, I

1 can't give an opinion.

2 Q. Mr. Bryan, you in the end offer no
3 opinion or conclusion in your report that using
4 the any part BVAP figure for analyzing Gingles 1
5 is at all improper; is that correct?

6 A. I do not arrive at a conclusion
7 about what's the appropriate definition to use.

8 Q. And you do not dispute that each of
9 the illustrative plans presented in this case
10 contain two majority any part BVAP districts, do
11 you?

12 A. Under the most expansive definition
13 of any part black, all of the illustrative plans
14 achieve two majority-minority districts and only
15 under that definition.

16 Q. You analyzed Mr. Cooper's report in
17 this case?

18 A. Could you please restate the
19 question?

20 Q. Sure. In -- in creating your own
21 report, you analyzed Mr. Cooper's report?

22 A. I did look at Mr. Cooper's original
23 initial report and his supplemental report.

24 Q. And Mr. Cooper also provided, in
25 addition to the any part BVAP metric, he also

1 provided the non-Hispanic single race black
2 citizen voting age population for each of his
3 illustrative plans; is that right?

4 A. I did see that he provided those
5 statistics, yes.

6 Q. And you would agree with me that
7 that is a far less expansive definition of who is
8 black for purposes of Gingles 1?

9 A. I don't have an opinion whether a
10 citizen voting age population or the voting age
11 population is more or less expansive. It would
12 depend on a very specific piece of geography and
13 circumstances.

14 Q. You would agree that that metric
15 only counts people who are eligible to vote both
16 because of their voting age and their
17 citizenship, correct?

18 A. That is correct.

19 Q. And --

20 A. Yes. Yeah.

21 Q. And it only counts the single race
22 black or those black alone, as you've
23 characterized them, correct?

24 A. That is correct.

25 Q. And it only counts people who are

1 not Hispanic as well, so only black alone without
2 any Hispanic ethnicity, correct?

3 A. I -- I did not study the calculation
4 of his black CVAP. It is possible to both
5 include and exclude Hispanics as well as people
6 of other races in that. I don't know how he
7 calculated it or arrived at his conclusions, so I
8 cannot comment on that.

9 Q. And, in fact, you provide no
10 response at all to his calculation of that NHSRB
11 CVAP in his report at all; is that correct?

12 A. Yeah. My experience is that we use
13 the Census Bureau's public law 94171 data, the
14 P1, 2, 3, 4 tables for the purposes of these
15 types of cases; and I did not look at the CVAP
16 data or analyze Cooper's CVAP data as part of the
17 -- the limited time I had in this case.

18 Q. And, therefore, you don't -- you do
19 not dispute that each of the illustrative plans
20 contains two majority non-Hispanic single race
21 black citizen voting age population districts?

22 A. I cannot offer an opinion. I'm not
23 aware.

24 Q. Mr. Cooper and I believe Mr. Fairfax
25 as well --

1 A. Uh-huh (affirmatively).

2 Q. -- also provided voter registration
3 data for each of the illustrative plans; do you
4 recall that?

5 A. I've -- I've heard that they did.
6 It's not an area that I studied in the area of my
7 examination.

8 Q. When you say "you heard that they
9 did," it was actually included in the expert
10 reports that you reviewed in this case?

11 A. Yeah. It was not an area that I
12 studied. I'm aware it was in the reports. I
13 didn't look at it, analyze it or consider it in
14 my analysis.

15 Q. You anticipated my question. No
16 response to that portion of the analysis,
17 correct?

18 A. No, ma'am.

19 Q. And, therefore, you have no basis to
20 dispute that each of the illustrative plans
21 offered in this case contain two districts in
22 which blacks comprise a majority of registered
23 voters; is that right?

24 A. I do not know.

25 Q. I want to move on to the second

1 question that you address in your report. And I
2 believe going back to page 9 of your report,
3 which is State Exhibit 2, you say that that
4 second inquiry is if there was evidence that race
5 appeared to predominant in the design of any of
6 the plans; is that right?

7 A. Yes.

8 Q. And the way that you analyze this
9 question is by looking at splits of various
10 Louisiana localities, correct?

11 A. That's correct.

12 Q. And that includes parishes and some
13 cities, correct?

14 A. Yeah. The emphasis of our analysis
15 was on places, but that was generalizable the
16 findings we have for parishes as well.

17 Q. But you didn't include a splits
18 analysis of all census designated places,
19 correct?

20 A. We did not include CDPs, no.

21 Q. When you say "we", you are referring
22 to --

23 A. Yeah.

24 Q. -- your own -- your own analysis?

25 A. Yes.

1 Q. Was there anyone else that helped
2 you with the analysis in this case?

3 A. I have a team of experts who work at
4 my company that helped me with this, but it's my
5 analysis.

6 Q. You don't dispute that all of
7 Mr. Cooper's illustrative plans contained fewer
8 parish splits than the enacted plan, do you?

9 A. I do not dispute that, no.

10 Q. And you don't dispute that all of
11 Mr. Cooper's illustrative plans contained fewer
12 municipality splits than the enacted plan?

13 A. That is also correct.

14 Q. You also don't dispute that
15 Mr. Cooper's Illustrative Plan 4 contains zero
16 precinct splits, do you?

17 A. I do not dispute that.

18 Q. Okay. Let's take a closer look at
19 the -- at your geographic splits analysis, and I
20 believe you testified on direct that you conclude
21 from this analysis that race predominated in the
22 drawing of the illustrative plan; is that right?

23 A. A combination of looking at the
24 tables of data, the index of misallocation, other
25 measures as well as a visual examination of those

1 maps is how I came to the conclusion.

2 Q. And the court asked you shortly
3 before the break whether you had ever produced
4 this type of analysis in court before. I just
5 want to clarify. The answer to that was no,
6 correct?

7 A. The indexing misallocation wasn't in
8 court. It was -- it's been run in analyses for
9 other cases.

10 Q. Other people cases?

11 A. Yes.

12 Q. And do you know whether it has ever
13 been credited by a court?

14 A. I do not know whether an index of
15 misallocation was a decisive measure or was
16 credited by a court in their decision. I don't
17 know.

18 Q. But certainly you have never offered
19 your particular methodology of -- of performing a
20 misallocation analysis that has been credited by
21 a court, correct?

22 A. Not that I'm aware.

23 Q. All right. So looking at page 23 to
24 24 of your report, State Exhibit 2, I believe
25 this is where you explain kind of how this

1 analysis works.

2 A. Okay.

3 Q. Do I have the right place?

4 A. I'm not sure. Is it supposed to be
5 on my screen?

6 Q. I can pull something up in front of
7 you.

8 A. Okay. Thank you.

9 MS. KHANNA:

10 Let's pull up state Exhibit 2, your
11 report, page 24.

12 TRIAL TECH:

13 (Complied.)

14 THE WITNESS:

15 Okay.

16 BY MS. KHANNA:

17 Q. I believe this is where you kind of
18 layout how this analysis works, but what the
19 hypothetical example would be and things like
20 that --

21 A. Sure.

22 Q. -- does that sound about right?

23 A. Yes.

24 Q. You also have your reports in front
25 of you, feel free to look at them.

1 A. Sure. I got it.

2 Q. So let's go to -- I want to call out
3 that top paragraph on -- on this page 24. Here
4 you state in the first full sentence, "If the
5 black population were distributed evenly around
6 the city and a split were created randomly" --

7 A. Uh-huh (affirmatively).

8 Q. -- "we would expect the black
9 population to be split the same as the total
10 population." Did I read that correctly?

11 A. Yeah, uh-huh (affirmatively).

12 Q. So this baseline that you calculate
13 of the expected black population in each part of
14 the -- of a divided locality, that -- that
15 expected metric is based on these two
16 assumptions; is that fair to say?

17 A. It's a baseline.

18 Q. And that baseline is comprised from
19 these two -- or is based on these two
20 assumptions, correct?

21 A. Yes.

22 Q. Assumption one being if the black
23 population were distributed evenly around the
24 city, correct?

25 A. Yes. Yes.

1 Q. And assumption two being if the
2 black population -- or, sorry, if the split was
3 created randomly?

4 A. That does not preclude the use of an
5 index misallocation, if you don't fulfill those
6 two assumptions. It's still a valid and widely
7 used measure because we know that very rarely are
8 populations precisely exactly distributed evenly,
9 and that's why we have this measure, to measure
10 the amount of difference from what we would
11 expect.

12 THE COURT:

13 With all due respect, her question
14 was is that one of your assumptions. I
15 don't know what that answered, but it
16 wasn't a question. Was that one of your
17 assumptions?

18 THE WITNESS:

19 Yes.

20 MS. KHANNA:

21 Thank you.

22 BY MS. KHANNA:

23 Q. Let's take a look at Baton Rouge,
24 which I believe you and Mr. Gordon talked about
25 during your direct examination.

1 A. Sure.

2 MS. KHANNA:

3 If we could turn to State Exhibit 2,
4 page 81 from your report. We could zoom
5 in on the map a little bit.

6 TRIAL TECH:

7 (Complied.)

8 BY MS. KHANNA:

9 Q. What does this map depict?

10 A. This is a map that shows the outline
11 of Baton Rouge, and it has a black line and a
12 regular line going across the central part of the
13 city, which is shown to represent where the
14 enacted plan divided the city into two pieces,
15 District 2 to the north and District 6 to the
16 south, with the guided shading to represent the
17 percent any part black by block throughout the
18 city and the surrounding area.

19 Q. So just looking at the -- what you
20 call the thematic shading of this map from your
21 report --

22 A. Uh-huh (affirmatively).

23 Q. -- would you say that the black
24 population is distributed evenly around the city?

25 A. No. No, it's not.

1 Q. You wouldn't say -- you would agree
2 with me that it's largely concentrated in the
3 north, correct?

4 A. Sure.

5 Q. So that first assumption that we
6 just talked about on page 24, if the black
7 population were distributed evenly around the
8 city, that just doesn't hold true at all for
9 Baton Rouge, correct?

10 A. That does -- that is true. That
11 does not mean that you would not use that
12 analysis to measure how much more or less one
13 plan splits Baton Rouge than another plan. It's
14 a comparative metric that allows you to see how
15 much more or less within plan splits than another
16 plan. It doesn't mean you can't use the plan if
17 you don't have that criteria.

18 Q. Okay. And now back to that second
19 assumption --

20 A. Sure.

21 Q. -- whether the split was created
22 randomly, looking again at this map again, this
23 is the enacted map, correct?

24 A. Uh-huh (affirmatively).

25 Q. Looking at this map, would you say

1 that the split in Baton Rouge was created
2 randomly?

3 A. No. There's clearly some parts of
4 this plan which show that the black and white
5 population are divided particularly in the
6 Florida, Government, east/west road through the
7 middle and down towards Buchanan and LSU area in
8 the southwest.

9 What's notable about this particular
10 plan is that the population -- the black
11 population to the northeast still remains in
12 District 6; whereas, the other illustrative plans
13 kind of extend the Florida and Government Street
14 boundary out to the east to make sure that that
15 is captured in one of the majority-minority
16 districts instead.

17 Q. Do you have any reason to believe
18 that the Louisiana legislature split Baton Rouge
19 randomly when it drew the enacted plan?

20 A. When I examined the existing
21 congressional district boundaries, those
22 congressional district boundaries are very
23 similar to boundaries we see here, although I
24 never saw it stated explicitly. It's my
25 understanding that the enacted plan was what we

1 would call the least-change plan. So in knowing
2 that there is one black majority-minority
3 district and there has to be some boundaries
4 somewhere to have had that historically black
5 majority district, it's my understanding looking
6 at these maps and these data that there are some
7 places and ways in which some cities are split to
8 differentiate some black population.

9 Q. I'm just going to -- I'm going to
10 re-ask my question --

11 A. Sure.

12 Q. -- to make sure I got the answer.

13 A. Yeah. Yeah.

14 Q. Do you have any reason to believe
15 that the Louisiana legislature split Baton Rouge
16 randomly when it drew the enacted plan?

17 A. I do not. I believe they followed a
18 -- a least-change approach and followed the
19 existing boundaries as the primary guidance for
20 where they put the boundary here around
21 Baton Rouge.

22 Q. Do you have any reason to believe
23 that the Louisiana legislature, this cycle or
24 last cycle, ever had a goal of drawing district
25 lines randomly?

1 A. I do not know.

2 Q. And you just stated that you believe
3 that the Louisiana legislature had a least-change
4 plan in mind; is that correct?

5 A. In -- in analyzing the current maps,
6 it looks like they followed a least-change
7 strategy, although no one told me this and I
8 don't know -- I'm not aware of that as the
9 guidance for any of these plans.

10 Q. You just anticipated my next
11 question. You are basing that -- that -- that
12 your conclusion there is solely on your analysis
13 of the map not on any history, guidelines or
14 instructions that were given to you by counsel,
15 correct?

16 A. Yes, ma'am. That's correct. Thank
17 you.

18 Q. So going back to page 24 of your
19 report, let's take a look at that page -- whole
20 page again.

21 A. Okay.

22 Q. And you explain how you calculate
23 the misallocation of a given area by subtracting
24 out the actual black population from what you
25 call the expected black population in each

1 portion of the district; is that right?

2 A. Sure. Yes.

3 Q. But at no point in your analysis do

4 you provide any basis to know how much of the

5 misallocation is because the black population is

6 not evenly distributed across the city and how

7 much is due to race being the predominant factor

8 in the district's design; is that fair?

9 A. Could you please say that again?

10 Q. I understand. That's a long

11 question.

12 A. No problem.

13 Q. Let me see if I can break this down.

14 You arrive at a misallocation number in your data

15 sets, correct?

16 A. Uh-huh (affirmatively). Yes.

17 Q. But at no point in your analysis do

18 you provide the court with any basis to know how

19 much of that misallocation is due to the fact

20 that the black population is not -- is not

21 distributed evenly across the city, how much is

22 due to assumption one versus how much is due to

23 assumption two, whether race was a -- a

24 consideration or not?

25 A. No, I don't do that.

1 Q. Let's go -- let's zoom into the last
2 paragraph, paragraph 41 on this page.

3 So here you discuss the extent to
4 which the black population in Lafayette is
5 misallocated in Galmon plaintiffs' Illustrative
6 Plan 3; is that right?

7 A. Yes. It's a statistical term.

8 Q. Okay. And you take the expected
9 black population based on those same two
10 assumptions we already discussed, correct?

11 A. Yes.

12 Q. And then you subtract out the actual
13 black population; is that right?

14 A. That's right.

15 Q. And you conclude in this paragraph
16 that 14,508 blacks have been redistricted and
17 split differently in Lafayette than you would
18 expect if the plan had been drawn race blind.

19 A. Yes.

20 Q. Did I read that correctly?

21 A. Yes.

22 Q. But, again, you don't know how much
23 of that misallocation is due to race blind line
24 drawing and how much is due to a highly
25 segregated population or rather -- sorry. Let me

1 repeat the question. I think I misstated it.

2 A. Thank you.

3 Q. You don't know how much of that
4 misallocation is due to race based line drawing
5 and how much of that misallocation is due to the
6 highly segregated black population, do you?

7 A. I arrive at my conclusion by looking
8 at the map and seeing where the concentrations of
9 the black population are; and if the person
10 drawing the map had drawn it race blind, then
11 they could have drawn the map in any way they
12 could to partition up any one of these cities,
13 Lafayette or Baton Rouge. You could have come up
14 with any number of combinations north, south,
15 east and west, and the outcome what we can see in
16 the maps is that the lines were actually drawn in
17 a way that were the most decisive, nearly the
18 most decisive they could be putting a line where
19 there was black and where there's not black
20 populations; and that's how I arrive at my
21 conclusion.

22 Q. You're speaking of your analysis of
23 the visuals of the maps, correct?

24 A. Yes. And common to how these
25 analyses talk to each other.

1 Q. And the misallocation analysis is
2 the numerical analysis that you provide in your
3 tables, correct?

4 A. Yes, that's correct.

5 Q. And the misallocation analysis, the
6 one that we just discussed, relies on those two
7 assumptions --

8 A. Yeah.

9 Q. -- correct?

10 A. Yes.

11 Q. And the misallocation analysis is
12 the one that in your report results in this
13 paragraph indicating a number of 14,508 black
14 people -- black people, correct?

15 A. Yes.

16 Q. And you cannot tell me how much of
17 that 14,508 is -- that how much of that
18 misallocation is due to the fact that the black
19 population is highly concentrated in a certain
20 area and how much of that misallocation is due to
21 race based line drawing, correct?

22 A. Yes.

23 MS. KHANNA:

24 Let's take a look at Lafayette.

25 And, if we could, pull up page 93 of your

1 report.

2 TRIAL TECH:

3 (Complied.)

4 BY MS. KHANNA:

5 Q. What does this map depict?

6 A. Sure. So this is the Galmon 3 plan.

7 Yeah, the Galmon 3 plan. So this is the very

8 irregular city boundary outline of Lafayette, the

9 black line through the middle. Again, it's not a

10 city boundary, it's a district boundary dividing

11 District 5 to the north and District 3 to the

12 south, again, with the thematic shading of black

13 population and white population concentrations by

14 Census 1.

15 Q. Just to clarify, the -- the black

16 line's kind of all around?

17 A. Yeah.

18 Q. That is the city boundary, correct?

19 A. Yes, it is, yes.

20 Q. And you're telling me that the black

21 line in the middle is the district boundary?

22 A. That's where the districts divide

23 the city north and south, that's correct.

24 Q. The same color line is used for

25 both?

1 A. Yes.

2 Q. I just want to make sure it's clear.

3 A. Yes, that's correct.

4 Q. So just looking at, again, that
5 thematic shading of -- of this map, would you say
6 that the black population is distributed evenly
7 across the city?

8 A. No. It's very heavily concentrated
9 to the north, and the white is concentrated to
10 the south.

11 Q. Again, your conclusion on page 24
12 that in this map, 14,508 blacks have been split
13 differently in Lafayette than you would expect if
14 the plan had been race blind, that does not
15 factor in the segregated residential pattern of
16 the city, correct?

17 A. Right.

18 Q. Is it your understanding that the
19 enacted map was drawn race blind?

20 A. My observation of the enacted map is
21 that it was drawn as a least-change plan. The --
22 the changes that were made to accomplish these
23 least changes predominantly were in outside
24 incorporated cities and towns where the changes
25 for the illustrative plans were more prevalent.

1 Q. I'm going to ask it again.

2 A. Okay.

3 Q. Do you have any basis to believe
4 that the enacted map was drawn race blind?

5 A. I do not know.

6 Q. All right. Now, let's take a look
7 at Lafayette within kind of the broader context
8 of Mr. Cooper's Illustrative 3, which is the one
9 that you've used as an example here.

10 MS. KHANNA:

11 If I could pull up the same map side
12 by side with GX-1C at page 11 on the
13 right. And if we can, zoom in a little
14 bit on the Lafayette Parish, Acadia
15 Parish, St. Martin Parish, St. Landry
16 Parish area in the middle.

17 TRIAL TECH:

18 (Complied.)

19 MS. KHANNA:

20 Thank you.

21 BY MS. KHANNA:

22 Q. Okay. So just to clarify, just so
23 we are clear, I know that it may not be clear on
24 the screen. On the left here, we see your State
25 Exhibit 2, page 93, which is your illustration of

1 the Galmon plaintiffs' Illustrative 3 of the City
2 of Lafayette; is that correct?

3 A. Yes.

4 Q. Okay. And on the right here is
5 Mr. Cooper's Illustrative Plan 3, the portion --
6 and you can see the various congressional
7 districts there. It kind of shows Lafayette in
8 the broader context of the map that he drew; is
9 that -- you see that?

10 A. I see it. I don't -- I'm not able
11 to confirm or deny that I know that's what that
12 plan is.

13 MS. KHANNA:

14 Okay. We can zoom out for a second
15 on that right map just to make sure that
16 you're aware.

17 TRIAL TECH:

18 (Complied.)

19 THE WITNESS:

20 Okay. Great.

21 BY MS. KHANNA:

22 Q. Illustrative Plan 3?

23 A. Right.

24 MS. KHANNA:

25 Zoom back in so we can make sure we

1 are looking at the same area of the state.

2 TRIAL TECH:

3 (Complied.)

4 THE WITNESS:

5 Okay. Thank you.

6 BY MS. KHANNA:

7 Q. You would agree with me that

8 Lafayette is located in CD-5 under Mr. Cooper's

9 Illustrative Plan 3, correct? Again, we can zoom
10 out if that's easier.

11 A. Yeah. I'm not sure without the
12 labels.

13 Q. Let's leave it there.

14 A. Yeah. It looks like 5 goes out to
15 the north from Lafayette; so yes, I see that.

16 Q. And, again, I think you anticipated
17 my next question.

18 You would agree that Lafayette is at
19 the very bottom of CD5 in Mr. Cooper's
20 Illustrative Plan 3, correct?

21 A. Yes.

22 Q. The district extends north from
23 Lafayette?

24 A. Yes.

25 Q. So if Mr. Cooper were to start

1 drawing into Lafayette by assigning precincts
2 adjacent to the rest of District 5, he would
3 start at the north end of the city, correct?

4 A. I do not know whether Mr. Cooper
5 started his plan in Lafayette and drew north or
6 started up in the more normal part of the state
7 and worked his way south. I don't know.

8 Q. You'll agree with me, however, that
9 the precincts on the north side of Lafayette are
10 adjacent to and remain in District 5, correct?

11 A. They are, yes.

12 Q. And you would agree that districts
13 need to be drawn contiguously, correct?

14 A. Yes.

15 Q. Which means that when drawing them
16 you would include neighboring precincts, correct?

17 A. Yes.

18 Q. If he just kind of grabbed precincts
19 all over the city, that would not make for a
20 contiguous city, correct?

21 A. Yes.

22 Q. If you had chosen randomly across
23 the city, that would make for a higher irregular
24 city, correct?

25 A. I don't know if he was drawing from

1 the more northerly part of his plan in District
2 5. You have obviously a wide variety of options
3 going to the west, to the southwest, the south
4 and this plan seems to have gone very
5 specifically into Lafayette, the very heavily
6 black population in the north part of that city.

7 Q. But you would agree with me if in
8 drawing within Lafayette city, if he had chosen
9 precincts or census blocks randomly all over the
10 city, it would create a noncontiguous district,
11 correct?

12 A. If you picked discontinuous ones,
13 then that would have happened, yes.

14 Q. And if he had picked kind of a
15 checkerboard pattern or a barely contiguous line
16 of precincts around the city, it would create a
17 highly non-compact district, correct?

18 A. Yes.

19 Q. Very irregular?

20 A. Yeah.

21 Q. You would also agree that if he had
22 chosen to divide the city along a vertical line

23 --

24 A. Uh-huh (affirmatively).

25 Q. -- that that would be creating a

1 non-compact extension where the rest of the
2 district is north of Lafayette, correct?

3 A. I don't have an opinion on how much
4 more or less compact a -- a different draw of the
5 city would end up being.

6 MS. KHANNA:

7 Okay. You can take this down.

8 TRIAL TECH:

9 (Complied.)

10 BY MS. KHANNA:

11 Q. Mr. Bryan, you concluded in your
12 report that the effective splits that we
13 discussed is to split the minority population
14 from the black population from the white
15 population across the districts; is that fair?

16 A. Yes, it is.

17 Q. That they, quote, segregate whites
18 from blacks leaving additional majority black
19 district?

20 A. Yes.

21 Q. You reviewed Mr. Cooper's report in
22 preparing your analysis, correct?

23 A. I'm sorry. Can you say it again?

24 Q. Sure. You reviewed Mr. Cooper's
25 first report in preparing your analysis here,

1 correct?

2 A. The first report, yes.

3 Q. If we could pull up Mr. Cooper's
4 first report, GX-1 at page 20, and specifically
5 paragraph 42. Here, Mr. Cooper explains that
6 under the enacted map, 31.5 percent of the
7 state's black voting age population lived in a
8 majority black district while 91.5 of the white
9 voting age population lives in a majority white
10 district. You see that?

11 A. Yes, I do.

12 Q. And you don't dispute these figures
13 in your report, correct?

14 A. Mr. Cooper's analysis in his first
15 report was done on what I later found out to be
16 the wrong plan, so I cannot confirm or deny
17 whether these numbers are accurate or not.

18 Q. Do you have a reason -- and you know
19 that Mr. Cooper corrected for the right plan by
20 the time he got to his supplemental report?

21 A. I have read the corrected version of
22 the plan, but I don't recall seeing a paragraph
23 like this in the corrected one that would fix
24 these numbers, so I don't know.

25 Q. And do you -- do you -- do you know

1 whether or not the corrected version, the SB-1

2 version -- HB-1, SB-5 version --

3 A. Uh-huh (affirmatively). Yeah.

4 Q. -- was the enacted version?

5 A. Yes.

6 Q. Is it very similar to the one that

7 Mr. Cooper analyzed in this first report?

8 A. I believe it's similar.

9 Q. But you provide no analysis of these

10 figures in your report; is that correct?

11 A. No.

12 Q. Mr. Bryan, would you agree with me

13 that a map in which over 90 percent of the white

14 voting age population lives in districts that are

15 overwhelmingly white is -- appears to separate

16 white voters from black voters?

17 A. There is separation of white and

18 black voters in the enacted plan.

19 Q. I'm going to ask the question one

20 more time --

21 A. Yes.

22 Q. -- just to make sure we are on the

23 same page.

24 A. Yes.

25 Q. Would you agree with me that now in

1 a map over which 90 percent of the white voting
2 population lives in -- lives in districts that
3 are overwhelmingly white appears to separate
4 white voters from black voters?

5 A. Yes.

6 Q. You would not refer to such a map as
7 briefly diverse or integrated, would you?

8 A. No.

9 Q. And you would agree with me that
10 under Mr. Cooper's illustrative plans, more white
11 voters would live in more racially diverse
12 districts than they do under the enacted map?

13 A. Can you please restate the question?

14 Q. Absolutely. You would agree with me
15 that under Mr. Cooper's illustrative plans, more
16 white voters would live in more racially diverse
17 districts than they do under the enacted map?

18 A. Not having seen his corrected
19 numbers, not having that cable, I can't say that
20 with certainty. I'm sorry. I don't know.

21 Q. Okay. You would agree with me
22 hypothetically that a district that is -- in
23 which 100 percent of the voting age population is
24 white and zero percent of the voting age
25 population is black does not reflect racial

1 diversity or integration, correct?

2 A. Yes, I agree.

3 Q. And the same is true of the -- of

4 the opposite; 100 percent black voting age

5 population, zero percent white voting age

6 population?

7 A. Yes. That's correct.

8 Q. A district that is 80 percent white

9 and 20 percent black is a little closer, correct?

10 A. Yes.

11 Q. A little closer to being more

12 racially diverse?

13 A. Yes.

14 Q. And that would be the same if it's

15 flipped 80 percent black and 20 percent white,

16 correct?

17 A. Yes.

18 Q. And perhaps even the most diverse

19 would be if the district were 50/50 black and

20 white, correct?

21 A. Yes.

22 Q. So the smaller the difference

23 between the white population and the black

24 population is an indicator of how integrated or

25 diverse the district is; is that fair?

1 A. For the purpose of this case, our
2 analysis was on the percentage and the
3 concentrations of the black population not of the
4 white population, so I don't have an opinion
5 whether how much or how little white population
6 is concentrated is the measure to determine
7 diversity or the concentration of the districts.

8 I focused my analysis on the black
9 -- different measurements of black population
10 only.

11 Q. And I am not specifically asking
12 about the analysis that you performed.

13 A. Oh.

14 Q. I'm asking based on the hypothetical
15 we just kind of walked through, that the -- we
16 talked about hundred and zero --

17 A. Yes.

18 Q. -- 80/20 --

19 A. Yes.

20 Q. -- 50/50, the smaller of the
21 difference between white population and black
22 population, the more diverse or integrated that
23 district, correct?

24 A. Yes. Yes. That's right.

25 Q. Okay. Let's -- let's take a look.

1 You said you haven't had a chance to
2 review the numbers in the corrected version, so
3 let's take a look at the racial combination of
4 the enacted plan and the illustrative plan; and
5 I'm just going to use Illustrative Plan 1 for
6 sake of simplicity.

7 A. Sure.

8 MS. KHANNA:

9 Can we pull up GX-29, page 18, and
10 put that on top of the Table GX-1,
11 page 27, Figure 13.

12 TRIAL TECH:

13 (Complied.)

14 BY MS. KHANNA:

15 Q. Okay. So you -- I'll represent to
16 you that this first table on top is from
17 Mr. Cooper's supplemental report --

18 A. Okay.

19 Q. -- in which he used the correct --
20 the corrected data for the enacted plan.

21 A. All right.

22 Q. And you can see here he refers to
23 that plan as HB-1, SB-5?

24 A. Yeah. Let me just orient myself for
25 a minute.

1 Q. Absolutely.

2 A. Okay. I think I've got it.

3 Q. Okay. So what we are looking at
4 here is the kind of the demographic breakdown of
5 the enacted map on top and the demographic
6 breakdown of the Illustrative Plan 1 on the
7 bottom. Does that look right to you?

8 A. Yes.

9 Q. Okay. Let's compare District 2 in
10 the enacted map. What is the BVAP of District 2
11 in the enacted map, the black voting age
12 population?

13 A. Okay.

14 Q. The percentage, please.

15 A. Yeah. No. I'm just reading across.
16 District 2, you are referring to the top table?

17 Q. I am, yes.

18 A. Okay. Great. So it looks like the
19 percent any part black of the total population is
20 approximately 61 percent and the percent any part
21 black District 2, this is the number we
22 replicated for -- was 58.65 percent.

23 Q. 58.65 is the BVAP of District 2
24 under the enacted plan?

25 A. Yes, I believe so.

1 Q. And what is the white voting age
2 population of District 2 under the enacted plan?

3 A. It is -- it looks like about 179,000
4 or approximately 30 percent.

5 Q. Okay. So the BVAP is roughly
6 59 percent, the white VAP is roughly 30 percent.

7 Would you agree with me that the
8 difference between the white VAP and the BVAP is
9 approximately 29 percentage points?

10 A. Yes.

11 Q. Let's look at District 2 under
12 Illustrative Plan 1. What is the BVAP of
13 District 2 in that plan?

14 A. It is -- in District 2?

15 Q. Uh-huh (affirmatively).

16 A. District 2 is -- it's just over
17 50 percent, 50.16 percent.

18 Q. Okay. And what is the white voting
19 age population of District 2 in the Illustrative
20 Plan 1?

21 A. 37.4 percent.

22 Q. Okay. So my math, 50 -- the
23 difference between 50 and 37 is approximately 13
24 percentage points?

25 A. Yes.

1 Q. Okay. So you would agree with me
2 that the difference between the black population
3 and the white population is smaller in the
4 illustrative plan District 2 than it is in the
5 enacted plan District 2?

6 A. I agree.

7 Q. By about 16 percentage points?

8 A. Yes.

9 Q. Okay. Let's look at District 5.
10 What is the black voting age population
11 percentage of District 5 under the enacted map on
12 top?

13 A. It's 50.04 percent.

14 Q. On the enacted map?

15 A. Oh, no. I'm sorry. I apologize.

16 Q. That's okay.

17 A. District -- which district again,

18 District --

19 Q. District 5?

20 A. -- 5. District 5 and the white
21 non-Hispanic number again.

22 Q. Let's try it again.

23 A. Thank you.

24 Q. District 5 -- sure. The black
25 voting age population percentage in District 5 in

1 the enacted map on top?

2 A. Sure. It looks like 32.91 percent.

3 Q. Okay. And the white voting age
4 population?

5 A. It is 60.29 percent of the
6 population.

7 Q. So that's a difference of
8 approximately 27 percentage points?

9 A. Yes. Yes, I agree.

10 Q. And what is the black voting age
11 population percentage of the Illustrative
12 District 5?

13 A. The black voting age percent is
14 50.04 percent.

15 Q. And the white voting age population?

16 A. 43.97 percent.

17 Q. That's roughly six percentage point
18 difference?

19 A. Yes.

20 Q. So you would agree with me that
21 District 5 in the illustrative plan, that is far
22 more racially diverse than District 5 in the
23 enacted plan, correct?

24 A. Yes.

25 Q. By about over 21 percentage points?

1 A. Yes.

2 MS. KHANNA:

3 You can take this down.

4 TRIAL TECH:

5 (Complied.)

6 BY MS. KHANNA:

7 Q. Going back to the second question
8 that you asked in your -- your report or that you
9 inquired into was if there is evidence that race
10 appeared predominate -- appeared to dominate in
11 the design of the illustrative plans, correct?

12 A. Yes.

13 Q. And you concluded that the answer to
14 that was yes?

15 A. Yes.

16 Q. And that was based on the place
17 splits analysis that we just walked through?

18 A. Yes.

19 Q. You included no analysis of
20 compactness of evaluating racial predominance,
21 correct?

22 A. I did not.

23 Q. So you don't know the extent to
24 which any of the splits that you just mentioned
25 or even that we discussed make a district more or

1 less compact?

2 A. I do not know that relationship for
3 the enacted plan or any of the illustrative
4 plans.

5 Q. You conducted no analysis in
6 contiguity in evaluating racial predominance,
7 correct?

8 A. I did do a quality control
9 examination to ensure that all of the geography
10 was contiguous, and they were in all of the
11 plans.

12 Q. But you did no analysis to determine
13 whether any of the splits that you discussed in
14 your report made a land bridge narrower or wider?

15 A. No.

16 Q. You did not inquire into where
17 incumbents lived in performing your racial
18 analysis, correct?

19 A. I looked at the location of the
20 incumbents and confirmed that all of -- in all of
21 the plans, all of the incumbents were in their
22 own districts.

23 Q. You provide no analysis of the
24 extent to which any of the splits that you
25 mention in your report are made to avoid drawing

1 out or pairing incumbents, do you?

2 A. Uh-huh (affirmatively). No, I do
3 not.

4 Q. You conducted no analysis of
5 communities of interest in evaluating racial
6 predominance; is that correct?

7 A. That's correct, I did not.

8 Q. You don't know the extent to which
9 any of the splits that you mentioned in your
10 report follow community of interest lines,
11 correct?

12 A. I did not.

13 Q. So -- and, for instance, you learned
14 in court when Mr. Tyson or Ms. Shelton testified
15 about Baton Rouge being the, quote, tail of two
16 cities?

17 A. I was not in court.

18 Q. So you didn't take any of that into
19 account in determining whether race appeared to
20 predominate in the division of Baton Rouge?

21 A. No.

22 Q. You mentioned that in Illustrative
23 Plan 1, in Mr. Cooper's Illustrative Plan 1, the
24 line -- the dividing line in Baton Rouge appears
25 to follow Florida Boulevard across; is that

1 correct?

2 A. Yes, that's correct.

3 Q. You had performed no analysis of the
4 history or surroundings of Florida Boulevard or
5 any kind of significance it has in reflecting
6 communities of interest in Baton Rouge?

7 A. No, I did not. My analysis was
8 completely demographic.

9 Q. So based on your place splits
10 analysis, you conclude that race was a prevailing
11 factor in the design of the illustrative plans,
12 correct?

13 A. Based on my demographic analysis, I
14 conclude that, yes.

15 Q. But you did not examine any other
16 traditional districting principles in making the
17 determination that race prevailed, correct?

18 A. No, I did not.

19 Q. I want to turn briefly back to the
20 Alabama case that we started talking about
21 earlier.

22 And, again, that was the most recent
23 case in which you testified and also the first
24 case in which you testified, correct?

25 A. Yes.

1 Q. Is it fair to say the court in that
2 case placed very little weight on your testimony?

3 I believe you testified to that on direct.

4 A. Yes.

5 Q. And, in fact, your testimony
6 specifically about the issue of the appropriate
7 metric for determining who is black caused the
8 court to question your credibility as an expert
9 witness; is that correct?

10 A. Yes.

11 Q. The court expressed concern about
12 the numerous instances in which you offered an
13 opinion without a sufficient basis or in some
14 instances any basis; do you recall that?

15 A. Yes.

16 Q. The court also criticized you for
17 opining on what you saw as a desire to divide
18 voters by race in the illustrative plans offered
19 there without examining all of the traditional
20 districting principles set forth in the
21 legislature's guidelines, correct?

22 A. Yes.

23 Q. The court further found your
24 analysis to be partial, selectively informed, and
25 poorly supported; do you recall that?

1 A. Yes.

2 Q. Last set of questions, Mr. Bryan.

3 What is the hourly rate that you are charging the
4 State of Louisiana in this case?

5 A. 450.

6 Q. And that is an increase in the
7 hourly rate that you charged the State of Alabama
8 just a few months ago; is that right?

9 A. Yes. We had a change this year
10 across my company.

11 Q. Approximately, how much have you
12 billed for this case so far?

13 A. I have not added it up. I don't
14 know.

15 Q. Do you have an approximate estimate
16 about how many hours you spent on this case thus
17 far?

18 A. Through my company, a couple of
19 hundred.

20 Q. A couple of hundred hours?

21 A. Yes. Yeah. I don't know the exact
22 number.

23 MS. KHANNA:

24 Thank you, Mr. Bryan.

25 THE WITNESS:

1 Thank you.

2 MS. KHANNA:

3 No further questions, Your Honor. I
4 apologize, Your Honor. I had some notes
5 from co-counsel.

6 THE COURT:

7 Okay. Go ahead. Go ahead.

8 BY MS. KHANNA:

9 Q. Mr. Cooper, you testified earlier
10 that you had not reviewed the Robinson
11 Illustrative Plans 2 and 2A; is that correct?

12 A. That is correct. I'm unaware of
13 those two plans.

14 Q. Your unaware that they exist?

15 A. I've heard that there was a Plan 2.
16 I have not heard that there was a Plan 2A. I
17 don't know anything about them.

18 Q. So you don't know how many pieces of
19 Baton Rouge are split in those plans then?

20 A. I do not know.

21 Q. You did no analysis of the
22 allocation of black and white voters in the
23 cities split in those plans, correct?

24 A. I did not do any analysis of those
25 plans, no.

1 MS. KHANNA:

2 Thank you, Mr. Bryan.

3 THE WITNESS:

4 Thank you.

5 THE COURT:

6 Redirect?

7 REDIRECT EXAMINATION BY MR. GORDON:

8 Q. Thank you, Your Honor. Mr. Gordon
9 again for the intervenor, State of Louisiana.

10 Hello, Mr. Bryan. Couple of brief
11 follow-up questions and we will get you out of
12 here.

13 In the State of Louisiana, is the
14 population of any race evenly distributed?

15 A. Could you please restate that? I'm
16 having trouble hearing.

17 Q. Sure. Sorry. I'll move forward.
18 In the State of Louisiana, is any race evenly
19 distributed throughout the state?

20 A. No, it is not.

21 Q. Anywhere in the United States, is
22 there any race evenly distributed throughout any
23 relevant piece of geography, any large piece of
24 geography?

25 A. With very, very rare exceptions, no.

1 Q. When -- so speaking generally as a
2 person who draws maps yourself, when drawing
3 maps, is -- okay. Does a map drawer tend to have
4 a working knowledge of the demographics of the
5 state without having to look at, say, any
6 specific data?

7 A. Yes, they would.

8 Q. And that would include the racial
9 demographics generally of the state?

10 A. Yes, they would.

11 Q. Okay. So a -- a map drawer, if they
12 are familiar with the state, could say, know
13 generally where certain sets of a population
14 lives to draw that population and do any relevant
15 district; is that correct?

16 A. We would, yes.

17 Q. Do you have any reason to believe
18 that proportional representation is required by
19 law?

20 A. Please say that again for me, sir.

21 Q. Sure. Do you have any reason to
22 believe that proportional representation is
23 required by any state or law?

24 A. No.

25 MR. GORDON:

1 And I'd like to turn really quickly
2 to Appendix 4 of your Exhibit 2KK. I
3 believe my -- my friends over here just
4 looked at that Lafayette down here on page
5 93. And we can just leave it on the map
6 part there.

7 TRIAL TECH:

8 (Complied.)

9 BY MR. GORDON:

10 Q. And so -- and so as a map drawer,
11 what reason do you think anybody would -- if they
12 were drawing from the -- in other words, for
13 example, stop right where this map draw -- map
14 stops?

15 MS. KHANNA:

16 Objection. Calls for speculation.

17 MR. GORDON:

18 I'll rephrase, Your Honor.

19 THE COURT:

20 Thank you.

21 BY MR. GORDON:

22 Q. If you were drawing this map and you
23 were drawing it from the north --

24 A. Uh-huh (affirmatively).

25 Q. -- and your goal was to -- not your

1 goal. Let me start over.

2 If you were drawing this map and you
3 were drawing it from the north, what reason would
4 you have to stop where this map stops between
5 District 5 and District 3?

6 MS. KHANNA:

7 Same objection, Your Honor.

8 MR. GORDON:

9 I'm asking for what he would do,
10 Your Honor.

11 THE COURT:

12 You are actually asking what reason
13 would he have.

14 MR. GORDON:

15 So -- all right. Fair enough. All
16 right. Let me try this one more time and
17 we will see how it goes.

18 THE COURT:

19 Okay.

20 BY MR. GORDON:

21 Q. I'll be ready. As a map drawer, if
22 you were drawing this map -- let -- let me back
23 that out and make it more generalized.

24 Why are -- what are some reasons
25 that you can use when you are drawing maps that

1 inform where you draw lines?

2 MS. KHANNA:

3 Objection. These are things I
4 didn't go over when I cross-examined him.

5 THE COURT:

6 It is. It's beyond the scope of
7 what he was engaged to do.

8 BY MR. GORDON:

9 Q. All right. Okay. So let's just
10 focus directly on this picture right now. Based
11 on your assessment today and your report and what
12 you analyzed, what is your opinion as to why this
13 line was drawn dividing these districts?

14 A. As we discussed shortly along,
15 there's a variety of ways if you are drawing from
16 the north to go down into Lafayette.

17 Without making highly irregular
18 checkerboard strange divisions of the city, you
19 can look at this and say the only thing you need
20 to be able to do, if they are coming down from
21 the north and they need to get population into a
22 district is to draw that line which is relatively
23 uniform east to -- east to west as you would draw
24 that line dividing the city as far as south into
25 the city as you would need just to get an equal

1 amount of population in that district, no more,
2 no less.

3 So if I was the map drawer, I would
4 look at this and I'd say there's a number of
5 freeways, waterways, railways. There's other
6 geographic features that I would look for to say
7 is there kind of a natural place that you could
8 divide Lafayette north and south in order to get
9 your equitable population which is the most
10 important requirement of drawing these plans.

11 So if I were a map drawer looking at
12 this, I would say how far south do we need to go
13 to draw a clean line to divide the city. The
14 situation in this particular plan is that the map
15 drawer went only exactly far enough south just to
16 only include only the high density black
17 population in the city. There's other geographic
18 features in this city that the map drawer could
19 have stopped short or the map drawer could have
20 continued going further south into the city to
21 divide it.

22 MS. KHANNA:

23 I apologize, Your Honor. Objection.

24 This is beyond the scope of his testimony.

25 He at no point identifies any other

1 geographic landmarks or anything in the
2 district looking at this. I can't tell
3 what any of those would be.

4 THE COURT:

5 He's been tendered and accepted in
6 the field of demography, not map drawing,
7 so I would sustain the objection. Do you
8 have another question?

9 MR. GORDON:

10 Sure, Your Honor. Thank you.

11 BY MR. GORDON:

12 Q. As a demographer, if we were to
13 split this district in half north/south, would
14 that be a more even distribution of black and
15 white population throughout Lafayette?

16 A. It would depend entirely on where
17 the -- the split was, whether it's north or south
18 of where this is right now. The further south
19 you drew it, it would include more white
20 population. If you drew it further to -- to the
21 north, you would be excluding more black
22 population. It depends.

23 Q. If you drew a vertical line directly
24 north to south with the split dead center, it
25 would be more black than white?

1 A. Then it would divide the population
2 and get you much more closer to the equitable
3 population between black and white in each one of
4 those districts.

5 MR. GORDON:

6 That's all for me.

7 One matter before I release the
8 witness, Your Honor. I'd like to move
9 Exhibits 2, 2A and 2B into evidence for
10 the State of Louisiana.

11 THE COURT:

12 Without objection?

13 MS. KHANNA:

14 No objection.

15 THE COURT:

16 Admitted.

17 MR. GORDON:

18 Okay. That's all, Your Honor.

19 THE COURT:

20 Okay. And we will take a recess
21 until -- okay. We will take a recess
22 until 1:30.

23 (A short recess was taken.)

24 THE COURT:

25 Next witness?

1 MS. NIEFEH:

2 Your Honor, pursuant to the request
3 this morning to keep the record open while
4 we establish that all the exhibits have
5 been moved in, it appears that there is a
6 discrepancy between the exhibit list that
7 the court has and what we believe we moved
8 in with respect to two exhibits, two
9 plaintiff exhibits.

10 THE COURT:

11 Okay. Which ones?

12 MR. NIEFEH:

13 Those are PR-12 and PR-91. We
14 believe the transcript shows that they
15 were moved in and the court allowed them
16 in, but the list that we have that the
17 court has doesn't include them.

18 THE DEPUTY:

19 I fixed it.

20 THE COURT:

21 Okay. The record will reflect that
22 PR-12 and PR-91 are in evidence and the
23 Court will --

24 MR. NAIFEH:

25 Thank you.

1 THE COURT:

2 -- correct the record to reflect
3 that.

4 Okay. Next witness by the
5 defendants, please?

6 MS. RIGGINS:

7 Good afternoon, Your Honor. Alyssa
8 Riggins for defendant, Secretary of State.
9 We would like to call Dr. Tumulesh
10 Solanky, please.

11 THE COURT:

12 And your last name is Wiggins,
13 ma'am?

14 MS. RIGGINS:

15 Riggins, R-I-G-G-I-N-S.

16 THE COURT:

17 All right. Thank you.

18 TUMULESH KUMAR SINGH SOLANKY,
19 after having first been duly sworn by the
20 above-mentioned Court Reporter did testify as
21 follows:

22 THE COURT:

23 Do you want to put a shield on?

24 THE WITNESS:

25 It's okay if I remove this?

1 THE COURT:

2 Yes, but we can give you a shield,
3 if you would like it.

4 THE WITNESS:

5 No. I am vaccinated.

6 THE COURT:

7 Go ahead, ma'am.

8 EXAMINATION BY MS. RIGGINS:

9 Q. Dr. Solanky, can you please state
10 and spell your full name for the court?

11 A. Sure. My full name is Tumulesh
12 Kumar Singh Solanky, and it's spelled
13 T-U-M-U-L-E-S-H, K-U-M-A-R, S-I-N-G-H,
14 S-O-L-A-N-K-Y.

15 MS. RIGGINS:

16 And we intend to offer Dr. Solanky
17 as an expert in mathematics and
18 statistical analysis.

19 Is there a stipulation to that
20 effect?

21 MR. HURWITZ:

22 No objection.

23 THE COURT:

24 Dr. Solanky will be admitted to give
25 opinion testimony in the fields of

1 mathematics and statistical analysis.

2 BY MS. RIGGINS:

3 Q. Dr. Solanky, have you prepared an
4 expert report in this case?

5 A. Yes, I have.

6 Q. Okay.

7 MS. RIGGINS:

8 And can we pull up a copy of that
9 report? It's Exhibit -- and the last is
10 403.

11 TRIAL TECH:

12 (Complied.)

13 MS. RIGGINS:

14 And, Your Honor, may I approach to
15 provide the witness with a paper copy as
16 well?

17 THE COURT:

18 You may.

19 MS. RIGGINS:

20 Thank you.

21 THE WITNESS:

22 Thank you.

23 THE COURT:

24 Dr. Solanky, can you verify for the
25 court and the opposing counsel that what

1 you have before you is your -- your report
2 in this matter?

3 THE WITNESS:

4 Yes, Your Honor.

5 THE COURT:

6 Okay. Thank you.

7 BY MS. RIGGINS:

8 Q. And is your curriculum vitae
9 attached to your report as Appendix 1?

10 A. That is correct.

11 Q. Okay. And is this a true and
12 accurate copy of your latest CV?

13 A. Yes, it is.

14 Q. Okay. Dr. Solanky, what is your
15 current occupation?

16 A. My current occupation is I'm a
17 professor of mathematics, I'm the chair of the
18 mathematics department at University of
19 New Orleans, and I also serve as University of
20 Louisiana System Foundation and Michael and
21 Judith Russell professor in data/computational
22 science.

23 Q. Okay. And how long have you been
24 the chair of the math department at UNO?

25 A. I've been chair of the math

1 department close to 14 years.

2 Q. And how long have you taught at UNO?

3 A. I have taught close to 32 years at
4 UNO.

5 Q. And can you describe a little bit
6 some of the nonacademic work that you've also
7 done?

8 A. Off and on academic work, I have
9 provided my expertise, for example, USDA in
10 interpreting in Baton Rouge, Louisiana. I have
11 consulted with NASA regarding some of the ncache
12 problems which were faced by some of the missions
13 in Discovery and Challenger. It's a long -- I
14 have provided my expertise to FBI in
15 investigating and even prosecuting crimes. The
16 list is long.

17 Q. Okay. And have you previously been
18 qualified as an expert witness in statistics and
19 mathematics in both state and federal court?

20 A. Yes, I have.

21 Q. And in the cases where you have been
22 qualified as an expert, have you provided
23 expertise to both plaintiffs and defendants?

24 A. That is correct.

25 Q. Have you also served as a

1 court-appointed expert?

2 A. Yes, I have. And recently in
3 Eastern District of Louisiana, I served as tech
4 support for the clerk of court looking at the
5 jury matters, looking at how some voters when
6 jury voir dires to figure jurors, what steps they
7 face, and I was the expert for the court; and
8 both the plaintiff and defendant had their own
9 experts.

10 And, prior to that, in the complex
11 litigation matter in Louisiana, this was State of
12 Louisiana versus Janssen Pharmaceuticals. The
13 judge had appointed me to help him understand the
14 complex litigation material, statistical model
15 datas which the plaintiffs and defense experts
16 had introduced in the case.

17 Q. Okay. And, Dr. Solanky, can you
18 briefly summarize what you were asked to do for
19 the defendants in this matter?

20 A. In this matter, I was asked to look
21 at the voting patterns in the State of Louisiana;
22 and, in particular, look into some of the
23 illustrative plans for District 5 and, in
24 particular, about East Baton Rouge -- East Baton
25 Rouge Parish.

1 Q. And, broadly, what did you find?

2 A. Broadly speaking, what I found was
3 that in State of Louisiana, the voting, the
4 particular voting varies. For the presidential
5 races, it's the highest. For some other races,
6 it could be very lower, maybe even quarter of
7 what you would see for a presidential race.

8 I also found that East Baton Rouge
9 Parish votes very differently compared to the
10 other parishes which are being considered for the
11 Congressional District 5. And, in some sense, I
12 also found that you could have election on the
13 same day for two different race seats and yet the
14 voting pattern could -- could be different,
15 meaning how people vote depends on the candidate
16 of their choice.

17 Q. Okay. And in preparing your report
18 in this case, you had quite a bit of data
19 available to you; is that right?

20 A. That is correct.

21 Q. And is all of the data that you had
22 available to you listed in your expert report?

23 A. Yes.

24 Q. Okay. Did you primarily rely on one
25 particular data set in preparing your report?

1 A. That is true. Now, due to time
2 constraints, I could not verify the validity of
3 all the data sets which were provided to me and
4 -- and one -- so the data sets which I relied
5 upon are from the Secretary of State; and, in
6 particular, I had requested off the Secretary of
7 State office to supply to me some voting data
8 telling me that these have been the registered
9 voters for this particular election and how many
10 of them by voter who voted, who did not vote,
11 their race, their gender, parish, and that kind
12 of thing. It's very voluminous data.

13 Q. Thank you. And so, Dr. Solanky, I'd
14 love to be able to go through all of your expert
15 report, but unfortunately I don't think my
16 colleagues would appreciate if I took up all of
17 the rest of our time for trial.

18 MS. RIGGINS:

19 So, Forest, would you mind pulling
20 up Table 5 in Dr. Solanky's expert report
21 which begins on page 6?

22 TRIAL TECH:

23 (Complied.)

24 BY MS. RIGGINS:

25 Q. Dr. Solanky, can you give us a high

1 level of what this table shows?

2 A. This table, I'm looking at 28
3 parishes, which I found were associated with the
4 proposed associated plans, to be associated with
5 the Congressional District 5 in the illustrative
6 plans. And what I have provided in this table is
7 a breakdown by the race for each parish and
8 indicating how many people in this -- in that
9 parish of that race voted and how many did not.

10 Q. Okay. And is there anything in this
11 chart that would show you the total number of
12 registered voters broken down by race in each
13 parish as of the November 2020 election?

14 A. Yeah. I'm sorry. I missed out. So
15 I should have explained. This data, what you are
16 looking at right now is just for the 2020
17 presidential election. And what stands out is
18 that there is some variation from parish to
19 parish and, of course, there is some variation
20 between black and white percentage voters.

21 Q. Okay. So I'd like to look at a few
22 parishes specifically, if we can, but I'd like to
23 start with entry 17 which is on page 7 of
24 Table 5; and that is East Baton Rouge Parish.

25 What does entry 17 tell us generally

1 about the voter make up of East Baton Rouge
2 Parish?

3 A. So if you look at East Baton Rouge
4 Parish and you count -- if you need to know how
5 many voter -- registered voters they have, you
6 have to add up the number under "no" that count
7 of value and the count value number of "yes." So
8 the sum of those two numbers will tell you how
9 many registered voters are there. And if you add
10 those for East Baton Rouge, you'll see that
11 roughly -- I'm adding it as we speak right now,
12 so 85 plus 46, so that would be significantly
13 smaller than the number of white voters in East
14 Baton Rouge Parish who are registered.

15 So the first thing is that total
16 number of white voters in East Baton Rouge Parish
17 is more than the total number of black voters,
18 and what else is there is the total number of
19 actual voters in East Baton Rouge Parish, which
20 is 113,622, significantly larger than the 85,672
21 black voters who voted for this particular
22 election.

23 Q. Okay. And let's look at the parish
24 directly below East Baton Rouge Parish, entry 18;
25 and I think that's East Carroll Parish.

1 What does entry 18 tell us about the
2 voter make up of East Carroll Parish?

3 A. East Carroll Parish is different
4 from East Baton Rouge Parish in the sense that if
5 you add up the total voters, total registered
6 voters, you'll find both among the registered and
7 among those who actually voted, for example, in
8 the 2020 presidential election, in this
9 particular parish, there are 1,998 black voters
10 who voted yes and there are 101,113 white voters
11 who voted yes. So in terms of total registered
12 and in terms of who total voted, this is a
13 majority black parish.

14 Q. All right. And let's look down a
15 little further still on this page. Entry 24 for
16 Iberville Parish, what does entry 24 tell us
17 about the voter make up of Iberville Parish?

18 A. Now, counting with the same
19 mathematics, if you add up the total black
20 voters, total white voters and add up the total
21 white who voted yes or no, these two numbers are
22 practically the same, meaning Iberville Parish in
23 terms of registered voters is split quite evenly.

24 Q. Okay. And entry 33, Madison Parish,
25 what does entry 33 tell us about the voter make

1 up of that parish?

2 A. Madison Parish, if you look at it,
3 the number of black who -- voters who voted,
4 2,726; number of white voters who voted, 1,967;
5 and this is for the 2020 presidential election.
6 So in terms of who we -- who voted in that
7 election and in terms of total registered voters,
8 majority black district, parish.

9 Q. Okay. And the chart continues on to
10 the next parish, I'd just like to look at two
11 more parishes there. Entry 46, this is
12 St. Helena Parish.

13 What does your chart tell us about
14 St. Helena Parish?

15 A. Same conclusion. This is also
16 predominantly black registered and black in terms
17 of who voted in that particular election,
18 majority black is registered in the parish.

19 Q. And entry 54, I'm sorry, Tensas
20 Parish, what does your chart reveal about Tensas
21 Parish?

22 A. Same conclusion. There are more
23 black voters, registered voters and there are
24 more black voters in that particular 2020
25 presidential election.

1 Q. Okay. Let's turn now to Table 6,
2 which is page 9 and 10 of your report.

3 Dr. Solanky, can you please explain
4 at a high level what Table 6 shows?

5 A. Now, in Table 6, I'm still
6 considering the same 2020 presidential election;
7 and I'm reporting how many votes President Trump,
8 President Biden and other candidates by parish,
9 and I'm also reporting how many total votes were
10 casted by black voters, by white voters and other
11 voters, and in the very last column, I also have
12 the total votes for each parish.

13 Q. Okay. And so in the data that you
14 received from the Secretary of State, did the
15 data report how each person voted in each
16 election or just that the person voted generally?

17 A. The latter. The data provides who
18 voted in the election in general. And, of
19 course, it does not say who they voted for, so --
20 but looking at the data, it was very clear that
21 everybody who showed up to vote that particular
22 day may not have voted for every single election
23 being held on that day.

24 So I do cross tab those two data
25 sets, and it turned out, if you count the total

1 voters, that was roughly -- roughly like -- for
2 this 2020 election, it was .98 percent more,
3 meaning less than 1 percent of the total voters
4 who voted that day did not vote for the
5 presidential race, presidential election.

6 Q. Okay. And so how did you account
7 for that 1 percent difference and thereby assign
8 a vote total based on race in your chart 6?

9 A. First of all, this percentage not
10 voting is -- it's nominal, it's negligible, less
11 than 1 percent; and how I assigned it was
12 proportionally. So based on -- I assumed that
13 whoever's voting on that particular day, the
14 proportion by this who did not vote for
15 presidential election is proportional. And
16 that's how I have offered these three columns is
17 how many black voters, how many white voters, and
18 how many other voters, and this is based on the
19 data which is available.

20 Q. And, Dr. Solanky, did you review
21 reports by Dr. Palmer and Dr. Handley in this
22 case?

23 A. Yes, I have.

24 Q. When you were reviewing those
25 reports, did you see any mention of how they

1 accounted for the individuals who may have voted
2 generally in an election but may not have voted
3 in a particular race?

4 A. I don't recall reading that, how it
5 was handled by them.

6 Q. Okay. Thank you.

7 MS. RIGGINS:

8 I'd like to look at page 10 of Table
9 6 at one particular parish in Louisiana,
10 Iberville Parish, please, for us.

11 TRIAL TECH:

12 (Complied.)

13 BY MS. RIGGINS:

14 Q. So, Dr. Solanky, what does your row
15 of data here on Table 6 reveal about Iberville
16 Parish?

17 A. So for Iberville Parish, if you look
18 at the total votes President Trump got and
19 President Biden got, for example, President Biden
20 had 8,514 votes in his favor, and President Trump
21 had 7,893; and of the total voters who voted,
22 number of black voters were 7,749, so the number
23 of black voters is almost 800 less than the
24 number of votes President Biden got in this
25 parish.

1 Q. So could President Biden have been
2 elected without white crossover voters in
3 Iberville Parish?

4 A. No. There are not enough black
5 voters who voted in this election in this parish,
6 so there must have been some votes passed to --
7 in favor of President Biden from white voters.

8 Q. Now I'd like to turn to Table 7,
9 which is on page 11 of your report.

10 Dr. Solanky, can you give us a high
11 level explanation of what Table 7 shows?

12 A. Sure. Give me one second. In
13 Table 7, I'm looking at 19 parishes. In these 19
14 parishes, I looked at Mr. Cooper's Illustrative
15 Plan No. 1, and these 19 parishes are associated
16 with his Illustrative Plan 1.

17 So I have summarized the voting
18 patterns in those 19 parishes and I have provided
19 how many total registered voters are there in
20 those 19 parishes. That's the first column,
21 rather, the second column under total, and then
22 what percentage of those totals are black voters,
23 what percentage of those who are registered are
24 white, so those are the next two columns.

25 And then I have also provided how

1 many votes in that parish the two leading
2 candidates, President Trump and President Biden,
3 got and I also provided who got more votes and by
4 how many. So I have provided that by Trump's
5 lead number of votes, so how many votes President
6 Trump got over President Biden; and in the very
7 last column, I have provided the election outcome
8 in the parish.

9 Q. Thank you. And if we look at the
10 election outcome by parish column, which parishes
11 did President Biden carry in 2020?

12 A. So among those 19 parishes -- we are
13 looking at the Table 7 -- President Biden won
14 East Baton Rouge, he won East Carroll, he won
15 Madison -- and I'm going down -- St. Helena, and
16 Tensas. Those are the five parishes President
17 Biden won.

18 Q. Thank you. And if you order those
19 parishes in terms of the margin of demography
20 that's reported in the last column on Table 7,
21 where does East Baton Rouge Parish fall?

22 A. If you look at the last column, East
23 Baton Rouge, President Biden won by 13 percent,
24 and see this 13 percent is right in the middle.
25 There are two parishes and those being Madison

1 and -- give me one second. So there are two
2 parishes, Madison and East Carroll, so those two
3 parishes President Biden won by a higher
4 percentage. And the other, there are two more
5 parishes, which are Tensas and St. Helena, which
6 he won by less than 13, so his victory percentage
7 was right in the middle of those five parishes.

8 Q. And of these five parishes that
9 President Biden carried in the 2020 election, is
10 there anything different in terms of voter make
11 up about East Baton Rouge Parish?

12 A. Yes.

13 Q. And so what is that?

14 A. So out of these five parishes which
15 President Biden won, four parishes are super
16 black -- black majority parishes. The only
17 parish which President Biden one which is not a
18 super black majority parish is East Baton Rouge
19 Parish.

20 Q. Thank you.

21 MS. RIGGINS:

22 Forest, can you pull up Figure 1,
23 which is on page 12 of Dr. Solanky's
24 report, please?

25 TRIAL TECH:

1 (Complied.)

2 MS. RIGGINS:

3 Thank you.

4 BY MS. RIGGINS:

5 Q. Dr. Solanky, can you explain what
6 Figure 1 is, please?

7 A. Sure. Now, in Figure 1, I am
8 explaining the trend which is observed in the 19
9 parishes. And if you think of it like you are
10 moving the cursor from left to right, so as we go
11 from left to right, the percentage of white
12 voters compared to black voters is increasing.

13 And on the vertical scale, if you go
14 from below to up, the vote difference between
15 President Biden and President Trump is
16 increasing, so it is Trump minus Biden voter
17 percent; and I have proffered that for all the 19
18 parishes in Mr. Cooper's illustrative map.

19 Q. And there's a line that runs through
20 this figure. What is that called?

21 A. This diagonal line is -- is what
22 statisticians do routinely to establish a trend,
23 and it's called a regression line.

24 Q. All right. And how did you create
25 this regression line?

1 A. It's a very standard mathematical
2 formula which is covered in all -- even the
3 freshman statistical courses.

4 Q. And for those of us who struggled
5 mightily with freshman statistical courses, can
6 you give us a little flavor of how one would do
7 that?

8 A. Absolutely. If you ignore that line
9 for a second and just look at those dots or
10 symbols, B and T, you'll see they literally
11 follow a straight line. So the regression line
12 is a mathematical representation of where these
13 points fall. And if you look at the line and
14 these dots around it, the closer the dots are to
15 the line, meaning the better is the regression
16 model.

17 Q. Thank you. And so the letters you
18 have on Figure 1, what does do those represent?

19 A. So I have plotted each parish using
20 the first part of this is the candidate who won
21 that parish. So the P presents that this parish
22 was won by President Biden, and T represents that
23 this parish was won by President Trump.

24 Q. And for the letters that appear
25 above the diagonal regression line, what does

1 that mean?

2 A. So this is the trend line, meaning
3 this is the observed trend in the 18 parishes;
4 and -- and the way you interpret this regression
5 line is anything which -- any point which falls
6 below the line, those are the parishes which are
7 more supporting voting for President Biden
8 compared to President Trump; and any point which
9 falls above the line, that represents the
10 parishes which are voting more for President
11 Trump compared to President Biden based on the
12 trend observed from those 18 parishes.

13 Q. And where does East Baton Rouge fall
14 on Figure 1?

15 A. East Baton Rouge Parish falls
16 significantly below the trend line, meaning in
17 East Baton Rouge Parish for the 2020 presidential
18 race, there was significant voting in favor of
19 President Biden and against President Trump
20 compared to the observed trend from 18 parishes.

21 Q. And, in your expert opinion, does
22 this make East Baton Rouge Parish a statistical
23 outlier from Mr. Cooper's Illustrative Plan 1 in
24 the parishes that make up that plan?

25 A. That is correct.

1 Q. Okay.

2 A. And -- and if I may add. Now, in
3 the field of statistics, we also compute
4 confidence intervals; so for each value there, if
5 you look at the confidence interval, that tells
6 you how much of variation is there, how much
7 error margin is there; in other words, how much
8 could have happened by chance at all.

9 And so -- so I have to see if East
10 Baton Rouge Parish falls within that confidence
11 interval. If it had fallen within that
12 confidence interval, then this variation would
13 have been just by chance at all, but that is not
14 the case. This was far below what could be
15 attributed to by chance at all.

16 Q. Thank you, Dr. Solanky. Did you
17 also prepare a supplemental report in this case?

18 A. Yes, I have.

19 MS. RIGGINS:

20 And I'd like to pull up the
21 supplemental report, which has been marked
22 as Secretary of State Exhibit 5, please.

23 TRIAL TECH:

24 (Complied.)

25 BY MS. RIGGINS:

1 Q. Does this look like a copy of your
2 supplemental report on your screen?

3 A. Yes.

4 Q. Okay. And is it also in the binder
5 that I gave you behind a separate tab?

6 A. Yes. I have found that page.

7 Q. Okay. Thank you. So what did you
8 look at in your supplemental report?

9 A. In my supplemental report, I have
10 looked at other elections.

11 THE WITNESS:

12 And, Your Honor, due to time
13 constraints, there was only so many
14 elections I could look at -- in the data,
15 look at when I submitted the original
16 report. And in the recent reports,
17 especially -- especially from Dr. Handley,
18 she criticized me that I am drawing these
19 conclusions, I am drawing these trends
20 based on only one election. So I reached
21 out and I analyzed as many elections as I
22 could given the time constraints, and I've
23 included those in this supplemental
24 report.

25 BY MS. RIGGINS:

1 Q. Okay. And, just for clarity, did
2 you also include the results of your 2020
3 presidential analysis in your supplemental report
4 so that all eight exhibits -- eight elections
5 that you needed, you looked at would be in the
6 same report?

7 A. Yes, I did.

8 Q. Okay. And would those be found at
9 Figure 1 that we just looked at?

10 A. That is right.

11 Q. Okay.

12 A. So the Figure 1 in the supplemental
13 report is just imported from the original expert
14 report.

15 Q. Thank you.

16 MS. RIGGINS:

17 And so I'd like to turn to Table 1
18 in your supplemental report, which starts
19 on page 3.

20 TRIAL TECH:

21 (Complied.)

22 MS. RIGGINS:

23 Thank you, Forest.

24 BY MS. RIGGINS:

25 Q. Can you explain at a high level what

1 Table 3 (sic) shows?

2 A. Now, in Table 1, I'm looking at --
3 I'm summarizing those eight elections. So the
4 first column indicates which election and what
5 was the election date, and then in the second
6 column, I'm looking at two types of collection of
7 parishes for each election, all the parishes and
8 then I look at the East Baton Rouge Parish.

9 I also provide how many total votes
10 were casted in all the parishes and also in East
11 Baton Rouge, and I provide information on how
12 many votes each candidate got, how many votes
13 they got and what percentage of the votes --
14 overall votes they got.

15 I summarized the election outcome by
16 -- by how many votes they won and by what
17 percentage of the votes they won, and then I have
18 summarized the total votes that were casted for
19 that election by race. And then I also summarize
20 what percentage by date of the overall registered
21 people voted, and I have also provided a column
22 indicating what percentage of the votes that were
23 casted by -- were from blacks and white. And in
24 the very last column, I have summarized the
25 candidates race.

1 Q. Thank you, Dr. Solanky. When you
2 were preparing Table 1, did you make any
3 observations about turnout for particular
4 elections statewide in Louisiana?

5 A. Yes, I did. So that was very
6 interesting to see; and in some way I expected
7 that there is a significantly higher voter
8 turnout for the presidential elections, and it
9 decreases significantly.

10 So, for example, if you look at the
11 very first block, the voter turnout for the 2020
12 presidential election, for black, again, the
13 black voters, it was 62.4 percent; for white
14 voters, it was 73.8. So this is for the
15 presidential election, but if you look at some
16 other elections statewide, the turnout could be
17 literally a fourth of this.

18 Q. And which election statewide on this
19 table shows an election turnout with a quarter of
20 that of the presidential election for 2020?

21 A. Sure. So let's look at the next
22 page. I think it's on the next page.

23 For example, look at the middle of
24 the page for the Secretary of State election date
25 December 8, 2018. So if you look at percentage

1 of black registered voters who voted,
2 16.5 percent. And I mentioned a few seconds ago,
3 for the presidential race, it was 64 point --
4 62.4 percent.

5 If you also look at the very first
6 entry, in this election, about half a million,
7 516,653, so roughly half a million people voted;
8 and if you go back to the first page for 2020
9 presidential election, the similar number is well
10 over 2 million, so half a million versus over
11 2 million.

12 Q. Thank you, Dr. Solanky. And when
13 mathematicians or statisticians are looking at
14 data like this, would you weight this
15 December 2018 election the same as an election
16 with higher turnout?

17 A. Now, this was a special election and
18 you have to take into account that how fewer
19 voters participated in the election.

20 Q. Thank you. And did you observe in
21 the same election a different turnout depending
22 on the race in any particular election?

23 A. Yes, I did.

24 Q. Okay.

25 A. So if you look at the next page,

1 page 5, and -- and if you look at the two
2 elections on this page I have, lieutenant
3 governor and attorney general, both these
4 elections fall on the same date, October 12,
5 2019. And if you look at the total votes that
6 were casted, you'll see a difference of a
7 significant number of votes.

8 So, for example, if you look at East
9 Baton Rouge, 132,589 for the attorney general's
10 election; 101 -- 131,535, so almost a thousand
11 votes less. And the -- when we go to vote, it's
12 the same ballot, people choosing to ignore one
13 election and vote for another. That is also
14 quite evident from this. And I can look at the
15 entire parish and draw the same number -- same
16 conclusion again.

17 Q. Thank you, Dr. Solanky. And did you
18 analyze the same 19 parishes in Mr. Cooper's
19 illustrative first plan that you discuss in your
20 first report for the new set of seven elections
21 that you looked at in your supplemental report?

22 A. Yes, I did.

23 Q. Okay. And are those results
24 reported anywhere in your supplemental report?

25 A. They are. So -- so I have provided

1 appendices for all of those dates for those eight
2 elections.

3 Q. Okay.

4 A. So those are Appendix 1 through
5 Appendix 8.

6 Q. And so I'd just like to look at some
7 other type random samples.

8 MS. RIGGINS:

9 Forest, can we look at Appendix 2,
10 please?

11 TRIAL TECH:

12 (Complied.)

13 BY MS. RIGGINS:

14 Q. Dr. Solanky, can you explain at a
15 high level what you found in Appendix 2?

16 A. In Appendix 2, I am looking at the
17 19 parishes which were part of Mr. Cooper's
18 Illustrative Plan 1. And this is for the 2019
19 Secretary of State election; and I have provided
20 for each parish how many total registered voters
21 are there, how many total votes are going -- are
22 obtained and how many votes were casted for
23 Greenup, how many total white voters are there
24 for that particular parish, how many black
25 voters, who won, what was the lead by Ardoin for

1 each parish, what was Ardoin's vote percentage
2 for each parish, Greenup's vote percentage.

3 And I've also provided two columns
4 to look at, what was the composition of the
5 voters in terms of disparity between black and
6 white voters -- that's the very last column --
7 and then I have also provided the disparity
8 between the percentage of the votes Ardoin got
9 minus the percentage of the votes that Greenup
10 got in this election.

11 Q. Thank you, Dr. Solanky. And I'd
12 like to compare two specific parishes in this
13 appendix, if we can. I'd like to compare East
14 Baton Rouge Parish and East Carroll Parish.

15 So what does Appendix 2 reveal about
16 East Carroll Parish?

17 A. East Carroll Parish was won by
18 Greenup by -- by 29 percent -- by 35 percent of
19 the votes. That meant she got 629 more votes
20 than Ardoin in this election from East Carroll
21 Parish.

22 The East Baton Rouge Parish was also
23 won by Greenup, and she got 16,894 more votes
24 than Ardoin in this parish.

25 Q. And could Ms. Greenup have carried

1 East Baton Rouge Parish without white crossover
2 voting?

3 A. No. Let me explain. So if you look
4 at how many votes Greenup got in East Baton
5 Rouge, her total votes in East Baton Rouge were
6 85,981. And if you look at the number of black
7 voters, that's 68,432, meaning even if she got
8 every single vote from a black voter, she would
9 still need 17 more thousand votes to reach up to
10 the total of -- total number of votes she got in
11 that election.

12 Q. Thank you. And was white crossover
13 voting required for Ms. Greenup to carry East
14 Carroll Parish?

15 A. No. So on the contrary, I'm asking
16 if it is required then, so it is no. And the
17 reason being, if you look at the number of votes,
18 black voters in East Carroll -- give me one
19 second, please. So there are 1,609 black voters,
20 she could have easily won based on the black
21 voters.

22 Q. Thank you.

23 A. So Ardoin got only 941 votes.

24 Q. Thank you.

25 MS. RIGGINS:

1 And I'd like to turn back to the
2 main body of your report at page 7,
3 Figure 2, please.

4 TRIAL TECH:

5 (Complied.)

6 BY MS. RIGGINS:

7 Q. What does Figure 2 show?

8 A. Now, Figure 2 is a very similar
9 analysis which I had provided in my original
10 expert report for the -- for a different
11 election.

12 In here, I'm looking at the
13 Secretary of State election on November 16, 2019.
14 And, once again, I have drawn a regression line
15 to predict a trend and then I have specified the
16 East Baton Rouge Parish. Again, if you look at
17 it, putting all the mathematics aside, even by
18 just eyeballing, you can see that this regression
19 line fits the trend which was here in the 18
20 parishes.

21 Q. Okay. And where does East Baton
22 Rouge Parish fall in Figure 2 relative to the
23 trend line?

24 A. So, once again, the interpretation
25 is very similar. If you -- if you're underneath

1 the trend line, that means that particular parish
2 is voting more in favor of Greenup and against
3 Ardoin, if you are below the trend line. And if
4 you are above the trend line, then there are more
5 votes for Ardoin compared to Greenup based upon
6 the trend from the 18 parishes.

7 And, in this particular election,
8 the East Baton Rouge Parish is significantly
9 below the trend line, meaning the voting in East
10 Baton Rouge Parish was significantly in favor of
11 Greenup and against Ardoin compared to the trend
12 from the 18 parishes.

13 Q. And so in this election that you've
14 looked at, is East Baton Rouge Parish a
15 statistical outlier compared to the other 18
16 parishes?

17 A. Yes. And, once again, we can do
18 that by looking at the confidence interval
19 regression line and seeing that for East Baton
20 Rouge falls within that confidence interval or
21 not, and it did not.

22 Q. Thank you.

23 MS. RIGGINS:

24 Forest, would you mind flipping to
25 the next page, please?

1 TRIAL TECH:

2 (Complied.)

3 BY MS. RIGGINS:

4 Q. There are two similar charts here.

5 Did you observe any different trends than the two
6 charts that we have already discussed today on
7 these charts?

8 A. So I'm looking at two different
9 elections here; 2019 governor, 2018 Secretary of
10 State where we talked about the total vote
11 percentage; and the trends are very similar.

12 East Baton Rouge Parish even for
13 these two elections is voting significantly in
14 favor of the minority preferred candidate and
15 compared to the trend, which is the other 18
16 parishes.

17 Q. Thank you. And turning to Figure 6
18 on the next page. Which election did you analyze
19 here?

20 A. So Figure 6 is looking at the
21 presidential election from 2016, and a very
22 similar trend.

23 First of all, the 18 parishes voting
24 trend fits the regression model very well; and
25 East Baton Rouge is significantly below the trend

1 line, meaning even in this election, meaning even
2 in the 2016 presidential election, the percentage
3 of votes casted in East Baton Rouge in favor of
4 Mrs. Clinton and against President Trump is
5 significantly different, significantly more
6 number of votes for Mrs. Clinton and against
7 President Trump.

8 Q. And when you were doing your turnout
9 analysis that we talked about earlier in the
10 first table in your report, did the 2016
11 presidential election have a relatively high
12 level of turnout?

13 A. That is right.

14 Q. Okay.

15 A. So among the eight elections I
16 looked at, the two elections that were
17 particularly high turnout, meaning 60s or even --
18 or 70s were the two presidential elections.

19 Q. And so, in your professional
20 opinion, is East Baton Rouge Parish also a
21 statistical outlier in terms of the voting trends
22 for the 19 parishes examined in Mr. Cooper's
23 Illustrative Plan 1?

24 A. Yes.

25 Q. Thank you.

1 MS. RIGGINS:

2 I'd like to talk about the second
3 table in your report, please.

4 TRIAL TECH:

5 Thank you, Forest.

6 BY MS. RIGGINS:

7 Q. Can you explain what Table 2
8 represents?

9 A. In Table 2, I have summarized those
10 eight elections and I have specified which
11 election -- that's the first column -- the
12 election date, I'm sorry, that's the first
13 column, the election date in the second column;
14 and in the third column, I'm talking about the
15 R square value.

16 So R square value is some sort of a
17 metric which is routinely used to evaluate how
18 good of a fit the model is. In simple terms,
19 R square tells you that what percentage of the
20 variation in the data the model is able to
21 expect.

22 So, for example, for the first
23 election, November 3, 2020 election, the
24 regression model was able to explain 94.7 percent
25 of the variation, which is a good number.

1 Q. All right. And so the closer to
2 100, the better number it is?

3 A. Right.

4 Q. Okay. And the trend lines that we
5 were looking at earlier, is it true that the
6 closer you get to a hundred for your R square
7 value the tighter the letters would look visually
8 on those figures?

9 A. Absolutely. I think that's a very
10 nice way to state that.

11 Q. Those of us who start on the
12 freshman statistics can be sufficient, but I
13 can't do the numbers. Sorry.

14 A. So R squared would be hundred
15 percent if every single point falls on the same
16 -- exact same line, so nothing is even slightly
17 above or below it.

18 Q. Thank you. And this last column in
19 Table 2, the percent change in votes in East
20 Baton Rouge Parish, can you explain these
21 calculations, please?

22 A. So -- so in the figures which we
23 looked at earlier, I had talked about how far
24 below East Baton Rouge is compared to the trend
25 line. So I have quantified that -- that -- that

1 disparity, that had East Baton Rouge also voted
2 similar to those 18 parishes, then the vote --
3 what the vote patterns have been, so that is to
4 summarize.

5 So, for example, the November 3,
6 2020 election, the East Baton Rouge voting
7 pattern -- the East Baton Rouge's voting compared
8 to the overall trends from 18 parishes is
9 21.5 percent away from Trump and in favor of
10 President Biden; and I have summarized that for
11 all the three elections here.

12 Q. Thank you, Dr. Solanky.

13 MS. RIGGINS:

14 I'd like to look at paragraph 20 of
15 your supplemental report, particularly the
16 second sentence.

17 TRIAL TECH:

18 (Complied.)

19 BY MS. RIGGINS:

20 Q. Can you read this sentence and then
21 explain what you mean here?

22 A. Okay. The second sentence?

23 Q. Yes, the one that starts "This
24 trend"?

25 A. Okay. So "This trend in favor of

1 the minority favored candidate is there for all
2 eight elections irrespective of whether the black
3 minority favored candidate won the election or
4 not."

5 Q. Okay. And so -- and so what
6 observation are you meaning there?

7 A. So meaning I looked at eight
8 elections; and in some of the elections, the
9 minority favored candidate won; in some of the
10 elections -- but regardless of who won or who
11 lost, East Baton Rouge Parish is significantly
12 voting in favor of the minority favored candidate
13 compared to the -- the trend observed from the 18
14 parishes.

15 Q. Okay. Thank you.

16 MS. RIGGINS:

17 And there's a footnote at the end of
18 this paragraph, Footnote 7. I'd like to
19 look at that.

20 TRIAL TECH:

21 (Complied.)

22 BY MS. RIGGINS:

23 Q. Can you explain what you mean in
24 Footnote 7 when you say "The trend is
25 statistically significant in seven of the eight

1 elections"?

2 A. So -- so the data for the trend is
3 statistically significant in seven of eight
4 elections presented. The only exception where
5 the trend is not statistically significant is the
6 November 21, 2015 governor election, and note
7 that the R squared value for this election is
8 also smaller.

9 So, as I explained earlier, there is
10 some variation due to chance; and in seven out of
11 those eight elections, East Baton Rouge's voting
12 trend in favor of the minority favored candidate
13 was statistically significant and not explained
14 by chance alone; and the only exception to that
15 was the 2015 -- November 21, 2015 governor
16 election where if you -- let me look at the table
17 -- it's underneath this.

18 So if you look at the November 21,
19 2015 governor election, so even in that election,
20 10.9 percent of the voters, so there was a shift
21 of 10.9 percent towards the minority supported --
22 favored candidate, but the 10.9 percent was not
23 large enough to be ruled out as by chance at all.

24 Q. Okay. And was the 2015
25 gubernatorial election, was that a unique

1 election?

2 A. That was very -- a very unique
3 election.

4 Q. Okay.

5 A. I have lived in Louisiana 32 years
6 and I have literally voted in every single
7 election here, and -- and, in this particular
8 case, the governor's election, we had two even
9 candidates --

10 MR. HURWITZ:

11 Your Honor, I object to this. I
12 don't think this is in the witness's
13 reports, and I don't think he's been -- he
14 hasn't been qualified as an expert in
15 politics or in Louisiana politics or
16 anything that varies on an opinion about
17 whether a particular election was --

18 THE DEPUTY:

19 Would you state your name, please?

20 MR. HURWITZ:

21 Yes. I'm sorry. It's Jonathan
22 Hurwitz, H-U-R-W-I-T-Z. I have not
23 appeared previously for the Robinson
24 plaintiffs.

25 THE COURT:

1 Ma'am?

2 MS. RIGGINS:

3 Yes, Your Honor. I was just asking
4 him if he was aware of any reason why this
5 election might have been different and the
6 math did not follow the other trends, so
7 that's all I was asking.

8 THE COURT:

9 Well, you didn't ask that. You
10 asked did the math then follow those
11 trends. You asked about the election, so
12 I'll sustain the objection.

13 MS. RIGGINS:

14 Thank you, Your Honor.

15 BY MS. RIGGINS:

16 Q. So this November 2015 gubernatorial
17 election, does it follow the trends of the other
18 elections?

19 A. No, it did not.

20 Q. Okay. And are there other factors
21 that go into elections specifically that effect
22 turnout like we have talked about?

23 A. Absolutely. The kind of messaging
24 or the kind of TV ads, I think they influence --

25 MR. HURWITZ:

1 Your Honor, I have the same --
2 exactly the same objection. This is
3 outside the scope of his report and his
4 expertise, Your Honor.

5 THE COURT:

6 You tendered him in math and
7 statistics. We have been out of that
8 field now for a few minutes.

9 MS. RIGGINS:

10 Okay. Thank you, Your Honor.

11 BY MS. RIGGINS:

12 Q. So, Dr. Solanky, in seven of eight
13 of the elections, you found a statistically
14 significant trend towards the minority preferred
15 candidate in East Baton Rouge Parish; is that
16 right?

17 A. That is correct. So that's a trend
18 in all the eight elections that I looked at, the
19 trend in favor of the minority favored candidate
20 and away from the non-minority favored candidate,
21 so that trend is there in all eight of them.

22 In one of the elections, the trend
23 is not that large enough for me to classify it as
24 -- as statistically significant.

25 Q. But the trend is still there

1 nonetheless?

2 A. The trend is still there.

3 Q. And, Dr. Solanky, after preparing
4 your first expert report and this supplemental
5 expert report, have you reached any broad
6 conclusions?

7 A. My broad conclusions are, first of
8 all, consistently election after election, East
9 Baton Rouge Parish votes very differently
10 compared to those other 18 parishes. It votes
11 significantly in favor of the minority favored
12 candidate than what is expected from the other 18
13 parishes.

14 And then the second conclusion,
15 broadly speaking, is if you look at some of the
16 elections, same election date, same ballot, the
17 base of the minority candidate is black in two of
18 the elections and yet a large number of voters
19 are not voting for a candidate, just choosing to
20 not vote, so meaning there are other
21 characteristics other than race which voters are
22 relying upon to vote or not vote.

23 MS. RIGGINS:

24 Thank you, Dr. Solanky. I believe
25 that plaintiffs probably will have a few

1 questions.

2 THE WITNESS:

3 Thank you.

4 THE COURT:

5 Cross? Sir, please make an
6 appearance one more time just so we have
7 got it on the record?

8 MR. HURWITZ:

9 Of course, Your Honor. And can I
10 take off my mask?

11 THE COURT:

12 Yes, as long as you are vaccinated.

13 MR. HURWITZ:

14 I am. Thank you, Your Honor.
15 Jonathan Hurwitz, J-O-N-A-T-H-A-N,
16 H-U-R-W-I-T-Z for the Robinson plaintiffs.

17 CROSS-EXAMINATION BY MR. HURWITZ:

18 Q. Mr. Solanky, good afternoon.

19 A. Good afternoon.

20 Q. First of all, am I pronouncing it
21 correctly, Solanky?

22 A. Yes, you did.

23 Q. Mr. Solanky, when were you first
24 contacted to participate in this case?

25 A. The first I was contacted was about

1 three, three to four weeks ago.

2 Q. Three to four weeks?

3 A. Less than four.

4 Q. Was that before or after the enacted
5 plan became law; that is, before or after the --

6 A. I believe --

7 Q. -- governor's veto was overridden?

8 A. I believe after.

9 Q. And were you contacted -- apart from
10 this case, did anyone speak to you at any time
11 prior to that first contact about doing any
12 analysis or any work in connection with the 2020
13 cycle congressional redistricting in Louisiana?

14 A. No, not in particular.

15 Q. Okay. Who contacted you?

16 A. Mr. Tom Farr.

17 Q. And you've been engaged by the
18 Secretary of State; is that correct?

19 A. That is correct.

20 Q. What is the rate that you are
21 charging the Secretary of State for your work in
22 this matter?

23 A. My hourly rate is \$250.

24 Q. \$250 an hour. And approximately how
25 many hours to date have you worked on this case?

1 A. Now, I have not added up my hours,
2 but if you need a ballpark figure, last three
3 weeks I've been literally working, I would say,
4 five, six hours a day, so I would say ballpark,
5 70 to a hundred hours.

6 Q. And that's the total work you've
7 done is 70 to a hundred hours on this matter,
8 ballpark?

9 A. Approximately.

10 Q. And that's at the \$250-an-hour rate?

11 A. Correct.

12 Q. Now, you have never testified in a
13 case involving the Voting Rights Act previously,
14 correct?

15 A. No, I have not.

16 Q. You've never testified in any
17 election case, correct?

18 A. No. I have provided by expertise to
19 Eastern District of Louisiana related to jury
20 matters, jury selection, each voters who are
21 registered, what person did vote; and I have done
22 that even previously here in this courthouse in a
23 different matter.

24 Q. You have never published anything in
25 your academic life on issues of voting rights,

1 correct?

2 A. Correct.

3 Q. And you have never published
4 anything or testified on anything on issues
5 regarding an analysis of voting patterns,
6 correct?

7 A. That is right.

8 Q. And you have never testified in
9 court or written anything in your academic work
10 on the subject of racially polarized voting,
11 correct?

12 A. Correct.

13 Q. Are you familiar with the notion of
14 racially polarized voting as a field of study?

15 A. I am familiar with it. I have read
16 some of the reports, yes.

17 Q. You've read some of the reports in
18 this case, and that's how you are familiar with
19 it?

20 A. Correct.

21 Q. And, in this case, you did not
22 yourself conduct an analysis of racially
23 polarized voting, correct?

24 A. No, I have not.

25 Q. So you did not use the analytical

1 tools such as ecological inference that some of
2 the other experts in this case have used such as
3 Dr. Cooper and Dr. Palmer; is that right?

4 A. No. I -- I looked at some of those
5 data sets and I looked at some of the ecological
6 inference markers I saw.

7 Q. You saw, but you did not yourself
8 engage in any ecological analysis, correct?

9 A. Let me finish this.

10 Q. I apologize. I didn't mean to
11 interrupt you.

12 A. So some of the ecological inference
13 markers I saw, they are based on the assumption
14 that the voting from black and white voters is
15 similar in all the parishes and -- and I
16 attempted to see that, that is that the case.

17 So the work which I have presented
18 here looks into that assumption by other experts
19 which who have assumed that that voting by white
20 voters, voting by black voters is same regardless
21 of which parish you come from; so that I analyzed
22 and I found it to be not true.

23 Q. You have not endeavored in this case
24 to estimate the racial polarization in any
25 jurisdiction of Louisiana, correct?

1 A. In some sense, I have reported that
2 by reporting the black and white percentage
3 voting in East Baton Rouge and contrasting it
4 with others, and I have also scientifically
5 studied the validity of the assumption that --
6 that could be just viewed as the white and black
7 voters in those 18 parishes vote same in all --
8 and in Baton Rouge; and the answer is no.

9 Q. Is the position you're taking, sir,
10 that the ecological inference method of
11 estimating racial polarization is not a reliable
12 method; is that the position you are taking?

13 A. No. I did not say that.

14 Q. Okay. Do you believe it is a
15 reliable method for estimating racial
16 polarization?

17 A. Ecological inference is a proven
18 method. It has been used extensively, but what
19 assumptions you base it upon need to be verified
20 as well.

21 Q. Okay. I'd like to turn to your
22 report, if I may. It's SOS 05.

23 Do you have that in front of you?

24 MR. HURWITZ:

25 And maybe we can pull up on the

1 screen page 12.

2 TRIAL TECH:

3 (Complied.)

4 BY MR. HURWITZ:

5 Q. I want do start with the conclusions

6 that you say in your report, you have written.

7 And you identify in paragraph 23 of your report

8 two conclusions, right?

9 A. Okay. This is my supplemental
10 report.

11 Q. I apologize. I'm in the wrong
12 document, but the -- let me start over again.
13 Your expert report is SOS 04. I apologize for
14 the confusion.

15 A. It's no problem.

16 Q. And your conclusions are shown on
17 page 14 at paragraph 30.

18 MR. HURWITZ:

19 Can we pull that up, Matthew,
20 please, SOS 04?

21 We are having some confusion about
22 the exhibit numbering, Your Honor, so
23 perhaps I can use the --

24 THE COURT:

25 And he has it in front of him, so --

1 MR. HURWITZ:

2 He has it in front of him?

3 THE COURT:

4 -- refer him to his and then if you
5 put what you have on the Elmo, that will
6 probably help, and then that way you are
7 on the same page. So you are referring to
8 his first report?

9 MR. HURWITZ:

10 I am. Yes, Your Honor.

11 THE COURT:

12 Okay. Do you have that before you,
13 sir? Or you can put it on the Elmo.

14 THE WITNESS:

15 Okay.

16 THE COURT:

17 Because you want to make sure that
18 he's showing you what he says he's showing
19 you.

20 THE WITNESS:

21 Yes, Your Honor.

22 BY MR. HURWITZ:

23 Q. And in your -- we are looking at
24 your opening report, paragraph 30. You have that
25 in front of you?

1 A. Yes, I do.

2 Q. And the first of the two conclusions
3 you identify is that, based on the voting pattern
4 in East Baton Rouge for the 2020 presidential
5 election, it does not appear that white voters
6 are voting as a block to defeat the black
7 minority preferred candidate. That's the first
8 of the opinions that you offer in your -- the
9 conclusions that you offer in your opening
10 report?

11 A. That is correct.

12 Q. Now, to be clear, you did not offer
13 an opinion in your opening report about whether
14 or not for the 2020 presidential election white
15 voters voting as a block were able to defeat the
16 black preferred candidate in any congressional
17 district under the enacted -- the 2020 enacted
18 plan, correct?

19 A. No. I am reporting this by parish
20 and reporting it by parish for the 2020
21 presidential election.

22 Q. So the answer to the question is
23 yes, you did not look at any congressional
24 district in the 2020 enacted plan, correct?

25 A. No. I have not looked at that, and

1 that would require me to break up some of these
2 parishes by precinct and -- and significantly
3 more work making it also a master file with
4 almost 4 million entries.

5 Q. So looking -- okay. And you did not
6 as well look at whether, based on voting patterns
7 in any congressional district in any of the
8 illustrative plans you saw for the 2020
9 presidential election, white voters voting as a
10 block would be able to defeat the black minority
11 the black or minority preferred candidate?

12 A. That's correct. I have looked at it
13 by the parishes.

14 Q. And the only parish you offered an
15 opinion about in that regard is the Parish of
16 East Baton Rouge, correct?

17 A. That is correct.

18 Q. Okay.

19 A. So that is one parish which votes
20 differently.

21 Q. And you are not -- votes differently
22 from the other 18 parishes in the region that you
23 looked at, correct?

24 A. That is correct.

25 Q. You did not reach any conclusion

1 about whether voting in East Baton Rouge is
2 racially polarized, correct?

3 A. No. I'm just reporting what the
4 data is. I'm just reporting what we have seen --

5 Q. Okay.

6 A. -- in eight elections. And while
7 preparing this report, I also looked at -- I
8 extended those 19 parishes to 28 parishes which I
9 had in my original report, had very similar
10 conclusions.

11 MR. HURWITZ:

12 Can I ask, Matthew, if you can bring
13 up PR-92, page 3. And I'll shut this off.

14 TRIAL TECH:

15 (Complied.)

16 BY MR. HURWITZ:

17 Q. You've read the expert report of
18 Dr. Handley, correct?

19 A. Yes, I have.

20 Q. And have you seen -- if you look on
21 page 3 of her corrected report, corrected
22 Table 4, Dr. Handley provides effectiveness
23 scores for congressional districts in the enacted
24 congressional plan. Do you see that?

25 A. No. I have not even this corrected

1 table.

2 Q. Have you seen an earlier table?

3 A. I have seen -- this does not look
4 familiar, but I have seen her -- some reports, I
5 mean, I believe the original report.

6 Q. Okay.

7 MR. HURWITZ:

8 Let's pull up that original report,
9 which is PR-12, and let's look at page 11
10 and pull out Table 4, please.

11 TRIAL TECH:

12 (Complied.)

13 BY MR. HURWITZ:

14 Q. Have you seen Table 4 before?

15 A. I have seen the Table 4.

16 Q. And Table 4 shows that for the
17 enacted District 5, the percent of contests that
18 the black preferred candidate would win or
19 advance to the runoff from the 15 elections that
20 Dr. Handley looked at, 26.7 -- the black
21 preferred candidate would either win or advance
22 to the runoff in 26.7 percent; and in a
23 two-person contest between the black preferred
24 candidate would win zero percent of the time. Do
25 you see that?

1 A. Yes, I see that.

2 Q. And you don't offer -- you don't
3 disagree, you're not offering any disagreement
4 with Dr. Handley's conclusions in that regard,
5 correct?

6 A. No. I have no disagreement, but I
7 do not have the time to verify this.

8 Q. Okay.

9 A. As a statistician being involved in
10 numbers, I feel comfortable if I verify those
11 numbers on my own.

12 Q. So you are neither agreeing or
13 disagreeing with Dr. Handley's conclusions in
14 that regard as shown in Table 4, correct?

15 A. That is correct.

16 Q. And, likewise, if we go to page 13
17 of the same document, Table 6, Table 6 has
18 similar data but for congressional -- the
19 congressional districts in one of the
20 illustrative plans. Am I correct that you are
21 not disagreeing with Dr. Handley's conclusions as
22 shown in Table 6 either?

23 A. Correct. I have no opinion on the
24 validity of these numbers or how these numbers
25 are updated.

1 Q. Now, I want to turn back to
2 something that you were asked about on direct.
3 It's your opening report -- and I guess we have
4 to use the Elmo -- Figure 1.

5 TRIAL TECH:

6 (Complied.)

7 MR. HURWITZ:

8 Oh, we have it. Great. Okay. Can
9 we go to page 12 of that report, please?

10 TRIAL TECH:

11 (Complied.)

12 BY MR. HURWITZ:

13 Q. Now, you described some of this on
14 direct. You said that the line represents the
15 relationship between, on the one hand, the excess
16 of white over black voters and, on the other
17 hand, the excess of Trump over Biden votes on a
18 parish-by-parish basis for the 19 parishes,
19 including East Baton Rouge, correct?

20 A. The percentages.

21 Q. Yes. And the chart shows that
22 setting aside East Baton Rouge, there's a nearly
23 -- there's a clear lineal relationship between
24 the excess of white voters over black voters in a
25 parish and the excess of Trump votes over Biden

1 votes in that parish, correct?

2 A. That is correct.

3 Q. And the -- you were explaining in
4 your report that numerically that can be
5 explained by something called the R square,
6 right?

7 A. The R square tells you -- R square
8 is a metric which tells you the fit of -- the
9 quality or fit of the regression model.

10 Q. Yes. And for those 18 that the
11 R squared in this case for the 18 parishes other
12 than East Baton Rouge is over 94 percent,
13 correct?

14 A. That is correct.

15 Q. And that means that the one
16 variable, the number of white over the number of
17 black voters in a parish, that one variable
18 explains almost 95 percent of the variation from
19 parish to parish and how many votes former
20 President Trump won over President Biden in that
21 parish, correct?

22 A. Correct. It establishes the
23 relationship between the two variables.

24 Q. Now, you did not -- strike that. Am
25 I correct -- I think I asked this before, so I

1 apologize if I have. You have not estimated how
2 -- if how racially polarized, if it at all, East
3 Baton Rouge is, correct?

4 A. No, I have not.

5 Q. Okay. Now, the other opinion you
6 offered, if we go back to page 14 of -- of your
7 report, the other conclusion you offer is that
8 East Baton Rouge is heavily populated and
9 constitutes approximately 34.2 percent of the
10 total registered voters from the 19 parishes
11 which are being considered for a proposed -- for
12 the proposed new congressional district, right?

13 A. That is right.

14 Q. And that's District 5, right?

15 A. That's -- so these are the 19
16 parishes which I have in my report, and these are
17 the 19 parishes which are being considered in
18 Mr. Cooper's Illustrative Plan 1.

19 Q. Okay. And the other 18 parishes in
20 that list therefore constitute approximately
21 65 percent, a little over 65 percent of the
22 population of that region that you looked at,
23 correct?

24 A. Correct.

25 Q. Okay. Now, Dr. Handley submitted a

1 report a few days after your report criticizing
2 your opening report, correct?

3 A. That is correct.

4 Q. Okay. And one -- one of her
5 criticisms was you had only looked at one
6 election, right?

7 A. That is right.

8 Q. And her opinion -- and her criticism
9 was one election doesn't give you enough data to
10 reach a conclusion about whether or not whites
11 vote in sufficient numbers as a block to defeat
12 the black preferred candidate, right?

13 A. That is correct.

14 Q. Okay. And she's right about that,
15 isn't she?

16 A. She's right. And that prompted me
17 to look at some of the elections to see. Even as
18 a scientist myself, I was intrigued by that
19 comment and interested in seeing that evolved and
20 explored if that happens in those elections or
21 not.

22 Q. And Dr. Handley's other main
23 criticism of your report was that you focused
24 only on East Baton Rouge and not on any
25 congressional district, that was her other

1 criticism of your report; is that right?

2 A. That is right.

3 Q. And your supplemental report did not
4 address that second criticism, correct?

5 A. That is right.

6 Q. Okay. You continue to focus on East
7 Baton Rouge in the supplemental report in just
8 the way you had focused on East Baton Rouge in
9 the first report, correct?

10 A. That is right.

11 Q. And if we can turn to -- well, in
12 your supplemental report, you looked at --
13 instead of one election, you looked at eight
14 elections, correct?

15 A. Yes.

16 Q. And how did you select the eight
17 elections to look at?

18 A. There was no particular criteria. I
19 wanted to get a good spectrum of elections, some
20 presidential, some governor, some Secretary of
21 State, attorney general, lieutenant governor.

22 Q. And you recognize that some of those
23 eight elections are elections that Dr. Handley
24 did not look at, correct?

25 A. That is right. So if I can go back

1 and answer your question more. So I -- so I
2 started looking at elections and I definitely
3 wanted to include some which Dr. Handley had in
4 her report, so get a good spectrum of elections,
5 some which she has pointed out for -- that I did
6 not look and some others, but a good sample of
7 elections.

8 Q. And Dr. Handley looked only at
9 elections in which there was a white candidate
10 and a black candidate, correct?

11 A. I have not verified that.

12 Q. Okay. Did you recall her
13 explanation that in her view and in the view of
14 some courts elections like that between a white
15 candidate and a black candidate are more
16 probative of racially polarized voting; do you
17 recall her saying that?

18 A. I recall her saying that in the
19 report?

20 Q. In the report, yes.

21 A. I particularly don't recall her, but
22 then I know they had some elections where there
23 was a black minority candidate and a white
24 majority candidate. I looked at -- at least two
25 of those instances.

1 Q. Okay.

2 A. Maybe three. Yes, three.

3 Q. And in each of the -- in each of the
4 eight elections you looked at in your second
5 report, there was a high degree of correlation --
6 second site of East Baton Rouge, there was a high
7 degree of correlation between the number of white
8 voters over the number of black voters in the
9 parish on the one hand and the votes for the
10 white preferred candidate over the black
11 preferred candidate on the other hand; you found
12 a high degree of correlation consistently across
13 those eight elections, correct?

14 A. Correct. And the only election
15 where this was somewhat not there was the 2015
16 governor's election.

17 Q. And if we look at Table 2 on page 11
18 of your report --

19 MR. HURWITZ:

20 Can you pull that up, Matthew?

21 TRIAL TECH:

22 (Complied.)

23 BY MR. HURWITZ:

24 Q. That shows again the R squares,
25 meaning the degree of fit as between those two

1 variables, correct?

2 A. Correct.

3 Q. And the one you are pointing to is
4 the November 2015 gubernatorial election where
5 the R squared is 63 percent?

6 A. Correct. So -- so what I pointed
7 out and what we have been talking about, so R
8 squared is a good method. It can capture such
9 non-metric as well setting of the regression
10 curve.

11 Q. And the -- the only other election
12 you looked at where the R squared was less than
13 90 percent was the November 2019 governor's
14 election involving, again, current Governor
15 Edwards, correct?

16 A. Correct.

17 Q. And in those elections, what we see
18 is that the -- the statistics showing the number
19 of white voters over the number of black voters
20 is less predictive of whether the parish will go
21 for the white preferred candidate than in the
22 other elections you looked at; is that -- is that
23 a fair thing to say?

24 A. It's a fair list, and I'll just add
25 to it that the race of the voter is one factor

1 and there potentially could be other factors.

2 Q. Well, one factor might be the race
3 of the candidate; would you agree with that?

4 A. True.

5 Q. And Governor Edwards, of course, is
6 white, correct?

7 A. Yes.

8 Q. And I wonder, if we could, take a
9 look at the winners and losers of the eight
10 elections you looked at. So there's a table
11 beginning on page 3 and continuing over to 4 and
12 into page 5. Let's start at the bottom of
13 page 3.

14 A. Okay. But that's in my supplemental
15 report, right?

16 Q. That's right.

17 A. Okay.

18 Q. And it's on the screen as well.
19 It's on page 3 of your supplemental report.

20 A. Okay. I see it.

21 Q. And the table, the description is a
22 little confusing because I think erroneously you
23 described the table as Party Affiliation Summary
24 for the November 2020 general elections, but, in
25 fact, it's a summary of all of the eight

1 elections you looked at, right?

2 A. True. I apologize.

3 Q. Don't apologize.

4 A. I was under time pressure and I was
5 reading different tables.

6 Q. We are all under time pressure here,
7 so errors happen.

8 A. So I must have this idea to merge
9 two tables and create one and forgot to change
10 the title.

11 Q. And just so we can clearly
12 understand what's being shown in this table,
13 let's -- let's use as an example the 2020
14 presidential election on November 3rd, 2020.
15 That's the two rows that reflect that election,
16 right?

17 A. Yes.

18 Q. And you identified the two
19 candidates on the right side, Trump and Biden,
20 both of whom you identify as white, correct?

21 A. Yes.

22 Q. And then the top row, that portion
23 of the chart is all of the parishes in Louisiana
24 combined, right?

25 A. Yes.

1 Q. And the bottom row is East Baton
2 Rouge Parish only, correct?

3 A. That is correct.

4 Q. Okay. And you have various pieces
5 of data here about number of votes, which you
6 described on direct, and then in the middle under
7 the heading -- under the column election outcome,
8 you identify whether -- which of the candidates
9 have won, correct?

10 A. Yes.

11 Q. Okay. So if we walk through this,
12 the eight elections, and focus only on East Baton
13 Rouge, we see that in the presidential election
14 2020 Biden won East Baton Rouge?

15 A. Correct.

16 Q. One of the white candidates?

17 A. Yes.

18 Q. And then the Secretary of State
19 election in November 2019, we see that Greenup
20 won East Baton Rouge; and she's a black
21 candidate, correct?

22 A. Correct. So you are looking at the
23 second part. Yes.

24 Q. Yes.

25 MR. HURWITZ:

1 And maybe we can scroll down just a
2 bit.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. HURWITZ:

6 Q. And then in the governor's election
7 that we discussed in 2019, Edwards won, white, in
8 East Baton Rouge?

9 A. Yes.

10 Q. In the Secretary of State election
11 in 2018, Ardoin won, defeated Greenup, so the
12 white candidate defeated the black candidate in
13 East Baton Rouge; is that right?

14 A. Correct.

15 Q. In the governor's election in 2015,
16 as we discussed, Edwards was white and won East
17 Baton Rouge, right?

18 A. Yes.

19 Q. And in the presidential election of
20 2016, Clinton won in East Baton Rouge; and, of
21 course, both candidates were white, correct?

22 A. Yes.

23 Q. And the lieutenant governor's race
24 in 2019, Nungesser, if I'm pronouncing that
25 correctly, won East Baton Rouge over Jennings who

1 was a black candidate, correct?

2 A. Correct.

3 Q. And Nungesser is white, correct?

4 A. Yes.

5 Q. In the attorney general's race in
6 2019 in East Baton Rouge, Landry, who was white,
7 defeated Jackson, who was black, correct?

8 A. Yes.

9 Q. So if I'm understanding the numbers
10 correctly, of the eight elections you looked at,
11 four involved a black candidate, right?

12 A. Correct.

13 Q. And three of those four, even in
14 East Baton Rouge, the outlier, the black
15 candidate lost, correct?

16 A. Correct.

17 MR. HURWITZ:

18 Can we pull up GX-30, page 3?

19 TRIAL TECH:

20 (Complied.)

21 BY MR. HURWITZ:

22 Q. So this is the rebuttal report of
23 Dr. Palmer. Have you seen this before?

24 A. Yes, I have.

25 Q. Okay. And if we can look at page 3,

1 I'd like to focus on paragraph 10.

2 A. Okay.

3 Q. In paragraph 10, Dr. Palmer says
4 "The ecological inference analysis using precinct
5 level data from East Baton Rouge Parish shows
6 that white voters voted as a block in East Baton
7 Rouge in the 2020 presidential election. Using
8 the same ecological inference methodology as I
9 used in my original report, I estimated that
10 92.5 percent of black voter the and 23.7 percent
11 of white voters in the East Baton Rouge Parish
12 voted for Joe Biden." You see that?

13 A. Yes, I do.

14 Q. And that report, the rebuttal report
15 of Dr. Palmer was submitted on May 2nd, which was
16 a week or so before your supplemental report was
17 submitted, correct?

18 A. That is correct.

19 Q. And your submittal report does not
20 express any disagreement with Dr. Palmer's
21 conclusion about the level of racially polarized
22 voting in East Baton Rouge Parish, correct?

23 A. So I wrote that specifically and
24 that would be in my new report.

25 Q. That's all I'm asking.

1 A. Okay. But if you wish, I can tell
2 you more about what you have on the screen right
3 now.

4 Q. Well, have you expressed an opinion
5 about that subject matter, the subject matter of
6 10, paragraph 10 of Mr. Palm -- Dr. Palmer's
7 rebuttal expert report in either of the two
8 expert reports that you have submitted in this
9 case?

10 A. I have not. And for me to run an
11 ecological inference model, I would need to
12 verify the assumptions on which certain models
13 are made, meaning the whites in all parishes with
14 same way, is that a fair assumption or not.

15 And I looked at what you are showing
16 me right now on the screen. If we go to the East
17 Baton Rouge Parish and look at how many were
18 black voters for there and compute 92.5 percent
19 of them and then see how many white voters are
20 there and compute 23.7 percent of votes, that
21 number will fall significantly below the number
22 of votes President Biden got. So even very
23 simple, you can see there's some flaw in this
24 present assumption here.

25 So if I go with the assumption that

1 these numbers are correct, President Biden is
2 falling short by 10, 15,000 votes. It's a simple
3 arithmetic, but I can create. Anybody can do
4 that.

5 Q. Of the simple arithmetic that you
6 are describing one percentage of white voters, do
7 you estimate that East Baton Rouge voted for
8 President Biden; is it more than a third?

9 A. I have answered that question.
10 Ecological inference is a proper way to do that,
11 but there has -- it has to be done correctly,
12 meaning you verify the assumption and then you
13 fit the ecological inference model.

14 Some of the models that I have seen
15 in the report rely on the assumption that whites
16 vote same regardless of the parish they belong
17 to; and -- and based on the preliminary analysis
18 which I carried out, I found that assumption to
19 be untrue, and I have documented that by the
20 eight elections.

21 Q. Now, the -- the -- you mentioned
22 that there was simple arithmetic that you could
23 do to show that the 23.7 percent estimate in
24 Dr. Palmer's report was wrong, but you did not
25 say that in your supplemental report. You chose

1 not to address that issue in your supplemental
2 report?

3 A. And the reason is --

4 Q. Can I ask you just to answer yes or
5 no and then you can -- you can give your
6 explanation?

7 A. I'm sorry. Go ahead. Please ask.

8 Q. So my question is, in your
9 supplemental report which was submitted more than
10 a week after Dr. Palmer's report rebuttal report,
11 you chose not to address or dispute Dr. Palmer's
12 opinion about racial polarization in East Baton
13 Rouge Parish, correct?

14 A. Correct.

15 MR. HURWITZ:

16 I have no further questions. Thank
17 you.

18 THE WITNESS:

19 Thank you.

20 MR. HURWITZ:

21 Thank you, Dr. Solanky.

22 THE COURT:

23 Any redirect?

24 MS. RIGGINS:

25 No, Your Honor, we do not have any

1 redirect, but I did forget to move in
2 exhibits. I would like to move in
3 Secretary of State Exhibits 4 and 5 at
4 this time, if there is no objection.

5 MR. HURWITZ:

6 Understanding those are
7 Dr. Solanky's original and supplemental
8 reports, we have no objection.

9 THE COURT:

10 So ordered. They are admitted into
11 evidence. You may step down. Thank you,
12 sir.

13 Okay, ladies and gentlemen, it's ten
14 minutes after 3:00. I'm happy to stay on
15 the record until 3:30, if you think that
16 we can make some progress. If we can
17 start someone that is not going to cause a
18 break and cost anybody time, I will leave
19 that up to the party who's got the case
20 right now.

21 MR. WALSH:

22 Yeah. I think it will create an odd
23 break situation.

24 THE COURT:

25 Okay. Well, then let's break for

1 the day.

2 Are there any housekeeping matters
3 that we need to take up? There is one,
4 and that is our start time tomorrow. Let
5 me just -- the court has two proceedings
6 tomorrow, one at 9:00 and one at 9:30.
7 I'm confident that I can get those done by
8 10:00. What that means for you, though,
9 is you have tables, you can leave your
10 materials, but, you know, obviously if you
11 have papers, cover them up because we will
12 have counsel at these tables in the
13 morning.

14 If you come in before 10:00, if you
15 sit in the gallery, you are more than
16 welcome to see the other business of the
17 court. So we will start at 10:00 or as
18 close to 10:00 as humanly possible given
19 the two proceedings that come before you.

20 And just full disclosure. I would
21 have loved to move one of them to 8:30,
22 but the marshall service can't transport
23 the people to get them here at that hour
24 without other requirements, so it's the
25 best I can do. So we will be back in the

1 morning at 10:00.

2 (The hearing was concluded at 3:05 p.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 REPORTER'S PAGE

2 I, CHERIE' E. WHITE, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(B)
6 of the Louisiana Code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the record;

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talkovers; that same is the
13 proper method for the court reporter's
14 transcription of a proceeding, and that dashes
15 (--) do not indicate that words or phrases have
16 been left out of this transcript; also, that any
17 words and/or names which could not be verified
18 through reference material have been denoted with
19 the phrase "(spelled phonetically)."

20

21

22 CHERIE' E. WHITE, CCR (LA NO. 96002)

23 CSR (TX NO 10720)

24 CSR (MS NO. 1514)

25 RPR (NATIONAL NO. 839452)

1 REPORTER'S CERTIFICATE

2

3 This certification is valid only for a
4 transcript accompanied by my original signature
5 and original seal on this page.

6 I, CHERIE' E. WHITE, Certified Court
7 Reporter, in and for the State of Louisiana, do
8 hereby certify that this injunction hearing as
9 hereinbefore set forth in the foregoing 241
10 pages; that this testimony was reported by me in
11 the stenotype reporting method, was prepared and
12 transcribed by me or under my personal direction
13 and supervision, and is a true and correct
14 transcript to the best of my ability and
15 understanding; that I am not related to counsel
16 or the parties herein, nor am I otherwise
17 interested in the outcome of this matter.

18

19

20 CHERIE' E. WHITE, CCR (LA NO. 96002)

21 CSR (TX NO. 10720)

22 CSR (MS NO. 1514)

23 RPR (NATIONAL NO. 839452)

24

25

EXHIBIT 4

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

3

4 PRESS ROBINSON, et al, CASE NO.
5 Plaintiffs, 3:22-cv-00211-SDD-SDJ
6 v

7 KYLE ARDOIN, in his
8 official capacity as c/w
9 Secretary of State for
10 Louisiana,
11 Defendant.

12
13 EDWARD GALMON, SR., et
14 al, CASE NO.
15 Plaintiffs, 3:22-cv-00214-SDD-SDJ
16 v

17 R. KYLE ARDOIN, in his
18 official capacity as
19 Louisiana Secretary of
20 State,
21 Defendant.

22

23 PROCEEDINGS

24 INJUNCTION HEARING

25 Held on Thursday, May 12, 2022

Before The

HONORABLE SHELLY DICK

Judge Presiding

Baton Rouge, Louisiana

26

27 REPORTED BY:CHERIE' E. WHITE
28 CCR (LA), CSR (TX), CSR (MS), RPR
29 CERTIFIED COURT REPORTER

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4

5 ABHA KHANNA, ESQUIRE

6 JONATHAN P. HAWLEY, ESQUIRE

7 LALITHA D. MADDURI, ESQUIRE

8 OLIVIA N. SEDWICK, ESQUIRE

9 JACOB D. SHELLY, ESQUIRE

10 SAMANTHA OSAKI, ESQUIRE

11 SARAH BRANNON, ESQUIRE

12 JOHN ADCOCK, ESQUIRE

13 STUART NAIFEH, ESQUIRE

14 KATHRYN SADASIVAN, ESQUIRE

15 VICTORIA WENGER, ESQUIRE

16 SARA ROHANI, ESQUIRE

17 JONATHAN H. HURWITZ, ESQUIRE

18 AMITAV CHAKRABORTY, ESQUIRE

19 ADAM P. SAVITT, ESQUIRE

20 DARREL J. PAPILLION, ESQUIRE

21 JENNIFER WISE MOROUX, ESQUIRE

22

23

24

25

1 Representing the Defendant:

2 PHILLIP J. STRACH, ESQUIRE

3 THOMAS A. FARR, ESQUIRE

4 ALYSSA M. RIGGINS, ESQUIRE

5 JOHN C. WALSH, ESQUIRE

6

7 Representing the Legislative Intervenors, Clay

8 Schexnayder, in his Official Capacity as Speaker

9 of the Louisiana House of Representatives, and of

10 Patrick Page Cortez, in his Official Capacity as

11 President of the Louisiana Senate:

12 MICHAEL W. MENGIS, ESQUIRE

13 PATRICK. T. LEWIS, ESQUIRE

14 KATHERINE L. MCKNIGHT, ESQUIRE

15 E. MARK BRADEN, ESQUIRE

16 ERIKA DACKIN PROUTY, ESQUIRE

17

18 Representing the Defendant/Intervenor, State of

19 Louisiana, through Jeff Landry in his Official

20 Capacity as Attorney General:

21 ANGELIQUE DUHON FREEL, ESQUIRE

22 CAREY TOM JONES, ESQUIRE

23 JEFFERY M. WALE, ESQUIRE

24 JASON B. TORCHINSKY, ESQUIRE

25 PHILLIP M. GORDON, ESQUIRE

1	I N D E X	
2	Defendants Witnesses:	PAGE
3	CHRISTOPHER BLUNT, Ph.D	
4	Direct Examination by Mr. Lewis	14
5	Cross-Examination by Ms. Madduri	15
6	Redirect Examination by Mr. Lewis	106
7	JEFFREY SADOW, Ph.D	
8	Direct Examination by Mr. Farr	115
9	JOHN ALFORD, Ph.D	
10	Direct Examination by Mr. Jones	131
11	Cross-Examination by Mr. Hawley	154
12	JEFFREY BYRON LEWIS, Ph.D	
13	Direct Examination by Ms. McKnight	167
14	Cross-Examination by Mr. Adcock	189
15	M.V. HOOD, III	
16	Direct Examination by Ms. Prouty	203
17	Cross-Examination by Ms. Wenger	229
18		
19		
20		
21		
22		
23		
24		
25		

1 EXHIBIT INDEX

2 Plaintiffs' Exhibits:

3

4

5 Defendants' Exhibits:

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 THE COURT:

3 Any housekeeping matters? Yes,
4 ma'am.

5 MS. KHANNA:

6 Thank you, Your Honor. Abha Khanna.
7 I just wanted to give the court the update
8 on the chess clock.

9 THE COURT:

10 Yes, ma'am.

11 MS. KHANNA:

12 The plaintiffs have used 481 minutes
13 and the defendants 386. And I don't know
14 now is a good time, but we just wanted to
15 raise with the court. I don't know if
16 Your Honor is thinking of some kind of
17 closing or oral argument at the end or we
18 certainly want to give you the opportunity
19 to ask the lawyers any questions you have.
20 I know we have two more days and several
21 witnesses. I just wanted to make sure we
22 are able to allot you time to ask any
23 questions.

24 THE COURT:

25 I was not inclined to ask for

1 closing arguments. If you will feel like
2 that there are some things that are
3 particularly germane, I'm going to give
4 you a brief opportunity to say what you
5 want to say in writing and document that
6 in any way that you would like to do. So
7 with that being said, I really don't feel
8 the need to, but if you-all want 10
9 minutes just to kind wrap things up, I'll
10 certainly let you have it. But the court
11 really doesn't require it.

12 MS. KHANNA:

13 I'll confer with other counsel, but
14 I think on behalf of the Galmon
15 plaintiffs, our primary was in making sure
16 if you have questions you want to ask us
17 you have the opportunity to do any oral
18 argument or ask any of any questions.
19 Thank you.

20 THE COURT:

21 All right. Thank you.

22 All right. Next witness?

23 MR. LEWIS:

24 If before we call this witness, do
25 we -- will plaintiffs be willing to

1 stipulate to Dr. Blunt's qualifications in
2 political science.

3 MS. MADDURI:

4 We have no objection to qualifying
5 Dr. Blunt in political science.

6 MR. LEWIS:

7 Okay. With that seasoned political
8 science and data analysis in the matters
9 standards --

10 MS. MADDURI:

11 I'm sorry.

12 THE COURT:

13 Okay. Hold on everybody. First,
14 I'll make your appearance. Patrick Lewis.

15 MR. LEWIS:

16 Yes, Your Honor.

17 THE COURT:

18 Representing which --

19 MR. LEWIS:

20 I represent the legislature
21 intervenor defendants.

22 THE COURT:

23 All right. Now, you are tendering
24 the next witness, who is --

25 MR. LEWIS:

1 Dr. Christopher Blunt.

2 THE COURT:

3 -- Dr. Blunt and speak to the court,
4 not the opposing counsel.

5 MR. LEWIS:

6 Yes.

7 THE COURT:

8 What is your tender?

9 MR. LEWIS:

10 As an expert in the field of
11 political science with emphases in
12 quantitative political science and data
13 analysis in the matter stated in this
14 report.

15 THE COURT:

16 Quantitative political science and
17 data analysis is the emphasis?

18 MR. LEWIS:

19 Yes, Your Honor.

20 THE COURT:

21 Is there a stipulation as to his
22 expertise?

23 MS. MADDURI:

24 This is Lali Madduri on behalf of
25 the Galmon plaintiffs. We don't stipulate

1 to his expertise in political science or
2 data analysis, but we do object to
3 qualifying -- I'm sorry. We do stipulate
4 to that, but we do object to qualifying
5 Dr. Blunt as an expert in the matters
6 stated in his report.

7 THE COURT:

8 Which is? Usually, they testify in
9 the area of which they are -- they are
10 tendered and you just stipulated to his
11 expertise in that area, and so now I'm
12 very confused. All right.

13 MR. LEWIS:

14 Your Honor, may -- I think -- I
15 think we can accept the tender as
16 stipulated the matters stated in his
17 report.

18 MS. MADDURI:

19 Okay. Let me object to qualifying
20 Dr. Blunt as the expert in this matter
21 stating in his report.

22 THE COURT:

23 Okay. So you are going to have go
24 through it the hard way, Mr. Patrick. You
25 are going to is have to call Dr. Blunt,

1 qualify him, let them cross on the tender

2 and then the court will make a decision.

3 MS. MADDURI:

4 And like we don't object to him

5 testifying for purposes of the preliminary

6 injunction hearing, but we do not

7 stipulate to his expertise or him

8 testifying at future proceedings, but we

9 can explore his qualifications on

10 cross-examination.

11 THE COURT:

12 Okay. I mean, either you are

13 stipulating that he's going to give

14 opinion testimony or not, and he will give

15 opinion testimony in the field in which

16 he's tendered. I don't know how to help

17 you. We are going to do it this way: You

18 put Dr. -- you call Dr. Blunt, you

19 establish his qualifications in the field

20 in which you propose to tender him, you

21 tender him, she cross-examines him, the

22 court will decide whether or not to accept

23 opinion testimony in the field tender.

24 MR. LEWIS:

25 Your Honor, may I try one last time

1 so we can get the stipulations that we can
2 just -- I want to be efficient for the
3 court.

4 THE COURT:

5 I do too. I do too. You may -- you
6 may certainly try. What is -- what is --

7 MR. LEWIS:

8 Yes. Yes, Your Honor. So we
9 would -- we would look for a stipulation
10 to tender Dr. Blunt. He's an expert in
11 the field of political science with an
12 emphasis in quantitative political science
13 and data analysis.

14 MS. MADDURI:

15 We can stipulate to his expertise in
16 those general fields.

17 THE COURT:

18 All right. Dr. Blunt will be
19 accepted as an expert in political science
20 with an emphasis in quantitative political
21 science and data analysis and will be
22 permitted to give opinion testimony in
23 those -- in that field.

24 MR. LEWIS:

25 Thank you, Your Honor.

1 THE COURT:

2 Everybody's clear?

3 COUNSEL:

4 (Indicated.)

5 THE COURT:

6 All right. Call your witness, sir.

7 MR. LEWIS:

8 Intervenors call

9 Dr. Christopher Blunt to the stand.

10 THE REPORTER:

11 Raise your right hand.

12 CHRISTOPHER BLUNT, Ph.D,

13 after having first been duly sworn by the

14 above-mentioned court reporter, did testify as

15 follows:

16 THE COURT:

17 Dr. Blunt, you may replace your mask

18 with a shield if you wish to or you can

19 remain masked. It's your decision.

20 THE WITNESS:

21 Where would I do that?

22 THE COURT:

23 She's going to give you -- well,

24 there should be, she's going to give you

25 one. If you are fully vaccinated, you

1 don't have to hear any of the above,

2 but --

3 THE WITNESS:

4 There you go. Thank you.

5 DIRECT EXAMINATION BY MR. LEWIS:

6 Q. Good morning, Dr. Blunt. I'm

7 Patrick Lewis on behalf of legislative

8 intervenors. Would you state your name for the

9 record?

10 A. Christopher Blunt.

11 Q. And, Dr. Blunt, you prepared two

12 reports in this case; is that correct?

13 A. That's correct.

14 MR. LEWIS:

15 And, Your Honor, may I approach the

16 witness and provide him with the binder

17 that contains the two reports?

18 THE COURT:

19 You may.

20 MR. LEWIS:

21 Thank you.

22 I'd like to turn first, just to

23 identify the reports for the record, turn

24 first to Tab 1 in your binder, which is

25 Exhibit LEG 3, which should also come up

1 on the screen.

2 TRIAL TECH:

3 (Complied.)

4 BY MR. LEWIS:

5 Q. And do you recognize this report,

6 Dr. Blunt?

7 A. Yes.

8 MR. LEWIS:

9 Okay. And then if we can go to the

10 second report, which is a supplemental

11 report, legislative Exhibit 77.

12 TRIAL TECH:

13 (Complied.)

14 THE WITNESS:

15 Yes.

16 BY MR. LEWIS:

17 Q. Do you recognize that as well?

18 Thank you.

19 MR. LEWIS:

20 If you can go back to the first

21 exhibit, Legislative 3.

22 TRIAL TECH:

23 (Complied.)

24 MR. LEWIS:

25 And I ask you to turn to page 16,

1 which I believe is exhibit A.

2 TRIAL TECH:

3 (Complied.)

4 THE WITNESS:

5 Yes.

6 BY MR. LEWIS:

7 Q. And, Dr. Blunt, is this your
8 curriculum vitae?

9 A. Yes.

10 Q. And it is a current and complete
11 copy of your CV?

12 A. Yes.

13 Q. Dr. Blunt, what is your educational
14 background?

15 A. A Ph.D in political science from
16 UCLA. My emphases were in American government,
17 campaigns, voting behavior.

18 Q. Okay. All right. And other --

19 A. Also, I have a bachelor and master
20 of arts in -- in political science in Western
21 University my emphases there were very similar.

22 Q. And have you published academic or
23 peer-reviewed papers?

24 A. Yes. As listed on the second page
25 of my CV, I recently had a peer review article I

1 was a co-author of in a political science journal
2 on some work we had done. I did the great bulk
3 of the data analysis for that. That was my role
4 as co-author.

5 THE COURT:

6 Dr. Blunt, adjust the mic so that
7 it's kind of under the mask. There's a
8 little bit of barrier between the mic and
9 your mask.

10 THE WITNESS:

11 Is that better, Your Honor?

12 THE COURT:

13 Yeah. I think so.

14 BY MR. LEWIS:

15 Q. All right. And, Dr. Blunt, what is
16 your current occupation?

17 A. I am the owner and president of
18 Overbrook Research, which is a public opinion
19 consulting practice.

20 Q. And how long have you operated
21 Overbrook Research?

22 A. Since 2003.

23 Q. What types of work do you do through
24 Overbrook Research?

25 A. Well, I do a lot of campaign turnout

1 modelling, especially during election years. I'm
2 very busy with that and I also do work for other
3 clients. Many of my clients are other
4 researchers and research firms who hire me to do
5 some secondary analysis of their data.

6 Q. Okay. And besides voter turnout,
7 what types of data do you work with?

8 A. Public opinion studies that could be
9 for on behalf of campaigns or consumer products
10 or the corporate communications public policy. I
11 also work with the census data regularly in the
12 course of my work.

13 Q. And do you study voting behavior and
14 voting behavior as part of your work?

15 A. Yes. Very frequently.

16 Q. How long have you studied voting
17 behavior?

18 A. Oh, all the way back to my
19 undergraduate days. I took my first data
20 analysis course as an undergrad, the days when
21 you'd do these things, like main frames, you had
22 to walk across campus to a data center to do
23 this; but it was -- I got my first job out of
24 college was with market strategies national
25 political polling firm. I was broken down in

1 part because I had those particular skills. I
2 was able to do that kind of data analysis on
3 behalf of campaigns for president, senate,
4 government all across the country.

5 Q. Dr. Blunt, do you use quantitative
6 statistical methods in your professional work?

7 A. Yes. Virtually every day.

8 Q. Okay. Could you explain how --

9 A. Well, it would depend on what I was
10 doing for the client. I build turnout models for
11 campaigns, but I for another client, I might use
12 a linear regression or a bilinear logistical
13 regression or multi-bilinear. Might use factor
14 analysis or cluster analysis to build an audience
15 segmentation, build a classification algorithm.
16 My classes could classify future research such as
17 bilinear categories, there's math diff, and a
18 whole host of other analytical techniques in my
19 work.

20 Q. And you apply those statistical
21 methods to study data regularly in your practice?

22 A. Yes.

23 Q. And fundamentally in the field of --
24 let me strike that.

25 For how long have you been using

1 statistical techniques in your work?

2 A. Well, as I noted from the very
3 beginning, from undergraduate days and my first
4 time after used in ultimately in graduate school
5 and formed my original research my dissertation
6 and virtually everything I've done since.

7 Q. So is that since the late or early
8 1990s?

9 A. That was in the early 1990s.

10 Q. And this case, of course, concerns
11 redistricting. Dr. Blunt, are you familiar with
12 redistricting from your work in political
13 science?

14 A. Oh, yes. It's a very well-known
15 issue in political science, certainly something
16 that I've studied.

17 Q. And is that an issue you are
18 familiar with from your graduate school days?

19 A. Yes.

20 Q. So you studied -- did you study the
21 literature in political science?

22 A. Yes. In redistricting, yes.

23 Q. Okay. And did you conduct -- did
24 you ever conduct research that involved the use
25 of census and election data to study voting

1 behavior?

2 A. Yes. In fact, my first Congress
3 paper that I presented, that I presented several
4 papers at academic conferences when I was in
5 graduate school, the first used valid data I had
6 gathered in Los Angeles County and I joined the
7 census data to precincts those ballots came from.
8 It was a very interesting project. This was in
9 the early days of Gary King's method for
10 Ecological Inference. I used the census data
11 that Bruce Ames' team at Cal Berkley had put
12 together. So this was when very early times in
13 this and was able to get a very interesting paper
14 on that. In fact, it won an award for the best
15 conference by a graduate student in our
16 department that year.

17 Q. Have you kept up with the
18 redistricting literature since graduating?

19 A. Yes, I have.

20 Q. And more specifically, are you
21 familiar with the political science literature on
22 the use of simulations methods that study
23 redistricting?

24 A. Yes, I am.

25 Q. And can you explain what

1 redistricting simulations are?

2 A. Sure. It's a simulations exercise
3 and what it does is it generates a large number
4 of alternative districting plans that could have
5 been drawn following a particular set of legal
6 criteria, and the value of that is that you can
7 then compare any given enacted plan or posed plan
8 to this range of districts that you -- that you
9 might expect will emerge from that process.

10 Q. And have you become familiar with
11 this methodology?

12 A. Yes, I have.

13 Q. In your opinion, is this methodology
14 been accepted in the field of political science?

15 A. Yes. It's very common, widely
16 accepted. It appears frequently in the
17 literature and, of course, it's been used in
18 court cases.

19 Q. And do you know of any courts that
20 have accepted simulations in redistricting cases?

21 A. Yes. Simulations have been accepted
22 by courts or redistricting commissions in
23 New York, Pennsylvania, North Carolina, Ohio,
24 Michigan and in others.

25 Q. Now, have you performed an analysis

1 using the redistricting simulations in your prior
2 work?

3 A. No. I had not before this.

4 Q. Okay. How does this type
5 simulations analysis remit to other work that you
6 have done in your prior work?

7 A. Well, it's a question in political
8 science to which we are applying quantitative
9 data and methods, which is what I do. This just
10 happens to be a different question using a
11 somewhat different set of data and somewhat
12 different set of methods, but it's fundamentally
13 something I'm familiar with.

14 Q. And so what you use in some of your
15 other work, you might use various different tools
16 and study different ways?

17 A. Yeah. Fundamentally, it's a
18 different tool certainly, but it's -- the
19 methodology and approach is something I'm
20 familiar with.

21 Q. And you have experience working with
22 the underlying census data used in that
23 methodology from your prior work?

24 A. Yes. It is in addition to the paper
25 I wrote in grad school. I work with census data

1 frequently in my work.

2 Q. Did you find that the simulations
3 technique was particularly difficult?

4 A. Not really. Certainly, as with
5 picking up any new technique, there is a learning
6 process to it; but fortunately, this one is well
7 documented, the software is fairly well
8 supported, there's been a lot written about it,
9 and so it was -- it wasn't a difficult thing to
10 take up. Particularly, since I was following the
11 same approach that other researchers have used
12 both in the literature and in court cases, I
13 wasn't plowing any particular new ground with
14 this.

15 MR. LEWIS:

16 All right. So I'd like to now turn
17 to it is page 1 of your report, but we are
18 going to, because I think the pagination
19 on our exhibit is a little off and I
20 apologize to one and all for that, so I
21 will be referring to the pagination at the
22 lower, right-hand corner. So that's
23 LEG 3-3 actually, if you could go there.

24 TRIAL TECH:

25 (Complied.)

1 BY MR. LEWIS:

2 Q. Now, Dr. Blunt, in paragraph 2 of
3 your report, I believe you identify -- you
4 describe in sort of your -- the work that you did
5 in this case. Can you identify for the court the
6 question that you were asked and answered in this
7 case?

8 A. Yes. It was to analyze and
9 determine whether a race blind redistricting
10 process following the traditional districting
11 criteria would or would not be likely to produce
12 a plan with two majority-minority districts.

13 Q. Okay. And just to make sure we have
14 got the terms right, when you refer to
15 majority-minority districts, are you referring to
16 majority black districts?

17 A. Yes. And -- and we are defining
18 black as any part black from the census to the
19 particular file. It is the same definition used
20 by plaintiffs.

21 Q. All right. And -- and is it fair to
22 say that you used simulations methods to study
23 this question?

24 A. Yes. To study the question, I
25 generated a set of 10,000 simulations methodology

1 to generate a set of 10,000 possible Louisiana
2 congressional districting plans that adhere to
3 those traditional, redistricting criteria, but I
4 did not take a grace in partisanship.

5 Q. So what software did you use to run
6 your simulations?

7 A. I used the Redis software package
8 that runs on the R statistical platform. It's an
9 open source statistical program that's widely
10 used by researchers.

11 Q. And what made you select the Redis
12 software?

13 A. It's one of the most common and
14 popular. It's -- it appears frequently in the
15 literature. It's developed by a team at Harvard
16 University. It's -- it's had tens of thousands
17 of downloads, has a number of algorithms to chose
18 from. It's also very well documented. They have
19 excellent documentation for it.

20 Q. You said there were different
21 algorithms you can select. What algorithms did
22 you use for this case?

23 A. Different algorithms simulate the
24 districts in a slightly different process. I
25 selected one called sequential Monte Carlo. It's

1 been especially appropriate in this case because
2 we were building districts from scratch and from
3 blind map.

4 Q. And when you -- when you run the
5 algorithm, and I believe you get into this on
6 paragraph 14 of your report on page LEG 3-6,
7 what -- when you run this algorithm, what does it
8 generate?

9 A. It -- it generates -- it's a large
10 number of possible Louisiana congressional
11 district plans. So in the wonderful thing about
12 the sequential Monte Carlo algorithm is it does
13 this in a way such that the generated plans are a
14 representative example of all of the plans that
15 could have been drawn using those same criteria.
16 So it's measured the same way that we would use a
17 large representative example of voters doing
18 public opinion polls.

19 Here, we are polling a large
20 representative sample of redistricting plans to
21 study the question. And so the -- so when we did
22 this, having the process was using the
23 stipulations that were put on. I'll give you
24 some -- let the -- let the algorithm kind of what
25 the limitations are. So that would be

1 contiguous, reasonably compact, limit the number
2 of split parish boundaries, and some degree of
3 population quality between the redistricting
4 plan.

5 Q. We will get to the criteria in a
6 moment, but what is the relevance of being able
7 to look at a large, you know, sample of
8 alternative maps? What does that allow you as a
9 researcher to look at?

10 A. Well, it's -- it's -- it gives you a
11 good sense of the range of distribution of the
12 plans that would emerge from this process using
13 only these criteria and -- and nothing more, so
14 it's -- it's what what kind of what the whole
15 territory is.

16 Q. Okay. So you talked about criteria
17 that made your simulations maps follow. Can you
18 identify -- I know you sort of got into it
19 earlier, but I want to make sure we get the
20 record clear, what criteria did you require your
21 simulated maps to follow?

22 A. Well, first was -- was contiguity.
23 The second was respecting parish boundaries to
24 the extent possible or practicable to ensure
25 degree of population quality between the

1 districts and to -- to ensure that they were
2 relatively compact.

3 Q. All right. And just for the record,
4 did your -- did your simulations consider race,
5 partisanship or prior district boundaries?

6 A. No, it did not.

7 Q. So then is it fair to say that the
8 simulations were drawn in a race blind manner?

9 A. Yes.

10 Q. In selecting your criteria, did you
11 consider any of the criteria identified by
12 Mr. Cooper, Mr. Fairfax in their respective
13 expert reports?

14 A. Well, they -- they used many of the
15 same criteria that I did, including the -- the
16 ones that I used, they also used in addition to
17 what I used, they also talked about preserving
18 communities of interest.

19 Q. Okay. And did your models preserve
20 communities of interest?

21 A. Well, it did to some extent. To the
22 extent that a community of interest is contained
23 entirely within bounds of a parish, that plans
24 tended to respect parish boundaries and so we
25 didn't have many of them divided. But that was

1 not a variable, you know, that could be

2 explicitly to the models in stipulation.

3 Q. Okay. So let me just start with

4 just a general question. Is there a generally

5 accepted definition of a community of interest in

6 the field of political science?

7 A. Not that I'm aware of. It's a very

8 broad term that can encompass all kind of things

9 or considerations.

10 Q. All right. And you, Mr. Cooper and

11 Mr. Fairfax defined communities of interest the

12 same in their reports?

13 A. No. Mr. Fairfax tended to talk more

14 about census places and landmarks sort of thing;

15 whereas, Mr. Cooper talked more about the

16 statistical areas. We call them submitter polls

17 or statistical areas.

18 Q. And can you reliably control for

19 communities of interest in a model without a

20 generally accepted definition of the term?

21 A. No. It's a -- it's easier to

22 control for parishes because we know exactly what

23 those are. The -- the state of the ones that

24 are -- it contained entirely within a parish

25 boundary could be controlled. For some extent,

1 you are not dividing parishes. The other ones,
2 like the statistical areas, in theory could be if
3 the researcher knew there were certain ones that
4 were important to keep together that could --
5 that sort of geographical constraint could be
6 taken into account.

7 Q. So why didn't you just program the
8 MSAs into the algorithm and tell them to keep
9 them all together or something to that effect?

10 A. Well, it wasn't clear to me which
11 ones were critical to keep together or which ones
12 were not. Even in Mr. Cooper's plan, there were
13 some that stayed together and some that didn't.
14 These -- that's a kind of a -- the decision's
15 difficult to make ahead in advance.

16 Q. And even if you could program in
17 certain communities of interest, are the reasons
18 not to program constraint that lacks a generally
19 accepted definition, you know, offered by the
20 mapmaker whose map you are studying?

21 A. Yeah. As I'm studying these maps, I
22 was hesitant to include something like a
23 community of interest that doesn't have a firm,
24 legal definition the same way that, say, a parish
25 would, and I part because this -- that's a

1 community of interest it could have served as
2 a -- as a proxy for race, which is exactly the
3 question that I am studying and trying to
4 evaluate with these plans. I didn't want to bake
5 that into the models if it had been, you know,
6 baked in somehow by the way they had drawn the
7 maps.

8 Q. So just as a -- as just more of a
9 general question before we move on, which year
10 census data did you use in your model?

11 A. Oh, it was the 2020 redistricting
12 file.

13 Q. Okay. All your data was from the
14 most recent redistricting --

15 A. Yes.

16 MR. LEWIS:

17 Okay. All right. I'd like now to
18 turn to paragraph 20 of your report
19 beginning on LEG 3-7.

20 TRIAL TECH:

21 (Complied.)

22 BY MR. LEWIS:

23 Q. And -- and so, Dr. Blunt, were you
24 able to generate a set of simulated plans using
25 the software and the criteria you just discussed?

1 A. Yes, I was.

2 Q. Okay. And how many maps were you
3 able to generate?

4 A. I did 10,000.

5 Q. Okay. Now, did you do any -- did
6 you take a look at any of those maps after you
7 simulated them?

8 A. Yes, I did. I looked at quite a
9 few. It's possible to render the maps right
10 there in the software, so I wanted to make sure
11 it was doing what it was supposed to be doing.
12 The districts were contiguous and they looked
13 like real maps, so that was kind of a quality
14 check. I looked at quite a few of them.

15 Q. Sure.

16 MR. LEWIS:

17 So I'd like to just quickly just put
18 up one example. If we can pull up one.

19 TRIAL TECH:

20 (Complied.)

21 BY MR. LEWIS:

22 Q. And, Dr. Blunt, this looks like
23 that's labeled Plan No. 22, so can you explain
24 what we are looking at?

25 A. Oh, sure. This was the 220th

1 district plan that the software generated. I
2 believe it just chose this one at random to -- to
3 look at. So it's there are six districts. They
4 are contiguous. That's -- I don't know what else
5 to say about it.

6 Q. So there are apparently 9,999 others
7 where that came from?

8 A. Yes.

9 MR. LEWIS:

10 Okay. We can take that down. If we
11 can go then back to I think it's now
12 page 6 of your report LEG 3-8.

13 TRIAL TECH:

14 (Complied.)

15 BY MR. LEWIS:

16 Q. So, Dr. Blunt, you now have your
17 10,000 plans and can you -- did you calculate the
18 black voting age population for the districts in
19 your plans?

20 A. Yes, I did. I asked it to compute
21 what we call the BVAP. That's any part black
22 voting age population for each of the six
23 districts in each of the 10,000 simulated plans.

24 Q. Okay.

25 A. So that gave me a number for each of

1 the 60,000 districts.

2 Q. Okay. And all right. So you've got
3 here total, so you calculated the BVAP for each
4 and I believe that's what, 60,000 total
5 districts?

6 A. Yes.

7 Q. All right. And then in Figure 1, it
8 looks like you're reporting what you are calling
9 the highest -- the highest BVAP district. Could
10 you explain to the court what that is?

11 A. Yes, I did. The district numbers on
12 these plans, they are numbers, but it's
13 arbitrary. This is not in reference to an
14 existing plan or anything else. So it's a
15 question of looking across the six in each case
16 to see which one has the highest BVAP. So I
17 pulled that number to its own variable, so I
18 ended up with a new variable in the data file
19 that had, you know, this number representing the
20 highest BVAP across the plan. So this is the
21 distribution of what that variable looks like.
22 This is -- these are 10,000 districts and it's
23 one from each plan. Each district was the one in
24 the plan that had the highest BVAP.

25 Q. All right. And all right. So how

1 many of your 10,000 simulated plans contained two
2 majority-minority districts?

3 A. None of them did.

4 Q. And how many even had one
5 majority-minority?

6 A. None of them did.

7 Q. Okay. All right. So can you
8 identify for the court the highest BVAP district,
9 the percentage BVAP and the highest BVAP district
10 that you encountered in your simulations?

11 A. Yes. It was 45.47 percent.

12 Q. And what was the average, highest
13 BVAP in your 10,000?

14 A. It was about 38-1/2. It was 38.56.

15 Q. Okay.

16 MR. LEWIS:

17 All right. So now I'd like to turn
18 down to the next page in your report,
19 which is LEG 3-9.

20 TRIAL TECH:

21 (Complied.)

22 BY MR. LEWIS:

23 Q. Dr. Blunt, what's in the Figure 2
24 here that talks about the second, highest BVAP
25 district? Can you explain that analysis?

1 A. Yes. Once I pulled out the highest
2 BVAP district, it was a straightforward exercise
3 to pull out the one that was second highest in
4 each district and did the same analysis to look
5 at the distribution of what the BVAP was in each
6 of those. So that's what you see here.

7 Q. And what did you ultimately come to?

8 A. Well, I found that the -- the -- the
9 highest one of these was just over 42 percent.
10 It was 42.24 percent BVAP. You see that way over
11 on the right tail. The average across these was
12 just over 36 percent BVAP.

13 Q. Now, did you analyze whether in your
14 10,000 simulated plans that they -- whether they
15 commonly had two relatively high BVAP districts?

16 A. Yes. I looked at that, but it was a
17 very unusual thing for there to be two -- a
18 tentative -- a plan that had two districts with a
19 large BVAP share. In fact, in only 75 plans, out
20 of the 10,000 had two districts that had the
21 40 percent BVAP, only 200 plans got to 39 percent
22 BVAP in two districts.

23 Q. And based on, you know, this sort of
24 analysis, were you able to draw any conclusions
25 about the question that, you know, that you

1 looked at?

2 A. Yeah. I concluded that it would be
3 extremely unlikely for Louisiana redistricting
4 plan that included two MMDs to emerge in a
5 process that followed only the redistricting
6 criteria that I used.

7 Q. Okay. Now, did you look at -- I
8 know you testified that you sort of actually
9 looked at some of your plans, but did you also
10 analyses your simulated plans to see how well
11 they complied with those traditional,
12 redistricting criteria that you used in your
13 model?

14 A. Yes, I did.

15 MR. LEWIS:

16 All right. I'd like to turn now to
17 page 8 of your report, LEG 3-10.

18 TRIAL TECH:

19 (Complied.)

20 BY MR. LEWIS:

21 Q. And did you look at the compactness
22 of the districts that your simulating plans drew?

23 A. Yes. Compactness was a criteria and
24 so I looked to see how well my districts did on
25 that.

1 Q. Okay. And I believe Figure 3 here
2 on page LEG 3-10 reports that. Can you explain
3 to the court what you found?

4 A. Yes. I report here that the polls
5 poverty scores, it's a standard measure of
6 district compactness political scientists use,
7 it's very popular, very common metric you see
8 widely reported. So this is all 60,000 districts
9 to show what those scores are. My average across
10 them was .25 or a little bit better. 90 percent
11 of each district's score was .13. 80 percent of
12 them got to at least .162.

13 Q. And if you turn to the next page of
14 your report, did you compare the average
15 compactness of your districts to those of the
16 illustrative plans submitted by Mr. Cooper and
17 Mr. Fairfax?

18 A. Yes. That -- that's what I did here
19 in Figure 4 and, yeah, my average was about .25.
20 Theirs were about .18, .19, so my averages were
21 better. The high end theirs topped out. See,
22 the very best one was .31 and I had -- I computed
23 the number of -- I'm sorry. I had about
24 one-fourth of my -- my districts were better than
25 that were more compact than that. But I would

1 say 26.4 percent of the simulated districts got
2 to at least .31.

3 Q. And in your report, that's reported
4 in your report, correct?

5 A. Yes, sir. I'm just reading from the
6 report.

7 Q. Okay. So did you look at how many
8 parishes were split in your simulations?

9 A. Yes.

10 MR. LEWIS:

11 Okay. So if we could look at I
12 believe that's at the bottom of page 9, if
13 we could zoom in on that.

14 TRIAL TECH:

15 (Complied.)

16 BY MR. LEWIS:

17 Q. All right. And how many parish
18 splits do your simulated plans produce?

19 A. The great majority of them split
20 five parishes or fewer. It was most common to
21 split five parishes. I had -- I had some number,
22 I guess, 24 percent that it split six parishes,
23 but six was the most that any of them split.

24 Q. Okay. I believe on the next page,
25 Figure 5, is that where you --

1 A. Yeah.

2 Q. -- visualized the number of splits?

3 A. Yes.

4 Q. Okay. And how to -- how do your
5 simulations compare to the illustrative plans of
6 Mr. Cooper and Mr. Fairfax with respect to splits
7 of parishes?

8 A. Let's see. The -- they split fewer.
9 The -- see, so the -- just making sure. The --
10 so Mr. Cooper reported his plans one and three
11 split 10 parishes, his plan two splits 11
12 parishes, Mr. Fairfax's plan splits 14 parishes.
13 That's all taken from their reports. I didn't
14 independently verify that, but that's in their
15 report. So I split on average I guess about half
16 of what Mr. Fairfax reported or, sorry,
17 Mr. Cooper.

18 Q. All right. And then in -- it
19 appears to be on paragraph 28 also on that
20 page 10, you report on how your plans performed
21 on population of quality?

22 A. Yes. They -- they do get close to
23 the quality of total population. It's very
24 difficult for simulations to get to perfect
25 quality across districts by the nature of what

1 you are doing using voter tabulation districts,
2 which are not splitting. But I set the parameter
3 to be a total deviation from perfect to aim for
4 less than .25 percent deviation, and what that is
5 it's just you are just adding up across the six
6 districts how far you were under or over the --
7 the number of 776,293, which is the perfect
8 target. So you -- you're just adding up the sums
9 of those deviations and it should get to 1940 or
10 less, and in almost all of them were under that.

11 Q. Okay. All right. So just kind of
12 sum up your ultimate conclusion here from your
13 analysis, I believe you report that on
14 paragraph 30 beginning on page 11, if you could
15 just summarize for the court the ultimate
16 conclusions that drew from your conclusions of
17 your analysis of the sites?

18 A. Yes. I found the simulations were
19 able to produce districts that were at least as
20 compact as fewer plans. They split fewer
21 boundaries. Most importantly, I found that using
22 only these traditional criteria, you know, a
23 districting plan would be extremely unlikely to
24 contain two MMDs. So to draw a plan in Louisiana
25 with two such districts would almost certainly

1 require prioritizing racial consideration or some
2 proxy for race or at least traditional criteria,
3 and the simulations followed.

4 MR. LEWIS:

5 Okay. Forest, you can take that
6 down.

7 TRIAL TECH:

8 (Complied.)

9 BY MR. LEWIS:

10 Q. Now, Dr. Blunt, did you review the
11 rebuttal report Dr. Maxwell Palmer?

12 A. Yes, I did.

13 Q. Okay. Did Dr. Palmer criticize
14 certain -- or one of the methodological choices
15 you made in drawing -- creating your model?

16 A. Yes, he did.

17 MR. LEWIS:

18 Okay. And I'd like to turn now to
19 your supplemental report, Legislative
20 Exhibit 77.

21 TRIAL TECH:

22 (Complied.)

23 BY MR. LEWIS:

24 Q. And was this a -- I think this was a
25 supplemental report that you issued in response

1 to that; is that correct?

2 A. Yes.

3 MR. LEWIS:

4 Okay. If we could turn to its first

5 page, which is LEG 77-2.

6 TRIAL TECH:

7 (Complied.)

8 BY MR. LEWIS:

9 Q. Can you summarize Dr. Palmer's
10 critique of your parish spread?

11 A. Yes. He criticized the approach for
12 splitting too few parishes that I had instructed
13 the algorithm to do that, that because I was
14 splitting it most only six parishes, that I
15 wasn't getting the full range of distribution of
16 the source of plans that might appear in
17 Louisiana. I do think it was important he noted
18 this, that this is a widely-accepted methodology
19 and an approach in general to effect one that he
20 used in his own research. So that was -- but he
21 noted that there was this detail about how I had
22 executed it that may be leading to fall short.

23 Q. And were you aware -- did you under
24 Mr. Fairfax's and Mr. Cooper's redistricting
25 criteria set forth in your reports to include

1 like a minimum number of parish splits?

2 A. No. They did not note the minimum
3 number that they were using, not that I saw.

4 Q. And so can you in response to
5 Dr. Palmer's critique, did you analyze to see if
6 that issue effected your results?

7 A. Yes, I did. There's a test of the
8 robustness of the findings in the original
9 report. I -- well, let me back up. I wanted to
10 test this, but given a sense as to how much is
11 possible using the algorithm because I did want
12 to see it, this was an issue. So with the
13 sequential Monte Carlo algorithm, one of the
14 standard settings on that is if you were going to
15 constrain for parish splits, then it prefers
16 plans that have one split fewer than the number
17 of districts you create.

18 For instance, in Louisiana, we are
19 making six districts. So it's going to -- that
20 if you specify the parish split constraint, it's
21 going to push the algorithm you generate plans
22 that have five splits or fewer to get down to
23 six. So that's the standard setting. There is
24 no way to set your own minimum. You can't tell
25 it I want to split 10 or I want to split 15.

1 That's -- the number is either number of
2 districts minus one or nothing, so my option was
3 nothing. That's the way that I tested this, was
4 I removed the parish split constraint all
5 together and let the -- let the algorithm do what
6 it was going to do and split parish boundaries at
7 will, gave it maximum freedom to find what it was
8 going to find.

9 Q. Okay. All right. So did you then
10 re-run another set of simulated maps without that
11 constraint?

12 A. Yes. That's what I did. I did
13 10,000 additional maps. I left the other
14 settings where they were and changed one thing,
15 which is a standard, scientific method and saw
16 what happened.

17 Q. Okay. And is that type of
18 robustness check common in the field of political
19 science?

20 A. Yeah. There's a -- there's some
21 kind of critique that said that this is, you
22 know, you are too strict or too lenient or
23 something and change it and see what happens.

24 Q. How long did it take the computer to
25 draw the second set of 10,000 maps?

1 A. I believe it was an hour and a half.

2 Q. About an hour and a half. And could
3 another researcher done exactly as you did with
4 the data code that you used in your report?

5 A. Yes. I provided all the code that I
6 used. Dr. Palmer had been curious. He could
7 have -- he could have removed that constraint and
8 just run it.

9 Q. Okay.

10 A. I was happy to do it, though. I
11 was --

12 Q. Sure.

13 MR. LEWIS:

14 And if we could then turn to
15 page 77-3, paragraph four, I believe you
16 report the -- the results of that second
17 set of simulations.

18 TRIAL TECH:

19 (Complied.)

20 BY MR. LEWIS:

21 Q. Could you just kind of summarize
22 what you find with the highest BVAP?

23 A. Yes. I found that it didn't change
24 much. The -- the highest percent at any one
25 district, it increased very slightly, it had been

1 about 45 percent black, it was now just over
2 46 percent black. And, but that was still where
3 it maxed out and I still did not get a single MMD
4 in any of the plans.

5 MR. LEWIS:

6 Okay. And then if we turn to the
7 next page.

8 TRIAL TECH:

9 (Complied.)

10 THE WITNESS:

11 And note that -- I'm sorry. And
12 then, of course, so I didn't get one. I
13 didn't get two either. I did get -- I had
14 at least 41 percent in two separate
15 districts and 54 plans that had been 28.
16 So I had a little bit more, but it did not
17 substantially change that, you know, those
18 core findings.

19 MR. LEWIS:

20 Okay. All right. And if we could
21 just turn to the next page very quickly,
22 Figure 1.

23 TRIAL TECH:

24 (Complied.)

25 BY MR. LEWIS:

1 Q. Can you just briefly describe what
2 Figure 1 reports?

3 A. Yeah. This is essentially a, you
4 know, an updating of the Figure 1 in my original
5 report. I'm showing that pulled out that
6 district that had the 10,000 plans that had the
7 highest BVAP, showed what the distribution looked
8 like, and as I noted, it was very similar to
9 what -- what I had originally reported. So even
10 with the parish split constraint removed, it did
11 not substantially change the results.

12 Q. Sure. All right. And -- and did
13 the removal of the -- the constraint effect
14 compactness over the parish splits?

15 A. Yes. Absolutely, it did.

16 Q. Did it make the increase the number
17 of parish splits; is that fair to say?

18 A. Yeah. The number of parish splits
19 increased dramatically. I reported that as you
20 would expect because I wasn't respecting those
21 boundaries any more. I note that compactness
22 also dropped by quite a bit.

23 Q. All right. So in the end, what does
24 this second simulations run tell you?

25 A. It tells me that the -- the, you

1 know, the original -- the original approach was,
2 I mean, it was a strong one that held up against
3 this robustness check even with the parish
4 boundaries constraint removed. I had the same
5 findings that told me that the sets of algorithm
6 I was using were altogether proper and
7 appropriate. Second set of algorithms.

8 MR. LEWIS:

9 We can take that down. Thank you.

10 TRIAL TECH:

11 (Complied.)

12 BY MR. LEWIS:

13 Q. All right. So just finally, I'll
14 represent to you that Dr. Palmer on Monday
15 testified in this case and offered a critique, my
16 words, not his, that requires your model to
17 constrain population deviation too tightly. Is
18 that a plus or minus a quarter should have been a
19 larger number? Was that criticism reflected?
20 Did you see that criticism in your rebuttal
21 report anywhere?

22 A. No. He did not mention that -- that
23 concern.

24 Q. Okay. And do you have a -- do you
25 have a response to that criticism?

1 A. Yes. I would note had he mentioned
2 that in his original report, that is something I
3 certainly would have looked at and reported on
4 and did an additional robustness check. I will
5 say I did out of curiosity, I did look at what
6 the set of plans would like, like with that
7 constraint considerable widening. And again, the
8 results were very similar to what we got here
9 with the highest BVAP district increased very
10 slightly and we had something like four plans
11 that had two districts that were 42 percent BVAP.
12 But again, we were nowhere near to having two
13 MMDs and only one.

14 MR. LEWIS:

15 Thank you very much, Dr. Blunt.

16 At this time, Your Honor, I move in
17 LEG 3 and LEG 77.

18 MS. MADDURI:

19 No objection, Your Honor.

20 THE COURT:

21 Admitted.

22 MR. LEWIS:

23 And I have no further questions.

24 THE COURT:

25 Cross?

1 CROSS-EXAMINATION BY MS. MADDURI:

2 Q. Good morning, Dr. Blunt.

3 A. Good morning.

4 Q. My name is Lali Madduri and I
5 represent some of the plaintiffs in this case.

6 You were engaged by legislative
7 defendants, correct?

8 A. Correct.

9 Q. Who first reached out to you?

10 A. Oh, the BakerHostetler.

11 Q. Do you remember who?

12 A. I don't remember exactly who the
13 first contact was. And I very quickly again, I'm
14 working with Patrick Lewis, but yeah, I'd have to
15 go back and look at my e-mails.

16 Q. That's fine. When were you first
17 contacted?

18 A. Oh, it was -- it was shortly before
19 April 22nd. It was earlier than that. We had
20 April 22nd was a Friday. That was when engaged
21 the work I was contacted shortly, I guess, a few
22 days before that. That was when I first heard
23 about the existence of a project and I believe we
24 spoke on that Friday the 22nd.

25 Q. Okay. And you're being compensated

1 at the rate of \$250 an hour?

2 A. That's correct.

3 Q. And approximately how much have you
4 billed working on this case?

5 A. How much have I billed? How many
6 hours have I logged?

7 Q. Sure.

8 A. Oh, at least 60 to 70, but I would
9 have to check my notes and add that up.

10 Q. And this is your first time
11 testifying at a trial or by deposition, right?

12 A. That's correct.

13 Q. You testified on direct that you
14 studied redistricting; is that right?

15 A. Yes.

16 Q. And that you've studied simulations?

17 A. Yes.

18 Q. Okay. Are you -- oh, and that you
19 are generally familiar with stimulation?

20 A. Yes.

21 Q. Prior to your engagement in this
22 case, had you ever run a simulations analysis of
23 electoral districts?

24 A. No, I had not.

25 Q. Have you ever published on

1 simulations analyses in a peer-reviewed journal?

2 A. No.

3 Q. Have you ever published on a

4 simulations analysis in any academic journal?

5 A. No.

6 Q. Have you ever published on

7 simulations analyses anywhere?

8 A. No.

9 Q. Have you ever taught a course on

10 simulations analyses?

11 A. No.

12 Q. Have you ever taken a course on

13 simulations analyses?

14 A. Not that specifically, no.

15 Q. Do you use simulations analyses in

16 your professional work?

17 A. Before this, I had not.

18 Q. Have you ever published on

19 redistricting in a peer-reviewed journal?

20 A. No.

21 Q. Have you ever published on

22 redistricting in any academic publication?

23 A. Not on redistricting, no.

24 Q. Have you ever published on

25 redistricting anywhere?

1 A. No.

2 Q. Have you ever taught a course on
3 redistricting?

4 A. For?

5 Q. Ever taken a course on
6 redistricting?

7 A. Not on redistricting particularly,
8 but it's certainly something that comes up in
9 political science course work, and under contest
10 certainly is a subject that, you know, we discuss
11 and is well-known and widely taught. But I was
12 not aware of any course on redistricting per se.

13 Q. So in this case, you are applying a
14 quantitative method that you've never used
15 before; is that right?

16 A. It is -- this particular
17 quantitative method I picked up for this
18 particular application, yes, which I would note
19 is something that I have done in the past. You
20 know, I have new methods looking for new
21 applications, root of it still being a political
22 science question to which we are applying an
23 analytical method.

24 Q. An analytical method that you've
25 never used before this case?

1 A. That's correct.

2 Q. You testified on direct that courts
3 have accepted simulations expert analyses in
4 other cases; is that right?

5 A. Yes.

6 Q. But no court has ever accepted you
7 as an expert in this area, correct?

8 A. That's correct. I've never
9 testified before.

10 Q. You ran a specific code in
11 performing the analysis that you presented in
12 your reports; is that right?

13 A. Yes.

14 Q. Did you write that code?

15 A. Yes.

16 Q. You wrote the code that you ran?

17 A. Oh, I wrote the instructions that
18 executed the underlying algorithm.

19 Q. Okay. But you didn't write the
20 algorithm?

21 A. No, no, no. The mathematicians and
22 that's -- that's a different -- the people that
23 actually wrote the algorithm, I relied on the
24 tool that they provided and produced, yes. I
25 just -- I used that. Yeah. I wrote the

1 instructions to, you know, to make it work, but
2 the underlying algorithm, no. That is something
3 that -- that someone designed and published.

4 Q. Where did you get that algorithm?

5 A. It's -- it's available through
6 the -- it's a package. It's part of the R
7 statistical package software. There's a -- I
8 believe I footnoted it in my report that it's
9 available through their standard package. It can
10 be downloaded and added into the R software.

11 Q. Do you know who wrote that
12 algorithm?

13 A. I believe it was Dr. Imai was one of
14 the people who --

15 THE REPORTER:

16 Can you spell that?

17 THE WITNESS:

18 I-M-A-I. I believe he had
19 collaborators, but he was one of the
20 people who developed it, but -- and he has
21 testified as an expert in -- in other
22 cases in using this algorithm.

23 BY MS. MADDURI:

24 Q. So you're aware that simulations'
25 experts in other cases write their own code?

1 A. I'm sure some do. In the case

2 Dr. Imai, he wrote the algorithm, then you know,

3 he designed it.

4 Q. Okay. Are you aware that other

5 simulations' experts that have testified in cases

6 also typically write the code that they present?

7 A. I don't know if they typically do or

8 not. I'm not sure how you would define

9 "typically." I know some do.

10 Q. And before this application, you

11 have never run Dr. Imai's code, right?

12 A. That's correct.

13 Q. And you are aware that Dr. Imai's

14 code produces simulated plans using a

15 Metropolis-Hastings algorithm?

16 A. I don't know if that's the name of

17 it, but is -- the one I used is simulated

18 Monte Carlo. I don't know if there's something

19 else that's under there that he's using, but that

20 was the one in the package that I used.

21 Q. Okay. Do you have any reason to

22 disagree if I told you Dr. Imai's code, his

23 algorithm is using a Metropolis-Hastings

24 algorithm?

25 A. I wouldn't have any particular

1 knowledge to contest that.

2 Q. Okay. And so I would assume that
3 you can't tell me exactly how that type of
4 algorithm works?

5 A. So this is the mathematicians and
6 the statisticians are the ones who put the
7 algorithms together. So for the great bulk of us
8 researchers, this is a tool that is then
9 available to us that we can use as an application
10 in our -- in our day-to-day work, much as same
11 the rest of the rest of statistical software that
12 I use as algorithm undermining that I could not
13 write, but I know how to use them to apply them
14 and to set them up and to interpret the output.
15 It's what I do every day with all kinds of other
16 algorithms.

17 Q. Okay. But you can't explain the
18 actual algorithm that's set forth here?

19 A. No. I looked. I read the article
20 that is under review that Dr. Imai and
21 collaborators have submitted where he explains
22 the algorithm, and I got a sense for what it was
23 doing and got validation for the article. No, I
24 could not -- I could not produce the path for
25 them, no.

1 Q. So you're not an expert in the
2 algorithm that you used here?

3 A. Not on -- not of that algorithm
4 itself, no, not the underlying engine.

5 Q. Okay. And you are not an expert in
6 simulations?

7 A. In -- this is the first simulation
8 that I've produced.

9 Q. So no?

10 A. I am -- I ma an expert in data
11 analysis, which this simulation was one
12 component. As I said, this is the first
13 simulation that I have produced.

14 Q. Okay. So now moving to the analysis
15 that you did here, the basic idea is that if you
16 produce a set of simulated maps using
17 traditional, redistricting criteria and not race,
18 you can look at those -- that set of simulations
19 that's produced and be able to tell how often a
20 simulated map that adheres to those criteria
21 would create a map that had two majority-minority
22 districts in it, right?

23 A. Yeah. You can use it to compare,
24 yeah, any kind of map to this distribution. You
25 can say, you know, chose your map and you can get

1 a sense for how frequently you would see
2 something like that. It's often used in partisan
3 gerrymandering cases or it also sometimes is used
4 in racial cases, yes.

5 Q. Okay. So you could simulate a set
6 of maps using criteria that's aimed as maximizing
7 compactness, right?

8 A. Yeah. The compactness setting that
9 I chose was the one that Dr. Imai recommended.
10 It's described as producing nice, compact
11 districts. I don't know if that is maximal
12 compactness, but that was what was kind of
13 recommended as the default setting.

14 Q. Thank you.

15 A. That's why I used it.

16 Q. I'm sorry. I didn't mean to
17 interrupt you. I understand, but just
18 theoretically, you could program a set -- you
19 could program an algorithm to produce a set of
20 simulated maps that does maximize compactness,
21 right?

22 A. I believe that would be possible.

23 Q. Okay. And then you could see when
24 compactness is maximized, do plans with two
25 majority-minority districts emerge?

1 A. You could certainly change the --
2 the settings for the algorithm to have it
3 emphasize something over something else and then,
4 you know, to see what came out of it and then
5 compare your -- your holdout plan to whatever was
6 produced, yes.

7 Q. So the idea is to program the
8 simulation's algorithm with a traditional,
9 redistricting criteria and then see what kind of
10 maps emerge?

11 A. Yes.

12 Q. Okay. And then according to that,
13 your theory, if the simulated maps didn't contain
14 two majority-minority districts, that means that
15 race pre-dominated in the drawing of any map that
16 contains two majority-minority districts, right?

17 A. Right. I would strongly suspect
18 that race was some proxy for it had pre-dominated
19 over those traditional criteria if a map, in
20 fact, produced two majority-minority districts,
21 it certainly wasn't emerging on its own.

22 Q. So that means it's necessary for the
23 simulation's algorithm to be programmed according
24 to the same criteria that whatever comparative
25 map was drawn using, right?

1 A. Well, not necessarily. It should
2 run according to what the -- the stated legal
3 criteria are. Not necessarily what that over
4 mapmaker did because if you do that, then you
5 might put into the map whatever the mapmaker is
6 using. If the mapmaker is using some other
7 criterion and you program that in your algorithm,
8 you are running the risk of, you know, producing
9 something like what the mapmaker did. The idea
10 is to do something different.

11 Q. Okay. But you can program in all
12 the criteria, except for race or something like
13 that for the comparative map, right?

14 A. You can program in some. I don't
15 know -- I don't know what all the criteria would,
16 -- you know, would encompass.

17 Q. If you had a list of all the
18 criteria that the mapmaker used, you could
19 program the algorithm to use all of that
20 criteria, excluding race?

21 A. I would have to see what they are.
22 I'm not sure entirely. There's a way to put
23 everything in.

24 Q. I understand. So you are saying
25 there is some algorithm that couldn't be

1 programmed in the program potentially?

2 A. Potentially, yeah. It would be for,
3 yeah, if there was some idiosyncratic local
4 traditions that go into districting, such as you
5 know, there are two parishes that always are, you
6 know, go on together in a plan, something --
7 something purely local to the -- to some place,
8 that might be difficult. There might be a way to
9 do it. You're saying there -- there could be
10 some constraints that could be difficult to
11 incorporate.

12 Q. Okay. But to search as a useful
13 comparison, generally, the simulations should be
14 programmed using sort of the same redistricting
15 criteria that are being applied?

16 A. Yes. That's what I attempted to do
17 here.

18 Q. And if a simulation's algorithm is
19 not programmed with sort of the same set of
20 redistricting criteria, then that wouldn't serve
21 as an appropriate comparison, right? It would be
22 sort of like comparing apples to oranges?

23 A. To some extent, yes. That's why
24 when you set this up, you try to get it as close
25 as you can. You may not be able to get a

1 hundred percent, but you, you know, you program
2 in the constraints that you can.

3 Q. Okay. So let's suppose that I
4 produced some simulated maps for Louisiana's
5 congressional districts, but my maps didn't
6 follow traditional, redistricting criteria for,
7 for example, they have population deviations for
8 certain districts over 50 percent and they
9 contain noncontiguous districts, would it be okay
10 to use those simulations to arrive at any
11 conclusions?

12 A. No. They would have to be certainly
13 those minimum standards of continuity and, you
14 know, reasonable population boundaries.

15 Q. So instead of stimulations that
16 didn't adhere to traditional, redistricting
17 criteria, you couldn't -- you couldn't use those
18 simulations to arrive at any conclusions about
19 Mr. Cooper's maps?

20 A. Well, it would have to be -- the
21 deviations for traditional criteria would be --
22 have to be preferred in a way that would
23 meaningfully effect your output.

24 Q. Okay. So if there were meaningful
25 deviations in the simulations, then you couldn't

1 use that set of simulations to arrive at any
2 conclusions about whether Mr. Cooper's maps were
3 drawn with race as a predominant factor?

4 A. I would need to know what kind of
5 deviations we were talking about particularly.

6 Q. All right. But you could imagine a
7 set of deviations or that would be the case?

8 A. What you described was noncontiguous
9 districts.

10 Q. And that's because that that set of
11 criteria for those simulations you are not
12 controlling for the traditional redistricting
13 principles?

14 A. What do you mean? I'm not sure what
15 you mean by "I'm not controlling for the
16 traditional" --

17 Q. You're not following the
18 traditional, redistricting criteria in the set of
19 simulations that I described.

20 A. Oh, the -- the ones that you were
21 describing, not the ones that I produced?

22 Q. Correct.

23 A. Okay. Yes. Right. If what you
24 described would not be districts, that would not
25 be a valid comparison set.

1 Q. So that means in order to draw any
2 conclusions about a given map by way of
3 comparison to simulations, it's necessary for the
4 simulation's algorithm to be programmed according
5 to the redistricting criteria as the map you are
6 trying to analyze, excluding race?

7 A. As close as you can to it.

8 Q. Your simulation's analysis took into
9 account four criteria, right?

10 A. Okay. What is that, yeah,
11 continuity, compactness, minimizing parish
12 splits, and the, let's see, it was the reasonable
13 compact.

14 Q. Is the part one population quality?

15 A. Yes.

16 Q. How did you select those criteria?

17 A. They were outlined in Joint Rule 21
18 minimizing parish splits, the population
19 equality, continuity is an obvious one, and then
20 I already addressed compactness. I used the
21 standard setting for compactness in the
22 algorithm, so I certainly took that into account.

23 Q. Dr. Imai's standard for --

24 A. Yes.

25 Q. -- compactness?

1 A. Yes.

2 Q. Okay. You would agree that the
3 criteria you used are only some of the criteria
4 that are considered traditional redistricting
5 principles, right?

6 A. Well, those are among the most
7 important. I know that there may be some other
8 considerations that may have entered into the
9 mapmaking process in a given state, but those --
10 those were the -- the big ones as I understood
11 them.

12 Q. Okay. You would agree that
13 preservation of political subdivisions is a
14 traditional, redistricting criteria, right?

15 A. Yes.

16 Q. And that's included in Joint
17 Rule 21?

18 A. Yes.

19 Q. Your simulations don't consider
20 political subdivision boundaries other than
21 parish splits, right?

22 A. But to the extent that a subdivision
23 is contained within a parish, yes. I'm dividing
24 very few of those subdivisions just because I'm
25 providing very few parishes, but if there were

1 multi-parish, you know, political boundaries,
2 that's -- that's something that I was not able to
3 put into this particular analyses, yes.

4 Q. Okay. But your simulations don't
5 consider municipality splits, do they?

6 A. Not explicitly. Just to the extent
7 that they line up with parishes, you know, it's
8 taken care of but not explicitly.

9 Q. And when a parish is split, then any
10 number of municipalities within that parish could
11 also be split, right?

12 A. Potentially, yes.

13 Q. And in your simulations, we don't
14 know how many municipalities are split by the
15 maps that you simulated, right?

16 A. I was not able to get a report of
17 that number, no.

18 Q. You would agree that incumbency
19 protection and not -- not putting two incumbents
20 in the same district is also a traditional
21 redistricting principle, right?

22 A. I -- I did observe that in Louisiana
23 in practice, for example, the 2021, the current
24 plan for 2022 strongly resembles the 2011 where I
25 could see there was some -- it appeared to me

1 there was some consideration being given to that.

2 Q. Okay. I -- I also attend that case,
3 not -- but that's a slightly different thing --

4 A. Yeah.

5 Q. -- right? We would call that poor
6 preservation?

7 A. Sure. I understand that they, yes,
8 incumbency protection is -- is often a
9 consideration.

10 Q. And your simulations don't consider
11 incumbency protection --

12 A. Yes.

13 Q. -- correct?

14 A. No.

15 Q. So we don't know how often
16 incumbents are paired in any one of your 10,000
17 simulated maps?

18 A. That's correct.

19 Q. And you mentioned -- you -- you
20 mentioned core preservation, your simulations
21 also don't account for core preservation --

22 A. Correct.

23 Q. -- correct?

24 A. Right. My exercise was to show if
25 you were drawing maps from scratch without

1 consideration for these other principles, yes.

2 Q. And you discussed this a little bit
3 on direct. You would agree that preservation of
4 communities of interest is a traditional,
5 redistricting criteria, correct?

6 A. Well, this depends on how you are
7 defining community of interest and what -- what
8 would go into a community of interest. As I
9 noted on direct, that's the -- that can be kind
10 of a nebulous concept, so it can end up being
11 whatever the mapmaker wants it to mean. So
12 that's -- I understand there is some
13 consideration given to it, but I was hesitant to
14 incorporate something like that without knowing
15 what the firm definition of it was.

16 Q. Joint Rule 21 requires considering
17 and preserving communities of interest, right?

18 A. To my understanding, yes. It does
19 but it doesn't define what those necessarily are;
20 whereas with the parishes, those are well
21 defined.

22 Q. Understood. Communities of interest
23 are actually a particularly important
24 consideration and criteria in Louisiana, right?

25 A. I don't know if it's a greater

1 consideration in any other state. I couldn't
2 speak to that.

3 Q. And you testified on direct that you
4 can't control for communities of interest in
5 simulations, right?

6 A. Right. I said I can do so to a
7 limited degree to the extent if they are within a
8 parish boundary, but the ones that cross that
9 would require a lot of additional setup and
10 defining them ahead of time. You need to custom
11 code your geography. They are -- with more time,
12 there -- there's a way for a workaround for that,
13 but this exercise, no, I did not.

14 Q. And you're aware -- you're aware
15 that Mr. Cooper and Mr. Fairfax did consider
16 communities of interest in their plans, right?

17 A. Yes. I'm aware that they considered
18 them, but their definitions of communities of
19 interest were somewhat different.

20 Q. Joint Rule 21 actually says that
21 communities of interest are more important than
22 parish boundaries; is that right?

23 A. I believe it says that.

24 Q. Your simulations also didn't take
25 into account fracking, right?

1 A. Well, it -- as I understand fracking
2 to mean multiple integers across a parish
3 boundary, could you define what you mean by --

4 Q. Yeah. My understanding is that
5 fracking occurs when a district boundary splits a
6 jurisdiction into two or more noncontiguous areas
7 contained within that jurisdiction within that
8 parish.

9 A. Right. The -- there's not an
10 explicit constraint for that, but to be -- but
11 that my plans splits so few parishes even once to
12 do with, I don't think that was a -- I don't
13 think that happened very often, if it did at all,
14 just because we split so few parishes.

15 Q. Okay. But you're not sure?

16 A. Oh, no, I'm not. There's not a way
17 to get a report on that in the software. You
18 know, if that had happened.

19 Q. Okay. You're not aware of a way to
20 get a report on that through the software?

21 A. No. Not on -- on fracking per se.

22 Q. Okay. So you don't know how many
23 majority-minority districts would have been
24 produced had the algorithm taken into account
25 each of the omitted, traditional, redistricting

1 criteria that we just discussed, right?

2 A. I would have to add those
3 constraints and -- and generate a new set of
4 maps. Again, only some of these can be -- can be
5 added, but I would have look at what the output
6 of that was.

7 Q. Okay. So you don't know sitting
8 here today?

9 A. I would have to run that to come up
10 with it.

11 Q. And your simulations can't tell us
12 anything about the range of configurations for
13 maps that are drawn according to all of the
14 traditional, redistricting principles that we
15 just discussed, right?

16 A. These maps, no, did not take into
17 account core preservation or incumbency
18 protection or any of those considerations. It
19 was truly to see what happens if you are drawing
20 the maps from scratch following the limited
21 criteria that I used.

22 Q. So no?

23 A. No. What was the -- I'm sorry.
24 Could you repeat the question?

25 Q. Of course. Your simulations cannot

1 tell us anything about the range of
2 configurations for maps that are drawn according
3 to all of the traditional, redistricting criteria
4 that we just discussed?

5 A. These particular maps, no. But
6 to -- I think this gets us -- this gives us a
7 good sense for the major criteria that I
8 described, and again, except for preserving
9 parish boundaries, I don't think we are splitting
10 many communities of interest.

11 Q. A plan that resembles the enacted
12 plan never emerges in your simulations, right?

13 A. No, it does not.

14 Q. Is it your opinion that drawing the
15 enacted plan required the prioritization of
16 racial considerations or proxies for them over
17 traditional, redistricting criteria?

18 A. Well, it requires something other
19 than the traditional criteria of that. My
20 understanding is that the enacted plan followed
21 very closely the 2011 plan. In fact, when I was
22 working on this, I would sometimes get the two
23 maps confused because they were so similar. So
24 it seemed to me as a political scientist knowing
25 how this process works that the core preservation

1 was an important part of the enacted plan.

2 Q. And you don't know what other
3 criteria went into that?

4 A. No. That wasn't -- that wasn't the
5 focus of what I was looking -- I wasn't focusing
6 on analyzing that.

7 Q. Your offering an opinion here that
8 because no maps that have two majority black
9 districts emerged in your simulations, that means
10 that the illustrative plans required the
11 prioritization of traditional considerations or
12 proxies for them over the traditional,
13 redistricting area, right?

14 A. Yes. I think it's very likely they
15 did so. They would have had to taken that into
16 account over the traditional criteria to get to
17 where they got.

18 Q. Okay. And no -- no plans that
19 contained one majority-minority district emerged
20 from your simulations, right?

21 A. That's correct.

22 Q. So is it your opinion that the
23 enacted plan also contained the prioritization of
24 racial considerations or proxies?

25 MR. LEWIS:

1 Your Honor, plaintiffs' counsel
2 stipulated they are not pursuing a claim
3 for racial gerrymandering in violation of
4 the 14th Amendment, which requires a judge
5 panel, so I think we are getting far
6 afield of what this witness has testified
7 to or the matters before this court.

8 MS. MADDURI:

9 Your Honor, Dr. Blunt is testifying
10 of about what type of a map is likely to
11 emerge when race is not considered and I'm
12 trying to understand his opinion about the
13 enacted map, which also did not emerge
14 from the simulations.

15 THE COURT:

16 Defense asked him about the
17 illustrative maps and so the objection is
18 overruled.

19 THE WITNESS:

20 The -- see, I -- I did not
21 explicitly compare the enacted plan to the
22 in singulated plan. But as -- as I
23 already stated, it seemed to me that --
24 that an important consideration was core
25 preservation in -- in the designing the

1 enacted plan that was likely as to what --
2 as to, you know, why the 2011 map looks
3 the way it does or what was taken into
4 consideration to draw those districts,
5 then it seemed to be the ones that carried
6 over in the current plan. I cannot
7 address that. I'd have to do a second set
8 of simulations using census data from 2010
9 to analyze the enacted map in 2011, so I
10 can't speak to what went into that.

11 MS. MADDURI:

12 Okay. Let's look at your report,
13 which is Legislative Defendants Exhibit 3.
14 And you can turn to page 14.

15 TRIAL TECH:

16 (Complied.)

17 THE WITNESS:

18 Which paragraph?

19 BY MS. MADDURI:

20 Q. Okay. You state in this
21 paragraph --

22 THE COURT:

23 Are we talking about paragraph 14
24 or --

25 MS. MADDURI:

1 I'm sorry. We are talking about
2 paragraph 14.

3 THE COURT:

4 Because you said page.

5 MS. MADDURI:

6 I did. I apologize. So it's
7 paragraph 14, I think, on page 6 of the
8 exhibit.

9 BY MS. MADDURI:

10 Q. Okay. And in the -- in the third
11 sentence, which is in the third line down, you
12 state that, quote, In Louisiana, that
13 traditional, redistricting principles means
14 drawing reasonably compact districts." Do you
15 see that?

16 A. Yes.

17 Q. Okay. So you believe that drawing
18 reasonably compact districts is a traditional
19 criteria, right?

20 A. Yeah. That criteria, yes.

21 Q. What do you mean by "reasonably
22 compact"?

23 A. Well, I am not aware of a standard
24 compactness score that political scientists use
25 as a dividing line to say this district is

1 compact and this district is not. It's
2 compactness is a range. So more tends to be
3 better, like districts could be more compact
4 rather than less, so this is a consideration that
5 we should be aiming for and in trying to --
6 trying to be more compact. But I'm not aware of
7 a, you know, a particular threshold after which,
8 you know, we are compact below that or not.

9 Q. You would agree that the traditional
10 criteria is to have reasonable, compact
11 districts? It doesn't require maximizing
12 compactness.

13 A. No. I would say no.

14 Q. Okay.

15 A. It's difficult to achieve anywhere.

16 Q. You testified on direct that your
17 initial simulations set had an average
18 Polsby-Popper compactness score of 4.25; is that
19 right?

20 A. Yes.

21 Q. Are you aware of any plan enacted by
22 the State of Louisiana that had an average score
23 of 4.25?

24 A. I'm not aware of -- I know that the
25 enacted plan I believe is less than that. I'm

1 not aware of any that's higher than that.

2 Q. The enacted plan has an average
3 Polsby-Popper score of .14. Does that sound
4 right to you?

5 A. That sounds about what I have seen
6 in -- in the report and elsewhere. I did not do
7 that computation myself, but I believe I've seen
8 a number like that reported.

9 Q. And all of Mr. Cooper and
10 Mr. Fairfax's plans have an average Polsby-Popper
11 score of either .18 or .19, right?

12 A. I believe so, yes.

13 Q. So is it fair to say your
14 simulations maximize compactness more than the
15 enacted plan or the illustrative plans?

16 A. I wouldn't say that they maximize
17 compactness, but they were more compact. It did
18 better on that metric on average.

19 Q. And it's fair to say that the
20 enacted plan would never have occurred based on
21 the compactness constraint in your simulations,
22 correct?

23 A. No. I'm not saying never. There
24 were some -- there was certainly some
25 districts -- what I'm showing were the

1 compactness of the districts. The individual
2 60,000 districts is what I was recording, so you
3 could -- I'm not speaking to whether the enacted
4 plan would have, you know, had the compactness
5 that it does. It's -- I'm just saying the
6 simulated plans tended to be better, but I'm not
7 speaking to -- you know, I'm not saying whether
8 it's likely it would have emerged or not. It's
9 just a performance metric.

10 Q. You would agree that 90 percent of
11 the districts in your simulations sets were at
12 least .13 on the Polsby-Popper metric --

13 A. Which page --

14 Q. -- right?

15 A. Which page are you on?

16 Q. It would be paragraph 25 of your
17 report, which I believe is on page 10 of the
18 exhibit.

19 A. Yes. That's -- that's what I was
20 indicating that it was the -- yeah. 80 percent
21 of the districts were at least .162 or, I'm
22 sorry, 90 percent of the districts were at least
23 .13.

24 Q. So it's fair to say that the
25 districts in your simulations are almost

1 90 percent more compact -- let me -- I'll say
2 that again.

3 Is it accurate to say that in your
4 simulations, 90 percent of the districts have an
5 average Polsby-Popper score that is more compact
6 about 90 percent of the time than the enacted
7 plan?

8 A. I don't know if that's the right way
9 to say it. Well, the enacted plan is an average
10 across -- the number that you pointed out is an
11 average across all six districts. I would need
12 to look at what the individual six district
13 Polsby-Popper scores were to see how they fit
14 into this distribution of, you know, of mine.
15 It's possible you could get, you know, six
16 districts that have the individual Polsby-Popper
17 scores that, you know, that -- I would need to
18 look to see what those were.

19 Q. Okay. You don't know what that is?

20 A. No. I would need to see what those
21 were and how they fit into the distribution.

22 Q. Okay. Your first simulation set
23 minimized parish splits; is that right?

24 A. Yes. They constrained parish
25 splits.

1 Q. On average, in that -- in that first
2 simulation set, it split five parishes, right?

3 A. That is correct.

4 Q. And in your second simulation set,
5 the map contained on average --

6 A. I believe it was --

7 Q. 30 parish splits?

8 A. Yes. I think you have that in -- I
9 thought it was --

10 Q. I can?

11 A. Yeah. What I have is 30, yes.

12 Q. So just real quick, so in the second
13 simulations, maps on average contain 30 parish
14 splits, correct?

15 A. Yes. Right.

16 Q. And I should say 30 split parishes,
17 not 30 parish splits?

18 A. Yeah. I mean, I believe that's -- I
19 believe that's right. It's 30 split parishes.

20 Q. So you don't actually know how many
21 parish splits there were?

22 A. I would need to -- I would need to
23 look at that more closely. I was reporting what
24 it gave me, so I don't have the further
25 documentation on that whether there were multiple

1 splits of the same parish or --

2 Q. You're not sure if there were

3 multiple splits within a single parish?

4 A. Yeah. I'm not sure.

5 Q. Are you aware of any plan enacted by

6 Louisiana that contains only five split parishes?

7 A. I am not aware of one, no.

8 Q. What about any plan enacted by

9 Louisiana that contains 30 split parishes?

10 A. Well, I know there was one that was

11 proposed in the early '90s that had a -- they

12 called it the Zorro district. It simulated like

13 20 parishes, so I know there was a plan that I

14 believe it was thrown out ultimately. So I know

15 that that's been attempted. You would have to

16 have a large number of parish scores, but the

17 object of this exercise was to show what happens

18 when you give the maximum freedom to find what

19 it's going to find.

20 Q. I understand.

21 A. Yeah.

22 Q. You're not aware of any plan that

23 Louisiana has enacted that contains 30 split

24 parishes, right?

25 A. Again, I couldn't speak -- no, not

1 that I'm aware of, not 30 in particular. I'm not
2 aware of it.

3 Q. What about the illustrative plans,
4 did any of them have five parish splits?

5 A. No. The least that they split was
6 10.

7 Q. I said parish splits, but I should
8 say split parishes, correct?

9 A. Yeah.

10 Q. I guess we could actually say either
11 one.

12 A. Yeah. For purposes of this, I'm
13 sorry. I didn't, you know, I didn't put down
14 more specific.

15 Q. That's okay. Did any of the
16 illustrative plans split 30 parishes?

17 A. No.

18 Q. So your simulations on average
19 either split many more or many fewer parishes
20 when compared to either of the illustrative plans
21 or the enacted plan; is that right?

22 A. Right. Well, those were the
23 constraints that I was able to use for this
24 exercise, is that I was not aware of a minimum
25 number of parish splits that should be included

1 or optimal number of splits; and regardless, that
2 wasn't possible to program in this particular
3 algorithm as a setting.

4 Q. So --

5 A. These were my two options I was
6 showing what we get.

7 Q. Understood. So to clarify, though,
8 in my question, your simulations on average
9 either split many more or many fewer parishes
10 when compared to the illustrative plans or the
11 enacted plans; is that right?

12 A. I don't know. Five is many, fewer
13 than 10, they split fewer. I would stipulate
14 that on average 30 is, you know, quite a bit more
15 than 10, but I don't know that I would say 5 is
16 many or 6 I guess with some of mine split.

17 Q. I understand. You testified now and
18 on direct Dr. Imai's code doesn't allow you to
19 set a particular number of parish splits or split
20 parishes, right?

21 A. Not that I'm aware of. In the
22 sequential Monte Carlo algorithm, there is
23 another algorithm that does allow that
24 specification. I believe it's the Markov Chain
25 Monte Carlo algorithm, but I -- I went with the

1 SMC algorithm because it's most appropriate when
2 you are drawing maps from scratch like that.

3 Q. I understand. So the algorithm that
4 you've used, you've testified that it doesn't
5 allow you to set up a particular number of split
6 parishes or parish splits?

7 A. Not that I was aware of. Without
8 going deep into -- under the hood to do something
9 that I, you know, was not familiar with or
10 comfortable with, yeah.

11 Q. Okay. So you didn't --

12 A. To my knowledge, there was no way to
13 do that.

14 Q. Okay.

15 A. It certainly wasn't in the
16 documentation.

17 Q. You can, though, you could write
18 your own code and impose a different restriction
19 on parish splits, right?

20 A. In theory, yes. Someone who was
21 writing his own algorithm, someone like Dr. Imai.
22 In fact, I might suggest that he put that in the
23 next version of the SMC algorithm. That would be
24 a useful feature. That's not something that was
25 within my scope of work here.

1 MS. MADDURI:

2 Let's look at Legislative
3 Defendants 3, which is your first report.
4 We can turn to page 12, Figure 5.

5 TRIAL TECH:

6 (Complied.)

7 BY MS. MADDURI:

8 Q. Again, let me clarify one of the
9 issues that we were just discussing. So again in
10 your report here, you are identifying the number
11 of parishes that are split in each plan; is that
12 right?

13 A. Yes.

14 Q. And you're actually not reporting
15 the total number of parish splits?

16 A. Yeah. I'm sorry. I would have to
17 to check that documentation as to exactly what
18 it's counting up.

19 Q. On direct, you testified that a
20 six-district plan like Louisiana's would require
21 five splits at minimum, correct?

22 A. It would -- no. It wouldn't require
23 five minimum. It sets the preferred maximum at
24 five and there were some that got through with
25 six.

1 Q. So it's your testimony that it is
2 possible to split -- to have fewer than five
3 parish splits in a six-district plan?

4 A. It -- yes. There was something in
5 the way the algorithm read in this instance. It
6 did allow some to get through that were more than
7 that or more than five.

8 Q. What about less?

9 A. Yes. It did. You can see there
10 are, you know, 20, roughly 20 percent of them got
11 through with four.

12 Q. Four parishes that are split, not
13 four parish splits. In other words -- in other
14 words, we are saying I think in the column that
15 has the four underneath it that there are four
16 parishes that are split, but we don't know how
17 many times each of those four parishes are split?

18 A. Right. I believe that's -- yes. I
19 believe that's the case.

20 Q. So, for example, at some of your
21 simulated plans, East Baton Rouge could be split
22 four times in one of those plans, right?

23 A. I did not look at that.

24 Q. The way that you have reported it,
25 that would be reported as a single parish split,

1 correct?

2 A. I'm sorry. I would -- I would need
3 to review more carefully and I apologize exactly
4 what the definition of a parish split is. So I'm
5 sorry I don't have that for you.

6 Q. Okay. So you don't know how many of
7 your plans split East Baton Rouge Parish into
8 more than two districts, right?

9 A. I don't -- with some time, I may be
10 able to uncover that, but I don't have that here.

11 Q. Okay. And you don't know how many
12 of your plans split Orleans Parish into more than
13 two districts, right?

14 A. Correct. I don't know how many
15 times Orleans. I can't -- without, you know, the
16 time to go into this, determine when, you know,
17 how often particular parishes are split.

18 Q. Okay. So it's possible that in your
19 simulated plans, East Baton Rouge Parish divided
20 into more than few congressional districts and
21 you just don't know that?

22 A. Correct. I wouldn't know that
23 without drilling down to them.

24 Q. The enacted plan doesn't split any
25 parish into more than two districts, correct?

1 A. I believe that's what they reported.

2 I would take your word for that. I didn't

3 independently verify that.

4 Q. And only one of the six illustrative

5 plans that plaintiffs presented split any parish

6 into more than two districts, right?

7 A. Again, if that's what they reported,

8 I would take their word for it.

9 MS. MADDURI:

10 Okay. We can take this down.

11 TRIAL TECH:

12 (Complied.)

13 BY MS. MADDURI:

14 Q. Dr. Blunt, you required that, quote,

15 the districts as a whole are at least as compact

16 as proposed alternative plans; is that right?

17 A. Yes. And -- and I could have worded

18 that more carefully. I didn't require that they

19 be more compact, but I was aiming that was -- I

20 wanted them to be as compact as -- as was

21 practicable. I was aiming for more compactness

22 than less. I was aiming for them to be at least

23 as compact as compared to.

24 Q. But you were aiming for that, but

25 that's not actually what they are, right?

1 A. They -- I was -- I was ensuring that
2 the districts be reasonably compact as a
3 constraint on the algorithm with an eye toward
4 producing simulated districts that were at least
5 as compact as, you know, what was in the
6 illustrative plan. I could have worded that
7 better in my report more clearly.

8 Q. I understand that's your goal, but
9 it's actually not the case that your districts as
10 a whole or at least as compact as the
11 illustrative plans, right?

12 A. Well, the average score is
13 Polsby-Popper across all the districts.

14 Q. So you didn't specifically instruct
15 the software to match the illustrative plans for
16 compactness?

17 A. No, I didn't. I appreciate the
18 opportunity to clarify that.

19 Q. Yeah. So what weight did you
20 instruct the software to give the geographic --
21 what weight did you instruct the software to give
22 compactness when producing the simulated plans?

23 A. What I as I testified to earlier, I
24 used the standard default, which the -- the
25 weight is one is --

1 Q. Okay. So you could have instructed
2 the software to give a lower weight to
3 compactness, right?

4 A. You could, but my understanding is
5 it doesn't run as well with a lower compactness
6 score. There -- there are reasons to use that --
7 that standard.

8 Q. One is the maximum compactness that
9 you could have programmed into the algorithm,
10 right?

11 A. I believe there was a -- you know, I
12 would have to review the -- the documentation for
13 the software, but I believe you can enter a
14 number larger than that.

15 Q. So it's your understanding that you
16 could enter something higher than one?

17 A. I believe you can. Again, I would
18 have to review that.

19 Q. Do you have any reason to disagree
20 with me if I told you you cannot do that?

21 A. Without reviewing the, you know,
22 the -- the documentation for the software, I
23 wouldn't have a reason to.

24 Q. So you don't know how many
25 majority-minority districts would have been

1 produced in your simulations had the algorithm
2 used a lower compactness constraint than the one
3 you used, correct?

4 A. Well, we get a sense of that in
5 supplemental, because as a matter of course,
6 those districts were much less compact. That
7 suggests to me that had, you know, compactness
8 within a set lower, we still weren't getting two
9 MMDs. So even in the supplemental where
10 compactness is, in fact, quite a bit lower on
11 average than in the original run, we still didn't
12 get two MMDs just by being less compact.

13 Q. But you didn't change the
14 programming for the compactness for that you set
15 in the second set of simulations, right? You
16 were still using the maximum number of one?

17 A. Yes. I was using the value of one
18 and I believe they were less compact is because
19 they were not respecting parish boundaries.

20 Q. Okay. So both in the first set of
21 simulations and the second set of simulations,
22 you maximized compactness according to the code,
23 correct?

24 A. I used the value of one. That's the
25 compactness of it.

1 Q. I understand. And in your second
2 report, you said as much you relaxed the number
3 of parish splits restriction, correct?

4 A. Yes. I eliminated it.

5 Q. And when you eliminate it or relax
6 that constraint, the maximum black voting age
7 population in the simulated district increased,
8 didn't it?

9 A. Slightly.

10 Q. Okay. And that's because there are
11 fewer constraints, so there's a wider range of
12 possible simulations outcomes, correct?

13 A. I don't know if that's precisely the
14 reason why, but I can report that that is what
15 happened is that with the -- it increased the
16 maximal black -- BVAP increased slightly.

17 Q. And that didn't happen because you
18 put in any kind of racial consideration --

19 A. No, no.

20 Q. -- for that second set, right?

21 A. No, not at all.

22 Q. So depending on changing how the
23 traditional, redistricting principles are
24 weighted, that can result in districts with
25 higher BVAPs without race pre-dominating,

1 correct?

2 A. It could change, sure. Any time you
3 change the settings that the algorithm uses, you
4 can change your output. I don't know that you
5 know that necessarily changing one particular
6 setting is going to necessarily result in a
7 particular outcome. I would need to, you know,
8 try it and observe what happens. I'm saying in
9 this particular case this is what happened.

10 Q. In this particular case, when you
11 relaxed the parish constraint, the BVAPs
12 increased?

13 A. Slightly.

14 Q. Okay. Thank you.

15 MS. MADDURI:

16 Let's now pull up Dr. Blunt's
17 Demonstrative Exhibit 1.

18 TRIAL TECH:

19 (Complied.)

20 BY MS. MADDURI:

21 Q. So I direct you looked at one of the
22 simulated maps that came from your set of 10,000;
23 do you recall that?

24 A. Yes.

25 Q. Okay. And I'll represent to you

1 that this is an image of the first of the 10,000
2 plans that you turned over. You have any reason
3 to disagree with that?

4 A. No. I take your word for it.

5 Q. I can also represent that the maps
6 we are about to look at were selected randomly.
7 Any reason to disagree?

8 A. No.

9 Q. Dr. Blunt, does this simulated map
10 resemble any enacted congressional map for
11 Louisiana that you have ever seen?

12 A. No.

13 Q. Does it resemble any of plaintiffs'
14 illustrative plans?

15 A. No.

16 MS. MADDURI:

17 Let's turn to page 4.

18 TRIAL TECH:

19 (Complied.)

20 BY MS. MADDURI:

21 Q. Again, this is one of the simulated
22 plans that was contained in your 10,000
23 simulations. Do you understand that?

24 A. Yes.

25 Q. Does this simulated plan resemble

1 any enacted congressional map for Louisiana that
2 you've ever seen?

3 A. Not that I'm aware.

4 Q. Does it resemble any of plaintiffs'
5 illustrative plans?

6 A. No.

7 MS. MADDURI:

8 Let's turn to page 9.

9 TRIAL TECH:

10 (Complied.)

11 BY MS. MADDURI:

12 Q. Dr. Blunt, this is another one of
13 the simulated plans from your set of 10,000 maps.

14 Do you have any reason to disagree with that?

15 A. No.

16 Q. Does the simulated map -- does this
17 simulated map resemble any enacted congressional

18 map for Louisiana that you have ever seen?

19 A. No, not that I'm aware of.

20 Q. What about any of the plaintiffs'
21 maps?

22 A. No.

23 MS. MADDURI:

24 Okay. Let's look at the last page,

25 page 10.

1 TRIAL TECH:

2 (Complied.)

3 BY MS. MADDURI:

4 Q. And again, I'm going to ask you the
5 same questions. Do you have any reason to
6 disagree that this is one of the simulated maps?

7 A. No.

8 Q. From your set that was chosen at
9 random?

10 A. No. I have no reason to disagree.

11 Q. Does it resemble any of the plans
12 that you have ever seen that the State of
13 Louisiana has enacted?

14 A. Not that I'm aware of.

15 Q. Does it resemble any of plaintiffs'
16 illustrative plans?

17 A. No, not that I saw.

18 MS. MADDURI:

19 Okay. We can take that down. Thank
20 you.

21 TRIAL TECH:

22 (Complied.)

23 BY MS. MADDURI:

24 Q. And your simulations analysis
25 includes no consideration of race at all; is that

1 right?

2 A. That's correct.

3 Q. It's entirely race blind?

4 A. Yes.

5 Q. In your view, is the opposite of a

6 race blind district a district for race for

7 dominated in the drawing direct?

8 A. I don't know if they would call it

9 an opposite, but it's an alternative way of

10 drawing. You know, a district is to -- to do

11 race conscious and that could be done either

12 through looking at race itself or some proxy for

13 it. It correlates however you race.

14 Q. Is your view is there a difference

15 between race conscious and race predominant?

16 A. I would say that to get to something

17 with two MMDs would require prioritizing race

18 over the traditional criteria that I followed in

19 the simulations plans. So yes, I believe that

20 racial considerations would predominate over the

21 original race will have some proxy for it. Some

22 other consideration like that would need to

23 predominate over traditional criteria to get

24 there.

25 Q. But my question's actually not

1 about -- I don't think you answered my question.

2 I'm trying to understand in your view is there a

3 difference between whether race predominated or

4 race was considered?

5 A. The -- I would say given how

6 likely -- how unlikely it would be to see two

7 MMDs following the traditional criteria, it's

8 typical for me to quantify the MMD difference

9 without a particular situation. I would say

10 given how unlikely, I mean, we weren't even close

11 in the simulations. That's why I concluded we

12 needed to have predominated over those

13 traditional criteria.

14 Q. The limited criteria?

15 A. The limited criteria, yes.

16 Q. Okay. So you didn't --

17 A. I'm not saying it predominated every

18 other consideration necessarily; but yes, it

19 predominated over the ones that I looked at, yes.

20 Q. So you didn't conduct any analysis

21 as to whether a simulations algorithm following

22 traditional, redistricting criteria with some

23 consideration race could result in two black

24 majority districts, right?

25 A. No, I did not. No, I did not do a,

1 you know, a light consideration for race to see
2 what would happen.

3 Q. So it's possible that the
4 simulation's algorithm that considers race
5 alongside other traditional, redistricting
6 criteria could result in two black majority
7 districts?

8 A. Without running that actual
9 simulations, I wouldn't be able to answer that
10 question, but it would be something that you
11 would have to look at.

12 Q. You didn't do that analysis?

13 A. I did not do that, no.

14 Q. So it is possible that a simulation
15 analysis that considers race alongside other
16 traditional, redistricting criteria could result
17 in two majority black districts, right?

18 A. I would be -- again, I would be
19 hesitant to look at that without specifying how
20 heavily the algorithm was instructed to look at
21 race.

22 Q. Okay. You didn't do that --

23 A. Right.

24 Q. -- so you don't know one way or the
25 other?

1 A. Yes.

2 Q. And you also did not conduct any
3 analysis as to whether a simulation's algorithm
4 prioritizing traditional, redistricting criteria,
5 but also giving some consideration to race as a
6 subordinate factor, could result in two majority
7 black districts, right?

8 A. Right. I did not look at that
9 question.

10 Q. So it is possible that the
11 simulations algorithm that prioritizes
12 traditional, redistricting criteria puts race as
13 a subordinate fact to that criteria could result
14 in two majority black districts, right?

15 A. Well, I would be hesitant to say
16 that without looking to see how strongly it was
17 considered. Again, I do think it's -- it says
18 something that no one has produced that
19 simulation analysis. I know these simulations
20 are -- are frequently done in the cases that I
21 noticed that no one on the plaintiffs' side had
22 produced a simulation that did take some account
23 of race and it did result in two MMDs.

24 Q. And you also didn't do that?

25 A. No. I didn't either, but I think if

1 someone could have done that, we may have seen
2 it.

3 Q. So if you didn't do it, you can't
4 say one way or the other what the outcome would
5 have been?

6 A. Correct.

7 Q. So you're not offering any opinion
8 on whether it's possible to draw two majority
9 black districts that comply with traditional,
10 redistricting principles, correct?

11 A. I'm sorry. Could you repeat that
12 question?

13 Q. Sure. You are not actually offering
14 any opinion on whether it's possible to draw two
15 majority black districts that also comply with
16 traditional, redistricting principles?

17 A. Well, that's -- I said it's
18 extremely unlikely that we would get a plan with
19 two MMDs following the criteria that -- that I
20 used.

21 Q. That's right. So your criteria,
22 which was race blind and didn't consider a number
23 of factors, in that set of simulations --

24 A. Sure.

25 Q. -- it's your opinion that two

1 majority black districts were not likely to
2 emerge?

3 A. That's correct. And I consider
4 those to be traditional criteria.

5 Q. Some traditional --

6 A. Yeah.

7 Q. -- criteria, as we discussed?

8 A. Yeah. And I'm not offering an
9 opinion one way or the other if -- if you started
10 adding additional criteria to that and how that
11 would effect the outcome.

12 Q. Including whether two majority black
13 districts could be produced?

14 A. Correct. You would have to like --

15 MS. MADDURI:

16 Okay. Thank you.

17 THE COURT:

18 Redirect?

19 REDIRECT EXAMINATION BY MR. LEWIS:

20 Q. Dr. Blunt, in performing your
21 analysis in this case, you reviewed the criteria
22 that Mr. Cooper and Mr. Fairfax represented that
23 they followed excluding their illustrative plans;
24 is that fair?

25 A. Yeah. I didn't follow every one of

1 the -- every criterion that they listed; but yes,
2 I followed the key ones that I listed were very
3 important.

4 Q. Did Mr. Cooper or Mr. Fairfax
5 identify as the criteria that they were following
6 the protection of incumbents?

7 A. No. They did not that I saw.

8 Q. And did Mr. Cooper or Mr. Fairfax
9 identify the preservation of cores of existing
10 districts as a principle that they followed in
11 creating their maps?

12 A. No. They did not, not that I saw in
13 their reports.

14 Q. Okay. And aside from the census
15 tracks or, excuse me, census places or
16 metropolitan statistical areas, did either
17 Mr. Cooper or Mr. Fairfax document the
18 communities of interest that they protected in
19 their illustrative plans?

20 A. I believe they -- well, they listed
21 some that they kept together. I didn't see an
22 opt over list of ones that were listed just as a
23 matter of principle necessarily important, not
24 that I recall.

25 Q. I see. And so for your exercise,

1 were you trying to follow all of the traditional
2 districting criteria that the legislature used in
3 considering the enacted plan?

4 A. Well, to the extent that core
5 preservation was -- was something that the
6 legislature followed and I didn't follow that,
7 but I followed the other considerations, such as
8 you know, compactness and minimizing parish
9 boundaries, of course.

10 Q. I see. And I think your -- what was
11 your effort and attempt to test the criteria
12 followed by the legislature or by Mr. Cooper and
13 Mr. Fairfax?

14 A. Well, it -- the -- it wasn' -- I
15 don't know exactly what the legislature followed
16 in addition to what was listed in Joint Rule 21,
17 but that's -- those were the -- those neutral
18 criteria were the ones that I was trying to -- to
19 follow, yes. If there was something else the
20 legislature considered, I wasn't aware of it.

21 Q. And, in fact, your analysis -- did
22 your analysis look at the enacted plan at all?

23 A. No.

24 Q. Okay. And you believe it would be
25 important for your model to consider a

1 traditional, redistricting criteria, for example,
2 preservation of cores of existing districts that
3 Mr. Cooper and Mr. Fairfax did not identify as
4 criteria that they followed?

5 A. That could be an interesting
6 secondary analysis if one wanted to, you know, to
7 analyze the enacted plan, but I'm not sure
8 exactly. Could you restate it?

9 Q. Yeah. If your -- if the simulate --
10 if the simulated maps are being used to compare
11 to a plan by a mapmaker like, for example, we
12 will say Mr. Cooper, who identified that he
13 followed specified criteria, right?

14 A. Yeah.

15 Q. And he did?

16 A. Yeah.

17 Q. Would it make sense for you to be
18 controlling for criteria that he didn't say he
19 followed?

20 A. Yeah. That's correct. So in that
21 case for this exercise, it was not appropriate
22 for me to control for incumbency if core for
23 existing districts because Mr. Cooper and
24 Mr. Fairfax did not control for that either.
25 Now, if we were analyzing the enacted plan, that

1 might be a different consideration, but in

2 this -- in this case, no.

3 Q. Okay. You were asked about fracking

4 and did both of plaintiffs' mapmakers consider

5 fracking in their reports?

6 A. I don't recall. I know at least one

7 of them did.

8 MR. LEWIS:

9 Okay. So I'm going to turn just

10 very quickly to -- let's go to PR-15,

11 which is the report Dr. Fairfax and

12 page 22.

13 TRIAL TECH:

14 (Complied.

15 BY MR. LEWIS:

16 Q. Okay. So how many instances of

17 fracking is he reporting for Mr. Fairfax's plan?

18 A. He reported five instances of

19 fracking for one of his plans, eight fracking

20 instances in another one. And yeah, so he

21 certainly had -- had fracking included. He had

22 instances of fracking in his maps.

23 Q. Okay. Okay. So I'd like to just --

24 MR. LEWIS:

25 We can take that down now.

1 TRIAL TECH:

2 (Complied.)

3 BY MR. LEWIS:

4 Q. I'd like to just turn very quickly
5 with discussion you had with opposing counsel
6 regarding parish splits in the concept of five --

7 Let me just ask it this way: So
8 your -- your plan split five and sometimes four
9 and sometimes six parishes; is that right?

10 A. Yes. Almost all the time it was
11 four, five or six.

12 Q. Okay. And you had a wider range
13 of -- of parish -- split parishes in the second
14 set of simulations you ran; is that correct?

15 A. Yes.

16 Q. So as you sit here today, I mean, is
17 there a theoretical basis to believe that it's
18 likely that a simulations that are splitting five
19 or 6 parishes find none, no MMDs, parishes that
20 split some range around 30, no MMDs, yet parish
21 splitting between somewhere between 10 and 14
22 parishes would create 2 MMDs?

23 A. I would have no reason to believe
24 that would -- that would happen.

25 Q. And just finally, you were shown a

1 few examples of your 10,000 maps. Is -- is there
2 a -- if any particular plan someone might say a
3 particular plan does not consider or not be
4 adopted by legislature doesn't look like a
5 particular plan?

6 A. Right.

7 Q. Then what value are the -- are
8 running, you know, 10,000 of them?

9 A. Right. The idea is to produce
10 10,000 maps that simply follow the criteria, and
11 regardless of whether these maps would be enacted
12 have been enacted or not, they are going to have
13 some idiosyncrasies to them. They are going to
14 have some features that may not -- may or may not
15 be considered in the real world of redistricting.
16 The idea is you generate enough of these and it's
17 to show us a range of the possible so that we can
18 view -- the idiosyncrasies hopefully fall out in
19 the wash, and what we are looking at is the
20 distribution of everything rather than the
21 likelihood of any particular plan from the set.

22 Q. And then finally, Dr. Blunt,
23 simulations algorithms that have been used in --
24 and accepted by courts, have those algorithms
25 controlled for all the different communities of

1 interest that could possibly exist in a state?

2 A. Not that I'm aware of. I know some
3 that try to take account. They have to be highly
4 customized in settings to look at particular
5 counties in some states; but, no I'm not aware of
6 any that it's just a matter, of course, that
7 control for just any and all communities. That
8 term isn't well defined in political science.

9 MR. LEWIS:

10 I have no further questions,
11 Your Honor.

12 THE COURT:

13 Thank you. You may step down.

14 MS. MADDURI:

15 One --

16 THE COURT:

17 Pardon me?

18 MS. MADDURI:

19 Plaintiffs move to enter exhibits.

20 THE COURT:

21 Which was the map, one of his
22 simulations; is that which one it was?

23 MS. MADDURI:

24 It would be -- we should be looking
25 at -- it should be map 4, sorry, map 1, 4,

1 9 and 10 of that document.

2 THE COURT:

3 Any objection?

4 MR. LEWIS:

5 I mean, I think we have no objection

6 provided that our demonstrative is also

7 permitted in.

8 THE COURT:

9 And that was map --

10 THE WITNESS:

11 Map 220.

12 THE COURT:

13 Map 220.

14 MS. MADDURI:

15 No objection.

16 THE COURT:

17 Any objection.

18 MS. MADDURI:

19 No objection, Your Honor.

20 THE COURT:

21 Okay. Map 220 is entered in as a

22 demonstrative. All right. It's 12:40.

23 We will take a recess until 1:45 p.m.

24 (A lunch recess was taken.)

25 THE COURT:

1 Okay. Next witness?

2 MR. FARR:

3 Your Honor, Tom Farr for the
4 Secretary of State. Before we begin, may
5 I thank the court and plaintiffs' counsel
6 for accommodating Dr. Sadow's schedule.
7 Dr. Sadow will be the next witness and I
8 believe he's in the Zoom waiting room; is
9 that right? Your Honor, has the witness
10 been sworn in?

11 THE COURT:

12 Not there yet. Swear him in.

13 THE REPORTER:

14 Would you raise your right hand?

15 JEFFREY SADOW, Ph.D,
16 after first having been duly sworn by the
17 above-mentioned court reporter, did testify as
18 follows:

19 DIRECT EXAMINATION BY MR. FARR:

20 Q. Please state your name.

21 A. Jeffrey Sadow.

22 Q. Where do you reside, Mr. Sadow?

23 A. Bossier City, Louisiana.

24 Q. Could you repeat that, please?

25 A. Could you repeat the question?

1 Q. No. Your answer. Where do you
2 reside?

3 A. Bossier City, Louisiana.

4 Q. And do you have any degrees?

5 A. Yes, I do. I have a bachelor's of
6 arts from University of Oklahoma in public
7 administration and political science in '83,
8 business administration graduate school of
9 management Mandeville constraints in management
10 creation systems and finance in 1985, and a PhD
11 in philosophy from the University of New Orleans
12 in political science in 1990.

13 THE COURT:

14 Okay. This isn't going to work, so
15 I don't know what we are going to do. I
16 don't know, Dr. Sadow, do you have a
17 microphone that you can adjust or I don't
18 know what the problem is, but we can't
19 make out your testimony.

20 THE WITNESS:

21 Hold on. Let me see what I can do.

22 THE COURT:

23 She got none of it. Oh, you did get
24 it. Never mind. I take it back. She got
25 it.

1 THE WITNESS:

2 I have the microphone on as high as
3 I can get it.

4 THE COURT:

5 Well, whatever you did, it seems to
6 have helped. Carry on, Mr. Farr.

7 BY MR. FARR:

8 Q. Did I hear you say or, Mr. Sadow,
9 sorry. Did I hear you say that you have a PhD in
10 political science?

11 A. That's correct.

12 Q. And Mr. -- I'll call you Dr. Sadow
13 throughout the rest of this testimony.

14 A. As you wish.

15 Q. Are you currently employed?

16 A. Yes, I am.

17 Q. Where are you employed and how long
18 have you worked there?

19 A. Louisiana State University,
20 Shreveport. I started there in the fall of 1991.

21 Q. What is -- what are your positions
22 that you've held there?

23 A. I started as super factor in
24 political science in --

25 Q. Can you try speaking directly in the

1 microphone as best you can?

2 A. All right.

3 Q. All right. Repeat the answer.

4 A. In 1991, I started as an assistant
5 professor. In 1997, I was promoted to associate
6 professor.

7 THE COURT:

8 So for the record, I want to put in
9 the record we need to -- the court
10 accommodated Dr. Sadow since counsel's
11 request having him by videoconference and
12 we are having some technical difficulty.
13 So with that said, let's see what we can
14 do to fix this.

15 MR. FARR:

16 Dr. Sadow, could you try to get
17 close to the microphone as close as you
18 can?

19 THE COURT:

20 It doesn't seem to be a volume
21 issue. It seems to be a connectivity
22 issue. It is fading off. It's not a
23 question of volume.

24 MR. FARR:

25 Your Honor, can he try and call in

1 again? Would that be worthwhile trying?

2 Dr. Sadow, would you try to call
3 back in using the telephone Zoom
4 instructions you were provided?

5 THE WITNESS:

6 All right. I'll try to do that.

7 THE COURT:

8 Okay. While you-all do that, I'm
9 going to --

10 (A short recess was taken.)

11 THE COURT:

12 All right. Be seated. Go ahead,
13 Mr. Farr.

14 MR. FARR:

15 I hope we have it. We will see.

16 THE COURT:

17 I didn't hear that. What?

18 MR. FARR:

19 Your Honor, we will try to figure
20 this out; and if we can't, we will call
21 another witness.

22 THE COURT:

23 Call another witness. Let's go.

24 MR. FARR:

25 Thank you.

1 Dr. Sadow, can you hear me?

2 THE WITNESS:

3 Yes.

4 THE COURT:

5 For the record, Dr. Sadow, is on his
6 cell phone and his picture is on the
7 screen and there is no audio.

8 THE REPORTER:

9 Dr. Sadow, please un-mute your cell
10 phone.

11 MR. FARR:

12 May I proceed, Your Honor?

13 THE COURT:

14 You may.

15 BY MR. FARR:

16 Q. So, Dr. Sadow, I think the next
17 question I wanted to ask you, could you tell the
18 court what classes you have taught or are
19 teaching at Louisiana State at Shreveport?

20 A. Yes. I've taught a variety of
21 courses with a small department, American
22 government, and then some other relevant courses
23 and this would be political behavior, state and
24 local government, urban policies, and Louisiana
25 government.

1 Q. All right. Thank you. Have you
2 prepared an expert report in this case?

3 A. Yes, I have.

4 Q. And do you have that in front of you
5 today?

6 A. I do.

7 Q. Is that marked SOS 3?

8 A. Yes.

9 Q. Is your curriculum vitae attached to
10 that report?

11 A. It is.

12 Q. Does it contain a complete summary
13 of your credentials and publications?

14 A. It does.

15 MR. FARR:

16 So, Your Honor, I would like to
17 tender Dr. Sadow as an expert witness in
18 the fields of political science, Louisiana
19 government, Louisiana political science,
20 and the history of Louisiana politics.

21 MS. KHANNA:

22 No objection, Your Honor.

23 MR. FARR:

24 All right. Thank you.

25 THE COURT:

1 The court will hear opinion
2 testimony in the fields of political
3 science, Louisiana government, Louisiana
4 political science and the history of
5 Louisiana political science.

6 BY MR. FARR:

7 Q. So, Dr. Sadow, in your report, you
8 discuss congressional redistricting in Louisiana
9 mainly beginning in 1991 to the present; is that
10 correct?

11 A. That's correct.

12 Q. What information did you rely upon
13 to develop the opinions you've expressed in your
14 report?

15 A. Relied upon academic published
16 articles and contemporaneous news reports, books
17 I like that I use to prepare for my Louisiana
18 government class, and the conversations with
19 people involved in Louisiana politics.

20 Q. Are these the types of materials
21 that a political science would reasonably rely
22 upon to form the opinions that you've expressed
23 in your report?

24 A. Yes, they would.

25 Q. And in this report, Dr. Sadow, you

1 are not offering any legal opinions or
2 conclusions, are you?

3 A. No, I am not.

4 Q. So can you summarize your findings
5 as far as the history of congressional
6 redistricting in Louisiana?

7 A. As far as the recent history, the
8 legislature consistently used among its
9 principles continuity of representation and
10 preservation of community interests.

11 Q. Could you please restate that for
12 the court reporter?

13 A. Yeah. The -- the Louisiana
14 legislature has in the last 30 years or, maybe to
15 be more precise, in the past 25 years has
16 consistently used as principles of representation
17 communities of interest and continuity of
18 representation.

19 Q. All right. Sir, let's begin with
20 are you familiar with the series of cases
21 challenging Louisiana congressional districts in
22 the Hays litigation?

23 A. Yes, I am.

24 Q. Could you please turn to page 6 of
25 your report?

1 A. All right.

2 Q. Could you tell the court is there a
3 map on page 6, and could you explain what that
4 represents?

5 A. Yes. That map is what the Louisiana
6 legislature, its 1991, reports in session is how
7 on the basis of 1990 census result, it drew maps
8 for congressional representation.

9 Q. And how many congressional districts
10 were in that plan?

11 A. In that plan there were seven.

12 Q. How did that compare to the
13 congressional districting plan used in the 1980?

14 A. There is one fewer district.

15 Q. Now, are you familiar with the term
16 majority black district and if you are, could you
17 tell us what that means?

18 A. Yes. A majority black district is
19 where you have 50 percent plus 1 percent of the
20 voting population as black.

21 Q. Now, did the 1981 plan, the plan
22 used in the 1980s in Louisiana, did it contain a
23 majority black district?

24 A. It did.

25 Q. And how many?

1 A. One.

2 Q. Now, looking at the map on page 6,
3 can you tell us how many majority black districts
4 are in that map, and can you identify them,
5 please?

6 A. There are two; one in the 2nd
7 district, which is centered in New Orleans; the
8 second is the 4th district, which is basically
9 spread all over the state.

10 Q. All right. Those congressional 2
11 was colored red and congressional District 4 is
12 colored yellow; is that correct?

13 A. That is correct.

14 Q. Do you know why did the legislature
15 increase the number of majority black districts
16 in the Louisiana congressional plan in the 1991
17 plan as compared to the plan used in the 1980s?

18 A. Yes. There were two reasons: First
19 of all, the Department of Justice was signalling
20 that states should whenever possible create the
21 maximum number of black majority districts.
22 Secondly, it served the political interests of
23 both Republicans and black Democrats. Obviously,
24 there would be more seats available for black
25 Democrats to be elected under this plan, and

1 Republicans figured that this kind of plan would
2 make them more competitive and able to defeat
3 white Democrats in the non-black majority
4 districts.

5 Q. Okay. Thank you, Dr. Sadow. The
6 map on page 6 did not list Louisiana parishes,
7 but based upon your knowledge of Louisiana
8 geography, can you name some of the parishes that
9 were included in congressional District 4?

10 A. I'm sure. We have Lafayette,
11 Tangipahoa Parish, East Baton Rouge, Florida
12 Parishes, Pointe Coupee, Rapides, Tensas,
13 Madison, Concordia, East Carroll, West Carroll,
14 Morehouse, Union, Claiborne, Webster, Bossier,
15 Caddo. I might have missed one or two.

16 Q. All right. Thank you.
17 Now, based upon your knowledge of
18 Louisiana congressional plans, prior to 1991, had
19 the legislature ever put East Baton Rouge Parish
20 in the same congressional district as East and
21 West Carroll and Morehouse Parishes?

22 A. No.

23 Q. Now, do you recall any court rulings
24 on the plan that's reflected on page 6, the 1991
25 congressional plan? Did you hear my question?

1 Dr. Sadow?

2 THE COURT:

3 Okay. Counsel, I'm going to have to
4 insist that you call your next witness.

5 We have not heretofore had this amount of
6 difficulty with videoconferencing. I have
7 to believe that it has to do with the
8 connectivity maybe in Bossier, which is
9 where Dr. Sadow is physically situated.

10 MR. FARR:

11 Can you hear me, Dr. Sadow?

12 THE WITNESS:

13 Yes.

14 MR. FARR:

15 Can I try again now, Your Honor?

16 THE COURT:

17 No.

18 MR. FARR:

19 Can I get him to authenticate his
20 report and move for that to be admitted
21 into evidence?

22 THE COURT:

23 You can authenticate. Well, I mean,
24 the thing is no, you can't because what's
25 going to happen is if we can't get him in

1 a position where he can testify, which I
2 will remind you the court is accommodating
3 you-all by allowing him to testify by
4 videoconference, then all indicators are
5 that the difficulty with this -- this link
6 is on the witness's end. We have not had
7 this problem up until today. He's had to
8 call in on his phone. It tells me that
9 his connectivity in his home or wherever
10 he is, is maybe less than optimum. I'm
11 not going to allow you to put in his
12 report only to find out that he's not
13 available for cross.

14 MR. FARR:

15 I understand, Your Honor.

16 THE COURT:

17 So I'm happy for you-all to work
18 this out, figure out a way to get him some
19 more connectivity and try again tomorrow
20 morning or whatever, but we were supposed
21 to come back at 1:45. We didn't come back
22 until 2 because of some accommodations
23 that the court made for the witness and
24 now we have been on the record 30 minutes
25 and we have gotten maybe 10 questions

1 answered.

2 MR. FARR:

3 Yes, sir, Your Honor. The court's
4 been very gracious and I appreciate
5 everything you've done to accommodate us.
6 We will figure out something to do with
7 Dr. Sadow if he is available.

8 THE COURT:

9 He is certainly welcome to testify,
10 but we are not going to burn up any more
11 record today or at least not right now,
12 so --

13 MR. FARR:

14 I understand, Your Honor. Thank
15 you.

16 THE COURT:

17 Let's call your next witness.

18 MR. JONES:

19 Judge, I'm Tom Jones. This is my
20 first appearance in the case and I'm going
21 to call Dr. John Alford, A-L-F-O-R-D. He
22 is going to be by remote and should be in
23 the waiting room now I think.

24 THE COURT:

25 All right. Thank you, Mr. Jones.

1 All right. Mr. Jones -- I'm sorry.

2 Mr. Alford, can you hear us?

3 MR. JONES:

4 Can you hear, Dr. Alford? Can you

5 hear all right, Dr. Alford?

6 THE WITNESS:

7 Hello.

8 THE COURT:

9 You are able to hear us, sir?

10 THE WITNESS:

11 Yes, I am.

12 THE COURT:

13 Okay. Good. Thank you.

14 Dr. Alford, the courtroom deputy is going
15 to swear you in, sir.

16 THE DEPUTY:

17 Please raise your right hand.

18 JOHN ALFORD, Ph.D,
19 after having first been duly sworn by the
20 above-mentioned court reporter, did testify as
21 follows:

22 THE COURT:

23 You may proceed.

24 MR. JONES:

25 He is going to testify as an expert,

1 and I think we have to stipulate on
2 expertise. He is being tendered in
3 redistricting focused on Gingles 2 and 3
4 and racially polarized voting.

5 MR. HAWLEY:

6 Your Honor, Jonathan Hawley for the
7 Galmon plaintiffs. We have no objection.

8 THE COURT:

9 Okay. Dr. Alford will be permitted
10 to give opinion testimony regarding
11 redistricting focusing on the Gingles 2
12 and 3 factors and racially polarized
13 voting. You may proceed.

14 DIRECT EXAMINATION BY MR. JONES:

15 Q. Please give your name, please.

16 A. John Alford.

17 Q. What is your address?

18 A. It is 15907 Erin Creek Court,
19 Houston, Texas.

20 THE COURT:

21 Okay. The Houston, Texas will be in
22 the record. The physical address will be
23 redacted from the record. Go ahead.

24 BY MR. JONES:

25 Q. What is your profession, sir?

1 A. I am a professor of political
2 science at Rice University.

3 Q. What position do you hold at Rice?

4 A. I am a professor in the department
5 of political science.

6 Q. And how long have you been at Rice?

7 A. I think close to 35 years.

8 Q. What degrees do you hold?

9 A. I have a bachelor of science in
10 political science from the University of Houston,
11 I have a master's in public administration from
12 the University of Houston, I have a master's in
13 political science from University of Iowa and a
14 PhD in political science from University of Iowa.

15 Q. Because of your expertise, have you
16 previously been called upon to express opinions
17 in voting rights litigation?

18 A. Yes, I have.

19 Q. Have you previously testified in
20 voting rights litigation?

21 A. Yes, I have.

22 Q. In approximately how many cases?

23 A. I would think something like 30 to
24 40 cases.

25 Q. And you have been accepted as an

1 expert to testify in those cases; is that

2 correct?

3 A. Yes, I have.

4 Q. Now, you were asked to render an

5 opinion in this case, were you not?

6 A. Yes.

7 Q. And you prepared a written report

8 summarizing your opinion?

9 A. Yes.

10 Q. Do you have that report in front of

11 you?

12 A. I do.

13 Q. Is it marked as State 1?

14 A. Yes.

15 Q. Let's start into your report and

16 talk about the documents and data you reviewed in

17 connection with this case. Are you still there?

18 A. Yes.

19 Q. Okay. What documents, if any, did

20 you review?

21 A. I reviewed the expert reports

22 provided by Dr. Handley, by Dr. Palmer, as well

23 as some material that they exposed related to the

24 data sets they relied on.

25 Q. And what data did you review in

1 preparation of your opinion?

2 A. The data utilized by Dr. Handley and
3 Dr. Palmer to perform their Ecological Inference
4 analysis to assess cohesion and polarization.

5 Q. Let's talk just a second about
6 Ecological Inference. What is that?

7 A. So it's -- it's both a description
8 of a broader technique of analysis and it's a
9 label given to us. It's a tool for that
10 analysis. So broadly speaking, Ecological
11 Inference is the attempt to discern information
12 about individual level behavior from aggregate
13 level data.

14 So in this case, we are interested
15 in the individual level behavior of black voters,
16 of white voters in Louisiana, but we don't have
17 individual level information about either the
18 race of the voters or about their voting
19 behavior. So we relied on information aggregated
20 to the precinct level, and it gives us
21 information about the demographics of the
22 precinct and about the way votes were cast in the
23 precinct. In the -- in the attempt to gather
24 information about individual level behavior from
25 aggregate level behavior, it is broadly called

1 Ecological Inference.

2 You also see it referred to with a
3 capital E or capital I or sometimes it's just EI.
4 That typically refers to statistical technique
5 for doing this type of analysis that was
6 developed by Dr. King at Harvard and has largely
7 supplanted work earlier more traditional
8 techniques for doing the same sort of analysis.
9 So very early on, people would simply look at
10 what we called homogeneous precincts. So you
11 look at precincts that were largely black or
12 largely white and look at the voting behavior.
13 That was to be replaced by the technique called
14 Ecological Inference where ordinary regression
15 was used to analyze basically the change in
16 behavior across the entire spectrum of precincts
17 based on their demographic variation. There are
18 statistical problems with that model that often
19 produced estimates that were impossible that also
20 did not provide any useful or appropriate nature
21 of statistical significance or competent
22 intervals. Professor King developed a -- an
23 early version of EI that's been supplemented with
24 a variety of more sophisticated versions. But in
25 general, the technique for trying to understand

1 how the individual level behavior might be
2 derived from the aggregate level information in
3 particular to try to understand how the behavior
4 of, in this case, two groups, black and white
5 voters, varies roughly on average across the --
6 the precincts in the State of Louisiana or in a
7 congressional district.

8 Q. Is EI an acceptable method in your
9 field for estimating voter preference?

10 A. Yes. It's not ideal. It does -- it
11 is an Ecological Inference technique rather than
12 an individual level technique. So it remains
13 problematic in that sense, but of the techniques
14 that have been used, it is I think the most
15 useful, the most reliable. It's very widely
16 relied on by experts in this area, both in
17 courtroom work and in research work. So I would
18 say it is both widely tested and widely utilized
19 and reliable.

20 Q. Now, you indicated that you looked
21 at the data produced by Dr. Handley and
22 Dr. Palmer; is that correct?

23 A. Yes.

24 Q. Did you check their data?

25 A. Yes. Just some quick spot checks to

1 see how it corresponded to data I had from the
2 Secretary of State's office for election returns
3 and precinct level information, and that spot
4 check at least for the things that I checked
5 showed that it matched what I had for the
6 state's.

7 Q. In formulating your opinion, did you
8 use the data produced by Dr. Handley and
9 Dr. Palmer?

10 A. Yes. So I first conditioned to spot
11 check file. I also ran quick EIs to inspect
12 their EI results against my own analysis and
13 also, checked to make sure that their analysis
14 matched each other where they had examined the
15 same elections. All of those checks showed the
16 work to be correct. And so I relied, for the
17 purposes of this report, on the EI results that
18 were actually reported by Dr. Handley and
19 Dr. Palmer.

20 Q. And the data reported by Dr. Handley
21 and Dr. Palmer and the data that you produced all
22 relate to Louisiana elections; is that correct?

23 A. That's correct.

24 Q. Now, you looked at the several
25 presidential elections in Louisiana; is that

1 correct?

2 A. Yes. Following the example, I
3 believe it's Dr. Handley who looked first at the
4 presidential elections, so I looked at those as
5 well.

6 MR. JONES:

7 Could we display Table 1 in State 1?

8 TRIAL TECH:

9 (Complied.)

10 BY MR. JONES:

11 Q. Do you have Table 1 in front of you,
12 Dr. Alford?

13 A. I do.

14 Q. What did you find to be significant
15 in the data in Table 1?

16 A. First, if we look at the -- at the
17 bottom on the 2020 presidential election, Biden
18 versus Trump. We see several things. One,
19 because this was an election utilized by both
20 Dr. Handley and Dr. Palmer, Dr. Handley only
21 analyzed races that were racially contested. She
22 included this contest because of the vice
23 presidential candidate on the Democratic side was
24 black, so that sort of at least partially met her
25 criteria. She did not include 2012 because she

1 only went back to, I think, 2013 in your
2 analysis, but this election is included in both
3 Handley and Palmer. As you can see when you look
4 at the estimates, estimates for the behavior of
5 black voters, Palmer has 89 percent voting for,
6 Handley has 87 percent voting priority. That's
7 very similar competent intervals turning to white
8 voters; Palmer 17 percent, Handley has 18 percent
9 voting interval. So I guess this is part of that
10 reinsurance that none of this focused on a
11 particular analyst or particular data or approach
12 that where the same election's being analyzed,
13 they are getting substantive and statistically
14 very similar results.

15 The second that's useful is because
16 Palmer also analyzed the 2016 and the 2012
17 contest, we can provide some context for looking
18 at those 2020 results. So Handley assumes that
19 that 87 percent black support for Biden in part
20 collects the fact at that time there is a black
21 candidate, vice presidential candidate on that
22 ballot and presumably, the -- the -- her report
23 of 18 percent white vote, that being a much lower
24 level of support, reflects that as well. But
25 when we look at the other results, we can see

1 that, for example, in the -- in the 2012 contest
2 where the top of the ticket, President Obama, who
3 is a black candidate, though, estimate of black
4 support there is not much different than it was
5 in the 2020 contest and the estimate of white
6 support is also not much different than it was in
7 the 2020 contest.

8 And then we can compare that to 2016
9 where both of the candidates, both the vice
10 presidential candidates were white. In there, we
11 see Clinton supported by black voters is
12 97 percent. Clinton supported by white voters is
13 actually lower than Palmer's estimate of white
14 support for either Obama or for -- for Biden and
15 Harris. So again, that provides a perspective
16 here about what this -- what we are seeing here,
17 the voting behavior that's very stable on the
18 party of the candidates, but it's not really
19 responsive to the racial make up of the ticket.

20 Q. Is the voting consistent for
21 Democrats and Republicans in each race -- let me
22 say in each contest without regard to race?

23 A. Yes. The behavior is quite
24 consistent. Again, if we were broadly
25 characterizing this, we would say that black

1 voters are voting in the 90, low to mid 90 range
2 Democratic candidate. White voters are voting
3 somewhere in the teens for the Democratic
4 candidate and that's consistent across these
5 elections regardless of whether that Democratic
6 candidate happens to be black or white or in the
7 case of 2020, the again, regardless of the race
8 of the vice presidential candidate.

9 Q. Do those voting patterns change the
10 voting patterns that you just described? Do they
11 change in a Republican versus Republican race?
12 And when I ask you that I want to look at
13 Table 2. What does this table show and what does
14 it tell you about a Republican versus Republican
15 contest?

16 A. So these are contests that we
17 included in Dr. Palmer's analysis that involve
18 they are not racially contested, so they are not
19 in -- in Professor Handley's analysis, but
20 they -- they involve two white candidates; but
21 because of the system used in Louisiana, they --
22 these elections also involve rather than a
23 Democrat, this would be more common elsewhere
24 involve two candidates, both of which are
25 Republicans. So this is useful if we think about

1 if we have sort of two variables that we are
2 trying to understand one having to do with the
3 race of the candidates, the other having to do
4 with a party of the candidates. We can either --
5 look at varying or whole concept of one or the
6 other. In this case, we are able to remove
7 effects of party and see what -- see what
8 remains, and what we see here is that when both
9 candidates are Republican, the -- the behavior of
10 black and white voters is remarkably similar.

11 So in the most recent contest in
12 2019, commissioner of insurance race, the
13 preferred candidate of black voters at 54 percent
14 is Donald and the preferred candidate of white
15 voters at 54 percent is also, these are
16 consistent in the state numbers. Neither group
17 is particularly cohesive. It is pretty evenly
18 split between Donelon and Temple, put the -- that
19 even split is present for both black and white
20 voters, and in both cases they show a slight
21 preference for Donelon.

22 In the 2015 treasurer contest,
23 74 percent of black voters preferred Kennedy,
24 83 percent of white voters preferred Kennedy.
25 Again, the contest is lopsided in this case, much

1 less competitive than the commissioner's race or
2 insurance commissioner's race, but it's lopsided
3 for both black and white voters in the same -- in
4 the same direction. So again, we're unlike that
5 presidential table, particularly using just
6 Handley's election where you see very different
7 behaviors between black and white voters, they
8 had a choice between a Democrat and a Republican,
9 then they have a choice between two Republicans,
10 their selectiveness is actually very similar.

11 The third contest, the 2015 attorney
12 general contest, again is fairly evenly divided,
13 much more evenly divided than is typical for the
14 two-party contest. But here black voters are
15 showing a modest preference for Caldwell and
16 white voters for Landry. I think this probably
17 reflects the fact that Caldwell up until the time
18 this particular -- the year of this contest up
19 until 2013, Caldwell was a Democrat, so he had
20 been a Democrat and run for office as Democrat
21 and switched parties early in 2015 in preparation
22 for this contest and for running as a Republican.
23 So I suspect there may be -- there may be some
24 partisan feeling figuring into this contest, even
25 though by the time of the election polls,

1 Caldwell was officially Republican.

2 Q. What conclusion did you draw from
3 this table, if any?

4 A. Again, what we see here is that when
5 we -- when we remove party contestation, when we
6 take away the element of a Democrat versus a
7 Republican, we don't really see any particular or
8 obvious pattern in terms of a differentiation
9 between how black and white voters vote. We see
10 substantial variation between elections, but not
11 between racial groups in voting. And again, this
12 is -- highlights how important that Democrat and
13 Republican difference is in -- as we saw in the
14 presidential elections.

15 Q. Did you look at other statewide
16 elections?

17 A. Yes.

18 MR. JONES:

19 Can you pull up Table 3 on State 1?

20 TRIAL TECH:

21 (Complied.)

22 BY MR. JONES:

23 Q. Are these the other statewide
24 elections that you looked at?

25 A. So I looked at two sets of

1 additional statewide elections and I organized
2 them accordingly; according to first, the ones
3 that were included in both the Handley and Palmer
4 report, which would be the racially-contested
5 elections; and then after that, the remaining
6 statewide elections that were only Palmer report.
7 So these are all racially-contested elections and
8 they were all included in both -- in both
9 Handley's analysis and Palmer's analysis. And
10 again, part of the purpose of this table is just
11 to highlight how the similar, the EI results are
12 between Palmer and Handley. They vary very
13 slightly some -- again, they re-enforce that we
14 can put some confidence in the analysis done by
15 both Dr. Palmer and Dr. Handley.

16 Q. What did you find --

17 A. The second --

18 Q. Go ahead.

19 A. I was going to say the second
20 obvious pattern is the one that basically
21 Dr. Handley draws from -- from her -- in her
22 conclusion from looking at this table, which is
23 that two things are true simultaneously. One is
24 that black voters are voting in that 80 to mid
25 90s range for the black candidate, which also

1 happens to be the Democrat candidate, and white
2 voters are voting the teens basically for that
3 black candidate, who also happens to be the
4 Democratic candidate.

5 So again, here, as was true for the
6 single presidential election in 2020, from
7 Handley's analysis, this vote is vote by party or
8 vote on the basis of the race of the candidate.
9 It's certainly consistent here in the sense that
10 it -- that it shows that same very high level of
11 support among black voters for the black
12 candidate, who is also the Democrat, and the
13 similar lower level of support for that
14 candidate, that Democratic black candidate in
15 white voters. The issue with the -- is it simply
16 doesn't allow us to -- the one conclusion you
17 could draw from this is the black voters have a
18 very strong preference for black candidates --
19 sorry. Black voters have a very strong
20 preference for black candidates and white voters
21 modestly lower preference for white candidates,
22 but you can't distinguish that from saying the
23 same thing about Democratic versus Republican
24 candidates.

25 Q. Was there anything else in this

1 table that struck you besides those two things?

2 A. No.

3 Q. Now, can you display Table 4 in
4 State 1?

5 TRIAL TECH:

6 (Complied.)

7 BY MR. JONES:

8 Q. What did you find significant in
9 Table 4, Dr. Alford?

10 A. On Table 4 again, below this will
11 separate the question of party and race of
12 candidates, again, if we look at the -- the
13 results here, these are the Palmer results
14 because Handley didn't analyze these contests.
15 If we look down the estimates for black voters,
16 we see exactly the pattern that we saw in
17 Table 3, black voters are voting in the -- sort
18 of the 90 percent range for the Democratic
19 candidate, Republicans are voting in the teen to
20 20 percent for the Democratic candidate. But
21 here, that -- that Democratic candidate is not
22 black but is actually a white candidate.

23 So if -- if we had looked at both in
24 this analysis, I think it would be pretty clear
25 that there is very strong preference among blacks

1 for Democratic candidates and a less strong
2 preference among white voters for Republican
3 candidates; but both the nature of that
4 preference which voters prefer which candidate
5 and the level at which they favor both candidates
6 is remarkably similar to the table that includes
7 the racially-contested election.

8 So the -- the conclusion from
9 Table 3 from Dr. Handley's analysis, that black
10 voters are strongly favoring black candidates,
11 isn't born up in this table because it shows
12 exactly the same strong preference for a
13 Democratic candidate when a candidate is white as
14 it is for a Democratic candidate when the
15 candidate is black. So the tendency of white
16 voters to provide support only in the teens and
17 20s for that Democratic candidate is the same
18 whether that Democratic candidate is white or
19 black. So in the inference from the Handley
20 subset elections could be that white voters
21 prefer not to vote for black candidates, black
22 voters prefer to vote for black candidates, but
23 looking at the table, we can see, in fact, the
24 preference was evident in the previous table is
25 the preference for Democratic candidates in

1 general not simply for Democratic candidates that
2 happen to be -- happen to be black.

3 Q. So the register of the candidate
4 really was of no consequence. It was party
5 rather than race?

6 A. I think there's two things: One is
7 clearly that the party of the candidate because
8 that's the information we have here is the party
9 of the candidate, but there's also information
10 that the voters have. It's on the -- it's on the
11 ballot. The party of the candidate is -- is
12 producing a strong polarization here in voter
13 behavior. That polarization is not being
14 produced either in the sense of the levels of
15 black cohesion or the levels of white crossover
16 by the race of the candidate, but it is being
17 produced by the party affiliation of the
18 candidate. So, and again, the -- the striking
19 similarity between the two tables with the
20 difference in pulling sort of constant the party
21 affiliation of candidates comparing the race of
22 the candidates suggests that -- that the
23 conclusion that Dr. Handley draws about this very
24 different behavior on the part of black voters
25 being a response, whatever it's a response to, is

1 clearly a response, overwhelmingly a response to
2 the affiliation -- party affiliation of the
3 candidate.

4 So there is polarization here based
5 on the party affiliation of the candidates, but
6 that same level of polarization isn't apparent
7 here with regard to the race of the candidates.
8 And again, that is backed up by what we saw on
9 the presidential elections. It's backed up by
10 what we saw in the elections that don't feature a
11 Republican running against a Democrat.

12 Q. Turning to the congressional
13 elections reported by Drs. Handley and Palmer,
14 what did you find there with respect to voting
15 patterns?

16 A. Dr. -- in two different analyses
17 there, Dr. Palmer reports just an additional set
18 of statewide elections performed -- analysis
19 performed in congressional districts, but doesn't
20 actually analyze congressional elections.
21 Dr. Handley analyzes a handful of congressional
22 elections as well, and there's nothing in that --
23 in any of that analysis to suggest anything other
24 than what we see in the -- in the statewide
25 evidence, that there is strong evidence of voter

1 polarization and that's really what those --
2 that's what that evidence shows. It shows that
3 as it does statewide, it shows that within the
4 congressional districts as well. So in -- in
5 majority Democratic, you -- you see that party
6 voting pattern. In districts that are more
7 Republican, you see that pattern. It's -- it is
8 a pattern that depends on voters partisan
9 preferences not on voters racial preferences.

10 Q. Based upon the election estimates
11 and the data that you reviewed, what do you
12 conclude with respect to racial voting patterns
13 in Louisiana?

14 A. There's clearly partisan
15 polarization. The black voters are voting
16 cohesive for Democratic candidates; white voters
17 are voting cohesive although slightly less
18 cohesive for Republican candidates. That's what
19 this -- that's what the election analysis
20 provided by Dr. Palmer shows, as well as provided
21 by Dr. Handley.

22 Q. Is that unique to Louisiana, that
23 pattern of partisan differences?

24 A. I think it's a characteristic of
25 modern American elections. Certainly, all the

1 states that I've analyzed data for show a similar
2 pattern, particularly in the last decade or two.
3 Partisan polarization, as we are all aware, has
4 become quite extreme in the United States, a
5 little bit uncharacteristic for the U.S. where we
6 have -- we have often been criticized
7 historically for not having particularly strong
8 cooperation between the parties, but in the
9 modern era, the parties are polarized and what
10 you see in elections is very durable partisan
11 patterns. Voters have hung onto the party of
12 their candidates quite strongly in the election.

13 Q. Is it basically fair to say that the
14 two parties are delegated and they are not
15 moving?

16 A. Well, I have -- I have sort of a
17 strong belief in cycles, maybe it's just because
18 I'm old enough to have this view, but these
19 things do change other time; but certainly in the
20 context that we are in today, the parties are
21 quite, quite well dug in both in the partisan
22 elites opposition to each other as we see in
23 congressional behavior and in public behavior of
24 candidates than is true with -- with voters as
25 well.

1 Q. In the final analysis, is it your
2 opinion that party affiliation and not race best
3 explains the divergent voting patterns among
4 minorities and white voters in Louisiana?

5 A. I think from the evidence that's
6 been provided here, I don't think there's any
7 question that the party affiliation of candidates
8 is the driving force in this behavior and not the
9 race of the candidate.

10 Q. All right. Dr. Alford, you
11 contracted with the state to charge a fee for
12 your work in this case; is that correct?

13 A. That's correct.

14 Q. And how is your fee calculated?

15 A. It's an hourly rate of \$500 an hour
16 for the work I do on the case, including my
17 appearance here or at trial.

18 Q. What is the approximate number of
19 hours you devoted to this case, to this one?

20 A. I don't -- I haven't sort of
21 compiled all of my things into a specific number
22 yet, but I think it's something in the range of
23 roughly about a hundred hours.

24 Q. Okay. Thank you.

25 MR. JONES:

1 Judge, I would like to introduce
2 into the record State 1 and appendix one
3 to state one, which is his CV.

4 THE COURT:

5 Any objection?

6 MR. HAWLEY:

7 No objection.

8 THE COURT:

9 Admitted.

10 MR. JONES:

11 And that's it. I will tender the
12 witness.

13 THE COURT:

14 Any cross?

15 REDIRECT EXAMINATION BY MR. HAWLEY:

16 Q. Good afternoon, Dr. Alford. Can you
17 hear me okay?

18 A. Yes. Just fine, thank you.

19 Q. Thank you. My name is
20 Jonathan Hawley and I represent some of the
21 plaintiffs in this matter.

22 Dr. Alford, according to your report
23 you were engaged as an expert by the Office of
24 the Louisiana Attorney General; is that correct?

25 A. Yes, I believe so. That's correct.

1 Q. Who first reached out to you about
2 serving as an expert?

3 A. I believe it was Mr. Kerry.

4 Q. And who were you first engaged to
5 work --

6 A. I'm sorry. I'm sorry. Mr. Jones.

7 Q. Thank you. And when were you first
8 engaged to serve as an expert in this matter?

9 A. I don't recall precisely, but I
10 think sometime earlier this year, maybe late
11 fall, but I think early -- sometime early spring.

12 Q. Do you know if that was before or
13 after the Louisiana legislature vetoed initially,
14 sorry, that when Governor Edwards vetoed the
15 congressional map on March 9th; do you know if it
16 was before or after then?

17 A. I'm not sure about the engagement
18 because I was contacted about -- to check
19 availability and to see if I would be able to
20 work with the state on this case prior to doing
21 anything with the state. So I don't know when I
22 made my first contact, other than they asked me
23 about availability and timing; but certainly, the
24 first time I actually worked on the case involved
25 the analysis the state would place on more

1 recently, say, April -- April and then into May.

2 Q. And so just to clarify, you started
3 working on your report in April and into May; is
4 that correct?

5 A. Yes. There was some -- I think some
6 preliminary data assembly and checking that would
7 have taken place a little bit before that, but
8 nothing -- most of the substantiative work had to
9 do with actually responding to reports as they
10 came in and working on my report.

11 Q. Thank you. Dr. Alford, your report
12 responds only to the expert reports
13 Dr. Maxwell Palmer and Dr. Lisa Handley, correct?

14 A. That's correct.

15 Q. You provide no responses to the
16 report submitted by plaintiffs' other experts?

17 A. That's correct.

18 Q. You do not respond to conclusions of
19 Mr. Cooper and Mr. Fairfax regarding the first
20 Gingles' precondition; is that correct?

21 A. That's correct. I do not.

22 Q. And you provide no analysis of any
23 of the Senate factors other than racially
24 polarized voting?

25 A. That's correct. I provide no

1 analysis on those factors.

2 Q. And you provide no direct response
3 to Dr. Lichtman's analysis of racially polarized
4 voting?

5 A. That's correct.

6 Q. Did you read Dr. Lichtman's expert
7 report in this case?

8 A. I have not seen Dr. Lichtman's
9 report.

10 Q. And if Dr. Palmer and Dr. Handley
11 both concluded that voting in Louisiana is
12 racially polarized, correct?

13 A. Yes, that's correct.

14 Q. You identified no errors in their
15 methodology or their application of Ecological
16 Inference, correct?

17 A. Correct.

18 Q. I believe you transferred on direct
19 that Ecological Inference is a reliable
20 methodology to evaluate racially polarized
21 voting; is that correct?

22 A. Yes.

23 Q. In fact, you previously referred to
24 Ecological Inference as the gold standard for
25 analyzing racially polarized voting?

1 A. Yes.

2 Q. And you replicated selected results
3 from Dr. Palmer's and Dr. Handley's Ecological
4 Inference analyses, correct?

5 A. Correct.

6 Q. And your replication results matched
7 very closely with reports of both Dr. Handley and
8 Dr. Palmer?

9 A. Yes, it did.

10 Q. And you concluded that there were no
11 substantive differences across Dr. Palmer's data,
12 Dr. Handley's results and your replication
13 results, correct?

14 A. That's correct.

15 Q. You do not dispute Dr. Palmer's and
16 Dr. Handley's conclusion that black Louisianians
17 cohesively vote for the same candidates?

18 A. Right.

19 Q. And that is true both statewide and
20 in the state's six congressional districts,
21 correct?

22 A. It's -- well, say, I want to make
23 sure we are clear, but I did -- we did look at
24 those Republican versus Republican contests. So
25 in the -- in the partisan contested elections, I

1 would agree.

2 Q. And do you offer nothing to dispute
3 Dr. Palmer's and Dr. Handley's conclusion that
4 black and white Louisianians consistently prefer
5 different candidates?

6 A. Again, that's not true when the
7 candidates are the same party, but it is true
8 when the candidates are of different parties.

9 Q. And you offer nothing to dispute
10 that conclusion that white preferred candidates
11 generally beat black preferred candidates in
12 Louisiana, except in majority black districts?

13 A. Again, that's only true in contests
14 that feature Democrats versus Republican in the
15 Republican versus Republican contest that's not.

16 Q. And you offer nothing to dispute
17 Dr. Palmer's and Dr. Handley's conclusions that
18 plaintiffs' illustrative majority black districts
19 would elect black preferred candidates, correct?

20 A. I have not examined the performance
21 of the illustrative districts.

22 Q. Ultimately, Dr. Alford, you agree
23 that there is a correlation between the race of
24 voters and the candidates they prefer in
25 Louisiana in general; is that correct?

1 A. Again, there is a correlation
2 whether when there is both a Democratic and
3 Republican candidate when there are only
4 Republican candidates, for example, as we saw
5 there is no correlation.

6 Q. But even in the election where is
7 you did see correlation in the Democratic and
8 Republican candidate elections, you concluded
9 that these results show nothing more than
10 partisan polarization; is that fair?

11 A. The analysis presented here by
12 Dr. Handley and Dr. Palmer shows very clear
13 evidence of party polarization. It does not show
14 any evidence of that same level of polarization
15 is in any way related to the race of the
16 candidates.

17 Q. But you didn't provide any
18 qualitative or quantitative analysis into the
19 reasons black voters support their candidates of
20 choice, correct?

21 A. The entire analysis is very
22 straightforward analysis of exactly that point.
23 It shows very clearly that the candidates of
24 choice are preferred on the basis of the party
25 affiliation of the candidates.

1 Q. But you provided no subjected
2 inquiry into the reasons why black voters support
3 Democratic versus Republican candidates; is that
4 correct?

5 A. I -- I'm not sure what do you mean
6 by subjective inquiry into the preference of the
7 black voter. This is objective information about
8 what the ecological standard, Ecological
9 Inference analysis of statewide elections shows
10 us, and it shows us clearly that the party of the
11 candidate is crucial and the race of the
12 candidate is not.

13 Q. Let me give an example. You
14 performed no qualitative or quantitative analysis
15 of the Democratic and Republican parties
16 positions on issues related to race; is that
17 correct?

18 A. Correct.

19 Q. Do you recall your analysis of
20 Attorney General Caldwell, a former Democrat who
21 ran as a Republican in the 2015 runoff?

22 A. Yes.

23 Q. As another example, did you do any
24 research into Attorney General Caldwell's
25 political positions relative to his opponent?

1 A. No.

2 Q. So other than examining the results
3 reported by Dr. Palmer and Dr. Handley, did you
4 conduct any research into what motives racially
5 polarized voting?

6 A. Again, to the extent that -- to the
7 extent that we can understand what is being
8 revealed by the voting or by the election
9 analysis that we typically do in this kind of a
10 case, like Dr. Palmer did or Dr. Handley did or I
11 did, beyond that, I've done nothing to examine
12 individual voting patterns. I've just simply
13 done a standard racially polarized voting
14 analysis.

15 Q. And you testified I believe on
16 direct that one conclusion that could be drawn
17 from the results reported by Dr. Palmer
18 Dr. Handley is that voters are voting based on
19 race; is that fair?

20 A. I mean, it's -- it would -- if you
21 look only at a subset of the data, you could
22 incorrectly draw that conclusion. It's clearly
23 not a conclusion supported by the data. I guess
24 this is where you are getting -- you sometimes --
25 I'm not disagreeing with the analysis done by

1 Dr. Palmer and Dr. Handley, but the conclusions
2 reached by Dr. Palmer and Dr. Handley are not
3 correct. And in the case Dr. Palmer, he has the
4 information to see that it's not correct. In the
5 case Dr. Handley, she simply didn't provide the
6 court with the information it needed to -- to see
7 whether that conclusion was correct or not. But
8 only if you -- only if you very carefully limit
9 it to contests you look at could you mistakenly
10 reach the conclusion that this could be either a
11 party pattern or a racial pattern, but that you
12 couldn't tell the difference between them, that
13 would be a fair conclusion based on a narrow
14 subset of the data, but you can't fairly conclude
15 that the data shows that voters are voting on the
16 basis of race when you have not varied the race
17 of the candidates or the parties of the
18 candidates. It just isn't -- it just isn't --
19 it's a -- anybody can look at that data and see
20 what the data tells them. I think that's quite
21 clear and I don't think our disagreement is over
22 what the data tells us.

23 My understanding, as I understand
24 Dr. Handley's and Dr. Palmer's position in this
25 case and in previous cases, their position is

1 that none of this shows something different from
2 what I said I say it shows. They just say that
3 that's not relevant, that it doesn't matter
4 whether the -- this is a -- has to do with the
5 race of the candidates or the party of the
6 candidates. All that matters is do black voters
7 vote differently than white voters and that's the
8 only thing that matters. So that's the basis for
9 their conclusion that this isn't actually
10 racially polarized voting because they don't
11 think racially polarized voting has anything to
12 do with the race of the candidates.

13 Q. In your discussion with Mr. Jones, I
14 believe you agreed that currently, at least the
15 two political parties are dug into their
16 respected positions; is that correct?

17 A. Again, I think I was a little more
18 subtle than that, but they certainly dug into
19 their opposition to each other. I'm only
20 surprised at how much flexibility they applied
21 positionally with them -- with them being dug in,
22 in their opposition to each other.

23 Q. Would that opposition to each other
24 include issues relating to race?

25 (Technical interruption.)

1 BY MR. HAWLEY:

2 Q. I'm sorry. Dr. Alford, could you
3 repeat your answer?

4 A. I certainly could.

5 Q. And you agree that it's possible for
6 political affiliation of voters to be motivated
7 by race, correct?

8 A. Politically, the voters can be
9 motivated by any number of things.

10 Q. And that would include race,
11 correct?

12 A. It would include race, yes.

13 MR. HAWLEY:

14 Thank you. No further questions,
15 Dr. Alford.

16 THE COURT:

17 Any redirect, Mr. Jones?

18 MR. JONES:

19 I don't, Your Honor. That's all I
20 have for Dr. Alford.

21 THE COURT:

22 Okay. Dr. Alford, thank you for
23 your assistant today. Moving along now.
24 Okay. Why don't we take about a 10-minute
25 recess?

1 (Whereupon, a short recess was taken at
2 p.m.)

3 THE COURT:

4 Okay. Be seated. Had a little
5 change in the guard there, got our -- got
6 our signals crossed. Okay. For the --
7 for the record, the last witness confirms
8 that the court's observations that the
9 prior witness, Mr. Sadow, the difficulty
10 with the videoconferencing was apparently
11 his connectivity. So I know that counsel
12 for defendants is working on getting a
13 workaround for that. I thought I would
14 put that on the record. It didn't seem to
15 be any of the court's equipment that was
16 prohibiting Mr. Sadow from testifying. I
17 know that we can discern what he was
18 saying.

19 Okay. Ms. McKnight, next witness?

20 MS. MCKNIGHT:

21 Thank you, Your Honor. We now call
22 Jeff Lewis.

23 JEFFREY BYRON LEWIS, Ph.D,
24 after having first been duly sworn by the
25 above-mentioned court reporter, did testify as

1 follows:

2 DIRECT EXAMINATION BY MS. MCKNIGHT:

3 Q. Good afternoon, Dr. Lewis. Could
4 you state your name for the record?

5 A. Good afternoon. My name is
6 Jeffrey Byron Lewis.

7 Q. Thank you.

8 MS. MCKNIGHT:

9 Your Honor, the parties have
10 stipulated to Dr. Lewis's expertise. We
11 are offering him as an expert in the
12 fields of political science, census data
13 analysis and statistics. More
14 specifically for this case racially
15 polarized voting analyses.

16 THE COURT:

17 Is there a stipulation?

18 MR. HALWAY:

19 No objection, Judge.

20 THE COURT:

21 Okay. Dr. Lewis will be -- going to
22 be giving opinion testimony in the field
23 of political science, census data and
24 statistics. You may proceed.

25 MS. MCKNIGHT:

1 Thank you, Your Honor.

2 We will be referring to legislative
3 intervenor's Exhibit No. 2 today if we
4 could put that up on the screen.

5 TRIAL TECH:

6 (Complied.)

7 BY MS. MCKNIGHT:

8 Q. But first, Dr. Lewis, do you have a
9 copy of your report with you, a paper copy?

10 A. Yes, I do. Thank you.

11 Q. What you see on the screen is this a
12 copy of your report submits in this case?

13 A. It appears to be, yes.

14 Q. Okay. And your CV is located at
15 pages 10 through 17 of this document; is that
16 right?

17 A. Yes. That's correct.

18 Q. Okay. Could you briefly tell the
19 court what your -- about your academic
20 background?

21 A. Yes. I earned my PhD in political
22 science from MIT in 1998. I taught for several
23 years at Princeton University in the politics
24 and -- and public policy schools there, and spent
25 a year with Dartmouth before moving to UCLA where

1 I've been a professor for some 20 years.

2 Q. And -- and currently, what is your
3 position at UCLA?

4 A. Yes. I'm professor of political
5 science and share the college of letters in
6 science.

7 Q. And have you -- have you acted as an
8 expert in other cases before?

9 A. Yes. In roughly a dozen previous
10 cases.

11 Q. And has a court ever found you to be
12 not qualified to testify about racially polarized
13 voting?

14 A. No, they have not.

15 Q. Okay. And has your testimony ever
16 been found to be not credible by any court?

17 A. Not to my knowledge.

18 Q. Okay. Let's turn to paragraph 4 of
19 your report. This is on page 2 of your report.
20 It is on --

21 A. Yes.

22 MS. MCKNIGHT:

23 Okay. And just for the record, this
24 is Legislative Exhibit 2, page 3, but it's
25 page 2 of Dr. Lewis's report.

1 BY MS. MCKNIGHT:

2 Q. And we are looking at paragraph 4.

3 What were you asked to do in this case,

4 Dr. Lewis?

5 A. Yes. My engagement here was very

6 limited. It's set forth in paragraph 4 there. I

7 was asked to estimate or report for black and

8 white for the purposes here will be non-black

9 voters for Biden-Harris in the 2020 presidential

10 election, general election, I should say.

11 I was also asked to estimate, I

12 should say, the support candidates in that

13 election for blacks and non-blacks, and I was

14 asked to calculate the support among all voters

15 residing in each of the illustrative districts.

16 Q. Thank you. And we will get into

17 more detail in a minute, but at a high level, how

18 did you approach answering those questions in the

19 time provided?

20 A. Yeah. Thank you. Let me just -- I

21 think I left something out of my previous answer

22 and I apologize. I was getting some pretty

23 substantial sort of echo back of what I was

24 saying. It was a little bit distracting and I

25 apologize for that.

1 I should also say that the last
2 thing that I was asked to look at was whether in
3 the illustrative districts Biden and Harris would
4 have prevailed all in the absence of any white
5 crossover voting, so I should have added that.

6 Could you repeat your last question
7 for me, please?

8 Q. Sure. And let me just say would it
9 help to turn down the volume on your end to lower
10 the echo?

11 A. Yeah. I can do that a little bit
12 then. I just worry about hearing you.

13 Q. Sure. I'll get very close to the
14 microphone for you.

15 A. Okay. Thank you.

16 Q. Let's see if this works. Is that
17 any better for you?

18 A. We will see. I hope so, thank you.

19 Q. Okay. So let me go back to that
20 question. We will get into more detail in a
21 minute, but at a high level, how did you approach
22 answering these questions in the time provided?

23 A. Yes. In the very narrow timeframe
24 provided, what I -- what I did was to take data
25 sets that had been prepared by Dr. Palmer, and

1 then with the help of -- of Clark Benson, assign
2 the 2020 precincts that are -- that are
3 enumerated in -- in -- in Dr. Palmer's data set,
4 assign them to the -- the various -- the various
5 illustrative -- illustrative congressional
6 districts, the 2nd and 5th illustrative districts
7 under these different illustrative plans, and
8 then I was able to -- to tabulate in some cases
9 or calculate or estimate in other cases the
10 quantities that I just described.

11 Q. Okay. And now what election did you
12 study, just so it's clear for the record?

13 A. Yes. I'm sorry. I studied the 2020
14 presidential -- U.S. presidential general
15 election.

16 Q. Okay. And why did you study this
17 one election?

18 A. Well, given the timeframe, we had to
19 choose or I had to choose one election to focus
20 on. So, you know, this -- this picked a lot
21 of -- a lot of boxes. It's the most recent --
22 recent election. It's an election in which the
23 office under consideration here was also
24 contested, so there were also congressional
25 elections held at that time. It was a contest

1 that involved an African-American candidate
2 and -- and the alternative election in 2020, the
3 election for Senate involved a number of
4 candidates and I don't think it would have been
5 representative of the cohesion of black voters
6 that's typical in the broader set elections that
7 one might have considered. So it seemed like the
8 best set as the one that we would -- we would
9 want to look at.

10 Q. So whose data did you use to conduct
11 your analysis?

12 A. Yeah. So that would have been
13 Dr. -- Dr. Palmer's data as augmented by
14 Mr. Benson.

15 Q. Okay. So your analysis assumes the
16 correctness of Dr. Palmer's data; is that right?

17 A. That is correct.

18 Q. Okay. So let's turn now to the
19 results of your analysis. Is it fair to say that
20 the results of your analysis are indicated at
21 paragraphs 7 through 11 of your report?

22 A. Yes.

23 Q. And are the results of your analysis
24 also shown in the tables on page 6 of your
25 report?

1 A. Yes. All of the results described
2 in 7 through 11 are either directly presented or
3 derived from what's reported in those two tables.

4 Q. All right. Let's zoom in on those
5 two tables. And, Dr. Lewis, could you tell the
6 court what those tables show?

7 A. Yes. They show the quantities that
8 I described at the beginning of our discussion
9 today. So for -- for illustrative plans for
10 District 2 and for District 5, and I'll just say
11 here that you'll maybe see me looking to the left
12 here, I have two screens. The courtroom is
13 appearing to my right and the exhibits to my
14 left.

15 What we have are two tables. The
16 top table describes the results of my analysis
17 for the four illustrative plans with respect to
18 the District 2 of each of those plans, and the
19 bottom, the four illustrative plans with respect
20 to District 5. And the first column just shows
21 which plan we are referring to. The second
22 column shows the percent of each one of those
23 districts, the percent of black voters that
24 participate -- that, you know, in that election.
25 So what fraction of the folks who actually voted

1 in the 2020 election were black, that's shown in
2 the first column.

3 In the second column, I have
4 tabulated from Palmer's data the fraction of the
5 two-party vote received by Biden and Harris, and
6 what I mean by two-party vote, it is the fraction
7 received by -- by the -- by Biden over the -- at
8 the number of votes received by Biden over the
9 number of votes received by either Biden or
10 Harris or Biden or, I'm sorry, Biden or Trump.
11 So again, Biden and Harris has a fraction of
12 votes cast as provided for Trump cast to be
13 clear.

14 And then the next column shows the
15 estimated fraction of those black voters that
16 supported the black preferred candidate that was
17 Biden, and the fraction of -- and the next column
18 shows the fractions of white voters who supported
19 Biden as estimated by an Ecological Inference,
20 and the final column calculates based on the
21 other numbers in the table, the fraction of the
22 vote that Biden-Harris would have received in
23 each of those districts in the absence of any
24 white crossover voting all else equal.

25 Q. Okay. Can you -- you mentioned that

1 it was a calculation that brought you to that
2 last column. Could you walk us through how you
3 achieved -- how you reached that number, how you
4 calculated using the other numbers on this table?

5 A. Sure. So what we are going to be
6 able to do here is -- is decompose the total vote
7 for -- for Biden-Harris coming from black voters
8 and also coming from white voters. So the
9 estimate in the last column takes the -- for
10 example, in the first row of the first table, the
11 99.13 percent of black voters that voted -- that
12 we estimate to have voted for Biden, multiply
13 that by the 51.18 percent of the -- of the
14 electoral in that district that we estimate to be
15 African-American and those two numbers together
16 give us the total fraction of the vote that -- of
17 the total vote that Biden would have gotten from
18 black voters, and under the assumption that there
19 was no crossover voting, there's nothing to add
20 to that. So simply the product of those two
21 numbers reveals the fraction of the vote that we
22 estimate that Biden and Harris would have
23 received in the absence of any white voting for
24 Biden-Harris.

25 Q. So if we are counting each row in

1 these two tables as a district studied in this
2 election, whether under District 2 or District 5
3 in plaintiffs' four illustrative plans, I'm
4 counting eight districts analyzed; is that fair?

5 A. Yes.

6 Q. And so of those eight districts
7 analyzed, how many of those districts that you
8 studied rely on white crossover voting for the
9 black candidate to win?

10 A. It -- in the sense that without any
11 white crossover voting, the percentage of support
12 for of the two-party vote support for Biden would
13 only have been above 50 percent as estimated here
14 in one of the eight instances.

15 Q. Okay. And something you mentioned
16 earlier, this is an all else equal analysis.
17 Could you explain what you meant by that?

18 A. Right. Whenever we think about, you
19 know, what would have happened had things been
20 different, so, for example, had different
21 district boundaries been used, what would the
22 support for different candidates be, we would
23 have to -- we would have to sort of imagine how
24 that -- how that world was constructed. We have
25 to think about all the different things that

1 might be the same with a different are different.

2 So when I say all else equal here, what I mean is

3 that the composition of the electoral in terms

4 of -- of whether the fraction that is

5 African-American would have remained the same,

6 and I mean that the race in which

7 African-Americans and white voters supported,

8 Biden and Harris would have remained the same.

9 Q. And do the districts as drawn by

10 plaintiffs here, these eight districts, do they

11 rely on white crossover voting to reach a

12 majority vote?

13 A. In -- in -- in all but one case.

14 Q. And now, even though you only had

15 time to study one election, have other experts in

16 this matter made findings consistent with your

17 analysis?

18 A. I think this -- this particular

19 question about the reliance on crossover voting

20 mentioned in the Amicus brief, I'm not sure if

21 you consider that one of the experts. They --

22 they note that -- that those districts would --

23 would rely on more than -- you know, on some

24 amount of crossover voting, the ones that they

25 proposed, which are different from these. I'm

1 not sure that the experts, for example -- for
2 example, Palmer were looking -- specifically
3 engaged this question.

4 Q. Okay. And did they engage another
5 question that is consistent with your analysis in
6 this case?

7 A. Yes. The other quantity that we
8 looked at here is whether these districts
9 required 50 percent BVAP, or -- or black voting
10 age population, in order to -- in order to be
11 effective. That is to say, could these districts
12 have given the amount of white crossover voting
13 that's estimated to have exists -- that's
14 estimated to exist, could they be effective at
15 less than 50 percent black voting age population?

16 The conclusion I reach is that they could and
17 that conclusion is consistent, I believe, with
18 the conclusions of Dr. Palmer and Dr. Lichtman.

19 Q. You mentioned the Amicus brief in
20 this case. Let's pull that up so that we -- I
21 can ask you a question about that.

22 MS. MCKNIGHT:

23 This is located at ECF-90,
24 Your Honor, in the record. This is an
25 Amicus brief.

1 MR. ADCOCK:

2 Your Honor, I respectfully object.

3 This is outside the bounds of the Doctor's
4 reports and I object to him being
5 questioned about it. He hasn't referred
6 to it. There has been no other testimony
7 about it, so it's improper.

8 MS. MCKNIGHT:

9 Your Honor, if I may, this report
10 was filed -- this Amicus brief was filed
11 on the same day Dr. Lewis filed his
12 report. We have heard testimony from
13 two -- we have heard testimony from two of
14 plaintiffs' experts this week that these
15 districts can perform below 50 percent.
16 Dr. Lewis has reviewed this and is
17 offering that it is consistent with his
18 own analysis.

19 THE COURT:

20 Objection sustained.

21 BY MS. MCKNIGHT:

22 Q. Dr. Lewis, how did you come to an
23 understanding that -- strike that.

24 Dr. Lewis, do you have any reason to
25 disagree with plaintiffs' experts that these

1 districts could perform at below 50 percent BVAP?

2 MR. ADCOCK:

3 Your Honor, I have the same
4 objection.

5 THE WITNESS:

6 I do not.

7 THE COURT:

8 One moment. There's an objection.

9 MR. ADCOCK:

10 I'll withdraw it.

11 THE COURT:

12 All right. The objection's
13 withdrawn. You want to re-ask the
14 question?

15 MS. MCKNIGHT:

16 I'll re-ask it.

17 BY MS. MCKNIGHT:

18 Q. Dr. Lewis, do you have any reason to
19 disagree with plaintiffs' experts that these
20 districts can perform at a low 50 percent BVAP?

21 MR. ADCOCK:

22 Objection, Judge. I was right the
23 first time. No. I'm just joking. I
24 don't believe any expert has said that,
25 and so if counsel can lay a foundation

1 what expert said that, whether that
2 Dr. Lewis has seen that and if he agrees
3 with it.

4 MS. MCKNIGHT:

5 Sure. I can lay that foundation,
6 Your Honor.

7 THE COURT:

8 Please lay a foundation.

9 BY MS. MCKNIGHT:

10 Q. Okay. Dr. Lewis, how do you know
11 that plaintiffs' experts hold the opinion that
12 districts can perform at below 50 percent BVAP?

13 A. I have seen portions of their
14 appearing testimony.

15 Q. Okay. And in what format did you
16 see that portion of those -- that testimony? Did
17 you see it in a transcript, or were you listening
18 live?

19 A. Yeah. In a -- in a draft, I think
20 what you refer to as a rough draft transcript.

21 Q. Thank you,

22 MS. MCKNIGHT:

23 Your Honor, I would offer that if
24 Dr. Lewis was able to be with us in the
25 courtroom, he could have sat in on that

1 testimony and sat in here today and that
2 he was here for the testimony. He has
3 reviewed portions of the transcripts that
4 are equally available to plaintiffs'
5 counsel. Plaintiffs' counsel was in the
6 courtroom when that testimony was
7 provided.

8 MR. ADCOCK:

9 Your Honor, I just want to lodge an
10 objection. By choice, the expert was not
11 in the courtroom, and that was the choice
12 of defendants and the experts.

13 Second, he hasn't identified what
14 expert he's talking about. He hasn't said
15 that he looked at an expert report. He
16 can't identify which expert says what.
17 Counsel is saying "they said," and he had
18 every opportunity just like seemingly
19 every other expert in this case to issue a
20 rebuttal report or supplemental report
21 with this kind of rebuttal or -- or
22 opinion about other people's testimony and
23 he chose not to do it, so I think it's
24 improper here.

25 Moreover, counsel still has not been

1 able to lay a foundation except that
2 vaguely maybe he saw something in some
3 draft transcript.

4 THE COURT:

5 I'm going to sustain the objection
6 to the extent it lacks foundation. If you
7 can establish what testimony he listened
8 to to formulate to say that there was
9 testimony the districts can perform at or
10 below 50 percent BVAP, then start with
11 that and we will go from there.

12 MS. MCKNIGHT:

13 Thank you, Your Honor.

14 BY MS. MCKNIGHT:

15 Q. Dr. Lewis, let's go with this step
16 by step. Let's start with the first expert.
17 What is the first expert's testimony you reviewed
18 to understand that plaintiffs' expert witnesses
19 said that these districts could perform at below
20 50 percent BVAP?

21 A. Dr. Palmer.

22 Q. Okay. And do you recall what
23 Dr. Palmer said?

24 MR. ADCOCK:

25 Objection, Your Honor, vague.

1 THE COURT:

2 You know, we were all sitting in on
3 when Dr. Palmer testified, so let's ask
4 the substantive question. I don't need
5 him to tell the court what Dr. Palmer
6 testified to. We will have a record of
7 that.

8 MS. MCKNIGHT:

9 Sure. Pardon me, Your Honor. I was
10 trying to lay a foundation that he
11 understands what -- what Dr. Palmer said
12 and is prepared to -- to give testimony
13 about it, about how his analysis is
14 consistent with Dr. Palmer's.

15 THE COURT:

16 Ask the question.

17 MR. ADCOCK:

18 And, Your Honor, I'd like to further
19 object. I don't believe Dr. Palmer
20 testified to that. If counsel has a draft
21 transcript or an official transcript that
22 can show us and produce it, then I'm not
23 sure there's a good faith base to asking
24 that question.

25 THE COURT:

1 Okay. It's a bench trial. We are
2 going to have a record. If you rely on
3 the record that is not the official court
4 record -- whatever you sent this witness
5 is not the official court record. If --
6 if you want to ask him about other
7 witnesses's testimony, if it is not borne
8 out in the record, well, then I guess that
9 will settle his testimony on that point.

10 MS. MCKNIGHT:

11 Thank you, Your Honor. Pardon me,
12 Your Honor, I don't want to misunderstood
13 what you said. Am I -- am I allowed to
14 continue asking him about the testimony?

15 THE COURT:

16 Ask him specific questions whether
17 he agrees with purported testimony or not
18 and we will find out whether or not that
19 was the testimony.

20 MS. MCKNIGHT:

21 Your Honor, may I have just one
22 minute to -- to grab a copy of the
23 testimony to make sure it's clear?

24 THE COURT:

25 Okay.

1 BY MS. MCKNIGHT:

2 Q. Dr. Lewis, do you -- I understand
3 that you reviewed testimony by Dr. Palmer in this
4 case. Do you believe -- did you understand that
5 your analysis in this case is consistent with
6 what Dr. Palmer found on the point of whether CD2
7 and CD5 could likely be drawn at below 50 percent
8 BVAP and still elect black preferred candidates?

9 A. Yes.

10 Q. And just to be clear, it was
11 consistent in that both of those districts could
12 be drawn at 50 percent below BVAP and perform; is
13 that right?

14 A. Yes.

15 Q. Did you review any other expert
16 testimony in this case?

17 MR. ADCOCK:

18 Same objection, Judge.

19 THE COURT:

20 Let's --

21 MR. ADCOCK:

22 She needs to be more specific than
23 this.

24 THE COURT:

25 Let me be clear. I don't want to

1 tell you how to try your case,
2 Ms. McKnight, I really don't. I think
3 you're quite capable. Just ask him what
4 his opinions are and you can argue in your
5 brief that that's what was consistent with
6 what they -- what the other expert said.

7 MS. MCKNIGHT:

8 That's fair, Your Honor.

9 THE COURT:

10 Okay.

11 MS. MCKNIGHT:

12 I'll move on.

13 THE COURT:

14 Just ask him his opinions and then
15 he can argue it.

16 MS. MCKNIGHT:

17 That's fair. It's fair.

18 BY MS. MCKNIGHT:

19 Q. Is it your opinion, Dr. Lewis, that
20 these districts can perform at below 50 percent
21 BVAP?

22 A. Based on what's presented in my
23 report and my reading Dr. Palmer's report, yes.

24 MS. MCKNIGHT:

25 Your Honor, at this point, I'd like

1 to admit into evidence Dr. Lewis's report,

2 LEG 2.

3 THE COURT:

4 Any objection?

5 MR. ADCOCK:

6 None, Judge.

7 THE COURT:

8 Admitted.

9 MS. MCKNIGHT:

10 Thank you very much, Your Honor.

11 THE COURT:

12 Cross?

13 MR. ADCOCK:

14 John Adcock on behalf of the

15 Robinson plaintiffs. I previously

16 appeared, but making my appearance again

17 since it's been a few days.

18 THE COURT:

19 Okay.

20 CROSS-EXAMINATION BY MR. ADCOCK:

21 Q. Doctor, very quickly in your report,

22 I want to go through what you were asked to do

23 according to your report. The first one is you

24 were asked to calculate a fraction of voters in

25 the 2020 presidential election who are identified

1 as black. That's the first one, correct?

2 A. Yeah. Let me just -- I just want to
3 make sure that we are always on the same page
4 here and -- let's see.

5 Q. It's page 2, paragraph 4, I think
6 you are looking for?

7 A. Yes. That's -- black in -- in these
8 illustrative districts, yeah, each of these
9 illustrative districts.

10 Q. And you were asked to estimate the
11 support for black and white voters for the
12 Biden-Harris ticket?

13 A. Yes.

14 Q. And you are were asked to estimate
15 the support of black and white voters for Biden
16 among all voters?

17 A. Yes.

18 Q. And you were asked to estimate the
19 support of black and white voters for Biden
20 absent any crossover voting?

21 A. Yes.

22 Q. And nothing else?

23 A. Well, I -- I -- I was also asked and
24 maybe it doesn't appear directly in that
25 paragraph, but it's one of the findings at the

1 end to consider whether these districts would
2 have performed less than 50 percent and so I also
3 did that.

4 Q. Uh-huh (affirmatively). So I want
5 to go through this again, Doctor. You were --
6 the first thing you were asked, according to your
7 report, was to calculate the fraction of voters
8 in the presidential election who were identified
9 as black, correct?

10 A. Yes.

11 Q. And that's what you said in your
12 report? That's what you said in your report?

13 A. I -- that is what I said in the
14 first sentence of -- of the paragraph we are
15 talking about, yes.

16 Q. That is what the intervenors asked
17 you to do?

18 A. It is among the things they asked me
19 to do, yes.

20 Q. And you were asked to estimate the
21 support of black and white voters for Biden?

22 A. Yes.

23 Q. Okay. And you were asked to
24 estimate the support of black and white voters
25 for Biden among all voters?

1 A. Yes.

2 Q. And that asked to estimate the
3 support of black and white voters for Biden
4 absence any crossover voting?

5 A. Yes.

6 Q. And those four things involved
7 plaintiffs' illustrative districts for CD2 and
8 CD5, correct?

9 A. Yes.

10 Q. Okay. And you were hired to do that
11 by plaintiff -- by the intervenors, correct?

12 A. Yes.

13 Q. Okay. Now, you say in your report a
14 complete analysis would require consideration of
15 additional elections, correct?

16 A. Yes.

17 Q. And we just discussed you were only
18 asked to analyze the 2020 presidential election,
19 correct?

20 A. Yes.

21 Q. And the next sentence you state you
22 did not consider additional elections due to time
23 limitations, correct?

24 A. Yes.

25 Q. Now, you agree that evidence of one

1 election does not give a complete picture about
2 voting patterns within a district?

3 A. Yes.

4 Q. And you agree that voter turn out
5 can differ across elections, correct?

6 A. Yes.

7 Q. Depending on the candidates?

8 A. It's potentially depending on many
9 things, depending on the weather, depending on
10 many things, yes.

11 Q. That candidates can be part of that?

12 A. Potentially, the degree to which
13 candidates effect turn out depends a lot on -- on
14 bar context, but in principle there's some and in
15 the political science literature, there's some
16 evidence that looking at HR effects -- effects
17 turn out, yes.

18 Q. Uh-huh (affirmatively). And the
19 race of the candidates' effects turn out?

20 A. It could. It could effect turn out.
21 But again on, for example, the race of the
22 congressional candidate may not have a big effect
23 on this round of, you know, turn out in a -- in a
24 presidential election, for example, where
25 people's turn out decisions may be driven by the

1 higher offices being tested and not the lower
2 office.

3 Q. But it could?

4 A. It's not impossible.

5 Q. Now, there are other elections you
6 could have looked at, correct?

7 A. Yes.

8 Q. And from 2015 to 2020, there were 15
9 statewide elections with a white and black
10 candidate, correct?

11 A. I am -- I am not aware of how many
12 elections during that period involved a black and
13 white candidate.

14 A. You're not aware of that. You were
15 not asked to do that analysis, correct?

16 A. Correct.

17 Q. You were not asked to look at that
18 data, correct?

19 A. No. Only insofar as perhaps some of
20 those elections that you mentioned are presented
21 in other expert reports, such as that Dr. Palmer
22 I was given to review.

23 Q. Not my question. You were not asked
24 to analyze those statewide elections, correct?

25 A. I was not asked to analyze them,

1 that is -- that's correct. I apologize for
2 misunderstanding your question.

3 Q. So you didn't look at that?

4 A. That's correct.

5 Q. Now, we went through your table on
6 page 6 of your report.

7 MR. ADCOCK:

8 Can we pull that up? I think it's
9 Exhibit No. LEG, underscore, 02 LEG,
10 underscore, 02.

11 TRIAL TECH:

12 (Complied.)

13 BY MR. ADCOCK:

14 Q. And, Doctor, you recognize this,
15 correct?

16 A. Yes.

17 Q. This is your report in the case.

18 And this is page 6 of your report. These are the
19 tables you testified about earlier, correct?

20 A. Yes.

21 Q. Okay. Now, I just want to talk
22 about the final column, the one on the far right
23 of the screen, correct? You see where I'm
24 saying?

25 A. You want to talk about the far --

1 the far right column you just highlighted?

2 Q. Yes.

3 A. Yes.

4 Q. It's entitled Without White

5 Crossover Votes; you see that?

6 A. Yes.

7 Q. Okay. Now, that shows I think you
8 testified on direct, that shows what the share of
9 the vote for the Biden-Harris ticket would have
10 been without any crossover votes whatsoever
11 without any white crossover votes?

12 A. All else equal, yes.

13 Q. Yes. With everything else remaining
14 constant, is that a yes?

15 A. Yes.

16 Q. Including -- scratch that.

17 Now my question is can you
18 testify -- have you ever seen an election with no
19 white crossover voting?

20 A. With zero white crossover voting,
21 I'm -- I'm not -- I'm not aware of any such
22 election. I've never applied EI anywhere
23 where -- I have applied EI places where the
24 estimate was zero, yes.

25 Q. But you've never seen an election

1 with no white crossover voting? That's my
2 question.

3 A. Well, I can't directly observe
4 whether there's white crossover voting or -- or
5 not, so I can only rely on the estimates. There
6 are instances in which the crossover -- where the
7 fractions of the vote by each ethnic group are
8 estimated to be 100 percent or 0 percent for a
9 particular candidate in a particular instance,
10 although that may not actually reveal the
11 question, the answer to the question you were
12 asking, which was was there, in fact, not a
13 single, white, crossover vote.

14 Q. But that's not the case in any
15 election here?

16 A. No. The estimates are substantially
17 higher than that. That's fair.

18 Q. Now, you were retained by the
19 legislative intervenors in this case?

20 A. I believe so, yes.

21 Q. Okay. When were you first contacted
22 by them to work on this case?

23 A. In April of this year, I believe.

24 Q. Do you know when in April?

25 A. I think that we may have had a

1 discussion early in the month and that it was
2 only later that there was an actual specific
3 discussion of something that -- that I might
4 actually do.

5 Q. Okay. And you turned in your
6 report?

7 A. I don't recall specifically the
8 days.

9 Q. Sure. And you turned in your report
10 on April 29th, correct?

11 A. I -- I don't recall, but -- but I --
12 if -- if that sounds possible to me, yes. I see
13 that date on the report, so I assume that's
14 correct.

15 Q. Okay. Now, were you contacted by
16 anyone at BakerHostetler about the 2020
17 redistricting cycle in Louisiana not involving
18 this litigation?

19 A. I don't believe so. I -- I've
20 worked with them on other things and I've had
21 maybe general conversations about other things
22 they are working on, but I haven't had any
23 specific conversation about Louisiana and perhaps
24 being aware they were involved.

25 Q. That's my question. Let me restate

1 it. Have you ever been contacted outside of this
2 litigation, have you ever been contacted for
3 advice, information, anything about the 2020
4 redistricting cycle in Louisiana?

5 A. I don't believe so.

6 Q. Does that include you've never been
7 contacted by anyone at the legislature about
8 that?

9 A. Oh, certainly not, no.

10 Q. Okay. And just to go over this.
11 You did not submit a rebuttal report, correct?

12 A. No, I did not.

13 Q. Okay. You did not submit a
14 supplemental report?

15 A. No. I -- I only submitted the one
16 report that we are looking at right now.

17 Q. You did not submit supplemental
18 reports?

19 A. No, I did not.

20 Q. And you were not asked to do that,
21 correct?

22 A. Correct.

23 Q. So you didn't do it?

24 A. Correct.

25 Q. Now, you're being paid by the state

1 in this case, correct?

2 A. I believe that's correct.

3 Q. You're not sure?

4 A. I -- I assume that that's correct.

5 I -- I have yet -- not as yet been paid, so I'm

6 not entirely sure who will sign it, you know,

7 what name will be on the check.

8 Q. The state retained you as an expert?

9 A. I -- you know, I -- my indication is

10 created -- was -- was established by the

11 plaintiffs' attorneys. I assume that I'm

12 indirectly at least working for the state, but I

13 don't understand the details of that engagement.

14 Q. Perhaps it's the legislature?

15 A. Perhaps.

16 Q. Okay. You're not sure. And the

17 state's paying you or the legislature is paying

18 you \$550 an hour?

19 A. I -- I am billing \$550 an hour

20 regardless of who's paying.

21 Q. And can you estimate for the court

22 how many hours you've spent on this case?

23 A. Less than 20.

24 Q. Less than 20.

25 MR. ADCOCK:

1 No more questions, Judge.

2 THE COURT:

3 Any redirect?

4 MS. MCKNIGHT:

5 No redirect, Your Honor.

6 THE COURT:

7 Thank you, Dr. Lewis. We thank you
8 for your assistance.

9 THE WITNESS:

10 Thank you, Your Honor.

11 THE COURT:

12 You have another witness?

13 MS. PROUTY:

14 Your Honor, my name is Erica Prouty
15 for the legislature intervenors in this
16 case.

17 THE COURT:

18 Last name?

19 MS. PROUTY:

20 Prouty, P-R-O-U-T-Y.

21 THE COURT:

22 You have a witness?

23 MS. PROUTY:

24 Dr. M. V. Hood, the third.

25 THE COURT:

1 Okay.

2 M. V. HOOD, III, Ph.D,
3 after having first been duly sworn by the
4 above-mentioned court reporter, did testify as
5 follows:

6 THE COURT:

7 Ms. Prouty, you represent the
8 attorney general intervenors or the
9 legislature intervenors?

10 MS. PROUTY:

11 The legislative intervenors, Your
12 Honor.

13 THE COURT:

14 Please proceed.

15 MS. PROUTY:

16 Your Honor, we would offer Dr. Hood
17 as an expert in political science,
18 quantitative political analysis and
19 election administration.

20 THE COURT:

21 Is there a dispute or is there a
22 stipulation?

23 MS. PROUTY:

24 No, Judge.

25 THE COURT:

1 Ma'am, the respondent --

2 MS. WENGER:

3 Apologies. Victoria Wenger.

4 THE COURT:

5 Last name?

6 MS. WENGER:

7 Wenger, W-E-N-G-E-R.

8 THE COURT:

9 Okay. Political science,

10 quantitative?

11 MS. WENGER:

12 Quantitative political analysis and

13 election administration.

14 THE COURT:

15 Okay. Dr. Hood will be permitted to

16 give opinion testimony in those fields.

17 DIRECT EXAMINATION BY MS. PROUTY:

18 Q. Good afternoon, Dr. Hood.

19 A. Good afternoon.

20 Q. Could you please state your name for

21 the record?

22 A. M. V. Hood, the third.

23 Q. And were you retained as an expert

24 witness in this case on behalf of legislative

25 intervenors?

1 A. Yes.

2 Q. And were you asked to prepare
3 reports in this case on behalf of legislative
4 intervenors?

5 A. Yes.

6 MS. PROUTY:

7 Your Honor, may I approach the
8 witness to provide him copies of his
9 reports in this case?

10 THE COURT:

11 You may.

12 MS. PROUTY:

13 Can we also bring up LEG 1?

14 TRIAL TECH:

15 (Complied.)

16 BY MS. PROUTY:

17 Q. Do you recall this document,
18 Dr. Hood?

19 A. Yes.

20 Q. What is it?

21 A. It's a copy of my initial report in
22 this matter.

23 Q. And if you turn to page 10?

24 A. (Complied.)

25 Q. Is this an accurate copy of your CV?

1 A. Yes, it is.

2 Q. And it's dated April 2022, but it's
3 a current copy of your CV?

4 A. No changes since then.

5 Q. And it's pages 10 to 25 in this
6 document; is that right?

7 A. Yes.

8 Q. Okay. And did you also prepare a
9 supplemental report in this case?

10 A. I did.

11 MS. PROUTY:

12 Okay. Can we bring up LEG 78?

13 TRIAL TECH:

14 (Complied.)

15 BY MS. PROUTY:

16 Q. Do you recall this document,
17 Dr. Hood?

18 A. Yes.

19 Q. And what is it?

20 A. A supplemental report I produced for
21 this matter.

22 Q. And we will get into more detail in
23 a moment, but at a high level, can you tell the
24 court what you were asked to do in this case?

25 A. I was asked to investigate two

1 questions: One dealing with district congruity
2 between the benchmark plan or the plan that was
3 introduced in -- or that was used in -- from
4 2011, and the enacted plan that was just adopted
5 in 2022, along with some other plans that were
6 introduced by the plaintiffs. So I was asked to
7 do a district congruity examination and I also
8 did an examination of district racial composition
9 between the benchmark being enacted and these
10 plaintiff produced plans.

11 Q. And in your supplemental report, did
12 you perform the exact same types of analyses that
13 you did are in your initial report just on some
14 additional plans?

15 A. Yes.

16 Q. Okay. Can you please describe your
17 educational background for the court?

18 A. I have three degrees in political
19 science, a BS from Texas A&M, an MA from Baylor
20 University and a BA from Texas Tech.

21 Q. And where are you currently
22 employed?

23 A. I am a professor of political
24 science at the University of Georgia where I've
25 been since 1999.

1 Q. And what department do you have an
2 appoint in?

3 A. The department of political science,
4 and I also serve as the director of the SPIA
5 Survey Research Center for the past five years.
6 SPIA stands for School of Public and
7 International Affairs.

8 Q. I apologize for almost interrupting
9 you. Are you a tenured professor?

10 A. Yes.

11 Q. What types of courses have you
12 taught at University of Georgia?

13 A. Over the years, I have taught a
14 variety of courses in American politics and
15 policy. Most recently, every spring I teach a
16 course in southern politics that has a heavy
17 dosage of voting rights and also redistricting
18 within it. I've taught that course at both the
19 undergraduate and graduate level. I've taught
20 graduate courses also in the -- in the under the
21 topic of election administration. Most of my
22 other time at the university currently is -- is
23 directed at managing the survey research center,
24 so --

25 Q. And what are your current areas of

1 research and publication?

2 A. I have two current areas again
3 within the larger umbrella of American politics
4 and policy, and those are southern politics and
5 election administration.

6 Q. Does this include issues relating to
7 redistricting?

8 A. Yes.

9 Q. Have you ever received research
10 grants to study election administration issues?

11 A. I have. I have received external
12 grant funding from -- a few charitable trusts,
13 the National Science Foundation, and the Center
14 for Election Integrity and Research or Innovation
15 Research, excuse me, to study election
16 administration issues.

17 Q. Have you published any peer-reviewed
18 books and journal articles?

19 A. Yes. I've published two university
20 press books. One is just about to come out, I
21 mean, literally in the summer, so it's -- it's
22 complete. And I've published somewhere north of
23 50 peer-reviewed journal articles at this point.

24 Q. And are all of these included in
25 your CV?

1 A. Yes. They are all listed in my CV.

2 Q. Do you serve on the editorial boards
3 of any publications?

4 A. Yes. Currently serve on the
5 editorial boards for Social Science Quarterly and
6 Election Law Journal. Election Law Journal is a
7 journal that specializes in election
8 administration.

9 Q. Do you regularly use and analyze
10 census data in your academic work?

11 A. Yes.

12 Q. And do you use and analyze census
13 data in the courses that you teach?

14 A. Yes.

15 Q. Have you ever testified as an expert
16 witness before?

17 A. I have.

18 Q. Does that include in any
19 redistricting cases?

20 A. Yes.

21 Q. How many cases would you say you
22 have testified as an expert witness in?

23 A. I don't have an exact count. More
24 than 25.

25 Q. And most recently, were you

1 qualified and found to be a credible expert
2 witness by a three-judge panel in a redistricting
3 case in Alabama?

4 A. Yes.

5 Q. And that was Caster versus Milligan?

6 A. Correct.

7 Q. And I think we heard plaintiffs'
8 witness, Dr. Lichtman, joke the other day and I'm
9 paraphrasing something along the lines when your
10 side loses, you are found not to be credible.

11 Have there been some instances
12 reports have given less weight to your testimony?

13 A. There have been, yes.

14 Q. And in those cases, did any courts
15 find that you did not correctly conduct the types
16 of analyses that you've performed in this case?

17 A. Not to my knowledge.

18 Q. And before we get into your reports,
19 I want to ask a few more questions. Were you
20 asked to review the criteria that the Louisiana
21 legislature used in 2022 redistricting process?

22 A. No, I was not.

23 Q. Have you ever reviewed that
24 criteria?

25 A. No, I have not.

1 Q. And are you offering any opinions in
2 this case about what redistricting criteria
3 should be used by legislatures?

4 A. No, I'm not.

5 Q. So let's turn to your initial
6 report. This is LEG 1. We can go to page 4. So
7 let's discuss your district congruity analysis.
8 First, how did you perform your district
9 congruity here?

10 A. So there's two parts to this
11 analysis. There's what's called a core retention
12 analysis and I also make use of a metric called
13 the similarity index to look at geographic
14 congruity. Now, core retention looks at
15 population.

16 Q. And we will discuss it in more
17 detail in a moment, but what did your district
18 congruity analysis conclude?

19 A. In a nutshell, at a very high level,
20 the enacted plan is highly congruent with the
21 benchmark plan and the plaintiff introduced plans
22 are less congruent than the enacted plan as
23 compared to the benchmark plan.

24 Q. I apologize, Dr. Hood, if you
25 already explained that, but when you say "the

1 benchmark plan," what do you mean?

2 A. So there I'm talking about the 2011
3 plan.

4 Q. And the enacted plan is which plan?

5 A. The 2022 plan.

6 Q. So let's discuss your core retention
7 analysis. First, what does core retention mean?

8 A. So core retention looks at how much
9 of a present district is comprised of its former
10 self in terms of population, so the measure would
11 range from 0 to 100 percent. So if it's, say,
12 100 percent, it would mean that the current
13 district configuration wholly contains population
14 that was from the previous district. If it's
15 zero, that means there's no overlap in population
16 from the current district to the previous
17 district. So as you get closer to a hundred,
18 obviously, there's more congruity between the two
19 districts in terms of the population that was
20 carried over across the redistricting cycle.

21 Q. Does Table 1 contain the results of
22 your core retention analysis?

23 A. Yes.

24 Q. And what does Table 1 show as to the
25 core retention score of the enacted plan?

1 A. Well, maybe it's easiest to look at
2 the -- the row where the mean averages are
3 housed. It's 96.4 percent for the enacted plan,
4 so on average a district in the enacted plan had
5 a core retention of 96.4 percent, so fairly high,
6 close to a hundred.

7 Q. And overall, what does Table 1 show
8 as to the core retention score as the predicted,
9 proposed plans that you analyzed in your initial
10 report?

11 A. Well, the core retention scores for
12 the plaintiff plans are lower than those for the
13 enacted plan. So again, if you look at the mean
14 row, 67.1, 69.6, 73.1 or 66.6 are the mean
15 average core retention scores for the plaintiff
16 introduced plans in this particular table again
17 as compared to 96.4 percent for the enacted plan.

18 Q. And what does Table 1 show as to the
19 core retention scores when you look district by
20 district?

21 A. Well, you can compare any districts,
22 say, starting with District 1 through District 6,
23 and if you look at the core retention score for
24 District 1 and compare it to the core retention
25 score for the corresponding District 1 in any of

1 the plaintiff introduced plans, the core
2 retention score for the enacted plan for that
3 district is higher than for the plaintiff
4 introduced plans.

5 Q. And what did you conclude as to the
6 ability of constituents to return their previous
7 incumbents to office if they so chose in the
8 plans that you analyzed?

9 A. Well, the analysis for that to occur
10 to vote an incumbent in or out for the
11 constituent is much higher than the enacted plan
12 than the plaintiff introduced plans.

13 Q. In addition to your core retention
14 analysis, I heard you say you also performed a
15 similarity index analysis. What does the
16 similarity index measure?

17 A. Well, again, it's measuring
18 congruity. And here I'm using it to measure
19 geographic congruity, so not population, but
20 literally geography, how much of the geography of
21 a present district was shared by its former
22 incarnation or the previous district where it was
23 occupied; and so this is a formula that's from
24 the academic literature. The citation there is
25 in Footnote 5 for this. It is from a published

1 peer-reviewed press academic book.

2 And, again, here I'm looking at
3 geography. Again, the score would range from 0
4 to 100 percent. So if it's 100 percent, then the
5 district will be comprised wholly of geography
6 from the previous district. If it's 0, there's
7 literally no geographic overlap between those
8 districts geographically speaking.

9 Q. And the formula that you've used is
10 on LEG 1-5 in your report; is that right?

11 A. Correct.

12 Q. So does Table 2 on page LEG 1-6
13 contain the results of your similarity index
14 analysis?

15 A. Yes.

16 Q. And overall, what does Table 2 show
17 as to the share of the geography between the
18 enacted plan and plaintiffs' plans and the
19 benchmark plan?

20 A. Well, again, if we look at the mean
21 score for the enacted plan in terms of the
22 similarity index, it's 88.3, so fairly high,
23 fairly high geographic congruence, the interest
24 it. I do look at plaintiffs' produced plans in
25 this table. Similarly, the index mean is lower,

1 44 percent, 44 percent, 46 percent or 41 percent,
2 for instance. So there's less geographic
3 congruity between the plaintiff produced plans
4 and the benchmark plan as compared to the enacted
5 plan and the benchmark plan.

6 Q. And what does the analysis show when
7 you look district by district?

8 A. Again, it's either -- you can look
9 at any one of these districts and compare the
10 enacted plans similarly to the index score to the
11 similarly -- similarity index score for the other
12 plaintiff introduced plans, and it's higher for
13 the enacted plan than any of the other plaintiff
14 introduced plans.

15 Q. I apologize, Doctor. I should have
16 asked this from the outset. What plans did you
17 analyze in this initial report?

18 A. In this initial report, again, the
19 enacted plan, the Robinson plan, the Galmon 1, 2
20 and 3.

21 Q. So let's turn to your supplemental
22 report. It's LEG 78. It's at Tab 2 of your
23 binder. If we go to page 2, what plans did you
24 analyze in this report?

25 A. In this report, I analyzed Robinson

1 2A, Galmon 4 and an Amicus plan that was
2 introduced by some professors at LSU and Tulane.

3 Q. Does Table 1 contain the results of
4 your core retention analysis for these three
5 additional plans compared to the enacted plan and
6 the benchmark plan?

7 A. Yes.

8 Q. And overall, what did your analysis
9 conclude here?

10 A. Well, there is a column for the
11 enacted plan, just for reference. It's the same
12 -- the figures are the same as the enacted plan
13 calculations referenced in the original report.

14 But, again, so it's 96.4 percent
15 core retention for the enacted plan as compared
16 to lower core retention levels on average, 68.8,
17 69.7 or 68.3 for the other plans that are
18 analyzed in the table.

19 Q. Okay. I want to turn to page 3.

20 A. (Complied.)

21 Q. What does Table 2 contain?

22 A. This is the similarity index, the
23 geographic similarity index. And, again, just
24 for reference, the enacted -- the calculations
25 for the enacted plan are listed there in the

1 second column.

2 So, again, the mean for the enacted
3 plan on the similarity index is 88.3 if you
4 compare that to lower mean scores for Robinson 2A
5 at 42.7, Galmon 4 at 44.4 or the LSU-Tulane plan
6 at 44.6.

7 Q. If we can turn back to your initial
8 report. If you turn to page 6.

9 A. (Complied.)

10 Q. Did you also compare the percentage
11 of the black population within each district for
12 several plans?

13 A. I did.

14 Q. And is this your district racial
15 composition analysis?

16 A. Yes, in section four.

17 Q. And how did you measure the
18 percentage of the black population in each
19 district?

20 A. I used a formula that's made
21 available by the Department of Justice. The
22 specific formula is there on page 4 of this
23 report along with documentation, but basically
24 someone is considered black if they are
25 non-Hispanic single race black or non-Hispanic

1 single race white plus black, so those two
2 categories added together divided by the total
3 population or the total voting age population
4 depending on what calculation's being made.

5 Q. Is this what's also referred to as
6 DOJ black?

7 A. That's the shorthand some people
8 use, yes.

9 Q. Now, are you offering any opinions
10 in this case about whether the DOJ definition of
11 black or some other definition should be used by
12 courts?

13 A. No.

14 Q. And why is it helpful to have one
15 metric of the percentage of the black population
16 in districts in this case?

17 A. Well, there are different ways.
18 Obviously you can measure percent black in a
19 districting plan, and so I think it's useful or
20 helpful to consistently use a measure across a
21 range of redistricting plans and so you have the
22 same calculation for the enacted plan and the
23 plaintiff introduced plans and even the Amicus
24 plans so they can all be compared side by side.

25 Q. In using the DOJ definition of

1 black, what was the total black population in
2 Louisiana in 2010?

3 A. 32.2 percent.

4 Q. And using that same DOJ definition
5 of black, what was the total black population in
6 Louisiana in 2020?

7 A. 32.1 percent.

8 Q. And with that same definition, what
9 was the black voting age population in Louisiana
10 in 2010?

11 A. 30.0 percent.

12 Q. And using that same definition, what
13 was the black voting age population in 2020?

14 A. 30.4 percent.

15 Q. And what did you conclude about any
16 trends in the black population over the last
17 decade in Louisiana?

18 A. Well, from these numbers, it's
19 fairly stationary or static.

20 Q. If you turn to page 7 in your
21 report.

22 A. (Complied.)

23 Q. What does Table 3 contain?

24 A. These are the Department of Justice
25 -- again, these are the Department of Justice

1 black formula for total population for both the
2 benchmark and the enacted plans and then these
3 plaintiff introduced plans.

4 In here, I do want to state for the
5 benchmark plan in this particular table, it's the
6 benchmark plan using 2020 census data just so
7 there's no confusion there.

8 Q. If we turn to page 8, what does
9 Table 4 contain?

10 A. These are the same calculations made
11 using the DOJ formula except this time this is
12 voting age population comparisons.

13 Q. And what does Table 4 show us about
14 the black voting population in the benchmark and
15 the enacted plans?

16 A. It shows us that there's one
17 majority black voting population district at
18 57.0 percent in both the benchmark and the
19 enacted plans.

20 Q. And what does Table 4 show as to the
21 black voting age population in plaintiffs plans?

22 A. In this particular table, it shows
23 us that, for instance, under the Robinson plan,
24 District 5 would be a majority black voting age
25 population district at 51.2 percent; and under

1 the Galmon 3 plan, District 5 is also a majority
2 black voting age population district at
3 58.8 percent. Under the Galmon 1 and 2 plans in
4 this table, there are no majority black voting
5 age population districts using this metric.

6 Q. Is Congressional District 2 a
7 majority black district in any of plaintiffs'
8 proposed plans using the DOJ definition of black?

9 A. No.

10 Q. Okay. What does Table 5 show as to
11 the voting age black total population in
12 District 2 in 2011 with 2010 census data?

13 A. So this is just for reference. This
14 is the benchmark plan in 2011 using the 2010
15 census. And so under that drawing, District 2
16 was a majority voting black -- excuse me, a
17 majority black voting age population district at
18 58.7 percent BVAP.

19 Q. And what did you find when comparing
20 the black voting age population in CD2 between
21 2010 and 2020?

22 A. The black voting age population in
23 that district drops 1.7.

24 Q. We will turn back to your
25 supplemental report again. It's LEG 78. We'll

1 go to page 5.

2 A. (Complied.)

3 Q. And what does Table 4 contain?

4 A. Similar comparisons. These are the
5 black voting age population comparisons for these
6 different plans. The enacted plan, again,
7 Robinson 2A, Galmon 4 and the LSU-Tulane plan.

8 Q. And so what does Table 4 show as to
9 the black voting age population of the districts
10 in the Robinson 2A, Galmon 4 and the LSU-Tulane
11 Amicus plan?

12 A. Okay. So in the Robinson 2A plan,
13 for example, there are two majority black voting
14 age population districts using this metric, one
15 at 50.02 percent and one at 51.1 percent; and in
16 the Galmon 4 and the LSU-Tulane plans, there are
17 no majority black voting age population
18 districts.

19 Q. Thank you, Dr. Hood.

20 Did you review any of the reports of
21 plaintiffs' experts in this case?

22 A. No. I reviewed -- the only thing I
23 reviewed in terms of reports were I guess some
24 rebuttal reports and only the parts that
25 pertained to the report that I had submitted

1 originally in this matter, and I think those were
2 rebuttal reports that were submitted by
3 Mr. Cooper and Mr. Fairfax.

4 Q. Okay. So other than those, you did
5 not review any other reports?

6 A. No.

7 Q. And you only reviewed the portions
8 of those reports that responded to your initial
9 report?

10 A. Correct.

11 Q. In his May 2nd supplemental report,
12 PR-86, we don't need to bring it up, but did
13 Dr. Fairfax dispute your core retention or
14 similarity index calculations?

15 A. No.

16 Q. Did you review Dr. Fairfax's
17 response to your calculation of DOJ black?

18 A. Yes.

19 Q. Do you have a response to that?

20 A. Well, he -- he questions my use of
21 the formula, so there's -- there's an extension
22 to the -- the Department of Justice formula.
23 It's my understanding the extension continued to
24 count individuals who are in this case, for
25 instance, single race black plus another single

1 race outside of being white. You would only
2 continue to do that if it was an enforcement
3 action. So I didn't make use of that part of the
4 formula, so he disagreed with me about that.

5 Q. Did you look at what the impact of
6 using that second part of the formula would have
7 been?

8 A. Well, I took a quick peak at it.
9 From what I saw, again, there are few people that
10 fall into these other categories, which would be
11 black plus native American or black plus Asian or
12 black plus other or black plus Hawaiian or
13 pacific island. There's -- there's about between
14 5 and 6,000 people that would fall -- statewide
15 that would fall into those other racial
16 categories.

17 Q. And so did the percentage of the
18 black population using that additional metric
19 increase significantly when you looked at it?

20 A. Well, that would add something like
21 about 2/10ths of a percentage point statewide.

22 Q. And in his May 2nd, 2022 rebuttal
23 report -- it's GX-29 -- we don't need to bring it
24 up, but did Mr. Cooper dispute any of the
25 calculations in your report?

1 A. No.

2 Q. And, in fact, did Mr. Cooper
3 specifically say in his report that he did not
4 disagree with your calculations?

5 A. Yes, that's correct.

6 MS. PROUTY:

7 Your Honor, at this time, we move
8 for the admission of Dr. Hood's reports.
9 They are LEG 1, his initial report, and
10 LEG 78, his supplemental report.

11 THE COURT:

12 Any objection?

13 MS. WENGER:

14 No objection.

15 THE COURT:

16 So admitted.

17 MS. PROUTY:

18 And while we are here, Your Honor,
19 we actually have another exhibit we'd
20 offer for admission.

21 We just Dr. Hood's testimony about
22 how it would be useful to have a
23 side-by-side comparison of all the metrics
24 from all the plans in this case.

25 We've prepared an exhibit marked as

1 LEG 79. As permitted by the Federal Rule
2 of Evidence 1006, we prepared a chart that
3 proves the content of voluminous writings
4 that cannot be conveniently examined in
5 the court.

6 In this case, it's the census data
7 from the 2010, 2020 census for the -- all
8 the plans that have been offered and
9 reviewed and discussed in this case. We
10 have made this document and its sources
11 available to plaintiffs' counsel. The
12 sources are noted in the chart.

13 We had provided this document
14 initially last week as a proposed joint
15 stipulated exhibit. We provided an
16 updated version on Monday, marked it as an
17 exhibit, and we would move for its
18 admission at this time.

19 THE COURT:

20 Is there an objection as to her 1009
21 summary?

22 MS. WENGER:

23 Can we just see the exhibit?

24 MS. PROUTY:

25 Oh, sure. I have a copy.

1 Your Honor, I would offer that we provided
2 this over a week ago and we have not heard
3 from plaintiffs' counsel if there's an
4 issues with its accuracy.

5 THE COURT:

6 Well, that may be as it were, but
7 let them take a look at it. I mean, we
8 have all been working pretty hard here.

9 MS. PROUTY:

10 I understand, Your Honor.

11 THE COURT:

12 I think the only question by the
13 court are the headings. If this is a
14 compilation of census data, that seems
15 like it would fit the definition of a
16 charter summary of 1009. I guess I'd ask
17 you-all to take a look at the headings and
18 see if that -- if those comport with
19 census headings.

20 MS. PROUTY:

21 And there is a chart towards the end
22 of the exhibit that explains the meaning
23 of the headings and then also has the
24 sources.

25 THE COURT:

1 I tell you what. Rather than -- I
2 realize that you gave it to them; I
3 realize they haven't a chance to look at
4 it. It's been offered. The court will
5 rule on it after you-all have had a chance
6 to look at it and if there's any -- you
7 can work out any discrepancies. How about
8 that?

9 MS. WENGER:

10 Okay.

11 THE COURT:

12 So it's been offered and the court
13 will -- the court will rule on its
14 admission after the plaintiffs have looked
15 at the findings.

16 MS. PROUTY:

17 Thank you, Your Honor. I have no
18 further questions for Dr. Hood.

19 THE COURT:

20 Cross-examination?

21 CROSS-EXAMINATION BY MS. WENGER:

22 Q. Good afternoon, Dr. Hood.

23 A. Good afternoon.

24 Q. I'd like to talk to you about your
25 work in Louisiana leading up to this hearing.

1 When did you start working on
2 congressional redistricting in Louisiana?

3 A. On this matter?

4 Q. In general.

5 A. Oh, well. This is the only matter
6 I'm involved with in Louisiana.

7 Q. And when did your work on this
8 matter begin?

9 A. Late April, from what I recall.

10 Q. So you were never asked to perform
11 an analysis on any of the bills presented during
12 the redistricting session that provided for two
13 black majority districts, correct?

14 A. That's correct.

15 Q. Who contacted you to become involved
16 in this matter?

17 A. The defendant intervenors, the
18 legislative defendant intervenors.

19 Q. Do you know who exactly?

20 A. Well, I was contacted by
21 BakerHostetler law firm, on their behalf I guess.

22 Q. So have you ever spoken with a
23 Louisiana legislator about the enacted map?

24 A. No, I have not.

25 Q. How about any of the alternative

1 maps?

2 A. I have not spoken to any legislators
3 in Louisiana.

4 Q. What is your hourly rate in this
5 litigation?

6 A. \$400 an hour.

7 Q. And about how many hours have you
8 billed thus far?

9 A. Zero.

10 Q. How many hours have you worked on
11 this matter thus far?

12 A. I haven't compiled an invoice at
13 this point, so --

14 Q. Do you have a general estimation?

15 A. Well, it is only an estimation.
16 Ten, 10 to 12.

17 Q. Dr. Hood, has your testimony been
18 rejected or found not credible or helpful by
19 courts in the past?

20 A. Courts have given my testimony
21 varying degrees of weight over the years.

22 Q. On voting rights cases specifically?

23 A. Well, those are the only kind of
24 cases I testify in.

25 Q. You testified in a case captioned

1 Northeast Ohio Coalition for the Homeless v.

2 Cusack, correct?

3 A. That's correct.

4 Q. And that case was about provisional

5 and absentee voting access in Ohio, correct?

6 A. Correct.

7 Q. The court said your testimony was

8 irrelevant to the issues before the court,

9 correct?

10 A. From what I recall.

11 Q. And that your report reflected

12 methodological errors that undermined your

13 conclusions?

14 A. From what I recall. Again, that's

15 -- that's a different analysis from what I'm

16 doing in this particular case.

17 Q. Okay. And you testified in a matter

18 called BC v. Perry, correct?

19 A. Correct.

20 Q. And that was a case about voter ID

21 laws in Texas, right?

22 A. Correct.

23 Q. And the court found your testimony

24 and analysis convincing and gave it a little

25 weight, correct?

1 A. Correct. Again, it's not the same
2 analysis I'm doing in this case, though.

3 Q. Okay. So let's shift to the
4 analysis you are doing here regarding core
5 retention.

6 Can a state's desire to preserve the
7 core of prior districts relieve it from its
8 obligations to comply with the Voting Rights Act?

9 A. Does -- does -- I mean, it does --
10 does core retention trump the Voting Rights Act;
11 is that what you're asking?

12 Q. Sure.

13 A. Okay. Well, again, that's a legal
14 matter. But no, as a general matter, the general
15 principle, core retention does not trump the
16 Voting Rights Act; although I will say that
17 there's some caveats. You know, if you are
18 drawing a Section 2 relief district, you can't
19 ignore, completely ignore traditional
20 redistricting criteria like compactness, for
21 instance.

22 Q. You testified earlier that you're
23 not aware of what the prioritized redistricting
24 principles for the State of Louisiana were,
25 correct?

1 A. That's correct. That was a general
2 statement I just made.

3 Q. But you did not --

4 A. That's not related to this
5 particular state at this particular time. I'm
6 just speaking generally.

7 Q. Certainly. But you did not review
8 any rules passed by the legislature identifying
9 the priorities that they were going to apply
10 during this redistricting process?

11 A. As I stated, I did not.

12 Q. Because you don't know those
13 principles, so you don't know if the illustrative
14 plans here comply with those principles, correct?

15 A. Again, I didn't review those
16 principles, so I don't know the answer to that
17 question.

18 Q. Right. And you're offering no
19 opinion as to the compliance of plaintiffs'
20 illustrative maps here with the principles that
21 were outlined by the Louisiana legislature for
22 this redistricting process, correct?

23 A. That is correct, yes. You asked me
24 a general question previously and I answered it,
25 so --

1 Q. Certainly. Dr. Hood, I'd like to
2 pull up Table 4 on page 6 of your report. That's
3 exhibit LEG 1.

4 MS. WENGER:

5 Matthew, can you pull that up on the
6 screen? I believe it's page 8 of the PDF
7 document I've shared.

8 TRIAL TECH:

9 (Complied).

10 MS. WENGER:

11 Thank you.

12 BY MS. WENGER:

13 Q. Dr. Hood, you recognize this table,
14 correct?

15 A. Correct.

16 Q. And the third column here where it
17 says Enacted, that shows the black voting age
18 population in each of the six districts in the
19 enacted plan, correct?

20 A. Correct.

21 Q. And what was the percentage of the
22 black voting age population in the district with
23 the second highest black voting age population?

24 A. In -- for the enacted plan?

25 Q. Correct.

1 A. 33.1, District 4.

2 Q. And District 5, that follows closely
3 behind, correct, with 32.3?

4 A. Correct.

5 Q. All right. And that's not based off
6 any part black, correct?

7 A. That's based off of the DOJ
8 formulation that I discussed previously.

9 Q. Got you.

10 A. So, again, it's non-Hispanic black
11 plus non-Hispanic black plus white, those two
12 categories.

13 Q. You would agree that while factoring
14 other redistricting principles, if a mapmaker's
15 set up to draw a second majority black district,
16 at minimum, that district -- about -- at minimum,
17 about 17 or so percent of one of the non-majority
18 black districts like those here must be displaced
19 in order to make way for enough black voters to
20 form a majority in that second district?

21 MS. PROUTY:

22 Objection, Your Honor. This is
23 outside the scope that Dr. Hood has been
24 offered in this case.

25 MS. WENGER:

1 This is specifically about the
2 population that would have to shift in
3 order to create a second majority district
4 for the core population of an existing
5 district.

6 MS. PROUTY:

7 She's asking hypotheticals about
8 maps that he did not propose or draw in
9 this case and about redistricting
10 principles that he has not testified
11 about.

12 THE COURT:

13 Well, his principle testimony has
14 been about core retention and, as I
15 understand the question, that's what you
16 are getting at.

17 MS. WENGER:

18 Correct.

19 THE COURT:

20 Can you rephrase the question just
21 so the court understands exactly what
22 you're asking?

23 MS. WENGER:

24 Certainly.

25 BY MS. WENGER:

1 Q. So you would agree that if a
2 mapmaker is trying to create a second majority
3 black district using these districts, for
4 example, he would have to take some of the
5 percentage in a non-majority black district, we
6 could say District 4, District 5 here, and you
7 would have to take some of that population and
8 shift it around to create a second black majority
9 district, correct?

10 MS. PROUTY:

11 Your Honor, I apologize. I would
12 object again. Dr. Hood hasn't offered any
13 testimony about how to create a second
14 majority black district. He's just
15 reporting what the core retention figures
16 are that the plaintiffs proposed in this
17 case and not what would have to be done to
18 create a second district.

19 THE COURT:

20 Counsel?

21 THE ATTORNEY:

22 Q. Just?

23 THE COURT:

24 No, no. Address the objection.

25 MS. WENGER:

1 Certainly. I'm specifically just
2 asking about the statistical manipulation
3 here. We don't even have to say they are
4 districts. For example, what type of maps
5 would you have to do to shift these number
6 to get two of those districts, or whatever
7 you wanted to call them, to a 50 percent
8 threshold.

9 THE COURT:

10 Objection sustained.

11 MS. WENGER:

12 Are we able to pull up that same
13 exhibit once more?

14 THE COURT:

15 Yes.

16 MS. WENGER:

17 Thank you.

18 THE COURT:

19 It's part of his report.

20 BY MS. WENGER:

21 Q. Dr. Hood, here you've mentioned that
22 District four and District 5 in the enacted plans
23 have populations just over 30 percent, correct?

24 A. That's correct.

25 Q. And how -- in all of -- how -- what

1 percentage would you have to increase
2 33.1 percent by to reach a 50 percent threshold?

3 MS. PROUTY:

4 Your Honor, same objection.

5 THE COURT:

6 Sustained. Yeah. I mean, he wasn't
7 -- he's been asked to give opinions about
8 the retention in the enacted plan compared
9 to the benchmark plan and the illustrative
10 plans compared to the benchmark plan not
11 what -- well, I don't need to explain it.
12 Objection sustained.

13 BY MS. WENGER:

14 Q. Dr. Hood, let's look at something
15 different. Roughly what is the difference
16 between, in this chart right here, District 5's
17 enacted -- in that enacted column, District 5 is
18 at what percentage point?

19 A. In the enacted plan?

20 Q. Correct.

21 A. 32.3 percent BVAP.

22 Q. And how does that compare to the
23 Robinson plaintiffs' plan?

24 A. It's lower.

25 Q. By about how much?

1 A. 19 percent.

2 Q. And how about in the Galmon 3 plan?

3 A. What about it specifically?

4 Q. What is the difference between the

5 percentage in District 5 in the enacted plan

6 versus the Galmon 3 plan?

7 A. About 19 approximately.

8 Q. 19 percent with the DOJ black

9 metric, correct?

10 A. Yes.

11 Q. In core -- if you were to change any

12 of the numbers in the enacted plan, shifting one

13 percentage here or there in any of those

14 statistics in the enacted plan for each one of

15 the districts, would that have a ripple effect on

16 the other districts?

17 MS. PROUTY:

18 Your Honor, same objection.

19 THE COURT:

20 I'll allow it. To be clear, it

21 doesn't take an expert to tell us that.

22 Go ahead. Answer the question.

23 THE WITNESS:

24 Yes.

25 BY MS. WENGER:

1 Q. And so solely on your opinion of
2 core retention, you have not looked at any of the
3 other redistricting principles and state no
4 opinions on what implications factoring those
5 other principles would have on core retention
6 scores, correct?

7 A. Correct. My opinions in this matter
8 are housed in these two opinion reports presented
9 in court today.

10 MS. WENGER:

11 No other questions.

12 THE COURT:

13 You have any more?

14 MS. PROUTY:

15 No, Your Honor.

16 THE COURT:

17 Okay. It's 5:00 o'clock. How much
18 is left folks? Let's talk about that.

19 MR. STRACH:

20 Your Honor, Phil Strach. We have
21 two witnesses left. The one that's here
22 this afternoon, the direct would be at
23 least 30, 40 minutes and then we have one
24 witness after that, so we should be able
25 to do -- we can -- if we come back

1 tomorrow morning, we should be able to
2 wrap up pretty early in the morning.

3 THE COURT:

4 All right. So if you think that
5 you're -- off the record.

6 (A discussion was held off the record.)

7 THE COURT:

8 You want to start a little early
9 tomorrow morning folks?

10 MR. STRACH:

11 That's fine. 9:00 o'clock?

12 THE COURT:

13 9:00 o'clock works?

14 MS. KHANNA:

15 Yes.

16 THE COURT:

17 All right. Hearing no objection, we
18 will break for the day and we will
19 reconvene at 9:00 a.m.

20 * * *

21

22

23

24

25

1 REPORTER'S PAGE

2 I, CHERIE' E. WHITE, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(B)
6 of the Louisiana Code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the record;

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talkovers; that same is the
13 proper method for the court reporter's
14 transcription of a proceeding, and that dashes
15 (--) do not indicate that words or phrases have
16 been left out of this transcript; also, that any
17 words and/or names which could not be verified
18 through reference material have been denoted with
19 the phrase "(spelled phonetically)."

20

21

22 CHERIE' E. WHITE, CCR (LA NO. 96002)

23 CSR (TX NO 10720)

24 CSR (MS NO. 1514)

25 RPR (NATIONAL NO. 839452)

1 REPORTER'S CERTIFICATE

2

3 This certification is valid only for a
4 transcript accompanied by my original signature
5 and original seal on this page.

6

7 I, CHERIE' E. WHITE, Certified Court
8 Reporter, in and for the State of Louisiana, do
9 hereby certify that the transcript set forth in
10 the foregoing 245 pages; that this testimony was
11 reported by me in the stenotype reporting method,
12 was prepared and transcribed by me or under my
13 personal direction and supervision, and is a true
14 and correct transcript to the best of my ability
15 and understanding; that I am not related to
16 counsel or the parties herein, nor am I otherwise
17 interested in the outcome of this matter.

18

19

20

21 CHERIE' E. WHITE, CCR (LA NO. 96002)

22 CSR (TX NO. 10720)

23 CSR (MS NO. 1514)

24 RPR (NATIONAL NO. 839452)

25

EXHIBIT 5

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

3

4 PRESS ROBINSON, et al, CASE NO.
5 Plaintiffs, 3:22-cv-00211-SDD-SDJ
6 v

7 KYLE ARDOIN, in his
8 official capacity as c/w
9 Secretary of State for
10 Louisiana,
11 Defendant.

12
13 EDWARD GALMON, SR., et
14 al, CASE NO.
15 Plaintiffs, 3:22-cv-00214-SDD-SDJ
16 v

17 R. KYLE ARDOIN, in his
18 official capacity as
19 Louisiana Secretary of
20 State,
21 Defendant.

22

23 PROCEEDINGS

24 INJUNCTION HEARING

25 Held on Friday, May 13, 2022

Before The

HONORABLE SHELLY DICK

Judge Presiding

Baton Rouge, Louisiana

26

27 REPORTED BY:CHERIE' E. WHITE
28 CCR (LA), CSR (TX), CSR (MS), RPR
29 CERTIFIED COURT REPORTER

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4

5 ABHA KHANNA, ESQUIRE

6 JONATHAN P. HAWLEY, ESQUIRE

7 LALITHA D. MADDURI, ESQUIRE

8 OLIVIA N. SEDWICK, ESQUIRE

9 JACOB D. SHELLY, ESQUIRE

10 SAMANTHA OSAKI, ESQUIRE

11 SARAH BRANNON, ESQUIRE

12 JOHN ADCOCK, ESQUIRE

13 STUART NAIFEH, ESQUIRE

14 KATHRYN SADASIVAN, ESQUIRE

15 VICTORIA WENGER, ESQUIRE

16 SARA ROHANI, ESQUIRE

17 JONATHAN H. HURWITZ, ESQUIRE

18 AMITAV CHAKRABORTY, ESQUIRE

19 ADAM P. SAVITT, ESQUIRE

20 DARREL J. PAPILLION, ESQUIRE

21 JENNIFER WISE MOROUX, ESQUIRE

22

23

24

25

1 Representing the Defendant:

2 PHILLIP J. STRACH, ESQUIRE

3 THOMAS A. FARR, ESQUIRE

4 ALYSSA M. RIGGINS, ESQUIRE

5 JOHN C. WALSH, ESQUIRE

6

7 Representing the Legislative Intervenors, Clay

8 Schexnayder, in his Official Capacity as Speaker

9 of the Louisiana House of Representatives, and of

10 Patrick Page Cortez, in his Official Capacity as

11 President of the Louisiana Senate:

12 MICHAEL W. MENGIS, ESQUIRE

13 PATRICK. T. LEWIS, ESQUIRE

14 KATHERINE L. MCKNIGHT, ESQUIRE

15 E. MARK BRADEN, ESQUIRE

16 ERIKA DACKIN PROUTY, ESQUIRE

17

18 Representing the Defendant/Intervenor, State of

19 Louisiana, through Jeff Landry in his Official

20 Capacity as Attorney General:

21 ANGELIQUE DUHON FREEL, ESQUIRE

22 CAREY TOM JONES, ESQUIRE

23 JEFFERY M. WALE, ESQUIRE

24 JASON B. TORCHINSKY, ESQUIRE

25 PHILLIP M. GORDON, ESQUIRE

1	I N D E X	
2		
3	Defendants' Witnesses:	PAGE
4	ALAN MURRAY, Ph.D	
5	Direct Examination by Mr. Gordon	8
6	Cross-Examination by Mr. Neifeh	21
7		
8	SHERRI WHARTON HADSKEY	
9	Direct Examination by Mr. Strach	29
10	Cross-Examination by Mr. Shelly	47
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 EXHIBIT INDEX

2 Plaintiffs' Exhibits:

3

4

5 Defendants' Exhibits:

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 THE COURT:

3 Okay. Good morning, everyone. You
4 can be seated. Okay. I guess maybe we
5 can find out where we are on the clock. I
6 don't think it's going to be an issue.
7 Are we fine? So we can dismiss the clock
8 in the court and the defense may call
9 their next witness.

10 MR. GORDON:

11 Thank you, Your Honor. This is Phil
12 Gordon for the State of Louisiana as
13 intervenors. The state would like to call
14 Dr. Alan Murray.

15 ALAN MURRAY Ph.D,
16 after having first been duly sworn by the
17 above-mentioned Court Reporter did testify as
18 follows:

19 MR. GORDON:

20 First, Your Honor, as it's been a
21 practice, I'd like to receive a
22 stipulation as to the witness's expertise.
23 We would like to tender Dr. Murray in
24 demographic analysis, spatial analytics as
25 it relates to race, and statistics.

1 MR. NAIFEH:

2 No objection.

3 THE COURT:

4 All right. Mr. Murray will be
5 allowed to give testimony on demographic
6 -- what was it, demographic what?

7 MR. GORDON:

8 Analysis.

9 THE COURT:

10 Spatial analytics as it relates to
11 race and the third thing was?

12 MR. GORDON:

13 Statistics.

14 THE COURT:

15 Statistics. All right. You may
16 proceed.

17 MR. GORDON:

18 Your Honor, may I approach the
19 witness?

20 THE COURT:

21 You may.

22 THE DEPUTY:

23 Would you just state and spell your
24 name for the record?

25 THE WITNESS:

1 My name is Alan Murray, A-L-A-N,

2 M-U-R-R-A-Y.

3 DIRECT EXAMINATION BY MR. GORDON:

4 Q. Thank you, Dr. Murray. Where are
5 you currently employed?

6 A. University of California, Santa
7 Barbara.

8 Q. And what is your title at the
9 university of --

10 A. I'm a professor in the field of
11 geography.

12 Q. And is that a tenured position?

13 A. Yes.

14 Q. What degrees do you hold?

15 A. I have a bachelor's in mathematics,
16 a masters in probability and statistics and a
17 Ph.D in geography.

18 Q. And how long -- approximately how
19 long have you been a professor?

20 A. 25 years, 27 years.

21 Q. And what classes do you teach?

22 A. I teach classes in spatial
23 statistics; geographic information systems, GIS;
24 and spatial optimization location modelling.

25 Q. And have you ever testified as an

1 expert witness in a case before?

2 A. Yes, I have.

3 Q. And in what -- in what capacity did
4 you testify?

5 A. I provided expert testimony during a
6 deposition.

7 Q. And so have you ever testified at a
8 trial?

9 A. No.

10 Q. So this is your first time?

11 A. Yes.

12 Q. Approximately how many publications
13 do you have?

14 A. Approximately 300.

15 Q. And are those publications relevant
16 to your area of expertise?

17 A. Yes.

18 Q. And about how many times has your
19 research been cited?

20 A. 17,000.

21 Q. And are both of those in various
22 peer-reviewed journals?

23 A. Yes.

24 Q. Okay. Moving more to the work that
25 you did in this case, Dr. Murray, how many

1 reports did you provide?

2 A. One.

3 Q. And what sources did you analyze in
4 formulating the opinions in your report?

5 A. I looked at a number of
6 redistricting studies, some academic literature
7 in redistricting.

8 Q. And what data did you use to
9 formulate opinions in your case, in this case?

10 A. I used U.S. Census block level data.

11 Q. And are you responding to any
12 specific plaintiffs' report and with your report?

13 A. No.

14 Q. Did you review any of the other
15 plaintiffs' expert reports?

16 A. No.

17 Q. And I guess it goes without saying,
18 but in any way did you respond to any specific
19 plaintiffs' experts reports in your report in
20 this case?

21 A. No, I did not.

22 Q. What were you asked to do in this
23 case?

24 A. I was asked to look at the spatial
25 distributions of black voting age population and

1 white voting age population in the State of
2 Louisiana.

3 Q. And who reached out to you about
4 doing work in this case?

5 A. Jason Torchinsky.

6 Q. And how much per hour were you paid
7 for your work related to this case?

8 A. 250.

9 Q. And how many -- about how many hours
10 have you spent on your analysis in this case?

11 A. Somewhere between 20 and 30 hours.

12 Q. And did you do any analysis of any
13 on socioeconomic factors related to your expert
14 report?

15 A. No.

16 Q. Did you do an analysis of what are
17 called the traditional redistricting criteria for
18 your report?

19 A. No.

20 Q. Did you do an analysis of racially
21 polarized voting?

22 A. No.

23 Q. Did you opine as to the proper
24 metric for measuring black population?

25 A. No, I did not.

1 Q. So focusing on the substance of your
2 report now, what conclusions did you reach in
3 your report?

4 A. I reached the conclusion that black
5 and white voting age population are
6 heterogeneously distributed across the street and
7 they are not distributed in the same manner
8 geographically.

9 Q. All right. Now, let's turn to your
10 report, which is State Exhibit 4.

11 MR. GORDON:

12 Can you please bring up Figure 3A-3
13 on page 11.

14 TRIAL TECH:

15 (Complied.)

16 MR. GORDON:

17 And if we can blow up Figure 3A-3,
18 please?

19 TRIAL TECH:

20 (Complied.)

21 BY MR. GORDON:

22 Q. So what is this map?

23 A. In this figure, it's showing the
24 percent any part black voting age population
25 across the state at the census block level.

1 Q. And what is the measurement of --
2 sorry. Let me back up. What does this map show
3 you?

4 A. So this shows the distribution in
5 terms of the percentage voting age population
6 across the state; and, in particular, it shows
7 low percentages in what would be characterized as
8 the rural areas of the state and in more urban
9 areas higher concentrations of any part black
10 voting age population.

11 Q. And what does this map tell you
12 about the population who identify as any part
13 black throughout the city or -- yes.

14 A. It tells us that there are a few
15 distributed in the rural areas and again more
16 concentrated in urban areas.

17 Q. And that's as a percentage of the
18 population?

19 A. Yes.

20 MR. GORDON:

21 Now, let's turn now to Figure 3A-14
22 on page 21.

23 TRIAL TECH:

24 (Complied.)

25 BY MR. GORDON:

1 Q. So focusing your attention on 3A-14,
2 the difference in percent white and black
3 non-spatial correlation, what does this map show?

4 A. So this map is a summary of spatial
5 statistical measure local brands that detects
6 whether there is clustering of like or unlike
7 areas in terms of, in this case, the difference
8 between the percent white and the percent black
9 non-Hispanic voting age population.

10 Q. Okay. And so let's back up a couple
11 steps. First, let's start with what is spatial
12 auto correlation?

13 A. So spatial auto correlation is a
14 measure that looks at the simulate of one
15 observation in this case a block to its
16 neighboring block attribute values.

17 Q. Okay. And then you use the term
18 previously called more rans I can you please try
19 to explain that in laymen's terms?

20 A. So it's a statistical measure that
21 looks at the observed at /PR-BT value compared to
22 the mean and it looks at the deviation from this
23 mean of an observation and to its neighbors.

24 Q. All right. And then let's proceed
25 sort of through the you have here first tell me

1 what is not significantly?

2 A. So in terms of the key non
3 significant suggests that statistically the
4 observed differences of an observation to its
5 neighbors are not statistically different; that
6 is they are sort of random and differing in some
7 way.

8 Q. And how about high high is the next?

9 A. So high high indicates in this case
10 that the block has a high percentage of the white
11 population surrounded by areas that also have a
12 high percent white population.

13 Q. Okay. And the low low?

14 A. Low low in this case suggests that
15 it has a low percent white population surrounded
16 by areas of low white population or conversely
17 high black population.

18 Q. Okay. And how about low high?

19 A. So low high indicates a low percent
20 white population surrounded by a high percent
21 white population.

22 Q. And then just for completeness, high
23 low?

24 A. High low suggests high percentage
25 white population, voting age population

1 surrounded by low percent, areas of low percent
2 voting age population.

3 Q. Okay. Thank you. So what do the
4 patterns of red, the various red shades and blue
5 shades and the clearer white tell you about the
6 population distribution of Louisiana?

7 A. So in terms of the high high, what
8 we see is predominantly, at least in terms of
9 this figure, the demonstration that rural areas
10 are effectively high percent white, very high
11 percent white surrounded by other areas that are
12 high percent white, so the clustering of high
13 percentage white population. And --

14 Q. And then what does it tell you about
15 the distribution of black population in
16 Louisiana?

17 A. So in this case, the blue would
18 indicate high percentage of black population,
19 voting age population on Hispanic and the -- they
20 are effectively in the more urban areas of the
21 state.

22 Q. And as an academic who works with
23 this data frequently, are these results
24 statistically significant?

25 A. Yes. All of the indicated colors

1 are statistically significant.

2 MR. GORDON:

3 All right. Can we zoom out and then
4 zoom in on 3A-15 right below it?

5 TRIAL TECH:

6 (Complied.)

7 BY MR. GORDON:

8 Q. Can you just briefly describe what
9 this map shows?

10 A. So this map shows that for each of
11 the colored areas in the previous figure the
12 associated levels of significance.

13 Q. And what does "very significant"
14 mean?

15 A. So, in this case, the significant
16 levels go down to a P of 0.5 up to a P of 0.001;
17 and in all cases in statistics, these are all
18 considered significant levels.

19 Q. And just for our edification, they
20 are all significant for academic purposes, but
21 which color is more significant versus less
22 significant?

23 A. So the darker green would suggest a
24 higher level of significance, but you're pretty
25 much nitpicking here. All of these are

1 significant.

2 MR. GORDON:

3 All right. If we could zoom out?

4 TRIAL TECH:

5 (Complied).

6 MR. GORDON:

7 And if we can bring up Figure 3A-14,

8 zoom in on -- if you can bring it up side

9 by side with Figure 3A-3 on page 11?

10 Page 11, please.

11 TRIAL TECH:

12 (Complied.)

13 BY MR. GORDON:

14 Q. So comparing Figures 3A-14 to

15 Figure 3A-3, what does that -- how do those two

16 maps relate to one another?

17 A. The observed distribution in this

18 case of any part black seems to conform or match

19 exactly what we see in terms of the significance

20 categories identified in Figure 3A-14.

21 Q. Okay. And I noticed that on your

22 Figure 3A-14 you use black non-Hispanic and

23 Figure 3A-3 you use any part black; is that

24 right?

25 A. Yes. This is true.

1 Q. And does that make any difference to
2 the ultimate conclusions in your report?

3 A. In this case, they seem to indicate
4 exactly the same thing.

5 MR. GORDON:

6 All right. Now, let's move now to
7 your sub state analysis on page 22.

8 TRIAL TECH:

9 (Complied.)

10 MR. GORDON:

11 And if we just blow up both
12 New Orleans and Baton Rouge.

13 TRIAL TECH:

14 (Complied).

15 BY MR. GORDON:

16 Q. First, focusing on the New Orleans
17 area, which is the top map, what does this map
18 show?

19 A. So this map is a zoomed in version
20 of Figure 3A-14, so the same categories are shown
21 in these colored -- coloring schemes. And this
22 shows the greater New Orleans area, and what we
23 see here in zooming in, something you can't
24 really differentiate in Figure A, Figure 3A-14
25 you can see that within the urban area there's

1 quite a bit of spatial segregation or differences
2 in terms of percent white voting age population
3 and percent black voting age population in the
4 city.

5 Q. All right. And now looking down at
6 the Baton Rouge area, which is just below that,
7 what does that map show us?

8 A. A similar sort of phenomena that
9 there is segregation of these two racial groups
10 within the city, and that in Baton Rouge there's
11 also this distinguishing characteristic of
12 highlighting some of the more rural areas and the
13 fact that they are higher percent white
14 population surrounded by areas that are also high
15 percent white population.

16 Q. Okay. So overall then, how is black
17 voting age population dispersed in Louisiana?

18 A. Black voting age population seems to
19 be predominantly more concentrated in urban
20 areas, but even in urban areas, obviously it --
21 as shown in these figures, it varies as well, but
22 definitely heterogeneously distributed across the
23 state but also within urban areas.

24 Q. Okay. And turning now to the last
25 page of your report, page 24.

1 MR. GORDON:

2 Can you blow up the table on 24,
3 please?

4 TRIAL TECH:

5 (Complied.)

6 BY MR. GORDON:

7 Q. And what does this table show?

8 A. So this table shows miles between
9 these indicated samplings of cities and the
10 distance metric is Euclidian straight line
11 as-the-crow-flies distance in miles again.

12 Q. All right. And so let's see if
13 there's a firm example. What is the distance as
14 the crow flies between Monroe and Baton Rouge?

15 A. It's 152 miles, and this would be
16 from city center to city center.

17 Q. Thank you.

18 Mr. GORDON:

19 At this time, I'd like to admit
20 State's Exhibit 4 into evidence.

21 MR. NAIFEH:

22 No objection.

23 THE COURT:

24 Admitted. Cross?

25 CROSS-EXAMINATION BY MR. NEIFEH:

1 Q. Good afternoon, Dr. Murray, or good

2 morning. I guess we are --

3 A. Good morning.

4 Q. -- still morning. You have no

5 background in electoral redistricting, correct?

6 A. That's correct.

7 Q. And you've never published on

8 electoral redistricting in a peer-reviewed

9 journal; is that correct?

10 A. That's correct.

11 Q. And have you ever published on

12 redistricting in any academic publication?

13 A. No, I have not.

14 Q. And have you ever published on

15 redistricting anywhere?

16 A. I've published on districting, but

17 not political redistricting, no.

18 Q. Okay. And you've never drawn

19 redistricting plans for electoral districts; is

20 that right?

21 A. No, I have not.

22 MR. NEIFEH:

23 And can we bring up State 4 at

24 page 5?

25 TRIAL TECH:

1 (Complied.)

2 BY MR. NEIFEH:

3 Q. And so this is the executive summary
4 from the report filed in this case; do you
5 recognize it?

6 A. Yes, I do.

7 Q. And, in the first paragraph, you say
8 you were engaged by the attorney general's office
9 to assess the characteristics of five
10 congressional redistricting plans. You stated on
11 direct that you did not review any of the expert
12 reports submitted by the plaintiffs in this case,
13 correct?

14 A. That's correct.

15 Q. And so you haven't reviewed any
16 congressional redistricting plans submitted by
17 the plaintiffs in this case; is that correct?

18 A. Well, I was asked to do this work in
19 the context of these congressional redistricting
20 plans.

21 Q. But did you review any congressional
22 redistricting plans?

23 A. No, I did not.

24 Q. And outside of this statement in the
25 executive summary, your report makes no mention

1 of any congressional redistricting plans,
2 correct?

3 A. That's correct. But, again, this
4 was the context in which I was asked to do the
5 analysis.

6 Q. And so you express no opinion in
7 your report on the characteristics of any
8 congressional redistricting plan involved in this
9 case; is that correct?

10 A. That's correct.

11 Q. And you express no opinion on
12 whether the black population in Louisiana was
13 sufficiently numerous and geographically compact
14 to form two majority congressional districts in
15 Louisiana; is that correct?

16 A. That's correct.

17 Q. In other words, you don't have an
18 opinion on whether two districts that are
19 consistent with traditional redistricting
20 principles can be drawn in Louisiana's
21 congressional plan in which a minority of the
22 voting age population is black; is that right?

23 A. That's true.

24 Q. And you have no basis to disagree
25 with any of the opinions offered by the

1 plaintiffs' experts in this case, correct?

2 A. I don't know what the opinions are,
3 but --

4 Q. So you have no basis to disagree
5 with any of them?

6 A. At this point, yeah, that's true.

7 Q. Have you ever previously analyzed
8 the distribution of black and white populations
9 in any state other than Louisiana?

10 A. Yes, I have.

11 Q. And are you aware of any state in
12 which the black and white population is not
13 heterogeneously distributed?

14 A. Based on my experience, I have not
15 seen that.

16 Q. Are you aware of any court that has
17 considered a spatial analysis of the kind you
18 performed in this case in a case involving
19 Section 2 of the Voting Rights Act?

20 MR. GORDON:

21 Excuse me, Your Honor. I'd like to
22 enter an objection. He's seeking opinions
23 outside of his relative expertise. He
24 would have no reason to know about the
25 court cases.

1 THE COURT:

2 Sir, I actually missed your
3 question. I was going to ask you to
4 repeat it. Can you repeat it and then I
5 can rule on it?

6 MR. NEIFEH:

7 The question is is Dr. Murray aware
8 of any court that has considered a spatial
9 analysis of the kind he performed here in
10 a case involving Section 2 of the Voting
11 Rights Act.

12 THE COURT:

13 I'll overrule the objection.

14 THE WITNESS:

15 I am not aware, no.

16 MR. NEIFEH:

17 And can we turn to page 25 of
18 State 4?

19 TRIAL TECH:

20 (Complied.)

21 BY MR. NEIFEH:

22 Q. So these are your conclusions in
23 your report; is that correct?

24 A. Yes, they are.

25 Q. And you state that one of your

1 conclusions is that the white and black voting
2 age populations are not at all similarly
3 geospatially distributed with significant
4 clusters of concentrated groupings.

5 So your -- by that, you just -- I --
6 confess I could not follow the math in your
7 report, but are you simply telling us that black
8 people and white people are not disbursed equally
9 across the state?

10 A. Yes.

11 Q. And, similarly, your conclusion is
12 that black people and white people are
13 concentrated at different places in the state?

14 A. Yes.

15 Q. Okay. And I think you said this
16 earlier, but just so I'm clear.

17 MR. NEIFEH:

18 Can we pull up page 22, Figures
19 3A-16 and 3A-17 of the report?

20 TRIAL TECH:

21 (Complied.)

22 BY MR. NEIFEH:

23 Q. And here, is this an example of the
24 difference in the spatial distribution of the
25 black and white population within cities?

1 A. No, it's not. It's -- what it's
2 showing are clusters of like areas, so in the
3 red, these would be high concentration high
4 percent white voting age population surrounded by
5 high percentage white voting age population, so
6 it's not a distribution per se. It's showing a
7 statistical summary of a comparison of observed
8 racial population in a block compared to its
9 neighbors.

10 Q. Okay. Just so I understand; and,
11 again, I may be simplifying again. Essentially
12 what you're telling us using a mathematical model
13 is that residential patterns in these cities are
14 highly segregated; is that correct?

15 A. Yes.

16 Q. Okay.

17 MR. NAIFEH:

18 I have no further questions.

19 THE COURT:

20 Is there any redirect?

21 MR. GORDON:

22 Nothing for me, Your Honor. Thank
23 you.

24 THE COURT:

25 Okay. You may step down. Thank

1 you, sir.

2 MR. STRACH:

3 Your Honor, Phil Strach. The
4 defense calls Sherry Hadskey.

5 SHERRI WHARTON HADSKEY,
6 after having first been duly sworn by the
7 above-mentioned Court Reporter did testify as
8 follows:

9 THE DEPUTY:

10 And, if you would, please state your
11 name and spell it for the record.

12 THE WITNESS:

13 Sure. Sherri, S-H-E-R-R-I, Wharton,
14 W-H-A-R-T-O-N, Hadskey, H-A-D-S-K-E-Y.

15 DIRECT EXAMINATION BY MR. STRACH:

16 Q. Good morning, Ms. Hadskey.

17 A. Good morning.

18 Q. Could you tell the court what your
19 current position is?

20 A. I am the commissioner of elections
21 for the Louisiana Secretary of State.

22 Q. And could you give us a brief
23 overview of your position, what you do?

24 A. I oversee elections. We have
25 elections of operations, elections field

1 operations, elections business and elections
2 services; and I oversee the administration of the
3 elections process.

4 Q. All right.

5 MR. STRACH:

6 Forest, could we pull up
7 Ms. Hadskey's affidavit, which is SOS-1?

8 TRIAL TECH:

9 (Complied.)

10 BY MR. STRACH:

11 Q. Ms. Hadskey, does this appear to be
12 a copy of the affidavit declaration you submitted
13 in this case?

14 A. Yes, it does.

15 Q. And does this affidavit outline your
16 professional background and current duties?

17 A. Yes, it does.

18 Q. All right. Then we won't go into
19 detail on that.

20 MR. STRACH:

21 You can take it down, Forest.

22 TRIAL TECH:

23 (Complied.)

24 BY MR. STRACH:

25 Q. Thank you, Ms. Hadskey.

1 Do your duties include the new
2 redistricting plans at the state and federal
3 level?

4 A. Yes, it does.

5 Q. All right. So let's focus in here
6 on what we are all here about, the congressional
7 redistricting plans in terms of the enacted plan,
8 the enacted congressional plan.

9 What is the current status of the
10 readiness of that plan for the 2022 election?

11 A. The parishes that had changes, 15 of
12 them have already been completed, the voter cards
13 to the 250,000 voters have been sent, and we are
14 preparing now for the next session of
15 redistricting.

16 Q. All right. Is there -- is there a
17 deadline coming up on June 22nd?

18 A. Yes.

19 Q. What is that deadline?

20 A. So the deadline on June 22nd is the
21 deadline for all school board redistricting plans
22 to be provided to the state. Also, it's the
23 deadline for a petition to be submitted by anyone
24 who would like to qualify, and they have to have
25 the appropriate number of signatures, which they

1 have 120 days to get those signatures.

2 Q. All right. So on June 22nd, folks
3 who want to get on the ballot through a nominated
4 petition have to submit that petition by that
5 date?

6 A. Correct. With all of the
7 signatures, which will be submitted to the
8 registrars for verification.

9 Q. All right. And so is your office
10 ready and prepared for that deadline as of today?

11 A. We are, because the cards have
12 notified the voters which districts they are in,
13 the people that want to qualify for nominating
14 petition will have the correct areas that they
15 need to get the signatures from.

16 Q. All right. When is the qualifying
17 deadline for congressional candidates who want to
18 pay a filing fee?

19 A. Qualifying deadline is -- well,
20 qualifying is the 20th, 21st and 22nd of July.

21 Q. All right. So you're working
22 between now obviously and June 22nd and
23 July 20th. What kind of activities is your
24 office engaged in and facing between now and
25 July 20th?

1 A. So currently we are receiving the
2 school board plans to begin the process for
3 redistricting with the school boards, which is
4 quite complicated. We also have 158
5 municipalities that can be redistricted and we
6 are waiting for that information to come in as
7 well. We are conducting an election on June 4th
8 because of a redistricting error that was made in
9 the March 26th election in Calcasieu Parish, so
10 we have early voting and the election process
11 going on for that particular area. We begin
12 canvass on May 23rd for our voter registration
13 roles and we will be sending out the cards for
14 canvass which are going to be due back July 1st.

15 Also during this time, it's the only
16 time of the year that we can conduct our yearly
17 maintenance on all equipment, our scanners, other
18 voting machines, all of our -- all of the
19 information that we have to have for the
20 machines, batteries, everything that has to be
21 changed.

22 We also are responsible for the acts
23 of legislation and we are currently looking at
24 possibly 800 acts that we have to process as soon
25 as session ends, which is June 6th; and in any of

1 those acts or any legislation that changes our
2 certificates or registration forms or any part of
3 the election process, we have to update that
4 information. We have to train on that
5 information and we have to get everything printed
6 to be able to provide for everyone, every
7 registered voter I should say.

8 Q. All right. Do you have any duties
9 with regard to constitutional amendments?

10 A. Yes. The constitutional amendments,
11 once they come out of the legislature, we are
12 responsible to write the summaries, have the
13 summaries placed in order, then it has to be
14 improved by the attorney general and we have a
15 very limited amount of time to get that onto the
16 instructions and the posters for the voters to be
17 able to have those at the precincts.

18 Q. All right. So the canvas, what
19 exactly is the canvas? Describe that process for
20 us.

21 A. So canvas is where we are comparing
22 to NOCCA, we are comparing to the USPS; and if
23 there's changes in a registered voter's address
24 or changes in a registered voter's name, etc.,
25 they are mailed a card. It's identified,

1 compared to our voter registration list and they
2 are mailed a card to say something has changed,
3 are you still at this address, do you still live
4 at this location and then the voters are
5 responsible to contact the registrars to update
6 the information or make the changes necessary; so
7 it's basically maintaining the voter roles.

8 Q. Do voters get notices in the mail if
9 the canvas effects them?

10 A. Absolutely.

11 Q. All right. When -- as you're
12 processing the -- and the redistricting is going
13 on for the local school boards, will voters get
14 cards notifying them of their school board
15 districts as those are processed?

16 A. Absolutely. They have to know what
17 district they are in. We have already been
18 contacted by someone who wants to qualify by
19 petition and they have to know which area to get
20 their signatures in and the voter, the candidate
21 who wants to qualify needs to know which district
22 they are in, if it's the same or if it's changed.

23 Q. Do voters get notices as the
24 municipal districting process too?

25 A. Yes, absolutely.

1 Q. All right. So between now and
2 July 20th, some voters could be getting as many
3 as three or four notices in the mail regarding
4 their -- the varying districts, correct?

5 A. Correct.

6 Q. You're aware that in this case the
7 plaintiffs have submitted through experts several
8 illustrative redistricting plans for Congress;
9 are you aware of those?

10 A. Yes.

11 Q. Have you reviewed those illustrative
12 plans?

13 A. Yes.

14 Q. All right. If through this
15 litigation your office had to implement a new
16 congressional redistricting plan that looked like
17 one or more of those illustrative plans, what
18 implications would that have for elections
19 administration in Louisiana?

20 A. So our errand system, which is our
21 voter registration system, currently had the
22 plans created and then the plans rolled over into
23 the live Aaron system. In order to redo those
24 plans, we would have to back out the work that
25 was done and then re-enter all of the new work

1 required for the plan so that the voters are
2 informed and are given the correct districts that
3 they need to have a ballot for.

4 Q. And you mentioned that when you were
5 coding the current plan, that was about 15
6 parishes that you had to code?

7 A. That's correct.

8 Q. And in the illustrative plans,
9 approximately how many parishes would you have to
10 redo or do again to code those plans in the
11 system?

12 A. It appears to be 25, approximately
13 25.

14 Q. All right. And so if you were -- if
15 you were required to undo the 15 parishes, redo
16 25 parishes, you would be doing that while all
17 this other work is going on in your office,
18 correct?

19 A. Correct. And it's very cumbersome
20 and I think you can understand when you have a
21 new registrant or a moved registrant and you are
22 incorporating these plans and then you have to
23 put this additional person into this plan and
24 figure out all of the districts that they should
25 be a part of, the concern is to make certain that

1 all of that information is correct; otherwise,
2 you end up with incorrect ballots.

3 Q. And who are the folks at the local
4 level who run the parishes?

5 A. The registrar, the clerk of court,
6 yes. The registrar of voters is responsible to
7 move the voters when they are split in precincts.
8 Any splits in precincts require that they are
9 moved by hand, by street range or by individual
10 voter. And it's very complicated, that process
11 is on them, and then they -- currently, it takes
12 them several weeks to get this done.

13 Now, the problem that we had in
14 Calcasieu stemmed from the late census
15 information coming through and the short amount
16 of time that the locals had to get that
17 information entered; and by doing it quickly and
18 -- and trying to process everything as fast as
19 they could to be ready for qualifying, mistakes
20 were made, so on election day people were given
21 the wrong ballot.

22 Q. All right. Do you have any --
23 obviously this is a once-a-decade process for
24 congressional maps. Do you have any new
25 registrars at the local level this year who have

1 never done redistricting before?

2 A. Yes. We have 19 new registrars that
3 will be doing this process for the first time as
4 the registrar of voters.

5 Q. All right. And if you had to
6 process a new congressional plan sometime between
7 now and July 20th, would a new round of notices
8 have to go out to the voters?

9 A. Absolutely.

10 Q. Okay.

11 A. The most important thing is that the
12 voter and the candidates know the districts that
13 they are living in and that they will vote in.

14 Q. And the cards, would they have to go
15 out in plenty of time for the candidates to
16 actually study the plan and decide what to do and
17 the voters decide what to do?

18 A. Yes. Yes.

19 Q. Are there any issues in your
20 affidavit declaration? You talked about a paper
21 shortage. What does that -- how does that play
22 into this process?

23 A. So we have supply chain shortages
24 right now that we are dealing with for elections,
25 actually the entire nation is dealing with for

1 elections. One of those is the paper shortage.

2 We attempted to get the envelopes
3 for our absentee by mail process and we searched
4 -- actually the division of administration
5 assisted us in searching the entire United States
6 to try and find the paper to produce our
7 envelopes. They also reached out to Canada and
8 fortunately at the last minute we were able to
9 find one paper mill that could provide the paper
10 that we need; however, it's, of course, at a much
11 higher rate of pay, rate of cost.

12 Q. All right. So in light of all the
13 many activities your office is engaged in, if you
14 had to do a new congressional plan sometime
15 within the next few months, what is your
16 assessment of whether you could -- you could pull
17 that off error free?

18 A. I'm extremely concerned. I'm very
19 concerned because when you push -- when you push
20 people to try and get something done quickly and
21 especially people that have not done this process
22 before, the worst thing you can hear from a voter
23 is I'm -- I'm looking at my ballot and I don't
24 think it's right, I think I'm in the wrong
25 district or I don't feel like I have the right

1 races.

2 The other thing is notifying the
3 voters. I think we all can relate to we know who
4 our person is that we voted for for Congress or
5 for a school board or any race; and when you get
6 there and you realize it's not the person you are
7 looking for, you're thinking that's who you are
8 going to vote for and then you find out, wait,
9 I'm in a different district. If we don't notify
10 them in enough time and have that corrected, it
11 causes confusion across the board, not just
12 confusion for the voters, but also confusion for
13 the elections administrators trying to go back
14 and check and double check that what they have is
15 correct.

16 Q. Okay. So, broadly speaking, aside
17 from just election administration, are there any
18 other factors that concern you in considering the
19 election schedule this year?

20 A. Yes. Unfortunately and sadly, for
21 the last two years, it's been -- the last -- the
22 last two years have been the hardest in my entire
23 career. I have no way of knowing if COVID is
24 going to come back up this coming fall, and that
25 alone added an additional massive amount of work

1 on the locals and on the state to be able to
2 provide for social distancing, not have poll
3 locations in nursing facilities, etc. So I'm
4 very concerned about that coming at us like a
5 freight train.

6 And then I'm also concerned about --
7 I think we all know in 2020 we could not find
8 hand sanitizer, we couldn't find masks. We
9 actually were buying barrels and trying to make
10 it ourselves. There's concern of having the
11 supplies necessary for that.

12 The other concern that I have, which
13 is a tremendous concern, is over the past two
14 years we have had to unfortunately deal with
15 hurricanes, and some of them have been just
16 catastrophic. And the worst is having one five
17 days prior to the presidential election. It's an
18 unbelievable amount of work to be able to provide
19 people a safe polling location that is near their
20 area.

21 And we -- the local governing
22 authorities are responsible for polling
23 locations, however, when a hurricane hits, you're
24 -- some are displaced, the local elections
25 administrators are displaced or they are

1 devastated with their homes and their family
2 homes and so the state does assist in that
3 process, but it adds to the regular elections
4 process. So we already have a tight schedule for
5 our elections and then on top of that adding
6 these other factors make it even more difficult
7 and scary, to say the least, and now having
8 redistricting on top of that, so I am very
9 concerned.

10 Q. Okay. I'll represent to you --
11 going to another topic -- there's been some
12 testimony in this hearing about change of
13 register voter in general, so I thought it would
14 be a good chance for you to tell the court from
15 your perspective what does your office do to
16 provide voting currently?

17 A. So currently, you can register to
18 vote at the social security offices, the food
19 stamp offices, the department of motor vehicles.
20 We also have an outreach division that -- I've
21 always been proud of -- Dr. Sandra Wilson was our
22 first outreach director. She's the registrar in
23 New Orleans, and I worked with her for years; and
24 we do private elections, we go out and do
25 outreach. We also have a voter registration

1 week, and Louisiana has a 90 percent rate of
2 voter registration, which we are very proud of.
3 That's -- that's a huge accomplishment. And from
4 all areas of the state, East Baton Rouge, Caddo,
5 Orleans, all of the locals, Mayor Cantrell,
6 everybody can tell you we not only do the private
7 elections and encourage voter registration, but
8 we also work hand in hand with them, that if they
9 ever have a need for the voting machines or
10 things like that, we work hand in hand together
11 with that. It's a great program.

12 Q. Does your office offer online
13 registration?

14 A. We do.

15 Q. And what's the -- what's the
16 schedule for early voting?

17 A. So early voting is -- it begins two
18 weeks prior to election day and ends the week
19 prior to election day and so for a congressional
20 election, it's Tuesday to Tuesday; for a state
21 election, it's Saturday to Saturday.

22 Q. All right. Now, you are familiar
23 with the law called UOCAVA regarding overseas
24 ballots?

25 A. Correct.

1 Q. What's the deadline this year for
2 you to send ballots pursuant to that law?

3 A. September 24th, all ballots have to
4 be mailed to meet the UOCAVA federal guidelines,
5 and the state works diligently with the
6 Department of Justice. I've already had two
7 meetings with them regarding our plan to make
8 sure that we meet that deadline and to confirm
9 that we meet that deadline, and I have to report
10 back to them that we did meet that deadline.

11 Q. All right. Is there anything in
12 particular you do for voter registration outreach
13 and voting outreach to the minority community?

14 A. We do. We do. We -- all
15 communities, everybody, more than anything, as
16 much work as we put into conducting and
17 administering elections, we want people to vote.
18 We want people to be registered to vote and we
19 want participation. That's critical. So we do
20 lots of outreach and we do lots of -- of
21 conducting of private elections, unions, state
22 police, all of the local area, Zulu.

23 We've done many, many private
24 elections to encourage people to learn about the
25 machines and also encourage them to register to

1 vote: Churches, community centers, everything.
2 And I myself have done some of that, and that's
3 the great part of our job. That's the fun part
4 of our job.

5 Q. So there's also been some -- I'll
6 represent to you just some general testimony
7 about polling location changes and things like
8 that.

9 I just want to make sure it's clear
10 from your perspective who is responsible for
11 decisions regarding polling location changes and
12 precinct consolidations and things like that.

13 A. So the election code states that it
14 is the parish governing authority, so your local
15 parish council or your parish police jury, they
16 are responsible for selection of the polling
17 locations and for submitting the polling location
18 to our office so that we can upload that
19 information to Aaron; and that way on the Geaux
20 Vote aspect and in Aaron on our voter port at all
21 people can be notified. And also we send the
22 cards notifying people that that is where their
23 polling location has been moved by your parish
24 governing authority or your police jury.

25 Q. All right. Thank you.

1 MR. STRACH:

2 Your Honor, I don't have any further
3 questions at this time.

4 THE COURT:

5 Cross?

6 CROSS-EXAMINATION BY MR. SHELLY:

7 Q. I'm Jacob Shelly for the plaintiffs.

8 A. Hi.

9 Q. Good morning. Good morning,
10 Ms. Hadskey. How are you this morning?

11 A. Good morning. Nice to see you.

12 Q. As I stated, my name is Jacob
13 Shelly. I just have a few quick questions for
14 you this morning.

15 You mentioned a paper shortage in
16 your declaration; is that right?

17 A. That's correct.

18 Q. And you were pointing to a couple of
19 documents from that group that goes by the
20 acronym EISCC.

21 A. EISCC, the EISCC, yes.

22 MR. SHELLY:

23 Let's just pull those documents up
24 quickly. First one is at page 9 of the
25 affidavit that you submitted.

1 TRIAL TECH:

2 (Complied.)

3 BY MR. SHELLY:

4 Q. This document is titled Ballot Paper

5 Supply Chain Risk Management; is that correct?

6 A. Uh-huh (affirmatively).

7 Q. And then let's jump to the second

8 document, which is on page 11. This one is

9 called ballot paper supply chain, risk

10 management; is that right?

11 A. Yes.

12 Q. Your office hadn't printed any

13 ballots for the 2022 elections, correct?

14 A. No. We have only printed ballots

15 for the June 4th election at this time.

16 Q. And you won't know which candidates

17 are qualified to appear on the congressional

18 elections until July 29th at the earliest?

19 A. That's correct.

20 Q. The number of ballots the state

21 needs for those November elections won't change

22 based on the shape of the congressional

23 districts, correct?

24 A. No. No. It should not be based on

25 the shape of the congressional districts. It's

1 based on the number of candidates that qualify,
2 the number of constitutional amendments. In
3 other words, you may have a one-page ballot or
4 you could have a three-page ballot depending on
5 who qualifies.

6 Q. Right. You discussed absentee
7 envelopes with Mr. Strach I believe. No absentee
8 ballots have gone out yet; is that correct?

9 A. Not yet.

10 Q. And those won't need to be printed
11 until 45 days before the election?

12 A. Oh, no. We have to have them
13 printed way in advance. We -- Louisiana has a
14 special envelope. It has an affidavit flap on
15 it. It's unique. There's not -- to my
16 knowledge, there's no other state or jurisdiction
17 in the United States that has the detailed flap
18 that we have, and it's very difficult to print.

19 When we put it out to bid in the
20 past, only three companies in the nation were
21 able to print this particular envelope in the way
22 that it's made; and the information that's on it
23 and in order to have them print, proof, print all
24 of them that are necessary for the primary and
25 the general and then have them shipped to us then

1 -- then break it down and distribute them to the
2 parishes, we have to receive those by August 1st.
3 We can't receive them any later than that or we
4 wouldn't be able to get them out to the locals to
5 be able to have them to use.

6 Q. Thank you. The number of absentee
7 envelopes will not change depending on the shape
8 of the congressional districts, correct?

9 A. No. That will depend on the number
10 of people that apply for an absentee ballot and
11 the number of people that apply for the programs
12 like the over 65 program or disability program,
13 things like that.

14 Q. You suggested that the paper
15 shortage might effect the printing of voter
16 registration cards, correct?

17 A. It could effect any item that we
18 have to print. For example, the paper rolls for
19 the voting machine, the tapes, the cards or any
20 supply, if you've gone to vote on election day
21 and you want to change your address or you want
22 to vote by affidavit or any of the supply items.
23 Also, the poll book pages, we use paper poll book
24 pages. We don't use poll E books, so everything
25 that's paper related we are trying to acquire all

1 of the paper that we can now so that we are ready
2 and we don't run into a problem where we say we
3 can't conduct a federal election.

4 Q. When did your office start work on
5 printing and mailing these voter registration
6 cards?

7 A. The voter registration cards?

8 Q. Did I understand correctly that
9 those needed to be updated after the recent
10 congressional happening?

11 A. Oh, I'm sorry. So not a voter
12 registration card. It's a notification card
13 that's going to the voter of their district, and
14 those were -- the plans went into place
15 April 25th and the cards were mailed directly
16 after each parish's plan was completed.

17 So if you work on a plan and the
18 registrar of voters confirms the plan, then the
19 cards are released; and so it depends on which
20 parish completed their plan and what time they
21 did as to when the cards got mailed.

22 I do know I checked with state
23 printing through the division and they said all
24 cards had been mailed.

25 Q. Okay. Let's talk about the purposes

1 served by these voter cards. I think you discuss
2 this on page 4, paragraph 15 of your affidavit.

3 MR. SHELLY:

4 It might be helpful to take a look
5 at that.

6 TRIAL TECH:

7 (Complied.)

8 MR. SHELLY:

9 Perfect.

10 BY MR. SHELLY:

11 Q. So first, you say that issuance of
12 these cards can help decrease voter confusion; is
13 that right?

14 A. That's right.

15 Q. And that's because --

16 A. I'm sorry.

17 Q. And that's because these cards
18 inform voters which district they reside in?

19 A. That's correct.

20 Q. Are you familiar with Still Vote
21 Oval Act?

22 A. Yes.

23 Q. And you're aware that this happens
24 to voter registration information, voter district
25 information, information about upcoming

1 elections, including voting dates and times,
2 voting locations and sample ballots?

3 A. Yes, it does.

4 Q. And once the system is updated, any
5 voter can check this information on the aspect
6 even if they have not received a voter card in
7 the mail, right?

8 A. They can, but we find from my
9 experience not everybody has a smart phone and
10 not everybody is savvy with computers; and our
11 elderly community and some of the -- some of the
12 poorer areas of the state, they don't have that
13 type of access, so we want to provide it in every
14 way possible so that we know that you are able to
15 see what you -- what you need.

16 When you are working early voting or
17 you are working election day, you can see a lot
18 of people that have a pay-as-you-go phone or
19 something like that, so we want to make sure that
20 everyone is able to know what their districts
21 are.

22 Q. The information is also available on
23 the Secretary of State's website, correct?

24 A. Absolutely.

25 Q. Looking at the next sentence here,

1 the second purpose you say is served by issuance
2 of these voter cards is that they "let citizens
3 know what district they can run in and what
4 district they need to gather signatures in if
5 they decide to file for election by nominating
6 petition." Did I read that correctly?

7 A. That's correct.

8 Q. And is it for this reason that cards
9 must be mailed well before the deadline of
10 nominating petitions, which this election cycle
11 is June 22nd; is that right?

12 A. Correct.

13 Q. It's your position that prospective
14 congressional candidates may be waiting on these
15 printed voter cards to decide whether to run for
16 Congress?

17 A. We have had a few calls for
18 Congress, not just for Congress, but also for
19 school board asking us for the nominating
20 petition, how do they acquire the signatures,
21 where would the -- is their district going to be
22 the same. And, of course, if it's school board
23 related, we point them to the direction of their
24 school board organization in their parish to say
25 you need to find out from there where their

1 districts are going to be and then you could go
2 with the form and start obtaining everything you
3 need to do that.

4 For Congress, it takes a thousand
5 signatures; for school board, it takes a hundred
6 signatures, so we just want them to be able to do
7 that process if they -- if they need it.

8 Q. Okay. Is it your testimony that if
9 candidates are delayed in receiving their voter
10 cards that would cause disruption to the voter
11 process and make it difficult, if not plausible,
12 to hold a successful congressional election?

13 A. They can't qualify for nominating
14 petition if they don't know where to get the
15 signatures; is that what you're asking me? I'm
16 sorry.

17 Q. I'm trying to understand the
18 wording, because there would be other ways to try
19 to figure out which congressional district am I
20 in to match it to my voter card, correct?

21 A. It could be, but the other thing
22 about the voter card, they bring them in, they
23 have this in their hand, they put them in their
24 wallet; so it's something they keep with them for
25 reference and I just think they are important, I

1 think it's important.

2 Q. Switching gears slightly, Louisiana
3 has the absolute last congressional primary in
4 the country, correct?

5 A. Yes.

6 Q. And the governor initially vetoed
7 the legislature's congressional plan on March
8 9th, but the legislature overrode three weeks
9 later; is that correct?

10 A. Yes.

11 Q. If the legislature had failed to
12 override the governor's veto of the congressional
13 plan, you are not suggesting it would be
14 impossible to hold the congressional election in
15 November, are you?

16 A. I'm not saying it would be
17 impossible. I'm saying I'm concerned about
18 errors that can occur trying to rush through the
19 process.

20 Q. And you seek to fulfill your
21 possibility to ensure that election is right on
22 schedule, correct?

23 A. Yes.

24 Q. And you would rely on your 30 years
25 of experience in election administration to do

1 so?

2 A. Yes, absolutely. And I do want to
3 say that the -- in the history of elections that
4 I've worked in the state, we have had to move
5 state elections due to emergencies, due to
6 hurricanes, due to things like that, but never in
7 my career have we moved a federal election. We
8 can't. It's in the constitution, so that is a
9 fear factor to make sure that everything is okay.
10 You never want to hear wait a minute, I got my
11 jurisdictions wrong the week before the election.
12 That's a scary thing.

13 Q. Touch on one other thing I'd like to
14 ask you a few questions about. There are --
15 candidates have two ways to get their names on
16 the ballot, right? They can either gather a
17 certain number of signatures or pay a filing fee?

18 A. Correct.

19 Q. And for congressional races, that
20 would be \$106?

21 A. I believe so, yes.

22 Q. And the deadline for candidates
23 filing for nominating petition is June 22nd?

24 A. Correct. That gives the voters time
25 to verify the signatures that are on the

1 petition.

2 Q. And the deadline for appeal, the
3 filing is one month later, July 22nd?

4 A. Correct.

5 Q. And then there's seven days to
6 object to any --

7 A. Seven days to object to candidacy.

8 Q. Okay. You mentioned some school
9 board examples, but over the course of your
10 career, how many times are you aware that a
11 congressional candidate has filed by nominating
12 petition?

13 A. Well, unfortunately, I've been the
14 commissioner of elections since 2017, so I don't
15 really know prior to that whether somebody has
16 filed or not.

17 Q. Are you aware of any since 2017?

18 A. Not since 2017, not -- I take that
19 -- well, locally, but not --

20 Q. For congressional?

21 A. Not for congressional.

22 Q. Okay. If I were to tell you that we
23 went back and checked the Secretary of State's
24 website for every election since 2010 and we
25 didn't find a single candidate using a nominating

1 petition, would that surprise you?

2 A. No. It doesn't change that the law
3 is on the books to allow for it, and I do have
4 people that have reached out for that -- for
5 that, so that's kind of what's got me. I don't
6 know what's happened in the past as far as
7 previous to 2017.

8 Q. Are you aware of any prospective
9 congressional candidates this year who are
10 planning to file by nominating petition?

11 A. We had a call -- we had an e-mail
12 about two weeks ago from someone from St. Charles
13 parish, but that was not for Congress. That was
14 for school board and then we did have a call.
15 I'd have to check with my elections business
16 department to find out what -- what they were
17 asking exactly, but they did ask about the
18 nominating petition.

19 Q. Okay. So possibly one, but not
20 necessarily for Congress?

21 A. Correct.

22 Q. And to put that number in context,
23 do you know how many hundreds of thousands of
24 black voters are claiming that their fundamental
25 voting rights are being violated by the

1 congressional plan?

2 A. No.

3 Q. In fact, is it possible that there
4 are more Louisianians in this room who claim
5 their fundamental voting rights are being
6 violated than congressional candidates in the
7 entire state will file by nominating petition?

8 A. I'm not aware of that.

9 MR. SHELLY:

10 No further questions.

11 THE WITNESS:

12 Sure.

13 THE COURT:

14 Redirect?

15 MR. STRACH:

16 None, Your Honor.

17 THE COURT:

18 Okay. Thank you, Ms. Hadskey.

19 THE WITNESS:

20 Thank you.

21 THE COURT:

22 Any further witnesses?

23 MR. STRACH:

24 No, Your Honor. The defense rests.

25 THE COURT:

1 Okay. Is there any rebuttal?

2 MS. KHANNA:

3 No, Your Honor.

4 THE COURT:

5 Okay. The court will consider the
6 case submitted. The court thanks all
7 counsel for their diligent and hard work.
8 You-all have tried a really good case,
9 okay.

10 So let's talk about post trial
11 filings. The court has already ordered
12 that the parties may be permitted to file
13 findings of fact and conclusions of law on
14 or before close of business on April --
15 I'm sorry, May the 18th, 2022. The court
16 is going to order that there be one filing
17 of findings of fact and conclusions of law
18 by the defendant, Secretary of State and
19 the two state-related intervenors; namely,
20 the legislative intervenor and the
21 attorney general intervenors, and also one
22 combined findings of fact and conclusions
23 of law by the plaintiffs. Both sets of
24 plaintiffs, Galmon and Robinson, as well
25 as the legislative black caucus

1 intervenor.

2 Recognizing that you may want to
3 argue your cases a bit beyond just the
4 findings of fact and conclusions of law,
5 the court will allow post trial briefs,
6 the same limitations that I've just given,
7 one basically per side limited to 25 pages
8 each.

9 Do the parties require any other
10 types of deadlines? Yes, ma'am.

11 MS. FREEL:

12 Your Honor, Angelique Freel for the
13 state. Did you give a number of pages for
14 the findings of facts and conclusions of
15 law?

16 THE COURT:

17 Did I -- no, I did not limit the
18 number of pages for findings of fact and
19 conclusions of law. Yes, ma'am.

20 THE DEPUTY:

21 Could you come forward? This
22 microphone picks up a lot better.

23 MS. MCKNIGHT:

24 Thank you, Your Honor. You asked if
25 we had other deadlines in the case. I

1 would suggest a deadline for the time by
2 which plaintiffs can complete their review
3 of that summary exhibit, LEG No. 79 I
4 believe?

5 THE COURT:

6 Well, I had hoped maybe that had
7 been done. Where are we on that?

8 MS. KHANNA:

9 It has, and we have no objection.

10 THE COURT:

11 No objection. LEG Exhibit 79 is
12 admitted.

13 MS. MCKNIGHT:

14 Thank you, Your Honor. Thank you.

15 THE COURT:

16 Okay. Anything else? All right.
17 Well done everyone. The court looks
18 forward to receiving the filings and we
19 will work diligently, as diligently as you
20 have to get you written reasons as quickly
21 as humanly possible.

22 All right. Thank you very much.

23 (The injunction hearing was concluded at
24 10:03 a.m.)

25

1 REPORTER'S PAGE

2 I, CHERIE' E. WHITE, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(B)
6 of the Louisiana Code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the record;

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talkovers; that same is the
13 proper method for the court reporter's
14 transcription of a proceeding, and that dashes
15 (--) do not indicate that words or phrases have
16 been left out of this transcript; also, that any
17 words and/or names which could not be verified
18 through reference material have been denoted with
19 the phrase "(spelled phonetically)."

20

21

22 CHERIE' E. WHITE, CCR (LA NO. 96002)
23 CSR (TX NO 10720)
24 CSR (MS NO. 1514)
25 RPR (NATIONAL NO. 839452)

1 REPORTER'S CERTIFICATE

2

3 This certification is valid only for a
4 transcript accompanied by my original signature
5 and original seal on this page.

6

7 I, CHERIE' E. WHITE, Certified Court
8 Reporter, in and for the State of Louisiana, do
9 hereby certify that this injunction hearing as
10 hereinbefore set forth in the foregoing 65 pages;
11 that this testimony was reported by me in the
12 stenotype reporting method, was prepared and
13 transcribed by me or under my personal direction
14 and supervision, and is a true and correct
15 transcript to the best of my ability and
16 understanding; that I am not related to counsel
17 or the parties herein, nor am I otherwise
18 interested in the outcome of this matter.

19

20

21 CHERIE' E. WHITE, CCR (LA NO. 96002)

22 CSR (TX NO. 10720)

23 CSR (MS NO. 1514)

24 RPR (NATIONAL NO. 839452)

25