

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

TERRY PETTEWAY, <i>et al.</i> ,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	Civil Action No. 3:22-cv-57
GALVESTON, TEXAS, <i>et al.</i> ,	§	
	§	
<i>Defendants.</i>	§	

UNITED STATES OF AMERICA,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	Civil Action No. 3:22-cv-93
GALVESTON, TEXAS, <i>et al.</i> ,	§	
	§	
<i>Defendants.</i>	§	

Dickinson Bay Area Branch NAACP, <i>et al.</i> ,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	Civil Action No. 3:22-cv-117
GALVESTON, TEXAS, <i>et al.</i> ,	§	
	§	
<i>Defendants.</i>	§	

**PETTEWAY PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ MOTION TO
EXCLUDE PORTIONS OF DR. BARRETO’S EXPERT AND REBUTTAL
REPORTS**

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SUMMARY OF ARGUMENT

Defendants' Motion to Exclude portions of Dr. Barreto and Mr. Rios' expert report and rebuttal report should be denied. Defendants contend that portions of Dr. Barreto and Mr. Rios' initial expert report should be excluded as "unhelpful," and portions of their rebuttal report containing the Bayesian Improved Surname Geocoding (BISG) analysis should be excluded as "improper and untimely" and for failing to comply with Fed. R. Civ. P. 26. Fed. R. Civ. P. 26(a)(2)(B)(ii). These contentions are meritless.

First, Dr. Barreto and Mr. Rios' initial expert report contains relevant and helpful information necessary for Plaintiffs to establish Gingles preconditions 2 and 3. This report includes national, Southern, and Texas-specific studies that provide relevant information regarding the link between political party and race, and fully examines Galveston County voting patterns and data. Rather than being irrelevant, these analysis are key to fully understanding the racial voting patterns in Galveston County.

Second, Defendants' contentions that the experts' rebuttal report containing the BISG analysis was improper and untimely, and that they failed to provide the data required under Rule 26, are similarly incorrect. Defendants ignore their own fault in the delay of the BISG analysis, as they refused to provide Plaintiffs with the vote history file needed to conduct that analysis. Nevertheless, Dr. Barreto and Mr. Rios' rebuttal report was timely, having been submitted less than a month after Defendants' expert Dr. Alford filed his report, a week before the close of discovery, and two days after the Court allowed for submission of rebuttal reports. Moreover, Dr. Barreto and Mr. Rios' BISG analysis was necessary to properly rebut claims made by Dr. Alford regarding threshold cohesion levels.

Lastly, Defendants' claims that Dr. Barreto and Mr. Rios failed to produce the data necessary to replicate their BISG analysis are false. Indeed, two political scientists have submitted declarations attesting to the fact that Dr. Barreto and Mr. Rios' initial and rebuttal reports contain all the information necessary to replicate their BISG analysis. *See* Exhibits 1 and 2. Defendants' expert, Dr. Alford, has mounted the same argument in a prior case, to no avail. *Clerveaux v. East Ramapo Central School District*, 984 F.3d 213 (2nd Cir. 2021.) This Court should likewise decline Defendants' attempt to exclude relevant expert analysis simply because it harms their case.

NATURE AND STAGE OF PROCEEDINGS

This case was filed by Plaintiffs to challenge the 2021 redistricting process for the Galveston County Commissioners Court. Petteway Plaintiffs allege that Defendants have violated Section 2 of the Voting Rights Act ("VRA"), as well as the Fourteenth and Fifteenth Amendments of the U.S. Constitution. On June 8, 2022, Defendants filed a Motion to Dismiss, Doc. 46, which this Court granted as to former Plaintiff Michael Montez, but denied as to all remaining Plaintiffs on March 30, 2023. Doc. 125. Discovery has closed, and trial is set for August 7, 2023. Defendants moved for summary judgement on May 12, 2023, with briefing completed on June 16, 2023. Defendants filed this Motion to Exclude on June 16, 2023, which Petteway Plaintiffs now oppose.

COUNTER STATEMENT OF FACTS

In August of 2022, Petteway Plaintiffs, NAACP plaintiffs (NAACP) and United States of America Department of Justice (DOJ), plaintiffs respectively, served defendants

with their first discovery requests.¹ The NAACP and DOJ requests included language that clearly implicated production of the Galveston County voter file (“voter file”). Exhibit 3 and Exhibit 4.²

Following service of Plaintiffs’ discovery requests, Defendants continuously requested extensions of time to respond. *See* Exhibit 5 at 1-4. In light of continued delay of Defendants’ production, Petteway Plaintiffs emailed Defendants on November 18, 2022, noting that the voter file had not yet been provided and inquired whether it would be forthcoming. Defendants did not respond. Exhibit 6.

Nearly three weeks later, on December 7, 2023, Plaintiffs again attempted to confirm that the voter file would be produced in response to Plaintiffs’ discovery requests. Exhibit 7 at 2. Defendants asked for clarification regarding which of Plaintiffs’ requests warranted production of the voter file which Petteway Plaintiffs provided. To avoid further delay, Petteway Plaintiffs sent a second request for discovery explicitly requesting the voter file. Defendants responded that “It is Defendants position that Plaintiffs did not request the Voter History File, as demonstrated by a comparison between Request 1(d) and Plaintiffs Second Request for Production.” Exhibit 7 at 5.

¹ Private Plaintiffs and DOJ collaborated, at Defendants’ request, to ensure their Requests for Production were not duplicative of each other.

² Specifically, in their request served on August 12, 2022, NAACP Plaintiffs requested “all drafts in the development or revision of any of the redistricting proposals, including but not limited to shapefiles, files, or datasets used in mapping software, statistical reports, demographic data, election data, and files related to precinct names, precinct lines, split precincts, partisan indexes, population shifts, population deviations, voter registration, Spanish Surname Voter Registration, voter affiliation, Spanish Surname Voter Turnout, citizenship, changing census geography, or any other measure used to evaluate the redistricting proposal;” and DOJ on August 19, 2022 requested “all demographic or election data, regardless of source or format, used in the development of each total or partial revision of each such plan.”

Finally, on January 11, 2023, two days before Dr. Barreto and Mr. Rios' initial expert report was due, Defendants produced the voter file. This left insufficient time for Dr. Barreto and Mr. Rios to conduct their BISG analysis by January 13, when their expert report was served to all counsel. Defendants submitted the report of their expert Dr. John Alford on March 17, 2023, in which Dr. Alford, among other things, claimed that political cohesion required a 75 percent threshold, and that polarization was caused by partisan politics alone. Exhibit 8 at 2-3, 6-7.

In response, Dr. Barreto and Mr. Rios served their rebuttal report on April 14, 2023, to all counsel. Prior to submitting this report, the Court conducted a hearing finding Plaintiffs' experts could submit rebuttal reports so long as they did not state any new theory of the case. The Court specifically allowed rebuttal reports for Dr. Barreto and Mr. Rios so long as they were submitted by noon on April 14, 2023. ECF Minute Entry April 12, 2023, Doc. 126. In their rebuttal, Dr. Barreto and Mr. Rios used the data from the voter file to conduct the same racially polarized voting analysis contained in their January 13 report, now using the newly available voter file for BISG analysis. Doc 193-2 ¶ 11. Dr. Barreto and Mr. Rios included the requisite code and explanation necessary to replicate the analysis with five specific footnotes to BISG references and two specific footnotes to websites where the software packages, help files, and sample code could be downloaded for free. Doc 193-2, ¶28-33. In the report, Dr. Barreto and Mr. Rios note, "Full replications instructions are publicly available at both the who are you (WRU) and *eiCompare* portals which explain the procedure in-depth with tutorials." Doc 193-2, ¶33.

The BISG section of the rebuttal report analyzed elections previously analyzed in the initial January 13th report in order to rebut to Dr. Alford's threshold for voter cohesion. Doc 193-2, ¶11. Specifically, the BISG data refutes Dr. Alford's claims that "voting in partisan elections in Galveston County is polarized according to the party affiliation of the candidates," and that "cohesion levels above 75% are closer to complete cohesion than they are to the complete absence of cohesion." Exhibit 8 at 2-4. The rebuttal report of Dr. Barreto and Mr. Rios takes specific aim at these claims by showing that "BISG estimates report even higher rates of political cohesion, almost always at the 80% cohesive rate for their candidates of choice," and demonstrate that "political party is essentially a proxy for race in Galveston County." Doc 193-2 at ¶ 13, 39.

Defendants deposed Dr. Barreto on April 20, 2023. During the deposition, Defendants asked several questions about BISG which Dr. Barreto answered in great detail including, *inter alia*, the process for using the voter file to conduct the analysis, Exhibit 9 at 36:19-39:8, the timing for conducting the analysis, *id.*, the importance of using the voter file to conduct the analysis, *id.* at 40:14-41:11, the data contained in the voter file that was used in the analysis, *id.* at 43:3-23, and the reasons for conducting a BISG analysis, *id.* at 43:23-44:22. After completing questioning, Defendants noted that they would keep Dr. Barreto's deposition open to allow Dr. Alford to run a replication analysis.

Following Dr. Barreto's deposition, Defendants reached out to Petteway Plaintiffs requesting "R code and output files" from Dr. Barreto and Mr. Rios' BISG analysis. Doc 193-4. Plaintiffs responded that the R code, or script, had already been provided in the April rebuttal report. Doc 193-4 at 5-6. Plaintiffs also noted that output files, or

intermediate results, were not saved by Dr. Barreto and Mr. Rios as it was not normal practice to save such files nor were these files necessary to replicate the analysis. Doc 193-4 at 3. Thereafter, the Parties filed a discovery dispute letter with the Court in which Defendants sought to exclude Plaintiffs' experts BISG analysis. Doc 170.

The Court heard this issue twice, once on May 15, 2023, and again on May 18, 2023. *See* ECF Minute Entries of May 15, 2023, and May 18, 2023. The Court first ordered Plaintiffs to “provide Defendants with the commands/instructions that would allow Defendants experts to replicate the BISG analysis.” ECF Minute Entry of May 15, 2023. Plaintiffs' experts met with Defendants experts on May 15 and tried to explain and demonstrate what they did but defense counsel and Dr. Alford continuously interrupted apparently not wanting to understand but instead wanting to build arguments to exclude this important evidence. *See* Exhibit 10. At the conclusion of that meeting, it was then apparent that Dr. Stevenson preferred to input the code in a different way than Dr. Barreto and Mr. Rios do so. At Plaintiff counsels' request, Dr. Barreto and Mr. Rios wrote out a new version of their code that works utilizing Defendants' experts' preferred methods. *Id.* This was then shared with defense counsel. Exhibit 11 *and* Exhibit 12.

Thereafter, on May 18, the Court ordered Dr. Barreto and Mr. Rios to show Drs. Alford and Stevenson the “specific commands...used to conduct the analysis that underlies their rebuttal report” and ordered Drs. Alford and Stevenson to “ask all questions they have to understand how to replicate” the analysis. Doc 180. The experts met again on May 31, 2023, and the video recording of that meeting was circulated to all parties. Exhibit 13. After the meeting, Dr. Barreto sent Dr. Alford and Dr. Stevenson an email with a link to election

data from the TLC website for additional clarity. Exhibit 14. This had been previously provided in the expert report. Neither Defendants nor their experts raised any questions or concerns regarding the BISG analysis following this meeting. On June 16, 2023, Defendants filed the instant Motion.

STANDARD OF REVIEW

A qualified expert may testify so long as “(1) testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.” Fed. R. Evid. 702. In deciding whether to admit expert testimony, the district court must determine “whether the expert is proposing to testify to (1) scientific knowledge that (2) will assist the trier of fact to understand or determine a fact in issue.” *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 592 (1993). “The inquiry envisioned by Rule 702 is [] a flexible one.” *Auto-Dril, Inc. v. Nat’l Oilwell Varco, L.P.*, No. CV H-16-280, 2017 WL 4270722, at *2 (S.D. Tex. Sept. 26, 2017) (citing *Daubert*, 509 U.S. at 594). “[T]he court’s role under Rule 702 is not to weigh the expert testimony to the point of supplanting the [] fact-finding role—the court’s role is limited to ensuring that the evidence in dispute is at least sufficiently reliable and relevant to the issue so that it is appropriate for the [fact-finder’s] consideration.” *Puga v. RCX Sols., Inc.*, 922 F.3d 285, 294 (5th Cir. 2019).

Additionally, a trial court may only exclude evidence if it is irrelevant, or would result in “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” *Auto-Dril, Inc.*, 2017 WL 4270722, at *1 (citing Fed. R. Evid. 403.) “[T]he rejection of expert testimony is the exception rather

than the rule.” Fed. R. Evid. 702 advisory committee’s notes (2000) (internal citations omitted).

LEGAL ARGUMENT

Defendants seek to exclude relevant testimony that was properly disclosed. Because the rules strictly provide that such evidence should be admitted, Defendants’ Motion should be denied.

I. Plaintiffs’ experts offer relevant testimony assessing the Gingles 2 and 3 preconditions.

Concerns regarding the “bases and sources of an expert’s opinion” are a question of the weight given to an expert opinion rather than its admissibility. *Puga*, 922 F.3d at 294. As such, where Defendants’ arguments go to the weight of the evidence rather than its relevance, there is no basis for exclusion of the challenged testimony. *Id.* at 285; *Huss v. Gayden*, 571 F.3d 442, 452 (5th Cir. 2009) (“Typically, ‘differences in expertise bear chiefly on the weight to be assigned to the testimony by the trier of fact, not its admissibility’”); *Vazquez v. Aguilera*, No. 5:19-cv-117, 2022 WL 2292888, at *2 (S.D. Tex. Mar. 25, 2022) (quoting *United States v. 14.38 Acres of Land, more or less Situated in Leflore Cnty.*, 80 F.3d 1074, 1077 (5th Cir. 1996)). This is especially true when, as here, the factfinder is a judge rather than a jury. *See Gibbs v. Gibbs*, 210 F.3d 491, 500 (5th Cir. 2000) (“Most of the safeguards provided for in *Daubert* are not as essential in a case such as this where a district judge sits as the trier of fact in place of a jury.”).

Vote dilution claims under Section 2 of the Voting Rights Act are extremely complex and require extensive, in-depth factual analysis paired with expert opinion and

testimony. *Thornburg v. Gingles*, 478 U.S. 30, 49-51 (1986). Analysis of the *Gingles* preconditions, necessary to establish a vote dilution claim under Section 2, requires expert testimony and analysis, including racially polarized voting patterns within the jurisdiction. *See Rodriguez v. Harris Cnty., Tex.*, 964 F. Supp. 2d 686, 754-55 (S.D. Tex. 2013), *aff'd sub nom. Gonzalez v. Harris Cnty., Tex.*, 601 F. App'x 255 (5th Cir. 2015); *see also Westwego Citizens for Better Gov't v. City of Westwego*, 946 F.2d 1109, 1118 (5th Cir. 1991) (“Usually, plaintiffs in a vote dilution case will attempt to establish both the second and third *Gingles* factors with statistical evidence of racial polarization of the electorate”). Dr. Barreto and Mr. Rios’ initial expert report contains detailed analysis based on their extensive political science expertise³ that provides pertinent information about racial voting patterns in Galveston County. None of Defendants’ claims regarding Dr. Barreto and Mr. Rios’ initial report or rebuttal meaningfully challenge the methodology or conclusions of the studies cited, or Dr. Barreto and Mr. Rios’ qualifications as experts. Rather, Defendants seek to exclude this information merely because they deem it “unhelpful.” Br. at 5. Defendants are wrong.

³ Dr. Barreto is currently a Professor of Political Science and Chicano/a & Central American Studies at the University of California Los Angeles. While at UCLA, Dr. Barreto has founded the research center Latino Policy & Politics Institute and the Voting Rights Project. Before taking a tenured position at UCLA, Dr. Barreto was a tenured political science professor at the University of Washington. He has been qualified as an expert witness in over four dozen federal and state voting and civil rights cases. Including this case, he has testified as an expert in deposition or at trial 49 times. He currently teaches a year-long course at UCLA on the Voting Rights Act that focuses on social science statistical analysis, demographics and voting patterns, and mapping analysis relevant to expert analysis in voting rights cases. Mr. Rios has extensive expertise with racially polarized voting analysis in the state of Texas, including authoring a report on racially polarized voting in Galveston County in 2021, and he recently performed a racially polarized voting analysis in *Portugal et al. v. Franklin County et al.* (October 2020), a lawsuit involving the Washington Voting Rights Act. *See* Doc 193-2 at ¶2-5.

First, Defendants wrongly assert that portions of Dr. Barreto and Mr. Rios' report restate facts that could be introduced by a fact witness. Br at 4. Their report includes PhD-level statistical analysis and literature review that could not be repeated by a layperson. For example, Dr. Barreto cites several peer-reviewed social science studies to provide context around his racially polarized voting analysis and denote important catalysts in voter behavior. Far from restating easily understandable facts already in evidence, their report assists the trier of fact in parsing through the complex social science data and voting trends implicated in this case. *See, e.g.*, Doc 193-1 at ¶ 25, 28, 30-43.

In support of their argument, Defendants cite cases where the expert merely restated facts already in evidence. *See* Br. at 4 (citing *Albert Sidney Johnston Chapter v. Nirenberg*, SA-17-cv-1072-DAE, 2018 WL 5114150, *3 (W.D. Tex. Oct. 18, 2018); *Amin-Akbari v. City of Austin, Tex.*, 52 F. Supp. 3d 830, 846 (W.D. Tex. 2014)). But Dr. Barreto and Mr. Rios provide testimony that no lay witness could provide. Indeed, courts routinely recognize the provenance of expert testimony on the exact same topics which Defendants argue is “unhelpful.” *See, e.g.*, *Allen v. Milligan*, 599 U.S. ____ (2023); *Veasey v. Abbott*, 830 F.3d 216, 227 (5th Cir. 2016); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 427 (2006).

Second, Defendants rely heavily on *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 999 F.2d 831, 867 (5th Cir. 1993) (en banc) to support their contention that portions of Dr. Barreto and Mr. Rios' January 13, 2023 report should be excluded. Br. at 5-6. But “The [*Clements*] opinion calls upon the court to look at all of the evidence regarding each of the factors to determine whether racial bias or partisan politics

better explains the voting patterns,” *Lopez v. Abbott*, 339 F.Supp.3d 589, 604 (S.D. Tx. 2018), encouraging courts to look at “evidence, not musings,” *Clements*, 999 F.2d at 867. In line with this standard, Dr. Barreto and Mr. Rios spend several paragraphs not “musing” but utilizing their expertise as political scientists, and their review of over 20 peer-reviewed studies to support their conclusion that racial attitudes are a strong factor explaining Anglo support for the Republican Party.⁴ ECF 193-1.

Third, Defendants seek to discount this evidence by claiming it fails to provide a sufficiently local analysis, and to account for the “analytical gap” between national data and Galveston County. This argument too falls flat, as Defendants fail to show why the studies on voter behavior cited by Dr. Barreto and Mr. Rios *do not* apply to Galveston County voters. Many of the studies they cite look at the Southern region of the United States and Texas specifically. ECF 193-1 at ¶ 28, 34, 36, 38, 40. These studies are not, as Defendants claim, simply “generalized armchair speculation.” Br. at 5. Rather these studies, as Dr. Barreto and Mr. Rios explain, represent a near “consensus in published, empirical political science studies” that “discriminatory attitudes and racial prejudice play a central role in driving White party identification,” and that this correlation is “especially strong in states such as Texas.” ECF 193-1 at ¶ 34.

Dr. Barreto and Mr. Rios likewise clearly bridge any “analytical gap” between the national studies and Galveston County in both their initial report and Section II of their rebuttal report. ECF 193-2 at 3-5. Specifically, Dr. Barreto and Mr. Rios’ ecological

⁴ By contrast, Dr. Alford’s rebuttal, which claims racially polarized voting is better explained by partisanship, cites no peer-reviewed studies. Exhibit 8 at 6-7.

inference data in the initial report and the BISG analysis in their rebuttal—which relies on the Galveston County voter file, inherently local data—provide “significant qualitative support” for the claim that, in Galveston County, political party is a proxy for race. ECF 193-2 at ¶ 13. Indeed, the data show that Galveston County is even more polarized than Texas as a whole. *Id.* at ¶ 14. Dr. Barreto and Mr. Rios further buttress their discussion of nationwide voting trends by analyzing both the racial makeup of each political party and white Republican support for minority candidates in Galveston County specifically. *Id.* at ¶ 15-24. Dr. Barreto and Mr. Rios’ breadth of scholarly research considered in conjunction with their inclusion of local and regional data are crucial aspects of the analysis required by *Clements*. This entire argument goes to the weight of the evidence; Defendants’ conclusions regarding whether Dr. Barreto’s testimony is “insufficient” are more appropriate for the fact finder to determine. *See* Br. at 8-11. Therefore, any arguments related to Defendants’ opinions about Dr. Barreto and Mr. Rios’s testimony are immaterial to the admissibility of their testimony.

Fourth, Defendants’ contention that Dr. Barreto and Mr. Rios’ citation to *Busbee v. Smith*, 549 F. Supp. 494 (D.D.C. 1982) precludes Dr. Barreto’s testimony is nonsensical. Br. at 9. Experts are allowed to provide examples of cases that illustrate the point they are making. Far from opining on legal standards, Dr. Barreto and Mr. Rios briefly mention *Busbee*, in a footnote, simply to note that courts have considered evidence of racial attitudes and stereotypes in assessing whether racially polarized voting exists. *Cf. Albert Sidney Johnston Chapter, Chapter No. 2060, United Daughters of the Confederacy v. Nirenberg*, No. SA-17-cv-1072-DAE, 2018 WL 5114150, at *3 (W.D. Tex. Oct. 18, 2018). In a bench

trial, the Court is more than competent to assess the weight of this citation to the opinions in Dr. Baretto and Mr. Rios' report. *Compare with id.* (holding that an expert cannot testify to a jury about the law governing the case). Dr. Barreto and Mr. Rios' brief mention of *Busbee* hardly constitutes a basis for excluding Dr. Barreto's testimony.

Finally, Defendants' dig at Dr. Barreto's residency in California barely warrants a response. Br. at 9. Dr. Barreto has extensive experience analyzing local governments in Texas and has been certified as an expert in Section 2 cases in Texas several times. See 193-2 at 181-182.

* * *

Defendants' arguments related to the sufficiency of Dr. Barreto and Mr. Rios' expert report pertain to the weight of the evidence, which is not a basis for excluding their testimony. Defendants' attempts to conflate the relevance and weight of the evidence only underscore that this debate is best left for trial.

II. Plaintiffs' expert testimony was properly disclosed.

Dr. Barreto and Mr. Rios timely submitted and properly disclosed their reports regarding the BISG analysis of elections in Galveston County in rebuttal to Dr. Alford's expert declaration. Defendants' complaint about timeliness is particularly disingenuous given that Defendants themselves sought to bar Plaintiffs' experts from submitting rebuttal reports at all, necessitating a hearing to decide the issue. After the Court ordered, on April 12, 2023, that Plaintiffs could submit rebuttal reports for their experts, Dr. Barreto and Mr. Rios did so within 48 hours, adhering to the Court-imposed deadline of noon on April 14, 2023. *See* ECF Minute Entry April 12, 2023.

Dr. Barreto and Mr. Rios' rebuttal report and its BISG analysis were directly responsive to Dr. Alford's arguments and included all data and instruction necessary to recreate the BISG analysis. Although Defendants now accuse Dr. Barreto of "gamesmanship," it is Defendants own strategic and intentional delay in producing the voter file that caused any delay. Br at 15. Indeed, Defendants crocodile tears are even more transparent as, after weeks of back and forth and receiving all the data and instructions they claimed to need, Defendants simply refuse to recreate Dr. Barreto and Mr. Rios' BISG analysis. This entire controversy is manufactured and part of a boilerplate argument that Dr. Alford tries to make in an attempt to avoid the highly probative BISG evidence. This Court should do as the others before have and reject Dr. Alford's scheme. The simple fact is (as attested to by other competent experts): Defendants' experts had everything they needed to replicate the BISG when they received the voter file from their client. There was not a spec in the glass when they received the rebuttal report and disclosures therewith. *See* Exhibits 1 and 2.

A. Defendants Deliberately Delayed Producing the Voter File

Defendants claim that Dr. Barreto and Mr. Rios' BISG analysis should be stricken as Pettway Plaintiffs attempted to "manufacture a tactical advantage 'by waiting to disclose critical information about their case.'" Br. at 14. This claim is false. Rather, Defendants' deliberate refusal to produce the voter file is the primary reason Dr. Barreto and Mr. Rios could not incorporate a BISG analysis in their initial report.

In their motion, Defendants omit key facts illustrating their own bad faith intentions. NAACP and DOJ requested the voter file as part of the requests submitted on August 12

and 19th of 2022 respectively. Exhibits 3 and 4. Defendants ignored Petteway Plaintiffs follow up email regarding the voter file on November 18, 2022, forcing them to reach out again on December 7. *See* Exhibits 6 and 7. They then refused to provide the voter file.⁵ This refusal forced Plaintiffs to serve a second request for production on December 9, 2022, and describe their request *in excruciating detail* to ensure Defendants could not again refuse to provide the requested file. Even after this, Defendants still produced the voter file on January 11, 2023, past the 30-day deadline of January 9, 2023, and only two days before Plaintiffs' experts' disclosures were due. Fed. R. Civ. P. 34(b)(2)(a).

Despite deliberately withholding the voter file from Petteway Plaintiffs, Defendants now cry foul for the timing issue they manufactured. This Court should not reward Defendants' conduct by granting their request to strike Dr. Barreto and Mr. Rios' BISG analysis. *See In re Toy Asbestos*, 2021 WL 1056552, *2 (N.D. Cal. 2021) ("To the extent Defendants suggest that the Court should hold only Plaintiffs accountable for missing the case deadline, the Court declines to credit such transparent gamesmanship.")

B. The inclusion of a BISG analysis in Dr. Barreto and Mr. Rios' Rebuttal Report was proper.

Dr. Barreto and Mr. Rios' inclusion of BISG in their April 14, 2023, rebuttal report was proper. Their BISG analysis directly refutes statements made in Dr. Alford's report, specifically Dr. Alford's claim that a 75% threshold is required for determining true voter cohesion. Doc 193-2 at ¶11. Although Dr. Barreto indicated his original hope was to

⁵ One could reasonably question, since BISG has become a routine method used by experts in vote dilution cases, whether Defendants intentionally delayed production of the voter file, a necessary data set to perform BISG that the county maintains, in order to setup this very motion to exclude.

perform a BISG analysis for his initial report, following its submission he was under no obligation to reanalyze election results. Only after reviewing Dr. Alford's report that called into question the level of Hispanic voter cohesion did Dr. Barreto and Mr. Rios decide to include a BISG analysis to rebut this claim. Since Dr. Alford's report discusses an untested and therefore "unforeseen theory" regarding the standard for cohesion, Dr. Barreto and Mr. Rios properly utilized BISG analysis in their rebuttal to refute this theory. *In re Toy Asbestos*, 2021 WL 1056552 at *3 (noting that expert report is not a proper rebuttal as it does not "refute any unforeseen theories").

Even if a BISG analysis was more appropriate as part of Dr. Barreto and Mr. Rios' "case in chief," a court has "wide discretion and 'may admit in rebuttal evidence which could have been received as part of the case in chief.'" *U.S. v. Michalik*, 5 F.4th 583, 592 (5th Cir. 2021). Indeed, "prejudice only occurs if the Defendant is denied the opportunity to present evidence on any new issue raised. *U.S. v. Brock*, 833 F.2d 519, 522 (5th Cir. 1987). Here, Dr. Barreto and Mr. Rios' BISG analysis came almost *four months prior to the start of trial*, providing ample time for Defendants to present any new evidence regarding the BISG analysis. *Cates v. Sears, Roebuck & Co.*, 928 F.2d 679 (5th Cir. 1991) (finding no abuse of discretion in denying proffer of rebuttal evidence *at trial*), *Morgan v. Commercial Union Assur. Companies*, 606 F.2d 554 (5th Cir. 1979) (denying never before disclosed rebuttal testimony for the first time *at trial*). Indeed, Defendants have had no qualms in producing late discovery and to date continue to provide Plaintiffs with discovery responsive to requests sent in August 2022. *See* Exhibit 5.

Nor were Defendants prejudiced by being unable to thoroughly depose Dr. Barreto about his analysis. Br. at 14. Defendants asked over 50 questions relating to Dr. Barreto's BISG analysis. Defendants even stated they would keep the deposition open for any further questions following Dr. Alford completing his own BISG replication analysis, but they never asked to reconvene. Exhibit 9 at 135:23-25, 136:1-3. Nor did Defendants request to depose Mr. Rios, who Dr. Barreto confirmed helped him perform the BISG analysis, until June 9. Exhibit 18. Even then, Defendants only sought to depose Mr. Rios as a fact witness related to his interaction with Commissioner Stephen Holmes not as an expert witness who performed the BISG analysis. *Id.* Later, their own experts had the opportunity to directly interrogate Dr. Barreto and Mr. Rios, *twice*, including once on video. Dr. Barreto and Mr. Rios even re-wrote their code so that it would work with Dr. Stevenson's preferred methods.

Further, far from espousing a new theory of the case, Dr. Barreto and Mr. Rios' BISG analysis was limited. They only used previously unavailable data to provide a more precise level of cohesion to meet Dr. Alford's new and rigorous standard. They analyzed the same elections and utilized ecological inference as they had in their initial report. Given the complete absence of any prejudice in allowing the BISG analysis, the Court should use its discretion to allow this analysis into evidence.

C. Dr. Barreto and Mr. Rios timely disclosed all relevant data in their underlying reports.

Defendants have everything they need to replicate Dr. Barreto and Mr. Rios' analysis. The claim that the data provided does not allow them to do so is simply false as

both political science experts and other federal courts have shown. Indeed, both Dr. Kassra Oskooii,⁶ expert for NAACP plaintiffs, and University of Texas-Austin political scientist Dr. Hannah Walker note that the information provided by Dr. Barreto and Mr. Rios in their reports provided sufficient information to replicate their analysis. Exhibits 1 and 2.

Still, Defendants double down on Dr. Alford's previously tried and failed strategy of having a BISG analysis struck based on the claim that the proper script was not provided. *Clerveaux*, 984 F.3d at 226. Indeed, Defendants' complaint here is the *exact same* complaint raised by Dr. Alford and rejected by Southern District of New York and the Second Circuit. Br. 15-16, *compare* Exhibit 15 at 2360:9 - 2362:19. There, Dr. Barreto and another expert provided (as Dr. Barreto and Mr. Rios did here) publicly available scripts programmed according to the WRU program with no manipulation. Dr. Alford, repeatedly and without explanation, claimed that he could not replicate the BISG without the full script, despite statements from his colleague Dr. Stevenson to the contrary and his own admission that he could independently run BISG. Exhibit 15 at 2348:3-2350:10, *see also* Exhibit 16 at 146: 24-147:17 *and Clerveaux* at 226. Due to Dr. Stevenson's admission that he was able to run the BISG analysis with the scripts provided, the court found Dr. Alford's complaints unpersuasive. *NAACP, Spring Valley Branch v. East Ramapo Central School District*, 462 F. Supp. 3d 368, 391 (S.D.N.Y. 2020).

⁶ Indeed, not only did Dr. Oskooii replicate Dr. Barreto and Mr. Rios' analysis successfully but was able to do so twice, using first only the information provided in their reports and then a second time using the extra information requested by Defendants. He achieved results similar to Dr. Barreto and Mr. Rios. *See* Exhibit 1.

Here, as he did in *Clerveaux*, Dr. Barreto, along with Mr. Rios, conducted their BISG analysis using the publicly available WRU package and the publicly⁷ available *eiCompare* package. Doc 193-2 at ¶¶ 32-33. Dr. Alford knew which software Dr. Barreto and Mr. Rios used to perform BISG and had every opportunity to replicate their analysis. Additionally, Dr. Barreto and Mr. Rios subsequently produced code that they recreated and personally tested that code to ensure it could successfully replicate their BISG analysis utilizing Dr. Stevenson’s preferred input method. Exhibits 10 and 12. Then, they provided a personal tutorial to aid Dr. Alford and Dr. Stevenson. Indeed, at the end of the video Dr. Stevenson noted that “everything was straightforward.” Exhibit 13 at 1:09:03-1:09:05.

The information produced by Dr. Barreto and Mr. Rios made the BISG analysis easily replicable by any qualified expert. Exhibits 1 and 2. Thus, it is clear that Dr. Alford has everything necessary to replicate Plaintiffs’ BISG analysis.

Defendants’ additional complaint that they lack intermediate probability scores (Br. at 17-18) is another red herring.⁸ Indeed, the same argument was made by Defendants and their expert, Dr. Alford, in *East Ramapo*. The Second Circuit rejected this argument noting, “[a]lthough the District on appeal claims that Dr. Barreto failed to preserve ‘a spreadsheet whose rows identified voters by surname, address, and race probabilities’ needed to replicate his analysis, the district court found that Dr. Barreto credibly testified that no such spreadsheet exists. Dr. Barreto explained that no ‘interim printout of BISG race estimates’

⁷ These packages also have publicly available tutorials showcasing their application. *Id.*

⁸ At no point did the Court order Plaintiffs to produce the intermediate probability results regarding voter race or ethnicity. Br. at 12-13, *see also* ECF Minute Entries.

existed because “[t]hose are just generated in the background of the [WRU] program, and as those BISG estimates get generated, they then just get plugged into the precincts and then the precinct analysis is done.”” *Clerveaux*, 984 F.3d at 234.

Moreover, intermediate probability results are not necessary to replicate Plaintiffs’ BISG analysis. They are not specifically created by Dr. Barreto nor is it normal practice to save this temporary file. *See* Doc 170 at 3 *and Clerveaux*, 984 F.3d at 234. Defendants are more than capable of producing those results when recreating the BISG analysis. The Court itself noted during the discovery dispute hearings in May that these intermediate outputs can and should be something the Defendants’ experts create and save during their own replication. Indeed, Dr. Barreto and Mr. Rios, during their video tutorial for Drs. Alford and Stevenson, even explained and recreated the process in which the probability inputs are run. Exhibit 13 at 50:00 to 52:00.

This is not a scenario where Plaintiffs are asking Defendants to simply guess as to what Dr. Barreto or Mr. Rios will testify to at trial. *Compare Cadena v. El Paso County*, 2017 WL 11621471, at *4 (W.D. Tex. Aug. 11, 2017). Their conclusions and methods have been detailed as thoroughly as possible through their report, deposition testimony, dispute hearings, and meetings between experts. No critical underlying data (Br. at 16), indeed no data at all, is being withheld from Defendants. All of the data files came from the government. The information Defendants had in their possession since April 14, 2023, if not earlier, is all the data that Dr. Barreto and Mr. Rios considered in forming their opinion, thus satisfying what is required by Fed. R. Civ. P. 26(a)(2)(B)(ii). Dr. Barreto and

Mr. Rios have since then provided scores more than what is necessary to recreate their analysis.

Lastly, the “drastic and harsh” sanction of exclusion that Defendants seek was not even granted to parties with dilatory motives in the cases cited by Defendants. *See Current v. Atochem North America, Inc.*, 2001 WL 36101282, at *5 (W.D. Tex. 2001). Here, there were no dilatory motives from Dr. Barreto and Mr. Rios, and they have supplied all the data on which they relied. The *Clerveaux* case makes clear that the process Dr. Barreto utilized here is part of his normal practice, and the normal practice of political scientists conducting this analysis. Dr. Alford by now knows the same.

D. Defendants Efforts to Strike Dr. Barreto and Mr. Rios’ BISG Analysis are simply bad faith attempts to exclude information harmful to their defense.

BISG can be a superior methodology for determining the presence of racially polarized voting necessary to satisfy the second and third *Gingles* preconditions, as it utilizes the actual voter file instead of simply those eligible to vote. *E. Ramapo Cent. Sch. Dist.*, 462 F. Supp. 3d at 387; *see also Clerveaux*, 984 F.3d at 236. This superiority, rather than any untimely or incomplete production of data by Plaintiffs, is why Defendants now seek to exclude the BISG analysis.

Defendants’ actions illustrate their bad faith intentions. As discussed, Defendants intentionally delayed providing Plaintiffs with the voter file, knowing that it is key in performing a BISG analysis. Further, although Defendants requested Court intervention in obtaining the script they claim was missing, their current actions show they only ever sought exclusion of the BISG analysis. Defendants continuously thwarted attempts by

Plaintiffs' experts to aid their replication of the BISG analysis. After the discovery dispute in front of the Court on May 15, 2023, Plaintiffs scheduled a meeting between the experts that same day. Exhibit 17 at 4-8. During the meeting, both counsel for Defendants and Dr. Alford repeatedly and purposefully interrupted any conversation geared toward resolution of the confusion regarding BISG between Dr. Barreto and Dr. Stevenson. *See* Exhibit 10 at ¶5. Defendants then rejected Dr. Barreto's offer to continue to walk Dr. Stevenson through the replication and never followed up on his offer for further meetings between the experts. *Id* at ¶5, 9.

At a follow up hearing with the Court on May 18, 2023, only when the Court proposed a video recording of a meeting between the experts alone did Defendants first mention having the BISG analysis excluded. Nonetheless, on May 31, Dr. Barreto and Mr. Rios spent time walking Dr. Stevenson and Dr. Alford through the BISG process and followed up, sending them all requested information. Exhibits 13 and 14 and Doc 193-6.

After spending weeks arguing this issue and expending judicial resources, Defendants now seek to have the BISG analysis struck—the plan all along. Defendants claim, “the Court should not afford Dr. Barreto an opportunity to cure the defects of his rebuttal report.” Br. at 18. However, Defendants insisted on Dr. Barreto “curing” any alleged defects for the several weeks. Defendants change their tune without explanation, and it remains unclear why they are still unable to replicate the BISG analysis. Nor do they point to any specific information they are missing. Rather, they mimic the same complaints that prior courts have already found unpersuasive. *Clerveaux* 984 F.3d at 226.

Defendants had everything they needed to replicate Dr. Barreto and Mr. Rios' BISG analysis since at least April 14, 2023. Drs. Oskooii and Walker's declarations, as well as Dr. Alford's and Dr. Stevenson's prior testimony in *Clerveaux* confirms this. Since April, Plaintiffs have complied with every order by the court and Defendants have received multiple recreated scripts and a private step by step tutorial geared towards guiding Drs Alford and Stevenson in replicating the BISG analysis. Yet Defendants still refuse to do so. This illustrates Defendants true intentions. This Court should deny their motion to exclude.

CONCLUSION

For the foregoing reasons, this Court should deny Defendants' Motion for Summary Judgment.

Respectfully submitted this 7th day of June, 2023.

/s/ Bernadette Reyes _____

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CERTIFICATE OF SERVICE

I certify that on July 7, 2023, the foregoing document was filed electronically and served on all parties of record via CM/ECF.

/s/Bernadette Reyes
Bernadette Reyes

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DICKINSON BAY AREA BRANCH	§	
NAACP, et al.,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	Civil Action No. 3:22-cv-117- JVB
	§	
GALVESTON COUNTY, TEXAS, et al.,	§	
	§	
<i>Defendants.</i>	§	

TERRY PETTEWAY, et al.,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	Civil Action No. 3:22-cv-57-JVB
	§	[Lead Consolidated Case]
	§	
GALVESTON COUNTY, TEXAS, et al.	§	
	§	
<i>Defendants.</i>	§	

UNITED STATES OF AMERICA,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 3:22-cv-93-JVB
	§	
GALVESTON COUNTY, TEXAS, et al.	§	
	§	
<i>Defendants.</i>	§	

SUPPLEMENTAL REPORT OF DR. KASSRA A.R. OSKOOII

June 14, 2023

1. My background and qualifications are set forth in my expert report dated January 13, 2023.
2. On June 2, 2023, a video recording of a zoom session between other experts in this case—Dr. Barreto, Mr. Rios, Dr. Alford, as well as a Dr. Stevenson—was produced to the NAACP

Plaintiffs. In the video, Dr. Barreto and Mr. Rios explain the method they used to perform a Bayesian Improved Surname Geocoding (“BISG”) ecological inference analysis in this case. At the request of NAACP Plaintiffs attorneys, I reviewed and replicated the BISG analysis conducted by Dr. Barreto and Mr. Rios. I was able to successfully reproduce their analysis without any issues. I examined a total of 10 election contests across 2020 - 2022 using BISG to estimate voters’ racial/ethnic background from the Galveston County election history voter files. I used eiCompare to run ecological inference. I understand that Dr. Alford may have expressed questions regarding the replicability of the BISG analysis and that the court is interested in this data, thus I offer my own replication using the publicly available data provided in this case.

3. As part of my analysis, I first read the rebuttal declaration of Dr. Barreto and Mr. Rios of April 14, 2023. In the declaration, Dr. Barreto and Mr. Rios explained and outlined the BISG process they used, which relies on a statistical package in R called Who Are You (“wru”) developed by Dr. Kosuke Imai at Harvard University.¹ The BISG procedure is detailed in six paragraphs (paragraphs 28 - 33) and sixteen footnotes (footnotes 5 - 20) of the rebuttal report.
4. Additionally, I consulted the social science article published by Dr. Imai,² which outlines the BISG process using wru, as well as the article in the NYU Review of Law and Social Change by Dr. Barreto and colleagues,³ which further outlines the use of BISG in examination of Racially Polarized Voting (“RPV”) patterns. Both Dr. Imai and Dr. Barreto maintain a publicly available repository that contains their R software packages and help files which I was able to easily access.
5. I consulted the academic articles and help files for BISG to ensure I followed the same processes as leading experts in the field. However, as a political scientist with expertise in political methodology and voting rights research, I was already familiar with BISG as a reliable tool for ecological inference, and it is something I can confidently conduct and replicate as I have done so numerous times before.
6. Using election data from TLC and Galveston County and the voter file with vote history provided by Galveston County, I ran BISG using wru and ecological inference using eiCompare and was able to replicate results in the Barreto and Rios rebuttal for elections in November 2022 and November 2020.

¹ <https://github.com/kosukeimai/wru>

² Imai, K., & Khanna, K. (2016). Improving ecological inference by predicting individual ethnicity from voter registration records. *Political Analysis*, 24(2), 263-272.

³ Barreto, M., Cohen, M., Collingwood, L., Dunn, C. W., & Waknin, S. (2022). A novel method for showing racially polarized voting: Bayesian improved surname geocoding. *NYU Rev. L. & Soc. Change*, 46, 1.

7. After completing this replication, I next watched a zoom video tutorial developed by Dr. Barreto and Mr. Rios that was provided to me by counsel. In the video, Barreto and Rios use the software program R Studio to detail their step-by-step approach to BISG and ecological inference for two November 2022 election contests—Attorney General and Governor of Texas. I found the zoom video very clear and easy to follow. I also received an R script from counsel which was the R script featured in the zoom video. Using this information, I did a second replication of the Barreto and Rios BISG ecological inference and once again, I was able to replicate their analysis successfully and quite easily achieving the same results.

8. In Figures 1 – 8 I provide the iterative (“EI”) and rows by columns (“RxC”) ecological inference results. Overall, the results are extremely consistent with the results provided by Dr. Barreto and Mr. Rios. When examining Anglo vs. Non-Anglo voting behavior I find clear patterns of RPV in Galveston County across both ecological inference estimation methods and election contests. When I then examine Anglo, Black, and Hispanic voting behavior I find the same patterns such that Black and Hispanic voters in Galveston County are political cohesive (in that a majority of Black and Hispanic voters vote for the same candidates) and Anglo voters vote as a bloc in opposition to the Black Latino preferred candidates. These results are consistent with my previous report which used CVAP to identify race within precincts, however BISG relies on the voter file and thus can provide a more precise appraisal of the race and ethnicity of people who are actually voting within each precinct.

Figure 1: 2022 General Election Iterative Ecological Inference Estimates for Galveston County using **BISG** (Anglo vs. Non-Anglo Voters)

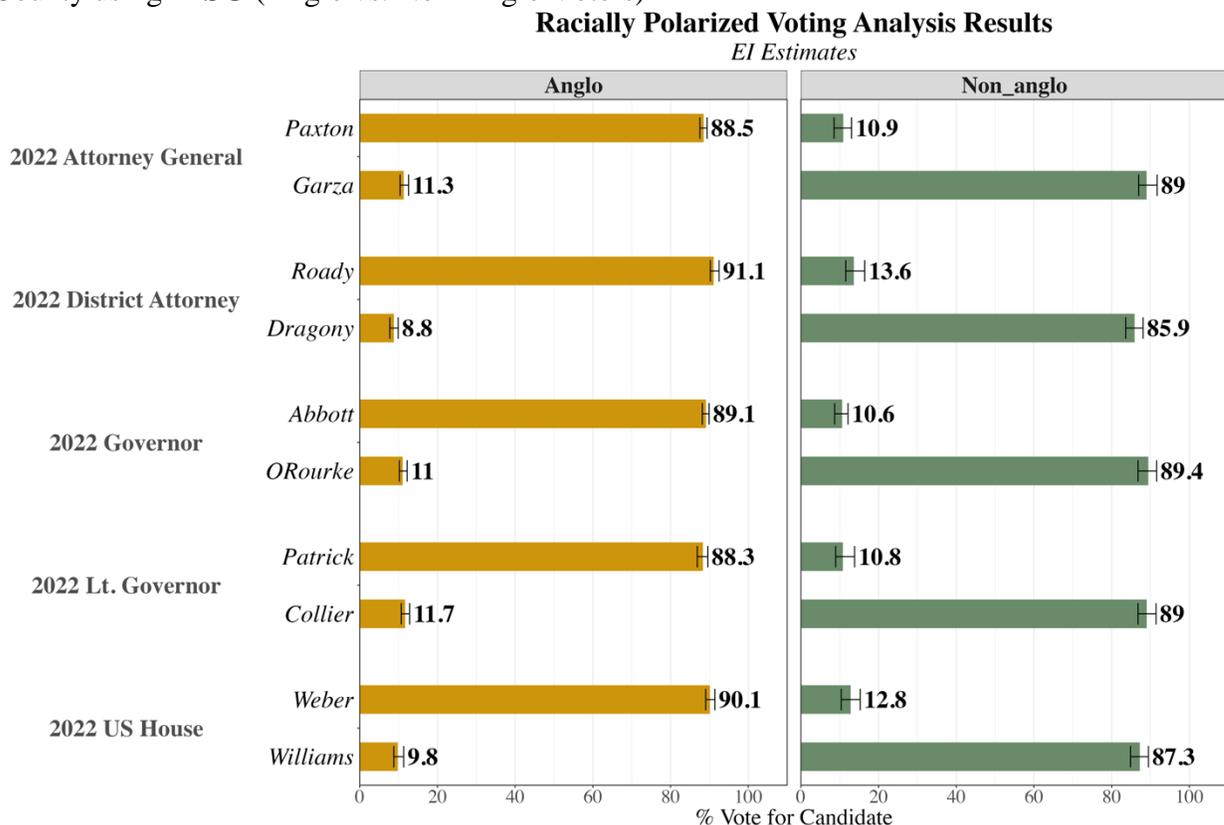


Figure 2: 2022 General Election RxC Ecological Inference Estimates for Galveston County using BISG (Anglo vs. Non-Anglo Voters)

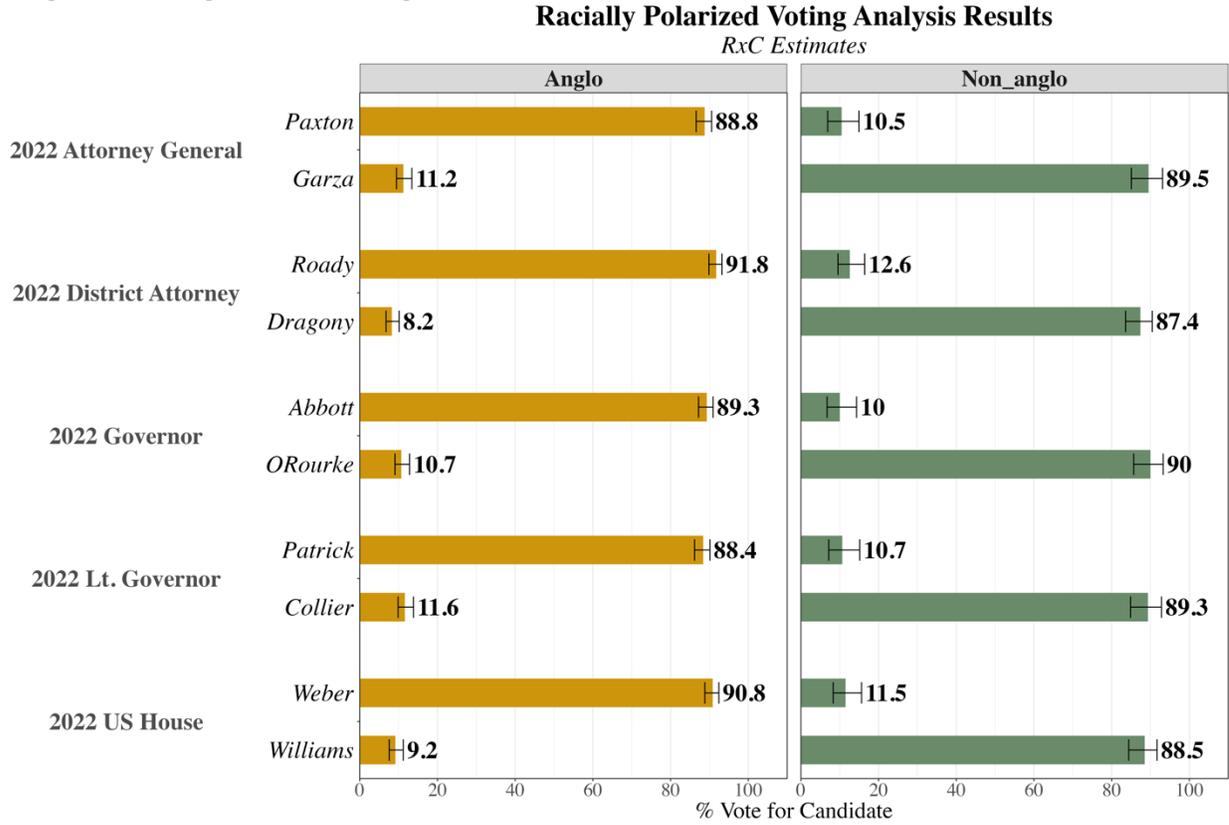


Figure 3: 2022 General Election Iterative Ecological Inference Estimates for Galveston County using BISG (Anglo, Black, and Latino Voters)

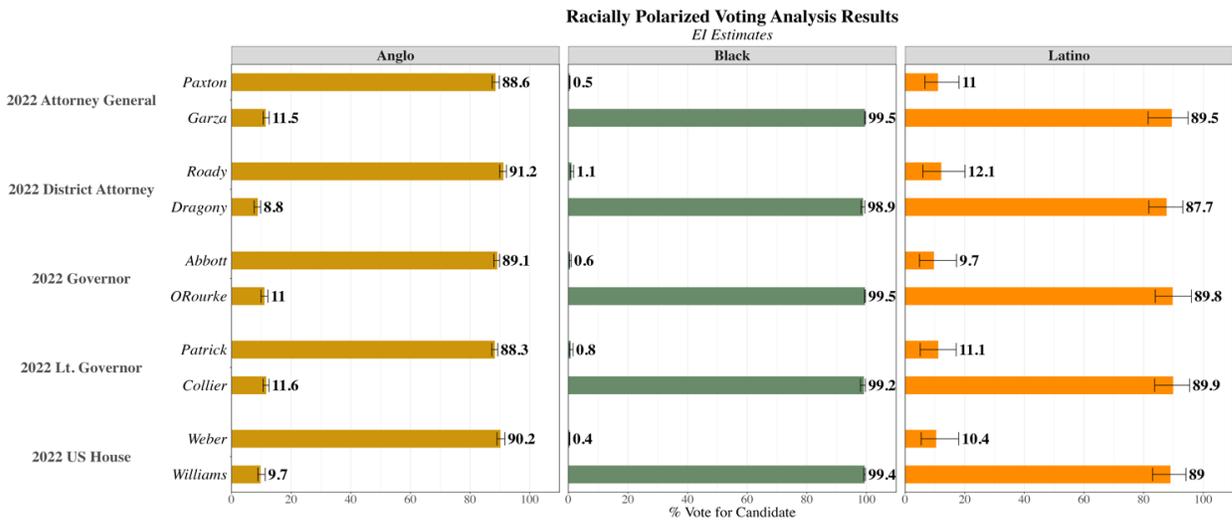


Figure 4: 2022 General Election RxC Ecological Inference Estimates for Galveston County using **BISG** (Anglo, Black, and Latino Voters)

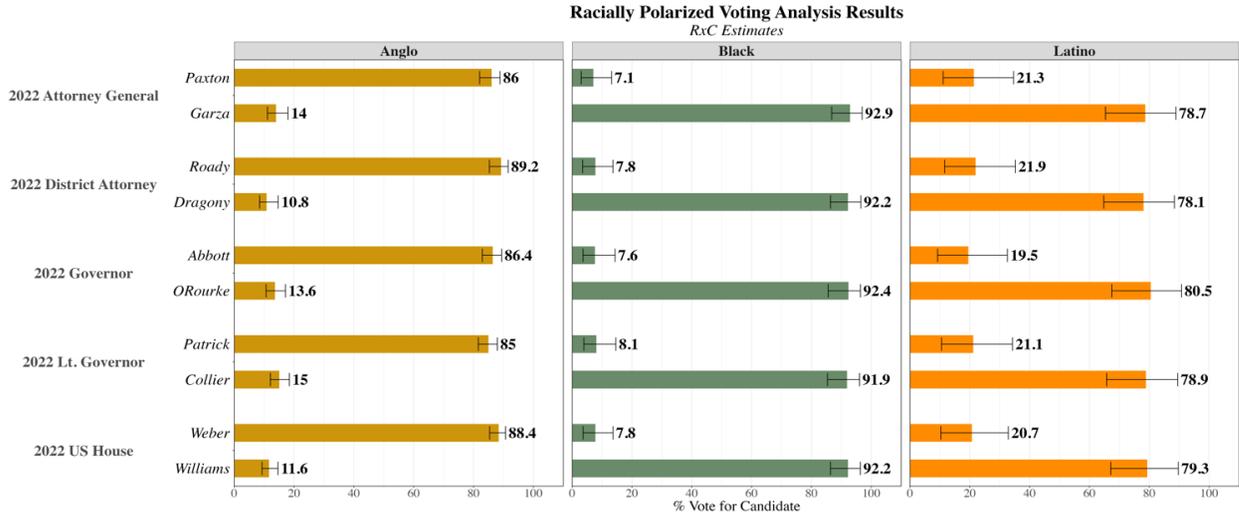


Figure 5: 2020 General Election Iterative Ecological Inference Estimates for Galveston County using **BISG** (Anglo vs. Non-Anglo Voters)

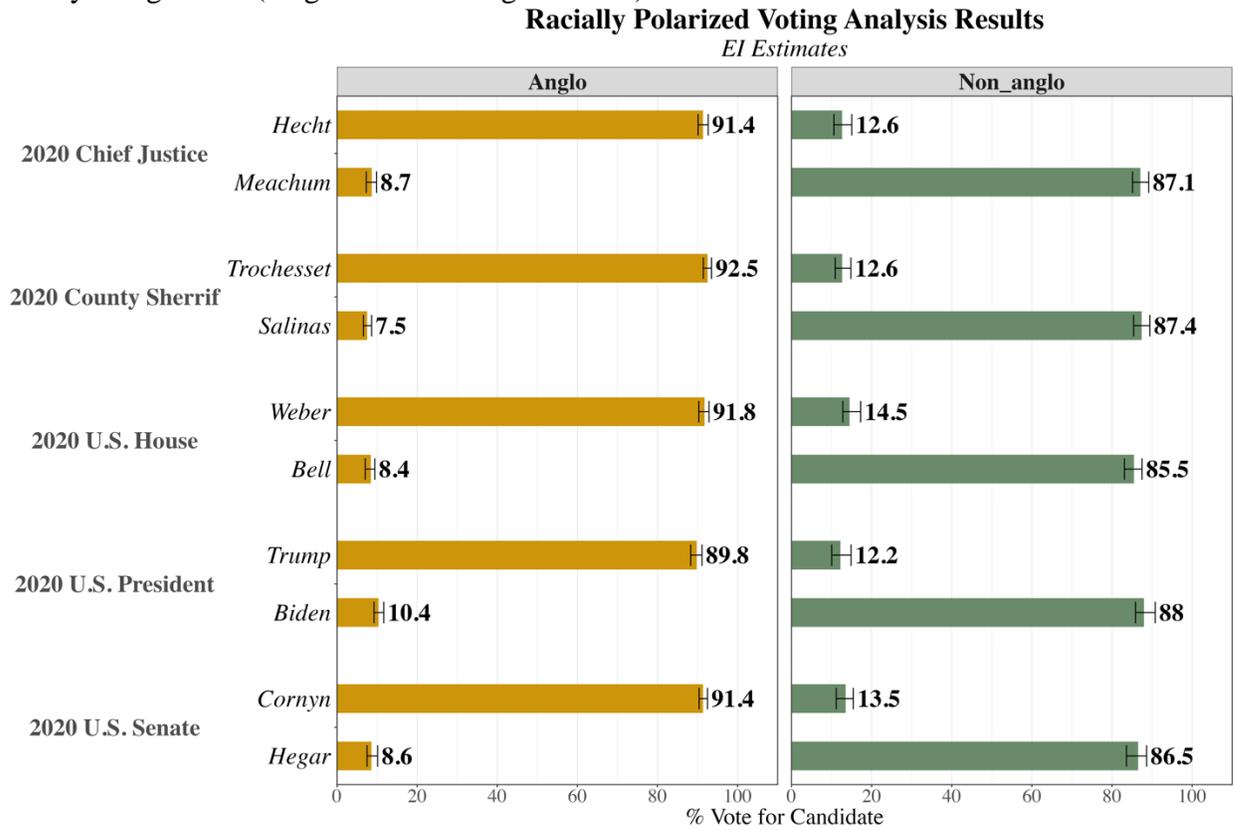


Figure 6: 2020 General Election RxC Ecological Inference Estimates for Galveston County using **BISG** (Anglo vs. Non-Anglo Voters)

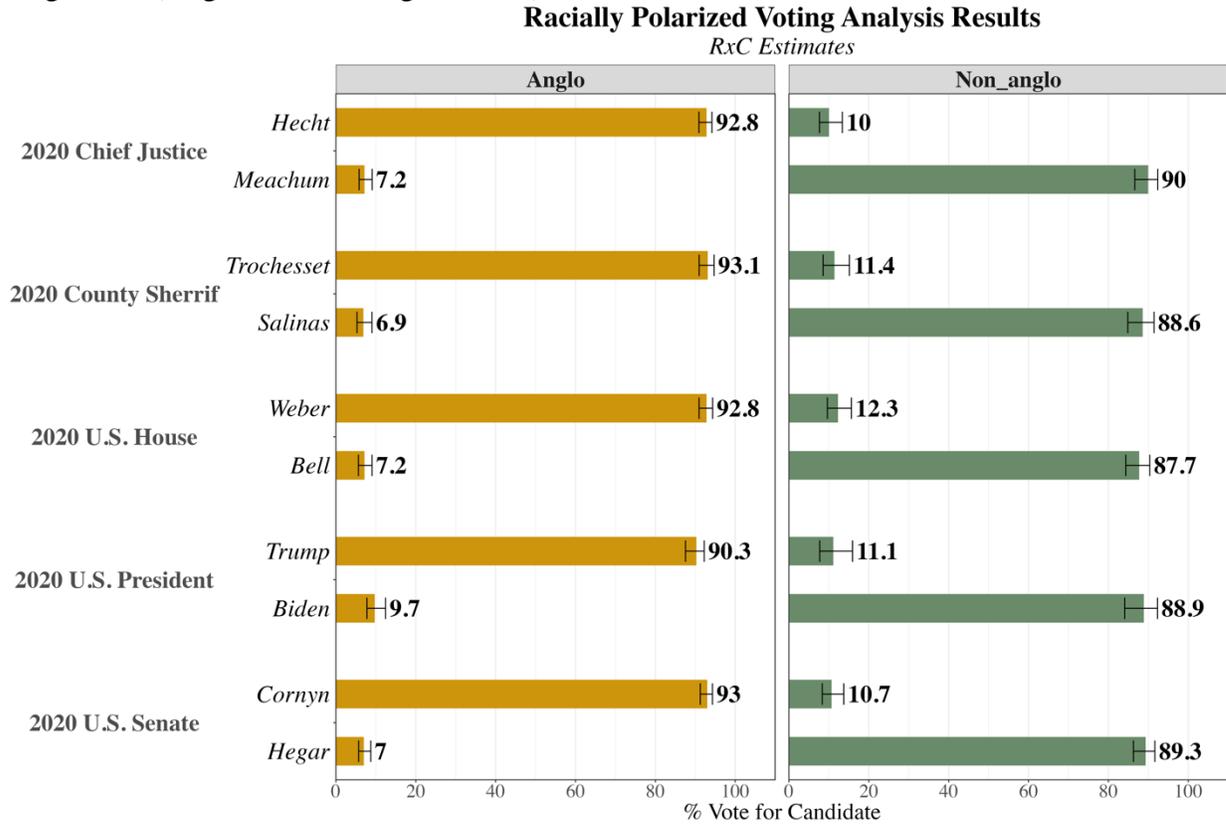


Figure 7: 2020 General Election Iterative Ecological Inference Estimates for Galveston County using **BISG** (Anglo, Black, and Latino Voters)

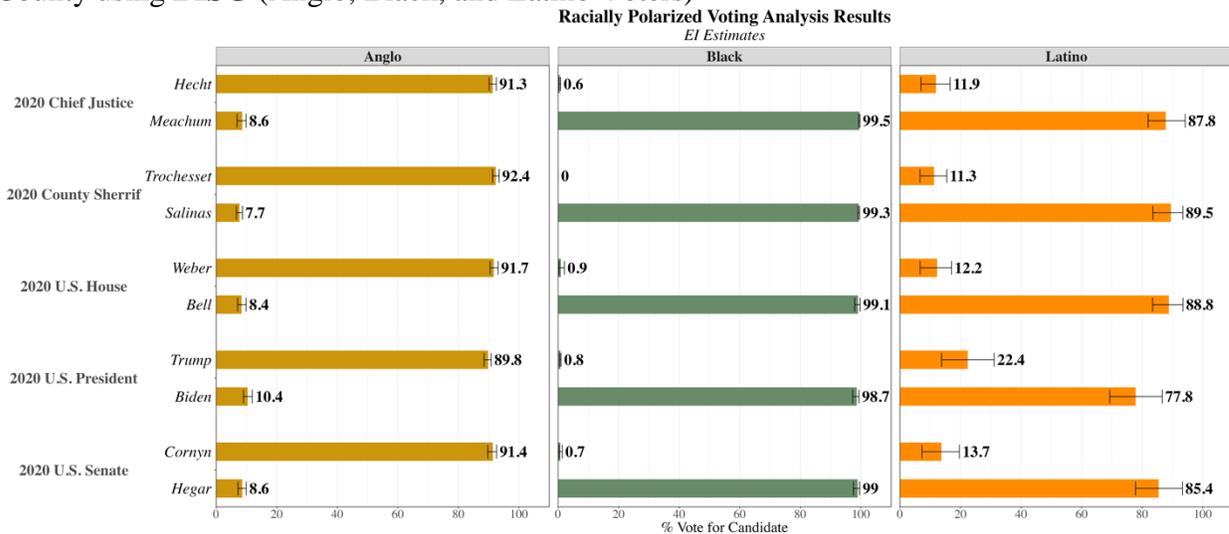
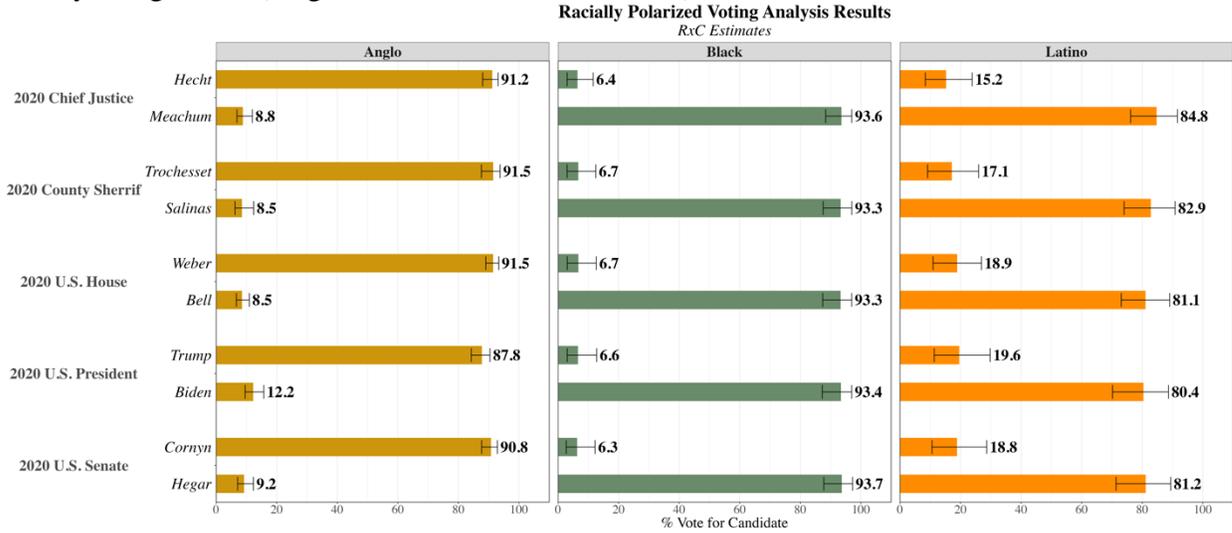


Figure 8: 2020 General Election Iterative Ecological Inference Estimates for Galveston County using **BISG** (Anglo, Black, and Latino Voters)



I reserve the right to supplement my declaration considering additional facts, testimony and/or materials that may come to light.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed: June 14, 2023

Dr. Kassra A.R. Oskooii

EXHIBIT 2

Declaration by Dr. Hannah Walker, University of Texas at Austin

July 7, 2023

1. My name is Hannah Walker and I am a faculty member in the department of Government at the University of Texas, at Austin. I received my Ph.D. in Political Science from the University of Washington in 2016 and completed a postdoctoral fellowship at Georgetown University (2016-2017). I was previously Assistant Professor of Political Science at Rutgers University (2017-2020). In 2020 I joined the faculty at UT and was awarded tenure in 2023 by the department of Government and Dean of Arts and Sciences. Effective September 1, 2023 I will hold the rank of Associate Professor with tenure at UT.
2. I was asked by attorneys for Petteway Plaintiffs to review two expert reports prepared by Dr. Matt Barreto and Mr. Michael Rios evaluating patterns of racially polarized voting in Galveston County, Texas. Specifically, I have been asked to render my own independent expert opinion regarding the process of performing and replicating analyses using Bayesian Improved Surname Geocoding (BISG) to estimate precinct-level voter demographics by race and ethnicity. This is a topic central to my own research, teaching and expert reports and something I can confidently assess.
3. My area of expertise concerns institutional barriers to civic participation including voting, with an emphasis on barriers faced by racial minorities. I have 22 peer-reviewed articles published or forthcoming, as well as a book with Oxford University Press titled *Mobilized by Injustice: Criminal Justice Contact, Political Participation and Race* (2020), which received a best book award from the American Political Science Association. In particular, I have used voter files for much of my work, and I have applied BISG using the package WRU to administrative records, including voter files, numerous times. I have published several articles addressing the impact of changes to electoral laws on minority populations. My research has been published in the discipline's leading journals, including *The Journal of Politics*, *Perspectives on Politics*, *Political Research Quarterly* and *Political Behavior*. My research has further received recognition for its merit through the award of over a million dollars in funding, cumulatively, from such organizations as Houston Endowment, the Russell Sage Foundation and the Abdul Latif Jameel Poverty Action Lab at MIT.
4. I previously provided an expert report and accompanying testimony in the 2020 case *McCoy v. DeSantis*, No. 19-14551 related to access to the right to vote in Florida. I also provided an expert report¹ evaluating patterns of racially polarized voting in Jacksonville, Florida related to the City Council's redistricting plan.² Finally, I have served as a consulting expert to the Native American Rights Fund in ongoing efforts to evaluate the fairness of districting plans across several jurisdictions on behalf of American Indian voters. My curriculum vitae is provided in the Appendix to this report.

¹ <https://www.documentcloud.org/documents/21202913-hannah-walker-racially-polarized-voting-in-jacksonville>

² <https://www.documentcloud.org/documents/21846825-jacksonville-naacp-v-city-of-jacksonville-complaint-3-22-cv-493?responsive=1&title=1>

5. After reviewing the Barreto and Rios reports, it is my conclusion that their reports contain all necessary documentation and instruction to replicate their analysis. I am confident that I could replicate their full analysis without requiring additional information from the authors. Their report represents a standard approach to racially polarized voting whereby experts provide the names of software packages used, links to websites and repositories with help files, and additional published academic research outlining their process. There is no doubt that it is important to the research process that scholars provide adequate information to their readers for the purposes of replication, in order to facilitate the validation of methods across contexts and the further development of scientific knowledge. Given my training and expertise, Barreto and Rios have provided sufficient information to facilitate the replication of their findings.
6. I was provided with, and have fully read two research reports developed by Barreto and Rios: 1) An initial declaration signed and certified on January 13, 2023, wherein the authors evaluate patterns of racially polarized voting in Galveston County that rely on estimates of the citizen voting age population (CVAP) from the American Communities Survey conducted by the U.S. Census (ACS); and 2) a second declaration signed and certified on April 14, 2023, that also evaluates patterns of racially polarized voting, using BISG of the Galveston County voter file to estimate the precinct-level racial demographics of people with vote history.
7. In the January declaration, the authors indicate the sources of data on which they drew to complete the analysis: 1) CVAP estimates from the ACS (in this case, obtained via Redistricting Data Hub), 2) Spanish surname turnout data from the Texas Legislative Council (TLC), 3) overall turnout data from the TLC; and 4) election returns from the Galveston County recorder-clerk of elections or TLC. I was able to quickly locate all of these data sources based on the information provided in the January declaration. These data provide the building blocks necessary to evaluate voting patterns among racial subgroups using ecological inference. In the April declaration, the authors draw on BISG (implemented with the WRU package in R) to estimate voters' race and aggregate to the precinct-level. Using this more precise information on voters, they estimated patterns of racially polarized voting in Galveston County using the same elections from their January report.
8. I am very familiar with the methods Barreto and Rios employ in their two reports. I have performed racially polarized voting analysis using the software package *eiCompare* across several different contexts (*eiCompare* was noted by the authors on page 6 of their January declaration and page 10 of the April declaration as having facilitated the BISG analysis together with the WRU package and ultimately their RPV analysis). In order to use the WRU package to estimate the probability that a voter is a member of a given racial group, one must first geocode addresses for each voter, and locate voters within their respective Census units (such as county, tract or block). This is a task that can be accomplished using a number of available geocoding software packages. The WRU package then draws on surname and racial demographics directly from the census to estimate the probability that an individual is a member of a given racial group. The individual level probabilities are then aggregated to precincts to derive counts or percentages of the actual voters by race and ethnicity.

9. Estimating an individual's race using BISG is increasingly a standard practice among scholars interested in demographic inequality across a wide variety of outcomes. As such, I have employed BISG with WRU in my own research.
10. As part of my research and teaching at UT, I oversee a team of graduate and undergraduate students working to compile administrative records on police stops with other metrics of interest, including census demographics and vote history. I train both graduate and undergraduate students on how to obtain census data, prepare and geocode individual level data, and to implement BISG via the WRU package. With proper training, any scholar who regularly publishes in the fields of voting rights can confidently use the BISG method in their work. In particular, one of my second year PhD students at UT is working on a project studying how voters who have recently moved into new and different neighborhoods make use of 311 and 911 calls in Travis County. For this project, I provided the student with basic training of how BISG works to produce estimates of race, and provided them with details on where to find additional information, help files and sample R code for WRU. The student had correctly implemented the method without further instruction from me by our following meeting one week later.
11. The outstanding question, then, is whether Barreto and Rios have provided enough information across their two reports such that I, or any competent expert, could replicate their analysis with no further information. In order to replicate their analysis, any expert needs the following information: (1) the underlying raw data they used – in this case the Galveston County vote history file and precinct level election results; (2) the procedure and software they employed to estimate race, whether it is Census CVAP data or BISG of the voter file; and 3) the procedure and software they employed to evaluate whether racially polarized voting occurred in the jurisdiction. In reading the Barreto and Rios reports, as well as referencing their sources, citations, and footnotes, I have been able to locate primary sources for all pieces of data they indicated they employed in the original analysis, as outlined in paragraph 9 on page 2, and again in paragraph 20 on page 6 of the January declaration. In order to perform BISG, an expert would also need the Galveston County voter file (which one can purchase from the state, presumably the county, or via a 3rd party vendor, all of which are outside the scope of this memo). In paragraph 28 on page 8 of their April report the authors state clearly that they used the Galveston County voter file which they received from Defendants. Next, Barreto and Rios clearly outline the procedure they followed to estimate race using the BISG method, implemented via the WRU package in R on pages 8-10, paragraphs 28-32 in the April declaration. Paragraph 29 alone contains 8 footnote citations that further explain how BISG is implemented including footnote 12 which directs readers to an academic article published by Barreto which outlines in detail his approach to BISG. Throughout the April declaration, Barreto and Rios provide direct links to software packages for both WRU and eiCompare, which have example code for how to implement BISG. Finally, on pages 4-5, paragraphs 18-19 of the January declaration, the authors provide information on the method (ecological inference) and software (eiCompare) used to evaluate patterns of racially polarized voting.
12. After reading two expert reports by Barreto and Rios, and reading the references and websites contained in their citations and footnotes, I can say with the highest confidence that

I could replicate their analysis without any additional information from the authors. The skills required to do so are such that I would expect that if given the task, my advanced Ph.D. students at UT could also replicate the results. There is no reason why anyone with equivalent training, and who regularly publishes peer-reviewed research articles on these topics, could not also replicate the analysis using the information provided in the two reports.



Hannah Walker
Austin, Texas
July 7, 2023

Hannah L. Walker

University of Texas at Austin
Department of Government
116 Inner Campus Drive
Austin, TX 78712

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Academic Positions

Assistant Professor of Government, University of Texas at Austin, 2020 - Present

Faculty Affiliate, Teresa Lozano Long Institute of Latin American Studies
Research Affiliate, Population Research Center
Faculty Fellow, Politics of Race and Ethnicity Lab

Russell Sage Foundation Visiting Scholar, 2023 - 2024

Assistant Professor of Political Science and Criminal Justice, Rutgers University, 2017 - 2020

Postdoctoral Fellow, Prisons and Justice Initiative, Georgetown University, 2016-2017

Education

University of Washington

Ph.D. Political Science, June 2016
Research Fields: American Politics, Race and Ethnic Politics, Political Methodology
Center for Statistics in the Social Sciences Political Methodology Field Certificate, May 2014
Master of Arts, Political Science, December 2013

Rutgers University

Masters of Public Policy, May 2011

Washington State University-Vancouver

Bachelor of Arts, Public Affairs, May 2009

Book Manuscripts

Walker, Hannah L. 2020. *Mobilized by Injustice: Criminal Justice Contact, Political Participation and Race*. Oxford University Press.

**Winner of the American Political Science Association Racial and Ethnic Politics Section best book award, 2020*

Journal Publications

23. Dias, Megan, Epp, Derek, Roman, Marcel and **Walker, Hannah L.** "The practical efficiency and normative efficacy of police discretion." *Journal of Empirical Legal Studies*, forthcoming.
22. Lajevardi, Nazita, Oskooii, Kassra, and **Walker, Hannah L.** "Unmediated Digital News Consumption and Support for Anti-Muslim American Policy Proposals." *Journal of Public Policy*, 42(4), 656-683.
21. Barreto, Matt, Sanchez, Gabriel, and **Walker, Hannah L.** "Battling the Hydra: Voter ID Laws and Native Americans in North Dakota." *Journal of Racial and Ethnic Politics*, doi: 10.1017/rep.2022 *Online first*.
20. Garcia-Rios, Sergio, Lajevardi, Nazita, Oskooii, Kassra, and **Walker, Hannah L.** 2021. "The Participatory Implications of Racialized Policy Feedbacks." *Perspectives on Politics*, doi: 10.1017/S153759272100311X. *First view*.
19. Roman, Marcel, **Walker, Hannah L.** and Barreto, Matt. 2021. "Overcoming the limits of illegality: How social ties with undocumented immigrants motivate Latinx political participation." *Political Research Quarterly*, doi: 10.1177/10659129211019473. *Online first*.
18. Walker, Hannah L., McCabe, Katherine and Matos, Yalidy. "Proximal contact with Latino Immigrants, Perceptions of Immigrants, and Policy Attitudes among non-Hispanic Whites." *Politics, Groups and Identities*, doi: 10.1080/21565503.2021.1882315. *Online first*.
17. McCabe, Katherine, Matos, Yalidy and **Walker, Hannah L.** 2020. "Priming legality: Perceptions of Latino and undocumented Latino immigrants." *American Politics Research*, doi: 10.1177/1532673X20959600. *Online first*.
16. Walker, Hannah L., Collingwood, Loren, and Lopez Bunyasi, Tehama. 2020. "White Response to Black Death: A Racialized Theory of White Attitudes Towards Gun Control." *Du Bois Review*, doi:10.1017/S1742058X20000156. *Online first*.
15. Walker, Hannah L., Roman Marcel, and Barreto Matt. 2020. "The Ripple Effect: The Political Consequences of Proximal Contact with Immigration Enforcement." *The Journal of Racial and Ethnic Politics*, doi: 10.1017/rep.2020.9. *Online first*.
14. Walker, Hannah L. 2020. "Targeted: The mobilizing effect of perceptions of unfair policing practices." *The Journal of Politics*, 82(1): 119-134.
13. Lajevardi, Nazita, Oskooii, Kassra, and **Walker, Hannah L.** and Westfall, Aubrey. 2020. "The Paradox Between Integration and Perceived Discrimination Among American Muslims." *Political Psychology*, 41(3): 587-606.
12. Walker, Hannah L., Roman, Marcel and Barreto, Matt. 2020. "The Direct and Indirect Effects of Immigration Enforcement on Latino Political Engagement." *UCLA Law Review*. 67.
11. Barreto, Matt, Nuño, Stephen, Sanchez, Gabriel, and **Walker, Hannah L.** 2019. "The Racial Implications of Voter ID Laws in America." *American Politics Research*, 47(2), 238-249.
10. García-Castañón, Marcela, Huckle, Kiku, **Walker, Hannah L.** and Chong, Chinbo. 2019. "Democracy's Deficit: The role of institutional contact in non-white political behavior." *Journal of Race, Ethnicity and Politics*, 4(1): 1-31.

9. Owens, Michael Leo and **Walker, Hannah L.** 2018. "Civic Voluntarism of 'Custodial Citizens': Involuntary Criminal Justice Contact, Associational Life and Political Participation." *Perspectives on Politics*, 16(4), 990-1013.
8. Walker, Hannah L., Herron, Michael C., and Smith, Daniel A. 2018. "Early voting changes and voter turnout: North Carolina in the 2016 General Election." *Political Behavior*, doi:10.1007/s11109-018-9473-5. *Online first*.
7. Dana, Karam, Lajevardi, Nazita, Oskooii, Kassra, and **Walker, Hannah L.** 2018. "Veiled politics: Experiences with discrimination among American Muslims." *Religion and Politics*, doi:10.1017/S1755048318000287. *Online first*.
6. Walker, Hannah L. and García-Castañón, Marcela. 2017. "For Love and Justice: The Mobilizing Impacts of Race, Gender and Proximal Contact." *Politics and Gender*, 13(4): 541-568.
5. Walker, Hannah L., Thorpe, Rebecca, Christensen, Emily and Anderson, JP. 2016. "The Hidden Subsidies of Rural Prisons: Race, Space and Cumulative Disadvantage." *Punishment and Society*, online first, Sage. August 8, 2016.
4. Sanchez, Gabriel R., Vargas, Eduard D., **Walker, Hannah L.**, and Ybarra, Vickie D. 2015. "Stuck Between a Rock and a Hard Place: The Relationship Between Latino/a's Personal Connections to Immigrants and Issue Salience and Presidential Approval." *Politics, Groups and Identities*, 3(3).
3. Walker, Hannah L. and Bennett, Dylan. 2015. "The Wages of Wisconsin's Whiteness: Black Milwaukee, White Waukesha, and the Destruction of Public Sector Labor Unions." *New Political Science: A Journal of Politics and Culture*, 37(2): 181-203.
2. Dana, Karam and **Walker, Hannah L.** 2015. "Invisible Disasters: The Effects of Israeli Occupation on Palestinian Gender Roles." *Contemporary Arab Affairs*, 8(4): 488-504.
1. Walker, Hannah L. 2014. "Extending the Effects of the Carceral State: Proximal Contact, Political Participation and Race." *Political Research Quarterly*, 67(4): 809-822.

Book Chapters, Reviews, and other Academic Works

6. Walker, Hannah L. Review of "*Neighborhood Watch: Policing White Spaces in America*. Shawn E. Fields. New York: Cambridge University Press (2022)" *Perspectives on Politics*, 21(1): 375-376.
5. Harris, Allison, **Walker, Hannah L.**, and Eckhouse, Laurel. 2020. "No Justice, No Peace: Political Science Perspectives on the American Carceral State." *The Journal of Racial and Ethnic Politics*, 5: 427-449. Introduction to special issue on the politics of criminal justice.
4. Bennet, Dylan and **Walker, Hannah L.** 2019. "Cracking the Racial Code: Black Threat, White Rights and the Lexicon of American Politics." Invited submission. *The American Journal of Economics and Sociology*, 77(3-4): 689-727.
3. Sanchez, Gabe, **Walker, Hannah L.**, Nuño, Stephen, and Barreto, Matt. 2019. Encyclopedia Entry for "The Impact of Voter ID Laws." in Jessica Lavariega-Monforti (ed.) *Latinos in the American Political System: An Encyclopedia of Latinos as Voters, Candidates, and Office Holders*.
2. Walker, Hannah L., Sanchez, Gabe, Nuño, Stephen, and Barreto, Matt. 2017. "Race and the Right to Vote: The Modern Barrier of Voter ID Laws." in Todd Donovan (ed.) *Election Rules and Reforms*. New York: Rowman and Littlefield.

1. Walker, Hannah L. Review of *Incarceration Nation: How the United States Became the Most Punitive Democracy in the World*. Peter K. Enns. New York: Cambridge University Press (2017) 192, ISBN 978-1-107-13288-7, 178-1-316-50061-3," *The Howard Journal of Criminal Justice*, 56(2): 269-271.

Select Working Papers

Doleac, Jennifer, Eckhouse, Laurel, Harris, Allison, Walker, Hannah L. and White, Ariel. "Registering Returning Citizens to Vote: Field Experiments in North Carolina and Texas." Under review.

White, Ariel, Walker, Hannah L., Michelson, Melissa, and Roth, Sam. "No Longer a Number: Finding New Ways to Contact and Mobilize Newly Enfranchised Citizens in New Jersey." Under review.

Cassella, Chris, Epp, Derek, Fredrikkson, Klara, Roman, Marcel and Walker, Hannah L. "The impact of the George Floyd protests on police behavior." Under review.

Doleac, Jennifer, Harris, Allison, Walker, Hannah L. and White, Ariel. "Reaching returning voters through individual outreach and social ties." Working paper.

Verrilli, Allison, Roman, Marcel, Walker, Hannah, Epp, Derek, Finley, Mike and Liu, Amy. "Policing at the Margins: Boundary Maintenance in U.S. Municipalities." Working paper.

Lopez Bunyasi, Tehama, Watts Smith, Candis and Walker, Hannah L. "Are These My People? The Geography of Black Politics." Working paper.

Matos, Yalidy, McCabe, Katherine, Walker, Hannah L. and Greene, Stacey. "The Impact of Misperceiving Latino Neighborhood Density on Attitudes towards Immigration." Working paper.

Funding

Russell Sage Trustee Grant in Social, Political and Economic Inequality, "Policing socio-geographic change and displacement," 2023 - 2025, \$187,136.00 (with Marcel Roman, Derek Epp, Mike Findley and Amy Liu).

Houston Endowment Fund, "Registering Re-Entering Citizens to Vote," 2022 - 2025, \$420,000.00 (with Jennifer Doleac, Allison Harris and Ariel White).

OneOne Ventures. "Registering Re-Entering Citizens to Vote," 2022 - 2023, \$60,000.00 (with Jennifer Doleac, Allison Harris and Ariel White).

Russell Sage Trustee Grant in Social, Political and Economic Inequality, "Registering Re-Entering Citizens to Vote," 2021-2023, \$166,865.00 (with Jennifer Doleac, Laurel Eckhouse, Eric Foster-Moore, Allison Harris, and Ariel White).

J-PAL North America Pilot Grant, "Registering Re-entering Citizens to Vote," 2019-2022, \$174,636 (with Jennifer Doleac, Laurel Eckhouse, Eric Foster-Moore, Allison Harris, and Ariel White).

Russell Sage Foundation Pipeline Grant, "Intersecting (In)Justice: The Causes and Consequences of the Criminalization of Immigration," 2020-2021, \$26,428.00

J-PAL North America Pilot Grant, "Pilot: Registering Re-entering Citizens to Vote," 2019, \$49,126.30 (with Jennifer Doleac, Laurel Eckhouse, Eric Foster-Moore, Allison Harris, and Ariel White).

Rutgers University Research Council Award, 2019-2020, \$2,880.00

MIT Election Lab New Initiatives Grant, 2019-2020, \$9,992.13 (with Laurel Eckhouse, Allison Harris and Ariel White)

Brian and Diane Jones Graduate Research Grant, University of Washington, Department of Political Science, 2015, \$1,500.00

Center for Statistics and Social Science Graduate Student Research Presentation and Training Grant, Spring 2014, \$1,000.00

WISER Survey Research Fellowship, Fall 2011-Fall 2014, \$2,000.00

WISER Summer Research Fellowship, Summer 2012, \$2,500.00

Christopherson Fellowship, 2011-2012 Academic Year

Bloustein Fellowship in Public Policy, 2009-2010 Academic Year.

Awards

Racial and Ethnic Politics Section Best Book Award, APSA, 2020, *Mobilized by Injustice: Criminal Justice Contact, Political Participation and Race*.

Latino Caucus Best Paper in Latino Politics, WPSA, 2019, "The Ripple Effect: The Political Consequences of Proximal Contact with Immigration Enforcement," (with Marcel Roman and Matt Barreto).

Racial and Ethnic Politics Section Best Conference Paper Award, APSA, 2019, "Acculturation and Perceived Discrimination among Muslim Americans," (with Nazita Lajevardi, Kassra Oskooii and Aubrey Westfall).

Best Graduate Paper in Political Science, 2014, "Executive Discretion: A Mixed-Method Study of the Pardon and Clemency Process in Washington State," (with Kassra Oskooii)

Western Political Science Association Paper Award 2012, Best Paper in Black Politics. "The Effects of Indirect Contact With the Criminal Justice System on Political Participation."

Teaching

Introduction to American Politics

The Politics of Immigration

Race, Criminal Justice and Civil Rights

Law and Society

Public Policy Formation

Political Behavior (graduate)

American Politics Pro-Seminar (graduate)

Citizenship, Violence and Political Exclusion (graduate)

Research and Consulting Experience

Florida, 2020, expert report on racially polarized voting submitted to the Jacksonville City Council.

Florida, 2020, expert witness, Jones v. Desantis

North Dakota, 2016, 2018, provided research support for expert report with Dr. Matt Barreto, Dr. Gabe Sanchez and Janelle Johnson submitted to federal court in the case Brakebill at al. v Jaeger

Texas, 2014, provided research support for expert report with Dr. Matt Barreto and Dr. Gabe Sanchez submitted to federal court in the case Veasey v. Perry

City of Seattle, Office for Civil Rights, Research and Evaluation Assistant, 2013 - 2014

Pennsylvania, 2012, provided research support for expert report with Dr. Matt Barreto and Dr. Gabe Sanchez submitted to federal court in the case Applewhite v. Commonwealth of Pennsylvania

Milwaukee County, WI, 2012, provided research support for expert report Dr. Matt Barreto and Dr. Gabe Sanchez submitted to federal court the case Frank v. Walker

Invited Talks and Conference Presentations

Department of Political Science Mini-conference on the Politics of Gender, Diversity and Representation, University of Houston, 2023

Department of Political Science American Politics Workshop, Rice University, 2023

Department of Political Science American Politics Workshop, Emory University, Atlanta, 2022

Conversations on Race and Policing, CSU San Bernardino, 2022

SNF Paideia Program, University of Pennsylvania, Philadelphia, 2021

Citrin Center on Public Opinion, University of California, Berkeley, 2020

Teresa Lozano Long Institute of Latin American Studies, University of Texas, Austin, 2020

Race, Inequality and Policy Initiative, Wake Forest University, 2020

Department of Political Science Research in American Politics Workshop, University of California, Berkeley, 2019

Department of Political Science Race, Ethnicity and Politics Workshop, University of California, Los Angeles, 2019

University of Denver, 2019

Columbia University, 2018

Yale University, 2018

Seminar in Racial and Ethnic Politics, Pace University, 2017

Winant Symposium on Democratic Deficits and American Politics, Rothermere American Institute at the University of Oxford, 2016

Professional Service

Discipline

American Political Science Association, section on Race, Ethnicity and Politics Vice Chair, 2022-2023
American Political Science Association, section on Race, Ethnicity and Politics best paper award committee, 2021
Journal of Racial and Ethnic Politics, special issue in criminal justice, 2020 (guest editor with Allison Harris and Laurel Eckhouse)
American Political Science Association, section on Race, Ethnicity and Politics program chair, 2020
Women in REP Writing Retreat, co-organizer, June 2019
American Political Science Association, section on Race, Ethnicity and Politics Newsletter editor, 2017 - 2019
American Political Science Association, mini-conference on "Justice and Injustice: Political Science
Perspectives on Crime and Punishment co-organizer, 2018, 2019, 2020, 2021, 2022
Manuscript reviewer for Journal of Politics, American Political Science Review, American Journal of Political Science, Political Behavior, Religion and Politics, Politics, Groups and Identities and the Journal of Racial and Ethnic Politics

University

Dissertation committee member:

Bailey Socha (Rutgers University)
Katie Krumholz (Rutgers University)
Chris Cassella (UT Austin)
Megan Dias (UT Austin)
Ben White (UT Austin)
Klara Fredriksson (UT Austin)

Strategic planning committee, 2022 - present
Criminal Legal System Research Interest Group (CLS RIG) advisory committee member, 2020 - present
Racial and Ethnic Politics Search Committee, 2021
Provost's Early Career Fellowship Program Search Committee, 2020
Diversity and Inclusion in Government Graduate Studies (DIGGS) recruitment participant, 2021, 2022
Admissions Committee, 2019
Advisory Committee, 2017 - 2018

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DICKINSON BAY AREA BRANCH §
NAACP; GALVESTON BRANCH §
NAACP; MAINLAND BRANCH §
NAACP; GALVESTON LULAC §
COUNCIL 151; EDNA COURVILLE; §
JOE A. COMPIAN; and LEON §
PHILLIPS, §

Plaintiffs, §

v. §

Civil Action No. 3:22-cv-117- JVB

GALVESTON COUNTY; §
HONORABLE MARK HENRY, in his §
official capacity as Galveston County §
Judge; DWIGHT D. SULLIVAN, in his §
official capacity as Galveston County §
Clerk; §

Defendants. §

TERRY PETTEWAY, DERRICK ROSE, §
MICHAEL MONTEZ, SONNY JAMES, §
and PENNY POPE, §

Plaintiffs, §

v. §

Civil Action No. 3:22-cv-57-JVB
[Lead Consolidated Case]

GALVESTON COUNTY, TEXAS, and §
HONORABLE MARK HENRY, in his §
official capacity as Galveston County §
Judge, §

Defendants. §

United States of America,	§	
	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 3:22-cv-93-JVB
	§	
	§	
GALVESTON COUNTY, TEXAS;	§	
GALVESTON COUNTY	§	
COMMISSIONERS COURT; and	§	
MARK HENRY, in his capacity as	§	
Galveston County Judge,	§	
	§	
<i>Defendants.</i>	§	
	§	

**NAACP PLAINTIFFS’ FIRST SET OF REQUESTS FOR PRODUCTION TO
DEFENDANTS GALVESTON COUNTY, HON. MARK HENRY, AND DWIGHT
D. SULLIVAN**

Pursuant to the Federal Rules of Civil Procedure, Plaintiffs Mainland Branch NAACP, Dickinson Bay Area Branch NAACP, Galveston Branch NAACP, Galveston LULAC Council 151, Edna Courville, Joe A. Compian, and Leon Phillips (together, “NAACP Plaintiffs”) serve this First Request for Production to Defendant(s) Galveston County, Honorable Mark Henry, in his official capacity as Galveston County Judge, and Dwight D. Sullivan, in his official capacity as Galveston County Clerk. Defendant(s) must serve their responses upon the undersigned counsel within thirty (30) days in electronic format, or if electronic format is not available, at 1405 Montopolis Drive, Austin, Texas 78741. Defendant(s) must supplement their responses as required by the Federal Rules of Civil Procedure and any orders entered by the Court.

DEFINITIONS

1. “Defendant(s),” “you,” and “your” refer to Galveston County, Honorable Mark Henry, in his official capacity as Galveston County Judge, and Dwight D. Sullivan, in his official capacity as Galveston County Clerk, as well as their predecessors in office and any representative acting or purporting to act on their behalf or subject to their control, including but not limited to past or present employees, agents, interns, attorneys, advisors, consultants, and/or contractors.
2. “Commissioner” means a past or present elected member of the Galveston County Commissioners Court, including such member’s past or present employees, agents, attorneys, advisors, consultants, contractors, and/or other persons or entities acting or purporting to act on the member’s behalf or subject to the member’s control on behalf of any committee or other body of which the elected member is part.
3. “Communication(s)” means any transmittal of information, whether facts, ideas, inquiries, or otherwise, regardless of form, method, or medium and refers to every manner or means of disclosure, transfer, or exchange of information orally, telephonically, electronically, digitally, in-person, or in writing of any kind and in any form, including without limitation mail, notes, emails, text messages, SMS messages, instant messages, voice messages, Signal messages, WhatsApp messages, iMessages, etc., and refers both to actual and attempted communications of any kind.
4. “Document(s)” means any writing of any kind, source, or authorship, regardless of

how it may be recorded, stored, or reproduced. The term includes both originals and all non-identical copies thereof, as well as all drafts, revisions, and amendments, regardless of whether adopted. The term also includes but is not limited to handwritten, typewritten, printed, photocopied, photographic, and electronically recorded matter. For purposes of illustration and not limitation, the term includes: contracts, agreements, communications, reports, charges, complaints, correspondence, letters, emails, social media postings, telegrams, memoranda, applications, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, journals, diaries, schedules, charts, graphs, worksheets, spreadsheets, reports, notebooks, note charts, handwritten notes, plans, drawings, sketches, maps, brochures, pamphlets, advertisements, circulars, press releases, summaries or records of meetings or conferences, summaries or reports or records of investigations or negotiations, opinions or reports of consultants, bills, statements, invoices, affidavits, schedules, audio recordings, video recordings, transcriptions, and photographs.

5. “Person” means not only natural persons, but also firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, trusts, groups, and organizations; federal, state, or local governments or government agencies, offices, bureaus, departments, or entities; other legal, business, or government entities; and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof or any combination thereof.

6. “Redistricting” means any consideration of the alignment of district boundaries for the entire Commissioners Court Precincts map for Galveston County, any single Commissioner Court Precinct, or Commissioner Court Precincts within a geographic area.
7. “Identify” when referring:
 - a. to a person, means to state the person’s full name, present or last known address, telephone number, and email address;
 - b. to an organization or entity, means to state its full name, present or last known address, telephone number, fax number, and email address;
 - c. to a document, means to describe its contents; to identify when, where, and how it was made; to identify who made it; and to identify who has present or last known possession, custody, or control of the document;
 - d. to a statement or communication, means to describe its contents; to identify when, where, and how it was made; to identify who made it and who was present when it was made; and to identify who has present or last known possession, custody, or control of any recording of the statement or communication;
 - e. to a social media account, means to provide the username of the account, identify all persons who control or have access to the account, and provide the date(s) of the relevant activity on the account.
8. “Relating to” means referring to, regarding, consisting of, concerning, pertaining to,

reflecting, evidencing, describing, constituting, mentioning, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic.

9. “Commissioners Court Precinct Map” means the Commissioners Court Precinct map for Galveston County adopted by the Galveston County Commissioners Court on November 12, 2021, unless another plan is specified.

INSTRUCTIONS

1. This First Set of Requests for Production is served jointly on all Defendant(s) for convenience only. It is to be construed as a separate request for each.
2. In responding to these requests, please produce all responsive documents in your possession, custody, or control, including Documents reviewed by Defendant(s) which Defendant(s) have the legal right and/or the practical ability to obtain from a non-party to this action.
3. All references in these requests to an individual person include their employees and agents past and present, including attorneys, advisors, consultants, contractors, predecessors, and all other persons or entities acting or purporting to act their behalf or subject to the control of such person.
4. All references in these requests to any entity, governmental entity, or any other type of organization include its past or present officers, executives, directors, employees, staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, and all other persons or entities acting or purporting to act on

behalf of such an organization or subject to its control.

5. In construing these document requests, apply the broadest construction, so as to produce the most comprehensive response.
 - a. Construe the terms “and” and “or” either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside that scope.
 - b. Words used in the singular include the plural and vice-versa.
 - c. Words or terms used herein have the same intent and meaning regardless of whether the words or terms are depicted in lowercase or uppercase letters.
 - d. “Persons” can include entities, incorporated and not, and “entities” can include persons and associations thereof. A reference to a person or entity includes their agents past and present.
6. Documents should be produced in their entirety, without abbreviation, redaction, or expurgation; file folders with tabs or labels identifying Documents responsive to these requests should be produced intact with the Documents; Documents attached to each other should not be separated; all emails or Documents maintained in electronic form should be produced with all associated metadata and the appropriate load file(s); Documents stored as Excel files or as a database should be produced in their native format; each page should be given a discrete production number; and color copies of Documents should be produced where color is necessary to interpret or understand the contents.

7. For the avoidance of doubt, these requests are not intended to require the production of sensitive personally identifiable information.
8. Documents should be produced in a form consistent with any agreement concerning production format entered in this action.
9. Each document produced should be categorized by the number of the document request in response to which it is produced.
10. No portion of a request may be left unanswered because an objection is raised to another part of that request. If Defendant(s) object to any portion of a document request, they must state with specificity the grounds of any objections. Any ground not stated will be waived.
11. For any document withheld from production on a claim of privilege or work product protection, provide a written privilege log identifying each document individually and containing all information required by Rule 26(b)(5) of the Federal Rules of Civil Procedure, including a description of the basis of the claimed privilege and all information necessary for NAACP Plaintiffs to assess the privilege claim.
12. If Defendant(s) contend that it would be unduly burdensome to obtain and provide all of the Documents called for in response to any document request or any subsection thereof, then in response to the appropriate document request: (a) produce all such Documents as are available without undertaking what Defendant(s) contend to be an unreasonable request; (b) describe with particularity the efforts made by Defendant(s) or on their behalf to produce such Documents; and (c) state

with particularity the grounds upon which Defendant(s) contend that additional efforts to produce such Documents would be unreasonable.

13. If any requested document or other potentially relevant document is subject to destruction under any document retention or destruction program, the Documents should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court.
14. In the event that a responsive document has been destroyed or has passed out of Defendant(s)' possession, custody, or control, please identify the following information with respect to each such document: its title, date, author(s), sender(s), recipient(s), subject matter, the circumstances under which it has become unavailable, and, if known, its current location and custodian.
15. These requests are continuing in nature. Defendant(s)' responses must be supplemented and any additional responsive material disclosed if responsive materials become available after Defendant(s) serve their response. Defendant(s) must also amend their responses to these requests if they learn that an answer is in some material respect incomplete or incorrect. If Defendant(s) expect to obtain further information or expect the accuracy of a response given to change between the time responses are served and the time of trial, they are requested to state this fact in each response.
16. NAACP Plaintiffs expressly reserve the right to supplement these requests to the extent permitted by the applicable rules and under applicable law.

17. Unless otherwise limited or expanded by a particular request, the requests apply to the period from January 1, 2020 through the present.

NAACP PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Produce all Documents and Communications created or received by any Defendant or Commissioner relating to any redistricting proposal for the Commissioners Court Precinct Map for enactment since January 1, 2010. This request specifically includes but is not limited to:

- a. the origination or source of any redistricting proposal;
- b. the impetus, rationale, background, or motivation for the redistricting proposal;
- c. the criteria used in creating or assessing a redistricting proposal;
- d. all drafts in the development or revision of any of the redistricting proposals, including but not limited to shapefiles, files, or datasets used in mapping software, statistical reports, demographic data, election data, and files related to precinct names, precinct lines, split precincts, partisan indexes, population shifts, population deviations, voter registration, Spanish Surname Voter Registration, voter affiliation, Spanish Surname Voter Turnout, citizenship, changing census geography, or any other measure used to evaluate the redistricting proposal;
- e. all Communications between or among Defendant(s) relating to the redistricting proposal;
- f. all Documents and Communications relating to the protection of any incumbents in any such redistricting proposal;
- g. all Documents and Communications relating to any amendment, whether partial or total, to each such proposal;
- h. all Documents and Communications relating to negotiations regarding any redistricting proposal;
- i. any concept maps or other pre-drafting documents provided to, shown to, or discussed with Defendant(s) or members of the Commissioners Court;
- j. any academic or expert materials, including but not limited to essays, histories, analyses of past redistricting proposals in Galveston County or elsewhere, articles, or litigation documents viewed or consulted regarding any redistricting proposal;
- k. all calculations, reports, audits, estimates, projections, or other analyses, from any source, relating to any effect or impact of the redistricting proposals

of any kind – including on (1) racial or ethnic minority voters, (2) existing or emerging districts in which racial minorities had the ability to elect the candidate of their choice, and (3) voter turnout (including Spanish Surname Voter Turnout) – that could result from the implementation of any such redistricting proposal;

- l. all calculations, reports, audits, estimates, projections, or other analyses, from any source, relating to the total population or eligible voter population of Galveston County and the number of majority party seats and minority party seats that might be provided for in any redistricting proposal; and
- m. all Communications with third parties or third-party organizations, consultant, expert, law firm, vendor, or other political party, community group, or organization relating to any redistricting proposal.

REQUEST FOR PRODUCTION NO. 2:

All Documents and Communications relating to the 2021 redistricting process for the Galveston County Commissioners Court such as documents dealing with planning, timing, hearings, staffing, training, outreach, public participation, deadlines, limitations, and involved persons or entities. This request specifically includes but is not limited to:

- a. all Communications with Galveston County staff and/or individual or multiple Commissioners, relating to the redistricting process, including but not limited to establishing a timeline, hiring a consultant, and utilizing redistricting criteria;
- b. all Communications with third parties or any third-party organization, consultant, expert, law firm, vendor, or other political party, community group, or organization relating to the redistricting process;
- c. all Communications with constituents, including public commentary, imagery, or social media posts (whether still maintained on any Defendant(s)' social media account or since deleted and including any comments made by Defendant(s) on their own posts or to other social media users' posts) relating to the redistricting process, review of redistricting proposals and adoption of the Commissioners Court Precinct Map;
- d. a list of all individuals requested, invited, permitted, or considered to testify in the Commissioners Court relating to the redistricting process, redistricting proposals, or the Commissioners Court Precinct Map, in any forum and form, including in person, virtually, orally, and in writing;
- e. all transcripts of testimony relating to the redistricting process, redistricting proposals, and the Commissioners Court Precinct Map;
- f. all written testimony and comments received by mail, email, website portal, or by other means;
- g. all Documents and Communications related to the planning, timing, location,

- and accommodations for any public hearing on redistricting;
- h. all notices published or transmitted to individuals or the public about the redistricting hearing and the scheduling of the hearing;
 - i. all Documents and Communications relating to the process by which proposals were reviewed by Defendant(s) or Commissioners; and
 - j. all Documents and Communications relating to the involvement with or comments on the Commissioners Court Precinct Map by any division, subdivision, or local branch of political parties including the Republican Party and the Democratic Party.

REQUEST FOR PRODUCTION NO. 3:

For the period spanning January 1, 1990 until the present, all rules, procedural memos, and guidelines for the Galveston County Commissioners Court on elections and redistricting.

REQUEST FOR PRODUCTION NO. 4:

All other Documents and Communications relating to Redistricting for the Galveston County Commissioners Court including but not limited to redistricting criteria, public statements, correspondence, calendar invitations, scheduling emails, meeting minutes, agendas, attendance sheets, call logs, notes, presentations, studies, advocacy, letters, or other communications from January 1, 2010 until the present. This request specifically includes but is not limited to:

- a. all Documents and Communications relating to the use of Voting Age Population, Citizen Voting Age Population, and/or Total Population with regard to the Commissioners Court Precinct Map or the drawing of any district;
- b. all Documents and Communications relating to the growth, diminishment, or stagnation of populations of white, African-American, Latino, Asian American Pacific Islander (“AAPI”), or other minority residents and/or voters in Texas as a whole or in Galveston County;
- c. all Documents and Communications relating to whether the Commissioners Court Precinct Map complies with the Voting Rights Act, including but not limited to any calculations, reports, audits, estimates, projections or other analyses;
- d. all Documents and Communications relating to or providing guidance on what is required in order to ensure compliance with the Voting Rights Act or the United States Constitution;
- e. all Documents and Communications relating to any Commissioner Precinct considered protected under Section 2 of the Voting Rights Act;

- f. all Documents and Communications relating to the group or groups considered protected under Section 2 of the Voting Rights Act;
- g. all Documents and Communications relating to whether “coalition districts” are recognized under Section 2 of the Voting Rights Act;
- h. all Documents and Communications relating to any discussion of any coalition, disagreement, or division between African American, Latino, or AAPI voters; and
- i. all Documents and Communications referencing a distinction, or lack of distinction, between racial minority voters and Democratic voters.

REQUEST FOR PRODUCTION NO. 5:

All Documents and Communications relating to enumerations or estimates by the U.S. Census Bureau or Texas Demographic Center related to population changes, race, ethnicity, language minority status, or United States citizenship.

REQUEST FOR PRODUCTION NO. 6:

All Documents and Communications relating to payment for services, agreements of representation, or contracts with any consultant, any political operative, any expert, any law firm, any attorney, any vendor, or any other person or entity related to the Commissioners Court Precinct Map. This request specifically includes but is not limited to:

- a. all Documents and Communications relating to the availability of any attorney or other consultant to provide assistance to Defendant(s) or Commissioner(s) on redistricting matters; and
- b. all Documents and Communications relating to plans for any person or entity to be present in or near the Galveston County Commissioners Court during or near the time of any hearing on redistricting.

REQUEST FOR PRODUCTION NO. 7:

All Documents and Communications relating to the appointment of any individuals to the Commissioners Court from January 1, 2010 to the present.

REQUEST FOR PRODUCTION NO. 8:

All Documents and Communications regarding any formal or informal complaints made against the County, its offices, or its employees, alleging discrimination based on race, ethnicity, or national origin, from January 1, 2010 to the present.

REQUEST FOR PRODUCTION NO. 9:

All Documents and Communications from the U.S. Department of Justice related to proposed or enacted Commissioners Court redistricting plans from January 1, 2010 to the present.

REQUEST FOR PRODUCTION NO. 10:

All Documents and Communications that Defendant(s) may use to support any contention that the Commissioners Court Precinct Map was not enacted with a discriminatory purpose, to the extent that Defendant(s) take that position.

REQUEST FOR PRODUCTION NO. 11:

All Documents and Communications that Defendant(s) may use to support any contention that race did not predominate in the drawing of the Commissioners Court Precinct Map, to the extent that Defendant(s) take that position).

REQUEST FOR PRODUCTION NO. 12:

For any time period, all Documents and Communications that Defendant(s) may use to support the contention that the Commissioners Court Precinct Map configuration does not have discriminatory results, as defined by 52 U.S.C. § 10301, to the extent that Defendant(s) take that position.

REQUEST FOR PRODUCTION NO. 13:

All Documents and Communications relied upon by Defendant(s) in Your responses to NAACP Plaintiffs' First Set of Interrogatories.

REQUEST FOR PRODUCTION NO. 14:

For any time period, all Documents and Communications produced to other parties in the above captioned dispute.

DATE: August 12, 2022

/s/ Sarah Xiyi Chen
TEXAS CIVIL RIGHTS PROJECT

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COUNSEL FOR PLAINTIFFS

*admitted *pro hac vice*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 12, 2022, the foregoing document was served via e-mail on all counsels of record.

/s/ Sarah Xiyi Chen

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

TERRY PETTEWAY, THE
HONORABLE DERRECK ROSE,
MICHAEL MONTEZ, SONNY
JAMES and PENNY POPE,

Plaintiffs,

v.

GALVESTON COUNTY, TEXAS,
and HONORABLE MARK HENRY,
in his official capacity as Galveston
County Judge,

Defendants.

Civil Action No. 3:22-cv-57

UNITED STATES OF AMERICA,

Plaintiff,

v.

GALVESTON COUNTY, TEXAS,
GALVESTON COUNTY
COMMISSIONERS COURT, and
HONORABLE MARK HENRY, in
his official capacity as Galveston
County Judge,

Defendants.

Civil Action No. 3:22-cv-93

DICKINSON BAY AREA BRANCH
NAACP, GALVESTON BRANCH
NAACP, MAINLAND BRANCH
NAACP, GALVESTON LULAC
COUNCIL 151, EDNA COURVILLE,
JOE A. COMPIAN, and LEON
PHILLIPS,

Civil Action No. 3:22-cv-117

Plaintiffs,

v.

GALVESTON COUNTY, TEXAS,
HONORABLE MARK HENRY, in
his official capacity as Galveston
County Judge, and DWIGHT D.
SULLIVAN, in his official capacity as
Galveston County Clerk

Defendants.

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UNITED STATES’ FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, the United States of America requests that Defendants Galveston County, Texas, the Galveston County Commissioners Court, and County Judge Mark Henry identify and produce the documents and items requested below for inspection and copying and deliver copies to counsel for the United States within 30 days of service. This request is continuing in nature, as provided by Rule 26(e) of the Federal Rules of Civil Procedure.

INSTRUCTIONS AND DEFINITIONS

1. “Communication” means any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means, including later memorialization of such transmission in a Document.
2. “Defendants” mean Galveston County, Texas, the Galveston County Commissioners Court, and Mark Henry, in his capacity as the Galveston County Judge, along with any of their predecessors in office; past or present employees, staff, interns,

representatives, designees, attorneys, advisors, consultants, contractors, or agents; and any other persons or entities acting or purporting to act on their behalf or subject to their control.

3. “Document” is defined to be synonymous in meaning and scope as the term “document” is used under Rule 34 of the Federal Rules of Civil Procedure and as the phrase “writings and recordings” is defined in Rule 1001 of the Federal Rules of Evidence, and it includes, but is not limited to, any computer files, memoranda, notes, letters, emails, printouts, instant messages, ephemeral messages, social media messages, text messages, or databases, and any handwritten, typewritten, printed, electronically-recorded, taped, graphic, machine-readable, or other material, of whatever nature and in whatever form, including all non-identical copies and drafts thereof, and all copies bearing any notation or mark not found on the original.

4. “Commissioner” means a past or present elected member of the Galveston County Commissioners Court, including such member’s past or present employees, campaign staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, or other persons or entities acting or purporting to act on the member’s behalf or subject to the member’s control or on behalf of any committee or other body of which the elected member is a member.

5. A “commissioners court precinct” means a commissioners precinct in Galveston County, Texas, as described in Tex. Const. art. V § 18(b).

6. A “voting precinct” means a voting district or VTD that is the Census Bureau’s geographic equivalent of a county election precinct.

7. “Redistricting” means any consideration of a modification of one or more of the election district boundaries used to elect members of the Galveston County Commissioners Court or the arrangement of voting precincts within a commissioners court precinct.

8. Unless stated otherwise, these interrogatories cover the redistricting process undertaken by the Galveston County Commissioners Court to reflect the population data reported in the 2020 Census P.L. 94-171 redistricting data.

9. “Relating to” means referring to, regarding, consisting of, concerning, pertaining to, reflecting, evidencing, describing, constituting, mentioning, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic.

10. “Redistricting counsel” refers to the outside counsel, including staff, assistants, or associated consultants acting at their direction or subject to their control, that Galveston County voted to retain during the April 5, 2021, commissioners court meeting to assist in devising a redistricting plan.

11. “Previous plan” means the districting plan utilized for the election of members of the Galveston County Commissioners Court between 2012 and 2020.

12. “Map 1” means the redistricting plan identified as “Map 1” that was posted on the Galveston County website on October 29, 2021.

13. “Map 2” or “2021 redistricting plan” means the redistricting plan identified as “Map 2” that was posted on the Galveston County website on October 29, 2021, and adopted by the Galveston County Commissioners Court on November 12, 2021.

14. The phrase “special session” means the November 12, 2021, Galveston County Commissioners Court meeting during which the 2021 redistricting plan was adopted.

15. A “community of interest” means a geographic area or region in which the residents share common concerns with respect to one or more identifiable features such as geography, demography, ethnicity, culture, socioeconomic status, or trade.

16. “Language minority group” refers to those demographic groups as defined by the Voting Right Act, 52 U.S.C. § 10303(f)(2).

17. The phrase “local election” encompasses any election conducted in Galveston County that is not for statewide office or for the United States Congress, including, but not limited to, elections for county-wide offices, city councils, school districts, or other elected bodies in the County, referenda or elections on constitutional amendments, entity elections, or local entity elections.

18. In responding to these requests, please produce all responsive documents in the Defendants’ possession, custody, or control. This means that Defendants must produce all responsive documents within their actual possession, custody, or control, as well as such documents which Defendants have the legal right to obtain on demand or the practical ability to obtain from a non-party to this action, including, but not limited to, any and all documents that they and their counsel and other agents have actually reviewed.

19. All references in these requests to an individual person include any and all past or present employees, staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, predecessors in office or position, and all other persons

or entities acting or purporting to act on the individual person's behalf or subject to the control of such a person.

20. All references in these requests to any entity, governmental entity, or any other type of organization include its past or present officers, executives, directors, employees, staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, and all other persons or entities acting or purporting to act on behalf of such an organization or subject to its control.

21. In construing these document requests, apply the broadest construction, so as to produce the most comprehensive response. Construe the terms "and" and "or" either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside that scope. Words used in the singular include the plural.

22. Words or terms used herein have the same intent and meaning regardless of whether the words or terms are depicted in lowercase or uppercase letters.

23. Documents should be produced in their entirety, without abbreviation, redaction, or expurgation; file folders with tabs or labels identifying documents responsive to these requests should be produced intact with the documents; and documents attached to each other should not be separated.

24. Documents should be produced in a form consistent with any agreement concerning production format entered in this action.

25. Each document produced should be categorized by the number of the document request in response to which it is produced.

26. No portion of a request may be left unanswered because an objection is raised to another part of that request. If Defendants object to any portion of a document request, they must state with specificity the grounds of any objections. Any ground not stated will be waived.

27. For any document withheld from production on a claim, in whole or in part, of privilege or work product protection, provide a written privilege log identifying each document individually and containing all information required by Rule 26(b)(5) of the Federal Rules of Civil Procedure, including a description of the basis of the claimed privilege and all information necessary for the United States to assess the privilege claim.

28. If Defendants contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any document request or any subsection thereof, then in response to the appropriate document request: (a) produce all such documents as are available without undertaking what Defendants contend to be an unreasonable request; (b) describe with particularity the efforts made by Defendants or on their behalf to produce such documents; and (c) state with particularity the grounds upon which Defendants contend that additional efforts to produce such documents would be unreasonable.

29. If any requested document or other potentially relevant document is subject to destruction under any document retention or destruction program, the documents should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court.

30. In the event that a responsive document has been destroyed or has passed out of Defendants' possession, custody, or control, please identify the following information with respect to each such document: its title, date, author(s), sender(s), recipient(s), subject matter, the circumstances under which it has become unavailable, and, if known, its current location and custodian.

31. These requests are continuing in nature. Defendants' response must be supplemented and any additional responsive material disclosed if responsive material becomes available after Defendants serve their response. Defendants must also amend their responses to these requests if they learn that an answer is in some material respect incomplete or incorrect. If Defendants expect to obtain further information or expect the accuracy of a response given to change between the time responses are served and the time of trial, they are requested to state this fact in each response.

32. For document request numbers 17 and 21 below, there is no time period limitation. All other document requests concern the period of time specified in the request.

REQUESTS FOR PRODUCTION

1. All documents relating to any redistricting proposal for the Galveston County Commissioners Court during the 2010-2011 and 2020-2021 redistricting cycles. This request includes but is not limited to:

- a. identification of the originator(s) or source(s) of each such redistricting proposal;
- b. the purpose(s) to be served by each proposed change from the previous redistricting plan in any such redistricting proposal;

- c. all drafts in the development of each such redistricting proposal whether partial or total;
 - d. all demographic or election data, regardless of source or format, used in the development of each total or partial revision of each such plan;
 - e. all negotiations between two or more members of the commissioners court regarding any such redistricting proposal, including, but not limited to, potential pairing of incumbents in any such plan; and
 - f. all analyses, from any source, that examined the electoral impact on the County's Black or Hispanic residents that would result from the implementation of any such redistricting proposal.
2. All documents and audio or video recordings related to the redistricting of Galveston County's elective offices between 1991 and 2021, including, but not limited to, the planning, timing, hearings, publicity, opportunities for public participation, and deadlines for those such redistricting processes.
3. All documents relating to any and all analyses of voting patterns in Galveston County elections, including analyses of local elections within the County that compared or contrasted electoral behavior by race or membership in a language minority group conducted by the County or any of its agents or staff, or provided to the County by any individual, company, or organizations, including, but not limited to, any supporting documentation or data. This includes any analyses conducted or provided between January 1, 2000 to the present.

4. All documents, including maps, tables of equivalencies, and shape files, concerning the voting precinct boundaries used in any election for the Galveston County Commissioners Court from January 1, 2000, to the present.

5. For every election for Galveston County Commissioners Court, including, but not limited to, primary, primary run-off, general, and special elections, and regardless of whether the election was contested, held between January 1, 2000, and the present, all documents relating to the number of votes cast by precinct and ballot type, including the final canvass report reflecting precinct-level results (in .csv, .xls, .xlsx, or .txt format), and certified election results.

6. For every election identified in your response to Interrogatory 16, all documents relating to the number of votes cast by precinct and ballot type, including the final canvass report reflecting precinct-level results (in .csv, .xls, .xlsx, or .txt format), and certified election results.

7. All documents relating to whether proposed Map 1, proposed Map 2, or any other redistricting proposal, either in whole or in part, that was drawn, discussed, or considered by one or more members of the Galveston County Commissioners Court during the 2020-2021 redistricting cycle complies with the Voting Rights Act, 52 U.S.C. § 10301, including, but not limited to, any calculations, reports, audits, estimates, projections, or other analyses.

8. All documents relating to the 2020-2021 redistricting cycle for the Galveston County Commissioners Court exchanged between one or more members of the commissioners court and any of its agents, staff, any County or municipal official, or any

other person, company, or organization, including, but not limited to, correspondence, notices, reports, email messages, voicemail messages, and text messages.

9. All other documents relating to redistricting for the Galveston County Commissioners Court between January 1, 2020, and November 13, 2021, including, but not limited to, redistricting criteria, public statements by members of the commissioners court, correspondence written or received by any member of the commissioners court, calendar invitations or scheduling emails sent by the County or on the County's behalf, meeting minutes, agendas, attendance sheets, call logs, notes, presentations, studies, or other communications.

10. All documents relating to enumerations or estimates by the United States Census Bureau or Texas Demographic Center related to the County's population in 2020 as compared to 2010, including, but not limited to, the racial characteristics, language minority status, or United States citizenship rates of County residents, exchanged between one or more members of the Galveston County Commissioners Court and any of its agents, staff, any County elected official or any individual, company, organization, or municipal elected official.

11. All documents relating to payment for services, agreements of representation, or contracts between Galveston County and any individual, company, or organization relating to the 2021 commissioners court redistricting.

12. All documents relating to the appointment of individuals to the Galveston County Commissioners Court since January 1, 2000, including, but not limited to, publicity of a

vacancy, news reporting, recruitment, applications, interviews, comments received or made by members of the public, and attendees at meetings relevant to the appointment.

13. All documents related to the socioeconomic condition of Galveston County residents and socioeconomic disparities between Black, Hispanic, and White residents, including income disparities, educational disparities, housing disparities, employment disparities, and disparities in conditions of health or access to health-related services.

14. All documents related to informal, administrative, or judicial complaints alleging discrimination based either on race or membership in a language minority group, filed against Galveston County, or any County agency or official, from January 1, 2010, to the present, including complaints concerning housing, policing, employment, contracting, zoning, licensing, code enforcement, or the provision of any county services. Any such documents should include, but are not limited to, investigation reports, transcripts of hearings, findings, and documents indicating resolution of the charge or complaint.

15. All documents regarding Maps 1 and 2 posted on the County's website, including, but not limited to, comments, complaints, emails, text messages, and audio voice messages to or from Defendants.

16. Copies of the 2017, 2019, and 2021 Galveston County EEO-4 State and Local Government Information Reports.

17. All documents that describe or are related to the record-retention requirements for Galveston County elected officials, employees, or agents, including, but not limited to, laws, policies, and procedures for the retention of hard copy documents, electronic records, videos, voicemail messages, email messages, text messages, social media posts.

18. All non-privileged documents relating to the instant lawsuit.
19. All documents that Defendants may use to support the contention that the 2021 redistricting plan was not enacted with a discriminatory purpose, to the extent that Defendants take that position.
20. All documents that Defendants may use to support the contention that the 2021 redistricting plan does not have a discriminatory result, as defined by Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, to the extent that Defendants take that position.
21. All documents responsive to, identified in, or relied upon in responding to any interrogatory served upon Defendants by the United States in relation to this action.

Date: August 19, 2022

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United States Attorney
Southern District of Texas

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* *Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2022, I served the foregoing via email on all counsel of record in this case.

/s/ Catherine Meza
CATHERINE MEZA

EXHIBIT 5



Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston SCTX 3:22-cv-57 | Service of Subpoenas for Production of Documents to Armstrong, Giusti, and Apffel

Shawn Sheehy <ssheehy@holtzmanvogel.com>

Tue, Oct 4, 2022 at 12:35 PM

To: "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, Hilary Harris Klein <hilaryhklein@scsj.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, Dallin Holt <dholt@holtzmanvogel.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <jrusso@greerherz.com>
Cc: "bernadette@uclavrp.org" <bernadette@uclavrp.org>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "vrichardson@campaignlegal.org" <vrichardson@campaignlegal.org>, Chad Dunn <chad@brazilanddunn.com>, "asilberstein@willkie.com" <asilberstein@willkie.com>, "dvall-llobera@willkie.com" <dvall-llobera@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "jsuriani@willkie.com" <jsuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "kgarrett@willkie.com" <kgarrett@willkie.com>, "Polizzano, Michelle" <mpolizzano@willkie.com>, "Zhu, Molly" <mzhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "rmancino@willkie.com" <rmancino@willkie.com>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>

Catherine,

Thank you for your message. Please find my responses in bold below.

1. Defendants agreed to search current Commissioners' personal communication accounts;

A. Yes, Defendants will request that the individual Commissioners and County Judge Mark Henry, search their personal email accounts and computers for any responsive documents.

Because of this, Plaintiffs will refrain from issuing subpoenas to individual commissioners.

2. Defendants indicated that they consider the current Commissioners to be Defendants represented by Defense Counsel;

A. We represent Galveston County and the Commissioners in their official capacities. Additionally, the Commissioners are the individuals who hold the legislative power in Galveston County. It is their actions that Plaintiffs allege violate their federal and constitutional rights. The Commissioners are high-ranking Galveston County government officials who are therefore agents of Galveston County.

3. On August 29, 2022, the Parties agreed that Defendants would respond to Plaintiffs' discovery requests by October 18, 2022. During the September 27th meet and confer, Defendants indicated that they would be interested in making rolling productions. Plaintiffs are amenable to rolling productions provided that: (i) Defendants respond to the Plaintiffs' First Interrogatories by the October 18, 2022 deadline; (ii) make an initial production of documents by the October 18, 2022 deadline that includes documents responsive to U.S. RFP Nos. 1, 7-9, and 15-17; (iii) to the extent that Defendants would like to use search terms, the Parties will need to have an agreed-upon list by October 7, 2022; and (iv) all data and documents responsive to the Plaintiffs' first set of discovery requests will be produced before or by November 18, 2022;

- A. **Although there may be some disagreement as to the scope of the August 29 agreement, that agreement was before identifying more than 20 custodians with more than 1.4 million documents. We are still in the process of retrieving potentially responsive documents from the archive system and pulling county text messages. We have not, therefore, completed document retrieval. We are working diligently, have hired an ediscovery vendor to do the retrieval in a professional manner and consistent with prevailing ediscovery standards.**

Accordingly,

i. **Defendants will not be able to respond to the First Interrogatories by October 18. Defendants have not yet completed document retrieval. Defendants will need time to review the documents to adequately respond to the three sets of Interrogatories.**

ii. **Further, because Defendants have not completed document retrieval, we are not in position to agree to produce any specific documents by October 18. We will produce what we can on October 18.**

iii. **Because we have not completed document retrieval and because we are still working on search terms, Defendants are not in a position to have an agreed-upon list by October 7. We will confer with you next week about the status of the retrieval and how many potentially responsive documents we have.**

iv. **For the same reasons as cited above, Defendants are not currently able to say that document production will be complete by November 18. We can commit to a rolling production schedule every two weeks. We cannot commit to any completion deadline at this time.**

4. Defendants agreed that in accordance with the Stipulation and Order Regarding Discovery, all .csv files will be produced in native format;

A. **Yes.**

5. Defendants represented that they have fully responded to Plaintiffs' requests for (i) Final canvass reports reflecting precinct-level results (in .csv, .xls, .xlsx, or .txt format) and certified election results for every election for Galveston County Commissioners Court held between January 1, 2000 and the present and (ii) Final canvass reports reflecting precinct-level results (in .csv, .xls, .xlsx, or .txt format) and certified election results for every election, whether an election for a federal office, an election for a statewide office, or a local election, held in Galveston County since January 1, 2010;

A. **Yes.**

- B. **Additionally, in our last correspondence, the question was asked about what the term "Recovered" means in the one Excel spreadsheet with the 2008 election results. There was a software update in 2008. Recovered just refers to the data that was recovered from the old software system prior to the update. The data is full and complete. No data is missing or lost.**

6. Defendants will get back to Plaintiffs with any major conflicts (e.g., travel, medical procedures) in the coming months that might impact the scheduling of depositions for Commissioners by October 21, 2022;

- A. **The deadline was not agreed to. What was agreed to was that the Parties would confer before scheduling depositions. Plaintiffs may propose dates and we will ask the individual Commissioners if those dates work for them.**

7. The parties will confer on scheduling those depositions the week of October 24, 2022.

A. This date was not agreed to. And, in all likelihood, this date will be too early. I would propose that we confer on or around November 17. This will provide sufficient time for Defendants to review documents and have a concrete date in mind for when the production will be complete.

Thank you very much,

Shawn

[Quoted text hidden]



Bernadette Reyes <bernadette@uclavrp.org>

Galveston County, TX - Supplemental Production DEFS00030369-DEFS00031065

Mateo Forero <mforero@holtzmanvogel.com>

Fri, Jan 6, 2023 at 3:43 PM

To: "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, Valencia Richardson <VRichardson@campaignlegalcenter.org>, Bernadette Reyes <bernadette@uclavrp.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, Dallin Holt <dholt@holtzmanvogel.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <jrusso@greerherz.com>, Mark Gaber <MGaber@campaignlegalcenter.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, Simone Leeper <SLeeper@campaignlegalcenter.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, Chad Dunn <chad@brazilanddunn.com>, "asilberstein@willkie.com" <asilberstein@willkie.com>, "dvall-llobera@willkie.com" <dvall-llobera@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "jsuriani@willkie.com" <jsuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "kgarrett@willkie.com" <kgarrett@willkie.com>, "Polizzano, Michelle" <mpolizzano@willkie.com>, "Zhu, Molly" <mzhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "rmancino@willkie.com" <rmancino@willkie.com>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, Hilary Harris Klein <hilaryhklein@scsj.org>, Sharon Norwood <snorwood@holtzmanvogel.com>, Alexandra Copper <ACopper@campaignlegalcenter.org>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, "Wake, Brittany (CRT)" <Brittany.Wake@usdoj.gov>

Counsel,

Earlier this afternoon, Defendants served a supplemental document production entitled DEFS00030369-DEFS00031065 on Plaintiffs. The Box password to access that production is: l~Q[QHJB5RIOH>@

Mateo Forero

Mobile: (202) 868-9709

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Washington, DC Office

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Bernadette Reyes <bernadette@uclavrp.org>

Defendants' Production 19

Sharon Norwood <snorwood@holtzmanvogel.com>

Tue, Apr 18, 2023 at 3:29 PM

To: "VRichardson@campaignlegalcenter.org" <VRichardson@campaignlegalcenter.org>, "aolalde@greerherz.com" <aolalde@greerherz.com>, "JRusso@greerherz.com" <JRusso@greerherz.com>, "Kcox@greerherz.com" <Kcox@greerherz.com>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, "bernadette@uclavrp.org" <bernadette@uclavrp.org>, "jraschkeelton@greerherz.com" <jraschkeelton@greerherz.com>, "MGaber@campaignlegalcenter.org" <MGaber@campaignlegalcenter.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "SLeeper@campaignlegalcenter.org" <SLeeper@campaignlegalcenter.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "chad@brazilanddunn.com" <chad@brazilanddunn.com>, "asilberstein@willkie.com" <asilberstein@willkie.com>, "dvall-llobera@willkie.com" <dvall-llobera@willkie.com>, "hani@texascivilrightsproject.org" <hani@texascivilrightsproject.org>, "jsuriani@willkie.com" <jsuriani@willkie.com>, "joaquin@texascivilrightsproject.org" <joaquin@texascivilrightsproject.org>, "kgarrett@willkie.com" <kgarrett@willkie.com>, "mpolizzano@willkie.com" <mpolizzano@willkie.com>, "mzhu@willkie.com" <mzhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "rmancino@willkie.com" <rmancino@willkie.com>, "Bruce.Gear@usdoj.gov" <Bruce.Gear@usdoj.gov>, "Tharuni.Jayaraman@usdoj.gov" <Tharuni.Jayaraman@usdoj.gov>, "Zachary.Newkirk@usdoj.gov" <Zachary.Newkirk@usdoj.gov>, "Catherine.Meza@usdoj.gov" <Catherine.Meza@usdoj.gov>, "hilarityhklein@scsj.org" <hilarityhklein@scsj.org>, "Adrienne@scsj.org" <Adrienne@scsj.org>, "ACopper@campaignlegalcenter.org" <ACopper@campaignlegalcenter.org>, "daniel.hu@usdoj.gov" <daniel.hu@usdoj.gov>, "jjimenez@greerherz.com" <jjimenez@greerherz.com>, "jennifer.lowery@usdoj.gov" <jennifer.lowery@usdoj.gov>, "Robert.Berman@usdoj.gov" <Robert.Berman@usdoj.gov>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>
Cc: "mforero@holtzmanvogel.com.com" <mforero@holtzmanvogel.com.com>, Shawn Sheehy <sshiehy@holtzmanvogel.com>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, Dallin Holt <dholt@holtzmanvogel.com>

Counsel,

Below please find the link to the Defendants' Production 19, Bates Range DEFS00031806 - DEFS00031808.

[4.18.23 Galveston County Production 19](#)

	<p>Sharon Norwood Paralegal Washington, DC m 202.309.6798 o 202.737.8808</p>	<p>Holtzman Vogel HOLTZMAN VOGEL BARAN TORCHINSKY & IOSEFIAK PLLC DC • VA • FL • AZ holtzmanvogel.com  </p>
	<p>email</p>	

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Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston - Defendants' Supplemental Privilege Log (4-14-2023)

Mateo Forero <mforero@holtzmanvogel.com>

Fri, Apr 14, 2023 at 5:24 PM

To: "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, Sharon Norwood <snorwood@holtzmanvogel.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, Jonathan Lienhard <jlienhard@holtzmanvogel.com>, "aolalde@greerherz.com" <aolalde@greerherz.com>, "jrusso@greerherz.com" <jrusso@greerherz.com>, Elizabeth Holcombe <eholcombe@holtzmanvogel.com>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "bernadette@uclavrp.org" <bernadette@uclavrp.org>, "chad@brazilanddunn.com" <chad@brazilanddunn.com>, "KGarrett@willkie.com" <KGarrett@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "hani@texascivilrightsproject.org" <hani@texascivilrightsproject.org>, "joaquin@texascivilrightsproject.org" <joaquin@texascivilrightsproject.org>, "RMancino@willkie.com" <RMancino@willkie.com>, Mark Gaber <MGaber@campaignlegalcenter.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, "nas@naslegal.com" <nas@naslegal.com>, Orion de Nevers <OdeNevers@campaignlegalcenter.org>, "MPolizzano@willkie.com" <MPolizzano@willkie.com>, "ASilberstein@willkie.com" <ASilberstein@willkie.com>, Simone Leeper <SLeeper@campaignlegalcenter.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "JSuriani@willkie.com" <JSuriani@willkie.com>, "DVall-Ilobera@willkie.com" <DVall-Ilobera@willkie.com>, "Wake, Brittany (CRT)" <Brittany.Wake@usdoj.gov>, "Zachary@texascivilrightsproject.org" <Zachary@texascivilrightsproject.org>, "MZhu@willkie.com" <MZhu@willkie.com>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, "Berman, Robert (CRT)" <Robert.Berman@usdoj.gov>, Gwen Kelly <gwen@brazilanddunn.com>, Hilary Harris Klein <hilaryhklein@scsj.org>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, Valencia Richardson <VRichardson@campaignlegalcenter.org>, Dallin Holt <dholt@holtzmanvogel.com>

Counsel,

Attached please find Defendants' Supplemental Privilege Log. The privileged documents described in this log were identified within the pool referenced in our March 22nd email (below) that had been left inadvertently unreviewed.

Thank you,

	<p>Mateo Forero Associate Washington, DC m 202.868.9709 o 202.737.8808</p> <p>email bio in</p>	<p>Holtzman Vogel HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC</p> <p>DC • VA • FL • AZ holtzmanvogel.com </p>
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From: Shawn Sheehy <ssheehy@HoltzmanVogel.com>

Sent: Thursday, March 23, 2023 9:43 AM

To: 'joaquin@texascivilrightsproject.org' <joaquin@texascivilrightsproject.org>; 'RMancino@willkie.com' <RMancino@willkie.com>; 'MGaber@campaignlegalcenter.org' <MGaber@campaignlegalcenter.org>; 'neil@ngbaronlaw.com' <neil@ngbaronlaw.com>; 'nas@naslegal.com' <nas@naslegal.com>; 'OdeNevers@campaignlegalcenter.org' <OdeNevers@campaignlegalcenter.org>; 'MPolizzano@willkie.com' <MPolizzano@willkie.com>; 'ASilberstein@willkie.com' <ASilberstein@willkie.com>; 'SLeeper@campaignlegalcenter.org' <SLeeper@campaignlegalcenter.org>; 'sonni@uclavrp.org' <sonni@uclavrp.org>; 'JSuriani@willkie.com' <JSuriani@willkie.com>; 'DVall-Ilobera@willkie.com' <DVall-Ilobera@willkie.com>; Wake, Brittany (CRT) <Brittany.Wake@usdoj.gov>; 'Zachary@texascivilrightsproject.org' <Zachary@texascivilrightsproject.org>; 'MZhu@willkie.com' <MZhu@willkie.com>; Smith, K'Shaani (CRT) <K'Shaani.Smith@usdoj.gov>; Meza, Catherine (CRT) <Catherine.Meza@usdoj.gov>; Berman, Robert (CRT) <Robert.Berman@usdoj.gov>; Shawn Sheehy <ssheehy@HoltzmanVogel.com>; Sharon Norwood <snorwood@HoltzmanVogel.com>; 'jrusso@greerherz.com' <jrusso@greerherz.com>; Dallin Holt <dholt@HoltzmanVogel.com>; 'jraschke@greerherz.com' <jraschke@greerherz.com>; 'aolalde@greerherz.com' <aolalde@greerherz.com>; Jonathan Lienhard <jlienhard@HoltzmanVogel.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Mateo Forero <mforero@HoltzmanVogel.com>

Subject: Defendants' 03.22.2023 Production

Counsel,

Last evening, Defendants made their 15th production in this case. The documents produced are responsive to Plaintiffs' First Requests for Production.

It recently came to our attention that there was a small set of documents that we missed in our initial pass through the documents and that therefore remained unreviewed. We conducted our review of this set of documents and made our production last evening. We will also submit an updated privilege log in the next few days.

Thank you,

Shawn Sheehy

Holtzman Vogel Baran Torchinsky & Josefiak PLLC

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 **Defs. Supplemental Privilege Log (4-14-2023).pdf**
90K



Bernadette Reyes <bernadette@uclavrp.org>

Galveston County Production 23

Sharon Norwood <snorwood@holtzmanvogel.com>

Thu, May 18, 2023 at 5:39 PM

To: "robert.berman@usdoj.gov" <robert.berman@usdoj.gov>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, "acopper@campaignlegal.org" <acopper@campaignlegal.org>, "chad@brazilanddunn.com" <chad@brazilanddunn.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "kgarrett@willkie.com" <kgarrett@willkie.com>, "bruce.gear@usdoj.gov" <bruce.gear@usdoj.gov>, "joaquin@texascivilrightsproject.org" <joaquin@texascivilrightsproject.org>, "hilaryhklein@scsj.org" <hilaryhklein@scsj.org>, "rhowry@howrybreen.com" <rhowry@howrybreen.com>, "daniel.hu@usdoj.gov" <daniel.hu@usdoj.gov>, "cjackson@campaignlegal.org" <cjackson@campaignlegal.org>, "tharuni.jayaraman@usdoj.gov" <tharuni.jayaraman@usdoj.gov>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "jennifer.lowery@usdoj.gov" <jennifer.lowery@usdoj.gov>, "Jonathan Lienhard" <jlienhard@holtzmanvogel.com>, "rmancino@willkie.com" <rmancino@willkie.com>, "mimi@texascivilrightsproject.org" <mimi@texascivilrightsproject.org>, "catherine.meza@usdoj.gov" <catherine.meza@usdoj.gov>, "hani@texascivilrightsproject.org" <hani@texascivilrightsproject.org>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, "aolalde@greerherz.com" <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "mpolizzano@willkie.com" <mpolizzano@willkie.com>, "bernadette@uclavrp.org" <bernadette@uclavrp.org>, "vrichardson@campaignlegalcenter.org" <vrichardson@campaignlegalcenter.org>, "jrusso@greerherz.com" <jrusso@greerherz.com>, "asilberstein@willkie.com" <asilberstein@willkie.com>, "k'shaani.smith@usdoj.gov" <k'shaani.smith@usdoj.gov>, "nas@naslegal.com" <nas@naslegal.com>, "adrienne@scsj.org" <adrienne@scsj.org>, "michael.stewart3@usdoj.gov" <michael.stewart3@usdoj.gov>, "jsuriani@willkie.com" <jsuriani@willkie.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "dvall-llobera@willkie.com" <dvall-llobera@willkie.com>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "mzhu@willkie.com" <mzhu@willkie.com>, "odenevers@campaignlegal.org" <odenevers@campaignlegal.org>, "jnixon@publicinterestlegal.org" <jnixon@publicinterestlegal.org>
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Counsel, below is a link to the Galveston County's Production 23

 [DEFS00036811-DEFS00036820.zip](#)

	<p>Sharon Norwood Paralegal Washington, DC</p> <p>m 202.309.6798 o 202.737.8808</p> <p>email</p>	<p>Holtzman Vogel</p> <p>HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC</p> <p>DC • VA • FL • AZ holtzmanvogel.com  </p>
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Bernadette Reyes <bernadette@uclavrp.org>

Deficiencies in Defendants' May 15, 2023 Production

Sharon Norwood <snorwood@holtzmanvogel.com>

Wed, May 31, 2023 at 4:01 PM

To: Valencia Richardson <VRichardson@campaignlegalcenter.org>, Mateo Forero <mforero@holtzmanvogel.com>, "Berman, Robert (CRT)" <Robert.Berman@usdoj.gov>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, "Cc: Sarah Chen" <schen@texascivilrightsproject.org>, Alexandra Copper <ACopper@campaignlegalcenter.org>, Chad Dunn <chad@brazilanddunn.com>, Jordan Raschke <jraschke@greerherz.com>, Mark Gaber <MGaber@campaignlegalcenter.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, Hilary Harris Klein <hilaryhklein@scsj.org>, Randy Howry <rhowry@howrybreen.com>, "daniel.hu@usdoj.gov" <daniel.hu@usdoj.gov>, Caleb Jackson <cjackson@campaignlegalcenter.org>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, Simone Leeper <SLeeper@campaignlegalcenter.org>, "jennifer.lowery@usdoj.gov" <jennifer.lowery@usdoj.gov>, Jonathan Lienhard <jlienhard@holtzmanvogel.com>, "Mancino, Richard" <RMancino@willkie.com>, "mimi@texascivilrightsproject.org" <mimi@texascivilrightsproject.org>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, Hani Mirza <hani@texascivilrightsproject.org>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, Bernadette Reyes <bernadette@uclavrp.org>, Joseph Russo <JRusso@greerherz.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, Nickolas Spencer <nas@naslegal.com>, Adrienne Spoto <adrienne@scsj.org>, "michael.stewart3@usdoj.gov" <michael.stewart3@usdoj.gov>, "Suriani, JoAnna" <JSuriani@willkie.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sonni Waknin <sonni@uclavrp.org>, "Zhu, Molly" <MZhu@willkie.com>, Orion de Nevers <OdeNevers@campaignlegalcenter.org>, Joe Nixon <JNixon@publicinterestlegal.org>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>

5.31.23 Galveston Supplemental Production

Sharon Norwood

Paralegal

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Office: 202.737.8808

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[Quoted text hidden]

[Quoted text hidden]

EXHIBIT 6



Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston SDTX 3:22-cv-57 - Deposition Scheduling

Bernadette Reyes <bernadette@uclavrp.org> Fri, Nov 18, 2022 at 3:04 PM

To: Shawn Sheehy <ssheehy@holtzmanvogel.com>

Cc: Valencia Richardson <VRichardson@campaignlegalcenter.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, Dallin Holt <dholt@holtzmanvogel.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <jrusso@greerherz.com>, Mark Gaber <MGaber@campaignlegalcenter.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, Simone Leeper <SLeeper@campaignlegalcenter.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, Chad Dunn <chad@brazilanddunn.com>, "asilberstein@willkie.com" <asilberstein@willkie.com>, "dvall-llobera@willkie.com" <dvall-llobera@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "jsuriani@willkie.com" <jsuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "kgarrett@willkie.com" <kgarrett@willkie.com>, "Polizzano, Michelle" <mpolizzano@willkie.com>, "Zhu, Molly" <mzhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "rmancino@willkie.com" <rmancino@willkie.com>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, Hilary Harris Klein <hilaryhklein@scsj.org>, Sharon Norwood <snorwood@holtzmanvogel.com>, Mateo Forero <mforero@holtzmanvogel.com>

Thank you Shawn-

One other issue the Petteway Plaintiffs wanted to raise, as discovery is continuing to roll in from Defendants, we have noticed that the voter file requested pursuant to U.S. and NAACP First Request for Production #1(d) has not been provided. Plaintiffs just wanted to flag this issue for Defendants and ensure that such voter file is forthcoming.

Have a good weekend!

Best,
Bernadette

[Quoted text hidden]

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

UCLA Voting Rights Project

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

| UCLA Voting Rights Project

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

UCLA Voting Rights Project

EXHIBIT 7



Bernadette Reyes <bernadette@uclavrp.org>

Petteway et al v. Galveston - Discovery Follow-up

5 messages

Bernadette Reyes <bernadette@uclavrp.org> Wed, Dec 7, 2022 at 11:31 AM
 To: Dallin Holt <dholt@holtzmanvogel.com>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <JRusso@greerherz.com>, "bernadette@uclavrp.org" <bernadette@uclavrp.org>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "vrichardson@campaignlegal.org" <vrichardson@campaignlegal.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <MZhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "Mancino, Richard" <RMancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, Mateo Forero <mforero@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>

Good Afternoon Shawn and Dailin:

I am writing to follow up on some discovery issues.

First, we wanted to confirm that the documents you will be producing will include those from custodians Dale Oldham and Thomas Bryan or whether you will be claiming privilege. We understand that Dale Oldham and Thomas Bryan may be in the possession, custody, or control of documents responsive to at least one of our requests, including Petteway's modified RFPs 6, 10 and 11 and RFP 7. I understand that the Defendants privilege log is not due until December 31 and Defendants are currently sifting through documents, however, it appears Defendants have made headway in this as you utilized several emails from Commissioner Holmes at deposition earlier this week that had not yet been produced to Plaintiffs. Further, Dale Oldham and Thomas Bryan are included in our list of suggested search terms, and we understand them to be custodians of certain responsive documents; as such, we would request confirmation that responsive documents by them exist.

Additionally, I also wanted to follow up on my email sent November 18, 2022 and confirm that the voter history file for Galveston County will be provided to Plaintiffs as part of our discovery requests.

Best,

Bernadette

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

UCLA Voting Rights Project

Shawn Sheehy <ssheehy@holtzmanvogel.com> Thu, Dec 8, 2022 at 1:29 PM
 To: Bernadette Reyes <bernadette@uclavrp.org>, Dallin Holt <dholt@holtzmanvogel.com>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <JRusso@greerherz.com>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "vrichardson@campaignlegal.org" <vrichardson@campaignlegal.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez

<joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <MZhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "Mancino, Richard" <RMancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, Mateo Forero <mforero@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>

Bernadette,

Thank you. First, I am not seeing "Voter History File" in your requests. Which RFP references "Voter History File?"

If you requested it, and we have it in the document set that hit on our agreed upon search terms, then Defendants will produce it.

Second, our final production is due on Tuesday December 13 and we intend to meet that deadline. Our privilege log is due on December 31 and we intend to meet that deadline. I am not aware of a Rule that requires me to confirm the existence of responsive documents prior to document production or the production of a privilege log.

Thank you,

Shawn Sheehy

Holtzman Vogel Baran Torchinsky & Josefiak PLLC

Mobile:

202-941-6421

Washington DC Office

2300 N Street, NW, Ste 643-A
Washington, DC 20037
(202) 737-8808

Virginia Office

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Haymarket, VA 20169
(540) 341-8808



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[Quoted text hidden]

Bernadette Reyes <bernadette@uclavrp.org> Thu, Dec 8, 2022 at 5:20 PM
To: Shawn Sheehy <ssheehy@holtzmanvogel.com>
Cc: Dallin Holt <dholt@holtzmanvogel.com>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <JRusso@greerherz.com>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "vrichardson@campaignlegal.org" <vrichardson@campaignlegal.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <MZhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "Mancino, Richard" <RMancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, Mateo Forero <mforero@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>

Hi Shawn:

As mentioned in my previous November 18 email the voter file was requested pursuant to U.S. and NAACP First Request for Production #1(d). Due to the scope of the requests for production and the search terms agreed upon, as well as the Defendant's failure to respond to the initial mention of this issue sent almost three weeks ago, we expect this data to be produced.

Although there may be no rule requiring confirmation from Defendants, Plaintiffs worked in good faith to allow Defendants over three months extra time to complete their discovery production. Given this we would hope that Defendant's would extend us the same courtesy in at least meaningfully attempting to respond to our reasonable inquiries.

Best,
Bernadette
[Quoted text hidden]

Bernadette Reyes <bernadette@uclavrp.org> Fri, Dec 9, 2022 at 1:11 PM
To: Shawn Sheehy <ssheehy@holtzmanvogel.com>
Cc: Dallin Holt <dholt@holtzmanvogel.com>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky

<jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <JRusso@greerherz.com>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "vrichardson@campaignlegal.org" <vrichardson@campaignlegal.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <MZhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "Mancino, Richard" <RMancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, Mateo Forero <mforero@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>

Shawn:

Per our last email Petteway Plaintiffs still contend that RFPs referenced in my prior emails cover the voter files however, if for some reason Defendants contend they are not could Defendants please provide an explanation as to why it is not. Petteway Plaintiffs would appreciate a response ahead of the December 13, 2022 production deadline.

Further, if Defendants contend prior RFPs do not cover such files, attached are Petteway Plaintiffs Second Request for Production containing another request for the voter history file.

Best,
Bernadette
[Quoted text hidden]

 **Petteway v. Galveston County - Second Request for Production.pdf**
220K

Shawn Sheehy <ssheehy@holtzmanvogel.com>

Mon, Dec 12, 2022 at 10:26 AM

To: Bernadette Reyes <bernadette@uclavrp.org>

Cc: Dallin Holt <dholt@holtzmanvogel.com>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, "trey.trainor@akerman.com" <trey.trainor@akerman.com>, "jraschke@greerherz.com" <jraschke@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Joseph Russo <JRusso@greerherz.com>, "mgaber@campaignlegal.org" <mgaber@campaignlegal.org>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, "sleeper@campaignlegal.org" <sleeper@campaignlegal.org>, "sonni@uclavrp.org" <sonni@uclavrp.org>, "vrichardson@campaignlegal.org" <vrichardson@campaignlegal.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <MZhu@willkie.com>, "nas@naslegal.com" <nas@naslegal.com>, "Mancino, Richard" <RMancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, Mateo Forero <mforero@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>

Bernadette,

Thank you. It is Defendants position that Plaintiffs did not request the Voter History File, as demonstrated by a comparison between Request 1(d) and Plaintiffs Second Request for Production.

We will respond to the Second Request for Production in accordance with the Rules.

[Quoted text hidden]

EXHIBIT 8

EXPERT REPORT OF JOHN R. ALFORD, Ph.D.

Scope of Inquiry

I have been retained by the Defendants as an expert to provide analysis related to *NAACP, et al. v. Galveston County, et al.*, *Pettaway, et al. v. Galveston County, et al.*, and *United States v. Galveston County, et al.* All three cases allege that the current Galveston County Commissioner district map violates Section 2 of the Voting Rights Act. My specific focus is on *Gingles 2* and 3, as well as racially polarized voting. I have examined the reports provided by plaintiffs' experts Dr. Kassra Oskooii, Dr. Jessica Trounstine, and the joint report of Dr. Matt Barreto and Mr. Michael Rios in this case. My rate of compensation in this matter is \$500 per hour.

Qualifications

I am a tenured full professor of political science at Rice University. At Rice, I have taught courses on redistricting, elections, political representation, voting behavior and statistical methods at both the undergraduate and graduate level. Over the last thirty years, I have worked with numerous local governments on districting plans and on Voting Rights Act issues. I have previously provided expert reports and/or testified as an expert witness in voting rights and statistical issues in a variety of court cases, including on behalf of the U.S. Attorney in Houston, the Texas Attorney General, a U.S. Congressman, and various cities and school districts.

In the 2000 round of redistricting, I was retained as an expert to provide advice to the Texas Attorney General in his role as Chair of the Legislative Redistricting Board. I subsequently served as the expert for the State of Texas in the state and federal litigation involving the 2001 redistricting for U.S. Congress, the Texas Senate, the Texas House of Representatives, and the Texas State Board of Education. In the 2010 round of redistricting in Texas, I was again retained as an expert by the State of Texas to assist in defending various state election maps and systems, including the district maps for the U.S. Congress, the Texas Senate, the Texas House of Representatives, and the current at-large system for electing Justices to the State Supreme Court

and Court of Appeals, as well as the winner-take-all system for allocating Electoral College votes.

I have also worked as an expert on redistricting and voting rights cases at the state and/or local level in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Michigan, Mississippi, New Mexico, New York, Pennsylvania, Washington, and Wisconsin. The details of my academic background, including all publications in the last ten years, and work as an expert, including all cases in which I have testified by deposition or at trial in the last four years, are covered in the attached CV (Appendix 1).

Data and Sources

In preparing this report, I have reviewed the reports filed by the plaintiffs' experts in this case. I have relied on the analysis provided to date by Dr. Kassra Oskooii, Dr. Jessica Trounstone, Dr. Matt Barreto, and Mr. Michael Rios in their expert reports in these cases. I have also relied on various election and demographic data they provided in their disclosures related to their reports in this case, as well as the election returns for Galveston County that are available on the County website.

Assessing Cohesion for *Gingles* 2 and 3

While the definition of a "candidate of choice" is clear (50% + 1 in the case of a two-candidate contest), the level of voter cohesion needed to meet the *Gingles* threshold is less clear. To date, neither the courts nor the academic literature have provided any bright-line standard. As Dr. Trounstone notes in her report, "in statistical terms, because cohesion is a continuous, not a discrete, variable, there is no universally accepted approach for determining cohesiveness." (page 4). There have been suggestions that something in the range of 80% plus would be evidence of cohesion, but no consensus has been reached on this, or any other standard. Recently, some plaintiff's experts have proposed, as Trounstone does here, a minimal 60 percent threshold. However, this is simply an arbitrary choice, as 60% is clearly much closer to the no-cohesion level of 50% than it is to the complete-cohesion level of 100%.

A non-arbitrary threshold can be derived from considering the scale itself. The extent of cohesion varies from no cohesion at a 50%-50% split in a two-candidate contest, to perfect cohesion at 100% of a group voting for the same candidate. In the simplest two-party case, the

range of cohesion (from 50% to 100%) covers 50 percentage points. Thus, the halfway point between the complete absence of cohesion at 50% and perfect cohesion at 100% is found at 75%. Cohesion levels below 75% are closer to non-cohesion than they are to complete cohesion. Similarly, cohesion levels above 75% are closer to complete cohesion than they are to the complete absence of cohesion.

Establishing a level as low as 60% to demonstrate cohesion is also problematic when you consider that it means that 40%, a substantial minority, have a different candidate of choice. This high level of crossover among minority voters in turn limits the performance of minority districts, even when they are drawn to provide minority voters a clear majority. For example, if minority cohesion is at 60%, and non-minority cohesion is at 80% (about where it is here), then a district where minorities are 55% of the adult eligible population will yield a losing vote share for the minority preferred candidate of only 42%, even if minority voters turn out at the same rate as non-minority voters. The district would need to be drawn to have a turned-out minority voter proportion of over 75% before it would yield a majority vote share of over 50% for the minority-preferred candidate. Any tendency for minority voters to turn out at lower rates than non-minority voters would push the necessary level of minority population up even higher. Note that this level of packing would not be required if the standard for cohesion was set at 75%, as the same 55% minority district scenario outlined above would yield a majority vote for the minority-preferred candidate when minority cohesion reached 75%. The weakness of the low 60% threshold is even more apparent when applied mechanically, as Dr. Trounstine does, to multiparty contests, where it would yield a finding of cohesion in a four-person contest at a level of 30% for one candidate, even though 70% of the group would not be supporting that candidate.

Partisan General Elections in Dr. Oskooii's Report

Dr. Oskooii provides the results of two types of Ecological Inference (EI) analysis utilizing, first, an earlier iterative approach, and, second, the more recent RxC EI technique. The results are, as Dr. Oskooii notes, substantively similar, and for my discussion, I will focus on the reported results utilizing the more appropriate RxC technique. The RxC results for 25 general election contests between 2016 and 2020 are reported for the whole County in Figure 6 (with Blacks and Latinos combined), and in Figure 8 in Exhibit C in the Appendix, with Blacks and Latinos reported separately. Dr. Oskooii provides no indication of the race or ethnicity of the candidates

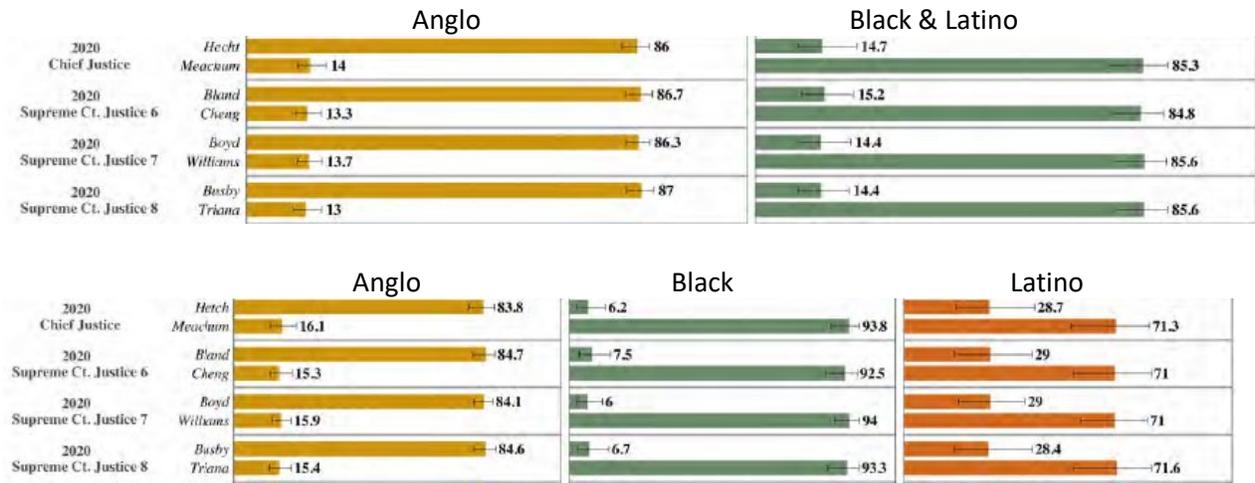
in these contests, nor does he provide any party labels in these tables, nor is there any mention of the race, ethnicity or party of any of the candidates in his discussion of the results of the EI analysis. Given the importance of the issue of racial voting in this case, and the fact that defendants have raised the issue of partisan (as opposed to racial), voter polarization, this is a curious choice. Courts have long held that racially contested elections are particularly probative, and the Fifth Circuit has addressed the importance of showing something more than mere partisan voting when assessing racial polarization.

Dr. Oskooii's overall summary of these EI estimates is that "the countywide RxC analysis depicted in Figure 6 indicates that Black-Latino voters in Galveston vote cohesively to support their candidates of choice countywide, while Galveston's Anglo voters likewise vote as bloc countywide to disfavor the candidate of choice of Black-Latino voters and support their own (different) candidate of choice." (page 15, paragraph 46). A look at the results indicates that in every election, the Black/Latino support for their candidate of choice is in the mid-80% range across years and from top to bottom of the ballot. Similarly, Anglo support for the opposing candidate is also in the mid-80% range across years and from top to bottom of the ballot.

Dr. Oskooii also provides additional EI results that estimate the vote patterns separately for Black and Latino voters in his Figure 8, Appendix C. Here, the cohesion estimates for Black and Anglo voters are also in the 80 or 90 percent range, but the estimates for Latino voters drop to the high 60 to low 70 percent range, a level that fails to reach the 75% level discussed above as the middle point between cohesion and lack of cohesion.

What Dr. Oskooii does not mention is an additional remarkable consistency in the EI results. In all 25 contests the candidate of choice of Black and Hispanic voters is the Democrat and the candidate of choice of Anglo voters is the Republican. In contrast, no such relationship is found regarding the race or ethnicity of the candidates. Thus, the EI analysis of general elections provided by Dr. Oskooii clearly establishes that voting in partisan elections in Galveston County is clearly polarized according to the party affiliation of the candidates. The impact of the candidate's party label is clear, consistent, and stable. This is true even though the race/ethnicity of the candidates varies across these elections. For example, consider the EI results extracted from Dr. Oskooii's Figures 6 and 8 reproduced below in Figure 1 for the ballot cluster of four State Supreme Court contests in the 2020 general election.

Figure 1: Extracted EI results from Oskooii Figures 6 and 8



The Chief Justice contest was between an Anglo Republican (Hecht) and an Anglo Democrat, (Meachum). The Justice Place 6 contest was between an Anglo Republican(Bland) and an Asian Democrat(Cheng). The Justice Place 7 contest was between an Anglo Republican (Boyd) and a Black Democrat (Williams). The Justice Place 8 contest was between an Anglo Republican (Busby) and a Hispanic Democrat (Tirana). Estimated support of combined Black and Hispanic voters for the Democratic candidate is cohesive at about 85% and varies by less than a single percentage point based on whether the Democratic candidate was Anglo, Black, Hispanic, or Asian. Similarly, Anglos vote cohesively for the Republican candidate, and in opposition to the Democratic candidate, at about 86.5%, and Anglo opposition to the Democratic candidate varies by less than a single percentage point based on whether the Democratic candidate was Anglo, Black, Hispanic, or Asian. The same pattern also holds when the voting of Blacks and Hispanic is estimated separately, as shown in the lower panel extracted from Dr. Oskooii’s Figure 8. More broadly, this same pattern is evident across the entire set of 25 elections analyzed by Dr. Oskooii. In short, there is nothing here to suggest that Anglo voters are voting as a bloc to defeat minority candidates on account of their race, only that they are voting as a bloc for Republican candidates and to defeat Democratic candidates at almost exactly the same level of cohesion regardless of the race or ethnicity of the Democratic candidates.

Partisan General Elections in the Report of Dr. Barreto and Mr. Rios

The Barreto/Rios report expands the timeframe of general elections analyzed by including some earlier 2014 elections as well as some more recent 2022 elections. Like Dr. Oskooii, the Barreto/Rios report finds a stable pattern of partisan polarization. As they summarize on page 7:

In elections across Galveston County ecological inference models point to a clear pattern of racially polarized voting. Hispanic voters and Black voters demonstrate unified and cohesive voting, siding for the same candidates of choice with high support. In contrast, Anglo voters strongly block vote against minority candidates of choice. Anglo block voting appears to be uniform across elections from 2014 to 2022 with rates over 85% opposition to minority-preferred candidates. Anglo voters demonstrate considerable block voting against Hispanic and Black candidates of choice, regularly voting in the exact opposite pattern of Hispanic and Black voters in Galveston.

However, as was true for Dr. Oskooii report, and despite its clear importance to this case, the Barreto/Rios report does not include any information regarding the party affiliation or the race or ethnicity of any of the candidates in these contests. But again, the party of candidates dominates in accounting for the observed voting patterns. In all 29 contests the candidate of choice of Black and Hispanic voters is the Democrat and the candidate of choice of Anglo voters is the Republican. As we can see for example in the 2022 elections in their Table 2, Black support for the Democratic candidate is in the low-to-mid 90 percent range, regardless of whether the Democratic candidate is Black, Latino, or Anglo. Similarly, Latino support for the Democratic candidate is in the low-to-mid 60 percent range (again falling below the 75% threshold of cohesion discussed above), regardless of whether the Democratic candidate is Black, Latino, or Anglo. Finally, Anglo support for the Republican candidate is in the low-to-mid 80 percent range, regardless of whether the Democratic candidate is Black, Latino, or Anglo.

Also note that this same pattern of support is evident in the 2018 U.S. Senate election in the Barreto/Rios Table 2, even though the Republican candidate Ted Cruz is Hispanic and the Democratic candidate O'Rourke is an Anglo. Eighty-five percent of Anglo voters supported Cruz, while minority voters supported O'Rourke, a pattern entirely consistent with partisan polarization and entirely inconsistent with racial/ethnic polarization. Moreover, in the 2018 Republican primary, Cruz received over 85 percent of the vote in Galveston County (in a five-way contest that included three Anglo candidates and one Black candidate). Given that, as Dr. Oskooii notes "in Galveston County, the evidence indicates that Black and Latino voters

participate in Republican Party Primary elections at practically non-existent levels” (page 9), this clearly shows that Anglo Republican voters are willing to support a Hispanic candidate over Anglo candidates even within the party. Thus, the Barreto/Rios EI analysis of general elections, like that provided by Dr. Oskooii, clearly establishes that voting in partisan elections in Galveston County is polarized according to the party affiliation of the candidates. In contrast to the race or ethnicity of candidates, the impact of the candidate’s party label is clear, consistent, and stable. This is true even though the race/ethnicity of the candidates varies across these elections.

Barreto/Rios on Separating Party and Race

Unlike the Oskooii and the Trounstone reports, the Barreto/Rios report provides no analysis of primary elections at all. They indicate that “primary elections are also not as probative a source of information about political cohesion, given the relatively low voter turnout and the skewed nature of the electorate.” (page 13). However, in previous published research, Dr. Barreto and his coauthors commented at length about the 2008 Democratic presidential primary, noting that, while Black voters supported the minority candidate Barak Obama at levels around 80 percent, Latino voters did not support Obama, but instead supported his Anglo opponent (Hillary Clinton). This Latino support for the Anglo candidate over the minority candidate was particularly crucial in Texas, where they noted that “without high Latino turnout and a 2–1 vote favoring Clinton, Obama would have won the state of Texas outright, and perhaps the nomination on March 4” (page 756).¹

Rather than providing actual analysis of voting in Galveston County in primaries or non-partisan local elections, the Barreto/Rios report attempts to turn this clear evidence of party polarization in partisan general elections into evidence of racial polarization by citing a variety of national-level political science literature that they characterize as demonstrating that partisan voting itself should be treated as essentially racial in nature. As they state on page 7:

In Galveston County, most elections are partisan and candidates register and run for office most commonly as a Democrat or Republican whether it is for local county office or statewide. In these instances, partisan general elections are often understood by voters

¹ Barreto, M., Fraga, L., Manzano, S., Martinez-Ebers, V., & Segura, G. (2008). “Should They Dance with the One Who Brung 'Em?” Latinos and the 2008 Presidential Election. *PS: Political Science & Politics*, 41(4), 753-760. doi:10.1017/S1049096508080967

through a racial/ethnic lens. Indeed, political science research has proven conclusively that attitudes about racial public policy issues, views on immigrants, and even racial animus influence partisanship among White voters. Thus, it is voters views on matters of race that often push White voters today into voting for Republican candidates in the first place, providing a clear link to racially polarized voting even when one considers partisanship.

However, the Barreto/Rios report does not offer any local analysis to buttress this speculative interpretation of older national level analysis, which is often directed at different matters than what is at issue here with regard to the current voting behavior in Galveston County elections. One of the more recent studies that they give weight to focuses on the unwillingness of White voters to vote for a Black president. As they summarize on page 11:

Perhaps the most conclusive causal evidence that racial attitudes are driving partisanship, and not merely conservative ideology, comes from the detailed and comprehensive analysis presented by Kuziemko and Washington (2018). Importantly, this paper disentangles antipathy toward Black people from other factors that may motivate White Americans to support the Republican party and not be willing to vote for a Black president, such as conservative principles, support for reduced government intervention, and other policy preferences (e.g., foreign policy). The overall effect in this paper is driven by White Americans in the southern states including Texas, showing that White Americans in the South relative to White Americans outside the South possess very similar attitudes on conservatism, outside the dimension of racial attitudes, such as economic and foreign policy. The findings also demonstrate that Democratic commitments to general civil rights in 1963 do not produce defections towards the Republican party among Southern whites, if they are unwilling to support a Jewish, Catholic, or Woman president, all other groups that were associated with liberal beliefs at the time. Instead, it is only among those who have negative racial attitudes or who are unwilling to support a Black president who leave the Democratic Party for the Republican Party.

The figure below is a copy of a figure from that article that relates directly to the issue of White voters' willingness to vote for a Black candidate for President. As the Barreto/Rios discussion quoted above suggests, the high levels of unwillingness among Whites in the late 1950s to vote for a Black candidate in the South (over 90%), compared to the non-South (40%) is compatible with room for that difference to drive defections in the South toward the Republican party, and in turn alter Republican sentiment on racial issues. However, the starkest takeaway from the table is the trend over time. In the late 1950s, even in the non-South, 60% of Whites were unwilling to vote for a Black candidate for president. But that was 65 years ago, and by 2000 over 90% of both Southern and non-Southern Whites are willing to vote for a Black candidate for president. In 1958, when less than 10% of Southern Whites would support a Black president,

the movement of Southern Whites into the Republican party had the potential to shift party sentiment on this issue. That potential no longer exists, and at least with regard to supporting a Black candidate for president, the sentiment itself is nearly gone.

Figure 2: Reproduced Figure 2 from Kuziemko and Washington

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KUZIEMKO AND WASHINGTON: WHY DEMOCRATS LOST THE SOUTH

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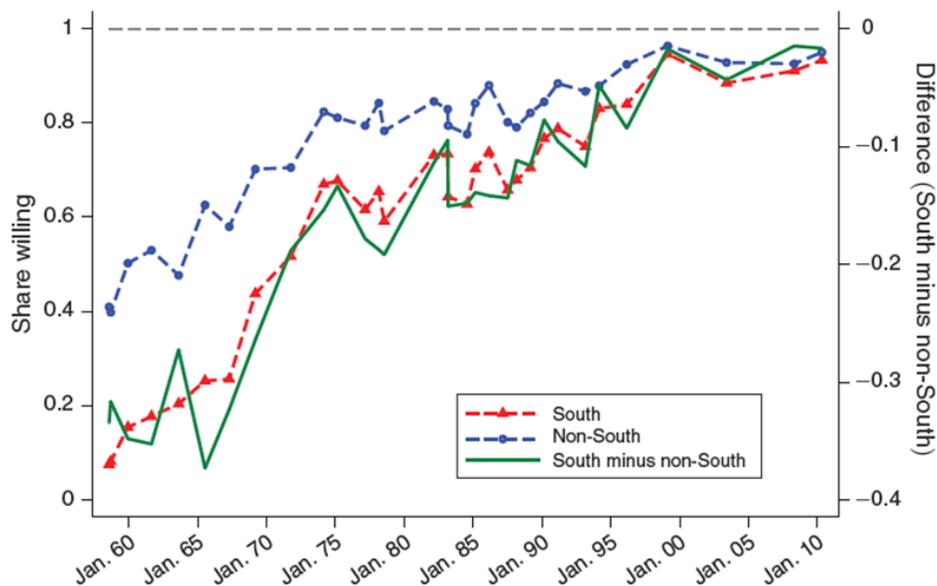


FIGURE 2. SHARE OF WHITES WILLING TO VOTE FOR A BLACK PRESIDENT, BY REGION

Notes: Here and throughout the paper, we code “yes” as 1 and “no” and (rare) “don’t know” as 0. Here and throughout the paper we use provided survey weights for the GSS data.

Source: Data come from Gallup (1958–2003) and GSS (1974–2010).

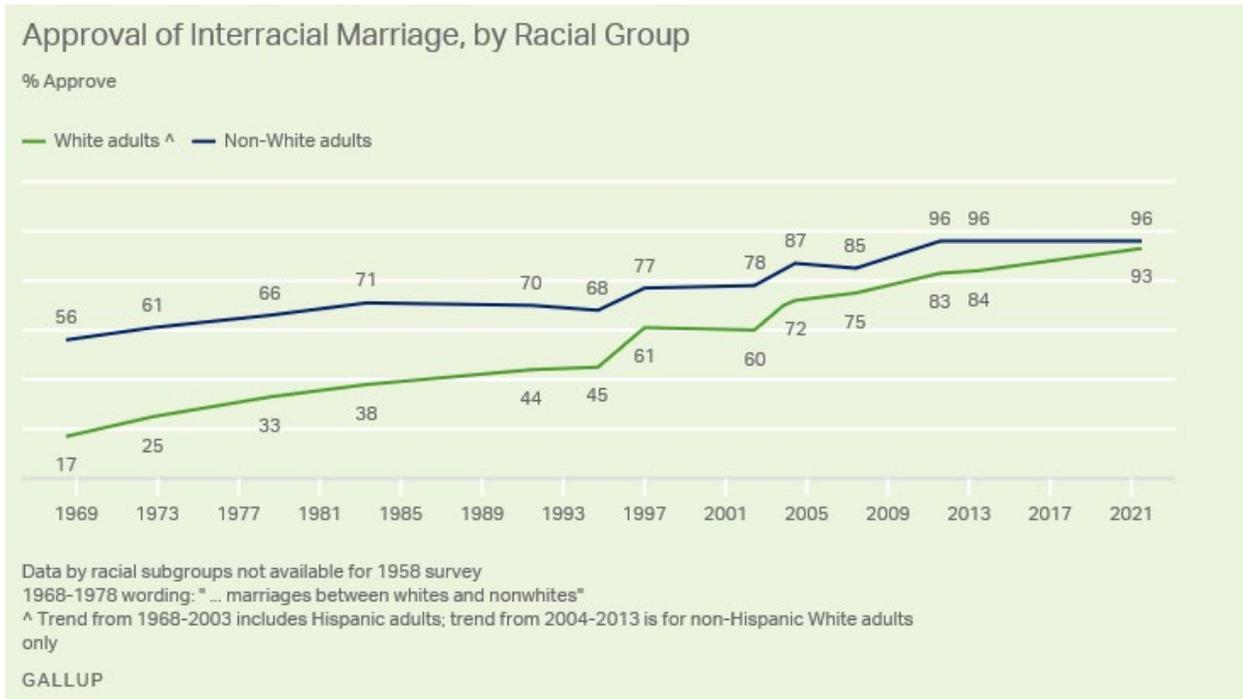
A similar pattern is apparent in another area cited in the Barreto/Rios report to support their argument that party polarization is essentially racial polarization. As they state on page 10:

Other research demonstrates that, recently, particularly after the election of Barack Obama, white American partisan preferences are increasingly the result of “old-fashioned racism.” In prior social science research, old-fashioned racism is, in part, conceived as a desire to maintain intimate social distance between the races. Published research by Tesler (2013) demonstrates that white Americans who oppose intra-racial dating are more likely to identify with the Republican party. This correlation did not exist during the 1980s-early 2000s. But it manifested after the election of Barack Obama, the first Black president.

However, the correlation in the Tesler article is very modest. As Tesler puts it “[t]o be sure, that significant correlation of .11 is still not especially strong.” In fact, a correlation of .11 is very weak and suggests that, at best, variation in opinion about interracial dating might account for only about 1% of the variation in party identification. Indeed Tesler’s additional analysis focusing on opposition to interracial marriage suggests an impact too weak to actually shift anyone a meaningful distance on the seven-point party identification scale. Perhaps the most important point here though is that the portion of the population that we are talking about when we consider opposition to interracial marriage has shrunk dramatically over time. Figure 3 below reproduces two Gallop charts that detail the trend since 1969.² Tesler’s analysis focused on support for interracial marriage in 2006. At that time White opposition to interracial marriage had already declined from over 80% to less than 30%. By 2021 White opposition was below 10% and also no longer statistically different from Black opposition to interracial marriage. Thus, the impact of this measure of racism on party identification is very slight, and the proportion of the population that this applies to is now so small that even this slight impact is much reduced.

² “U.S. Approval of Interracial Marriage at New High of 94%” by Justin McCarthy, Social & Policy Issues, Gallop, September 10, 2021, <https://news.gallup.com/poll/354638/approval-interracial-marriage-new-high.aspx>

Figure 3: Reproduced Charts from a 2021 Gallop Report



	1991	2002	2011	2021
	% Approve	% Approve	% Approve	% Approve
East	54	67	90	94
Midwest	50	60	86	93
South	33	59	79	93
West	60	79	91	97

GALLUP

The key point here is that while the Barreto/Rios report provides appropriate ‘intensely local’ analysis of voting behavior in Galveston County, which clearly establishes that elections are polarized based on the political party of the candidates, the report provides no local analysis at all to support the claim that this partisan polarization is “inseparable” from racial polarization. Instead, the report simply references selected articles based on national samples that might or might not support some indirect impact of race on party at some point in time. In some cases, that connection is extremely tenuous. The most recent piece (2020) they cite, “The inseparability of race and partisanship in the United States” by Westwood and Peterson, concludes, according to them, that racial discrimination and partisan discrimination are inseparable. But this

conclusion is not based on an examination of voting behavior at all. Instead, it reflects the impact on a measure of feelings toward the opposite party after being treated unfairly by an anonymous player identified as being of a different race than the subject in an economic game involving sharing money.

Partisan General Elections in the Report of Dr. Trounstine³

Dr. Trounstine's report includes a smaller set of partisan general elections than does Dr. Oskooii's report or the Barreto/Rios report. Dr. Trounstine divides her analysis of the partisan general elections into separate tables by type (exogenous, County Judge, and County Commissioner) and, within type by racial/ethnic group (Latino, Black, White). To make it easier to see the full results, I have combined her key RxC estimates into a single table.

Table 1 below includes the 12 elections analyzed in Dr. Trounstine's report. Two of the County Judge elections are listed separately at the bottom of the Table, since they are not two-party contested elections (one has no Republican candidate and one has no Democratic candidate), and as such are not directly comparable to the ten two-party elections. Overall, the pattern for the ten two-party contested elections follows the pattern of partisan polarization found in Dr. Oskooii's report and the Barreto/Rios report. Using Dr. Trounstine's minimal 60% cohesion threshold, Black voters give cohesive support to all the Democratic candidates, Latino voters are also cohesive, if at modestly lower levels, in support of all but one of the Democratic candidates. White voters are cohesive in support of all but one of the Republican candidates. As was true for the partisan general election analysis in Dr. Oskooii's report and the Barreto/Rios report, the influence of the candidate's party label is clear, but polarization does not appear to be driven by the race or ethnicity of the candidates.

³ Yesterday, March 16, 2023, I received from counsel Professor. Trounstine's amended report, amending her report submitted on January 27, 2023. Although, after an initial review, I am satisfied that my report adequately addresses Professor Trounstine report, including its amendments, I reserve the right to supplement my analysis of Professor Trounstine's report on or before March 31, 2023 to address Professor Trounstine's amendments.

Table 1: Combined RxC estimates from Dr. Trounstine's Tables on Pages A-17 through A-21, A-25, and A26

Election Date	Position	Candidate	Ethnicity	Party	Won	RxC EI Estimate		
						Latino	Black	White
3-Nov-20	County. Sheriff	Trochesset, Henry	W	R	1	23.02	1.38	84.89
3-Nov-20		Salinas, Mark	L	D	0	77.06	98.63	15.08
3-Nov-20	Dist. Court Judge 405	Robinson, Jared	W	R	1	25.15	1.17	84.43
3-Nov-20		Hudson, Teresa	B	D	0	74.60	98.89	15.62
3-Nov-20	U.S. House Dist. 14	Weber, Randy	W	R	1	24.24	1.13	84.92
3-Nov-20		Bell, Adrienne	B	D	0	75.95	98.85	14.8
7-Nov-06	County Judge	Chris Stevens		R	0	3.66	1.86	60.5
7-Nov-06		James D. Yarbrough	W	D	1	96.37	98.15	39.47
2-Nov-10	County Judge	Mark Henry	W	R	1	6.40	1.83	77.07
2-Nov-10		James D. Yarbrough	W	D	0	93.57	98.19	22.95
5-Nov-02	Co. Comm. P4	Ken Clark	W	R	1	3.66	9.59	88.37
5-Nov-02		Chris John Mallios	W	D	0	95.66	90.72	11.55
2-Nov-04	Co. Comm. P3	Lewis Parker, Jr.	B	R	0	4.92	1.26	72.79
2-Nov-04		Stephen Holmes	B	D	1	95.37	99.16	26.65
7-Nov-06	Co. Comm. P2	Albert Choate	W	R	0	15.12	27.21	57.16
7-Nov-06		Bryan Lamb	W	D	1	84.81	72.15	42.92
2-Nov-10	Co. Comm. P2	Kevin O'Brien	W	R	1	10.75	16.78	72.58
2-Nov-10		Bryan Lamb	W	D	0	89.28	83.1	27.41
6-Nov-12	Co. Comm. P1	Ryan Dennard	W	R	1	50.49	19.05	75.73
6-Nov-12		Winston Cochran	W	D	0	49.45	80.88	24.27
5-Nov-02	County Judge	James D. Yarbrough	W	D	1	97.50	98.9	80.61
5-Nov-02		Dan Murphy		L	0	2.46	1.1	19.4
4-Nov-14	County Judge	Mark Henry	W	R	1	62.18	9.53	80.4
4-Nov-14		William F. "Bill" Young		I	0	37.86	90.46	19.61

Party Primaries and Non-Partisan General Elections - Dr. Oskooii's Report

Both Dr. Oskooii and Dr. Trounstine examine elections outside of the partisan general elections discussed above. Dr. Barreto and Mr. Rios decline to consider any primary elections, asserting that the partisan general elections are the most critical. The Barreto/Rios report offers an extended defense of focusing only on general partisan elections that is addressed in a separate section below.

Table 2: RxC Estimates for Democratic Primaries from Dr. Oskooii's Figure 15 (with Anglo Estimate Added)

Dem. Primary Contest	LastName	Candidate Race/Ethnicity	From Trounstine Fig. 15		Added
			Black	Latino	Anglo
Chief Justice 2020	Zimmerer	Anglo	26.0%	41.3%	12.5%
Chief Justice 2020	Meachum	Anglo	74.0%	58.7%	87.5%
Supreme CT Justice 8 2020	Triana	Hispanic	56.1%	69.5%	75.7%
Supreme CT Justice 8 2020	Kelly	Anglo	43.9%	30.5%	24.3%
Supreme CT Justice 7 2020	Williams	Black	81.2%	62.1%	71.2%
Supreme CT Justice 7 2020	Voss	Anglo	18.8%	37.9%	28.8%
Supreme CT Justice 6 2020	Praeger	Anglo	21.2%	22.3%	15.3%
Supreme CT Justice 6 2020	Cheng	Asian	78.8%	77.7%	84.7%
CT of Appeals Justice 4 2020	Miears	Anglo	18.3%	39.4%	15.8%
CT of Appeals Justice 4 2020	Clinton	Asian	81.7%	60.6%	84.2%
US House District 2018	Bell	Black	92.0%	69.8%	85.2%
US House District 2018	Barnes	Black	8.0%	30.2%	14.8%
Lt Governor 2018	Cooper	Black	83.6%	72.9%	45.2%
Lt Governor 2018	Collier	Anglo	16.4%	27.4%	54.8%
Comptroller 2018	Mahoney	Anglo	50.9%	57.2%	47.1%
Comptroller 2018	Chevalier	Black	49.1%	42.8%	52.9%
Railroad Commissioner 2018	Spellmon	Black	71.7%	60.7%	50.9%
Railroad Commissioner 2018	McAllen	Anglo	28.3%	39.3%	49.1%
Commissioner Land Office 2018	Suazo	Hispanic	47.0%	50.9%	60.9%
Commissioner Land Office 2018	Morgan	Anglo	53.0%	49.1%	39.1%

Dr. Oskooii summarizes the results for the Democratic primary contest by noting that “preferences are not as strong for any one candidate as they are in general elections. Nevertheless, the vote point estimates for the analyses indicate that a majority of Black voters and of Latino voters shared the same candidate preferences in 9 out of 10 of the primary elections” (page 24). However, preferred candidate is not the same thing as cohesion. Using the 75% threshold, Black voters are cohesive in only 5 of the 10 elections, and Latino voters are cohesive in only 1 of the 10 elections. Even using the minimal 60% threshold, Black and Latino voters are both cohesive in only 6 of the 10 elections, a far different pattern from that seen in the partisan general elections. What Dr. Oskooii did not include for these primaries were the estimates for Anglo voters, something that was included for the general election analysis

discussed above. I have added estimates for Anglo voter preference from an RxC EI performed on the data provided by Dr. Oskooii as the last column in Table 2 above to complete the picture.

What is clear from the Anglo vote estimates is that the shared preferences of Black and Hispanic voters are also largely the preferences of Anglo voters. As Dr. Oskooii noted, in 9 out of 10 elections the candidate of choice was the same for Black and Latino voters, but it is also the case that in 8 of 10 elections the candidate of choice was the same for Latino and Anglo voters, and in 7 out of 10 elections the candidate of choice was the same for Black and Anglo voters. In 7 of the 9 elections where Black and Latino voters preferred the same candidate, Anglo voters also preferred that candidate. In the two elections where Anglo's did not share the jointly preferred candidate of Black and Latino voters, Anglo voters, splitting 55%-45% and 53%-47%, were not voting cohesively in opposition to the candidate preferred by both Black and Latino voters.

Party Primaries and Non-Partisan General Elections - Dr. Trounstine's Report

Dr. Trounstine's report includes analysis of a wide variety of primary and non-partisan general elections. Many of these contests involve more than two candidates, and these contests reveal a clear problem in the reported RxC EI estimates. While the two-candidate estimates for general elections reported above in Table 1 add correctly to roughly 100%, the same is not true for the primary and non-partisan elections covered in Dr. Trounstine's report. In multiple instances, the sum of the estimates either exceed 100% or fail to reach 100%, as is true in the 2022 Commissioner of the General Land Office contest reported below in Table 3, where the estimates of Latino voter support for the four candidates sums to 115% while the estimates for Anglo support only sums to 97%. Similarly, in the non-partisan elections reported below in Table 5, in the 2016 Galveston County Navigation and Canal Commission contest the estimates of Black voter support for the four candidates sums to 135% while the estimates for Anglo support only sum to 88%. Dr. Trounstine recognizes this issue as discussed in her Appendix B:

Both EI and RxC prevent out-of-bounds estimates for any bivariate relationship, but, unlike Goodman's, both can generate totals that exceed 100% in the aggregate. For instance, the regression might predict that 40% of Latino voters supported candidate A, 60% supported candidate B, and 30% supported candidate C. Although this is not ideal, it is better than producing out of bounds estimates for each candidate given that the goal of this analysis is to determine point estimates of voter support and to compare them across candidates in a given election. Both EI and RxC allow researchers to determine which candidate received the largest share of the vote compared to all others. My

analyses indicate that in Galveston County, RxC produces totals that are closer to 100% than does EI. So, while I present the results from all of these different methods, my summary conclusions and my discussion highlight the RxC results.

While Dr. Trounstine is correct about the problem of iterative EI generating totals that exceed 100%, the same is not true for an actual RxC estimate using the current correct analysis procedure. Dr. Trounstine's disclosed 'R' code indicates she used a procedure labeled 'ei.reg.Bayes' in the eiPack software package to produce her RxC estimates. Despite its label, the procedure is not the Bayesian implementation of the Rosen et al RxC analysis. It is instead simply a Bayesian version of the much earlier Goodman's regression approach. The actual Bayesian implementation of the Rosen et al RxC analysis is a procedure labeled 'ei.MD.bayes' in the eiPack software. Figure 4 below provides the relevant summary descriptions from the eiPack software. This confusion is not unique to Dr. Trounstine's analysis. In fact, the original version of the eiCompare software (produced by Dr. Barreto and Dr. Collingwood) that Dr. Trounstine used for her iterative EI estimation included the same mistake.

In the tables below, the estimates from Dr. Trounstine's analysis are supplemented with a replication for each contest using the data provided by Dr. Trounstine, but the tables below show the results from performing the analysis with the correct ei.MD.bayes instead of the ei.reg.Bayes procedure used erroneously by Dr. Trounstine. These corrected results will be discussed after a discussion of the results provided by Dr. Trounstine.

Figure 4: eiPack Documentation for ei.reg.Bayes and ei.MD.bayes

<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> ei.reg.bayes {eiPack} R Documentation </div> <h2 style="margin-top: 10px;">Ecological regression using Bayesian Normal regression</h2> <p>Description</p> <p>Estimate an ecological regression using Bayesian normal regression.</p> <p>Usage</p> <pre>ei.reg.bayes(formula, data, sample = 1000, weights = NULL, truncate=F</pre>
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> ei.MD.bayes {eiPack} R Documentation </div> <h2 style="margin-top: 10px;">Multinomial Dirichlet model for Ecological Inference in RxC tables</h2> <p>Description</p> <p>Implements a version of the hierarchical model suggested in Rosen et al. (2001)</p> <p>Usage</p> <pre>ei.MD.bayes(formula, covariate = NULL, total = NULL, data, lambda1 = 4, lambda2 = 2, covariate.prior.list = NULL, tune.list = NULL, start.list = NULL, sample = 1000, thin burnin = 1000, verbose = 0, ret.beta = 'r', ret.mcmc = TRUE, usrfun = NULL)</pre>

Trounstine ‘RxC’ Estimates

Dr. Trounstine divides her analysis of eight 2022 exogenous Democratic primary elections or runoffs into three separate tables by racial/ethnic group (Latino, Black, White). To make it easier to see the full results, I have combined her key RxC estimates into a single table. Looking at three columns labeled ‘Trounstine RxC EI Estimate’ in Table 3 below, it is clear that the results do not suggest that Blacks and Latinos provide cohesive support to the same candidate. In fact, they only share the same preferred candidate in one of the eight contests.

While the actual RxC estimates listed under the heading ‘Replication RxC EI Estimate’ are clearly different from the Trounstine Bayesian regression estimates, the overall pattern suggests a similar conclusion. Even using Trounstine’s very weak cohesion standard, in only one contest (the 2022 Democratic primary for the General Land Office) do both Blacks and Latinos both provide cohesive support to a minority candidate. The levels of support at 41 and 42 percent,

respectively, are very modest, with almost 60 percent of each group of voters supporting a non-Hispanic candidate over Martinez. Anglo voters are also very divided, but the preferred candidate of Anglo voters is Martinez.

Table 3: Combined ‘RxC’ Estimates from Dr. Trounstine’s Tables on Pages A-27 through A-29 with Additional Replication Results

Election Date	Office	Candidate	Ethnicity	Won	Trounstine RxC EI Estimate			Replication RxC EI Estimate		
					Latino	Black	White	Latino	Black	White
24-May-22	Attorney General	Jaworski, Joe	W	0	26.26	77.5	73.62	69.2%	66.8%	71.5%
24-May-22		Garza, Rochelle Mercedes	L	1	73.55	22.51	26.44	30.8%	33.2%	28.5%
24-May-22	Compt. of Public Accounts	Dudding, Janet	W	1	18.57	67.21	82.05	63.7%	61.2%	65.3%
24-May-22		Vega, Angel Luis	L	0	81.25	32.83	17.99	36.3%	38.8%	34.7%
24-May-22	Comm. of General Land Off.	Martinez, Sandragrace	L	0	86.23	74.47	35.71	51.1%	65.3%	49.6%
24-May-22		Kleberg, Jay	W	1	13.66	25.6	64.3	48.9%	34.7%	50.4%
1-Mar-22	U.S. House Dist 14	Williams, Mikal	W	1	76.43	12.83	57.39	45.5%	38.3%	46.7%
1-Mar-22		Howard, Eugene	B	0	23.64	87.13	42.64	54.5%	61.7%	53.3%
1-Mar-22	Lieutenant Governor	Collier, Mike	W	1	9.25	18.29	49.88	34.6%	25.1%	42.5%
1-Mar-22		Brailey, Carla	B	0	46.83	55.18	22.8	34.2%	46.1%	30.4%
1-Mar-22		Beckley, Michelle	W	0	49.99	24.11	26.24	31.2%	28.8%	27.1%
1-Mar-22	Attorney General	Jaworski, Joe	W	Run Off	18.13	24.8	50.43	44.2%	34.3%	56.7%
1-Mar-22		Garza, Rochelle Mercedes	L	Run Off	43.57	7.34	26.65	21.6%	18.7%	18.5%
1-Mar-22		Merritt, Lee	B	0	15.97	41.57	13.08	14.5%	29.1%	12.0%
1-Mar-22		Fields, Mike	B	0	15.50	21.67	6.54	13.5%	13.8%	7.8%
1-Mar-22		Raynor, S. "TBone"	W	0	10.90	4.62	2.37	6.2%	4.1%	5.0%
1-Mar-22	Compt. of Public Accounts	Dudding, Janet	W	Run Off	23.58	45.9	61.21	46.7%	45.6%	49.9%
1-Mar-22		Vega, Angel Luis	L	Run Off	68.82	18.17	18.47	32.8%	30.1%	26.8%
1-Mar-22		Mahoney, Tim	W	0	8.91	35.42	20.09	20.5%	24.3%	23.3%
1-Mar-22	Comm. of General Land Off.	Martinez, Sandragrace	L	Run Off	86.11	25.22	26.97	42.3%	41.3%	31.2%
1-Mar-22		Suh, Jinny	W	0	19.82	30.73	22.14	18.7%	25.8%	25.0%
1-Mar-22		Kleberg, Jay	W	Run Off	5.47	5.64	33.01	25.0%	12.0%	27.5%
1-Mar-22		Lange, Michael	W	0	3.94	36.62	14.64	14.0%	20.9%	16.3%

Dr. Trounstine also proves analysis for a set of endogenous Democratic primaries for County Commissioner. Again, Dr. Trounstine’s three separate tables for Black, Latino, and White voters have been combined below for ease of viewing. As was true for the exogenous primaries in Table 3, the endogenous primaries in Table 4 do not show Black and Latino cohesion. In only one of the six primary contests do Black and Hispanic voters provide cohesive support to the same candidate, and that candidate is also cohesively supported by White voters.

Similarly, the actual RxC estimates listed under the heading ‘Replication RxC EI Estimate’ do not show racial polarization. In the two contests with a Latino candidate, Black and Latino voters are divided across various candidates, but in neither contest is the candidate of choice of either group the Latino candidate. In the two contests with no minority candidate, both Black and Latino voters are divided across various candidates, but in both cases the candidate of choice of Anglo is also the candidate of choice of Black and Latino voters. In the two contests with Black

candidates, both Black and Latino voters are supporting the Black candidate(s), but so are Anglo voters.

Table 4: Combined ‘RxC’ Estimates from Dr. Trounstine’s Tables on Pages A-22 through A-24 with Additional Replication Results

Galveston County Commissioner - Democratic Primary					Trounstine RxC EI Estimate			Replication RxC EI Estimate		
Election Date	Precinct	Candidate	Ethnicity	Won	Latino	Black	White	Latino	Black	White
12-Mar-02	2	Eddie Janek	W	1	39.36	59.69	61.21	52.6%	59.2%	65.3%
12-Mar-02	2	Rosie Morales	L	0	61.49	38.68	38.56	47.4%	40.8%	34.7%
9-Mar-04	1	Patrick Doyle	W	Run Off	19.92	31.54	55.74	34.5%	31.3%	51.0%
9-Mar-04	1	John Ford		Run Off	45.55	18.57	16.62	23.8%	24.5%	22.5%
9-Mar-04	1	Tom Butler		0	6.71	30.06	3.15	3.4%	4.3%	1.6%
9-Mar-04	1	Larry Edrozo	L	0	20.43	34.48	20.43	18.5%	17.8%	12.6%
9-Mar-04	1	Dianna Puccetti	W	0	25.09	52.43	25.09	19.8%	22.1%	12.3%
13-Apr-04	1	Patrick Doyle	W	1	33.65	48.73	74.11	58.5%	52.5%	69.7%
13-Apr-04	1	John Ford		0	66.10	51.52	25.9	41.5%	47.5%	30.3%
7-Mar-06	2	Bryan Lamb	W	1	39.19	34.87	58.41	57.5%	42.4%	59.2%
7-Mar-06	2	Robert Cheek	W	0	16.62	40.78	20.93	21.4%	18.6%	23.6%
7-Mar-06	2	Nick Stepchinski	W	0	16.48	34.1	14.03	12.5%	18.0%	11.7%
7-Mar-06	2	John Bertolino	W	0	49.80	28.74	2.05	8.6%	21.0%	5.5%
4-Mar-08	3	Stephen Holmes	B	1	36.28	53.1	66.53	50.1%	62.0%	51.2%
4-Mar-08	3	Eugene Lewis	B	0	32.40	48.25	12.28	25.0%	31.2%	24.3%
4-Mar-08	3	Robert Hutchins	W	0	20.45	1.6	29.34	24.9%	6.7%	24.5%
29-May-12	3	Stephen Holmes	B	1	77.88	95.35	85.81	85.1%	94.8%	85.1%
29-May-12	3	James Hobgood	B	0	22.10	4.66	14.24	14.9%	5.2%	14.9%

The final set of elections provided by Dr. Trounstine are a selection of local non-partisan elections in Galveston County. These are provided as a check on the partisan elections. As Dr. Trounstine indicates on page 12:

[T]o ensure that my conclusions were not dependent upon the presence of partisan labels, ten of the 36 elections that I analyzed were nonpartisan local elections in Galveston County with VTDs that overlapped with the VTDs found in Commissioner Precinct 3. These included general elections for Galveston City city council and mayor, La Marque city council, League City city council, Texas City city commission and mayor, and Galveston County Navigation and Canal Commissioner in 2016 and 2020.

Table 5: Combined ‘RxC’ Estimates from Dr. Trounstine’s Tables on Pages A-30 through A-35 with Additional Replication Results

Election Date	City	Position	Candidate	Ethnicity	Won	Trounstine RxC EI Estimate			Replication RxC EI Estimate		
						Latino	Black	White	Latino	Black	White
3-Nov-20	Galveston	City Council 1	Johnson, E.R.	B	1	47.86	46.03	62.13	36.3%	41.2%	54.6%
3-Nov-20	Galveston		Woods, Tarris L.	B	0	42.30	51.25	24.72	29.1%	41.7%	32.6%
3-Nov-20	Galveston		Godinich, Doug	W	0	27.36	27.27	15.85	34.7%	17.1%	12.8%
3-Nov-20	Galveston	City Council 4	Quiroga, Bill	L	1	51.71	52.06	64.42	75.5%	53.2%	47.8%
3-Nov-20	Galveston		Hardcastle, Jason	W	0	49.32	49.27	28.32	24.5%	46.8%	52.2%
3-Nov-20	Galveston	Mayor	Quiroga, Roger "Bo"	L	1	68.96	40.47	37.38	17.8%	19.3%	47.9%
3-Nov-20	Galveston		Brown, Craig	W	0	19.83	31.16	44.55	26.2%	18.5%	40.6%
3-Nov-20	Galveston		Guzman Jr., Raymond	L	0	8.78	17.5	4.73	22.9%	23.3%	4.9%
3-Nov-20	Galveston		Keese, Bill	W	0	4.72	10.09	5.89	19.3%	20.6%	4.2%
3-Nov-20	Galveston		Casey, James	W	0	3.09	2.52	5.65	13.8%	18.3%	2.5%
3-Nov-20	La Marque	City Council Dist B	Divine, Laura	W	1	53.84	21.06	43.18	27.1%	27.5%	53.1%
3-Nov-20	La Marque		Compian, Joe	L	0	68.01	54.01	3.75	35.1%	39.7%	31.4%
3-Nov-20	La Marque		Robinson, Raushida	B	0	15.12	22.48	26.93	37.8%	32.8%	15.4%
3-Nov-20	League City	City Council 5	Hicks, Justin	W	1	41.42	1.95	39.61	31.5%	36.6%	38.8%
3-Nov-20	League City		Chorn, Wes	W	0	36.48	93.6	28.14	32.0%	34.5%	33.1%
3-Nov-20	League City		Rogers, Fred	B	0	28.64	3.05	31.26	36.5%	28.9%	28.1%
3-Nov-20	Texas City	City Commission	Bowie, Thelma	B	1	9.78	82.23	12.15	22.4%	59.5%	19.6%
3-Nov-20	Texas City		Yackly, Kevin	W	0	48.08	3.47	31.83	23.4%	14.0%	30.8%
3-Nov-20	Texas City		Garza, Jr., Abel	L	0	9.95	23.38	25.31	29.1%	15.4%	24.8%
3-Nov-20	Texas City		Clawson, Bruce	W	0	48.13	4.72	19.73	25.2%	11.1%	24.8%
3-Nov-20	Texas City	City Commission 4	Clark, Jami	W	1	40.79	20.15	85.96	46.5%	50.0%	68.2%
3-Nov-20	Texas City		Gomez, Henry	L	0	79.99	46.17	10.9	53.5%	50.0%	31.8%
3-Nov-20	Texas City	Mayor	Johnson, Dredrick	B	1	88.23	81.71	34.53	46.5%	75.0%	50.9%
3-Nov-20	Texas City		Roberts, Phil	W	0	11.96	18.21	65.55	53.5%	25.0%	49.1%
8-Nov-16	League City	City Council 4	Kinsey, Todd	W	1	22.32	3.69	68.58	49.5%	50.7%	57.4%
8-Nov-16	League City		Salcedo, Rudy	L	0	77.55	96.26	31.45	50.5%	49.3%	42.6%
8-Nov-16	Galveston	Nav. & Canal Comm.	Byrd, Dennis	W	1	34.38	28.59	43.09	27.3%	23.6%	44.0%
8-Nov-16	Galveston		McDermott, Shane	W	0	18.13	21.78	22.27	25.2%	24.5%	21.9%
8-Nov-16	Galveston		Quiroga, Bill	L	0	34.45	68.55	2.99	25.7%	30.5%	16.1%
8-Nov-16	Galveston		Mihovil, Robert	W	0	25.60	15.93	19.97	21.9%	21.4%	18.1%

Based on these results, Dr. Trounstine concludes that “I determined that 90% (nine out of ten) of these elections were polarized with Black and Latino voters cohesively supporting different candidates than white voters” (page 12-13). This was corrected in the March 15th version of the report to read “Black or Latino voters,” and that change is important. While Black and Latino voters are nearly always cohesively supporting the same Democratic candidate in partisan general elections at or above Trounstine’s 60% level, the same is not true here. In fact, based on Dr. Trounstine’s assessment of cohesion, Blacks and Latino are only providing cohesive support to the same candidate in five out of the ten elections (but note that in the corrected estimations discussed below, it is zero out of ten).

In addition, Table 5 provides a clear illustration of the problem mentioned above in Trounstine’s mechanical reformulation of the minimal 60% threshold applied to contests with more than 2

candidates. As we can see in the final election in Table 5, the 2016 contest for Galveston County Navigation and Canal Commission, Dr. Trounstine treats the 34.45% share of the Latino vote for the Latino candidate Quiroga as cohesive, based on it exceeding the calculated 30% threshold of cohesion in a four-way contest ($25\% \times 1.2 = 30\%$). But note that an almost identical 34.38% of Latino voters supported an Anglo candidate (Byrd), and presumably the majority of Latino voters supported an Anglo candidate in the election. Contrast this to Dr. Trounstine's estimates for Black voters, where 69% support the Latino candidate. Similarly, in the 2020 Texas City Commission at large contest, Clawson is identified by Dr. Trounstine as cohesively supported by Latino voters at 48.13%, despite the statistically and substantively identical estimate of 48.08% support for Yackly in that contest. Again, Dr. Trounstine's estimate of Black voter support for Bowie, at over 80%, suggests that cohesion above 75% is possible, even in a four-person contest.

The actual RxC estimates listed under the heading "Replication RxC EI Estimate" very clearly do not show cohesion or racial polarization. There is not a single contest out of ten in which both Latino and Black voters are cohesive, even using Dr. Trounstine's very modest 60% threshold. Dr. Trounstine says that the purpose of examining these non-partisan contests was to "ensure that my conclusions were not dependent upon the presence of partisan labels." (page 12). That is a very appropriate caution, and the conclusion of that test is clear. Nothing in Table 5 above looks anything like the polarization in the general elections documented by Dr. Trounstine, the Oskooii report, or the Barreto/Rios report. All the conclusions based on the partisan general elections are in fact clearly "dependent upon the presence of partisan labels." The clear patterns of both cohesion and of polarization in those general partisan elections vanish once the partisan label is removed.

Trounstine's Summary Scatterplot

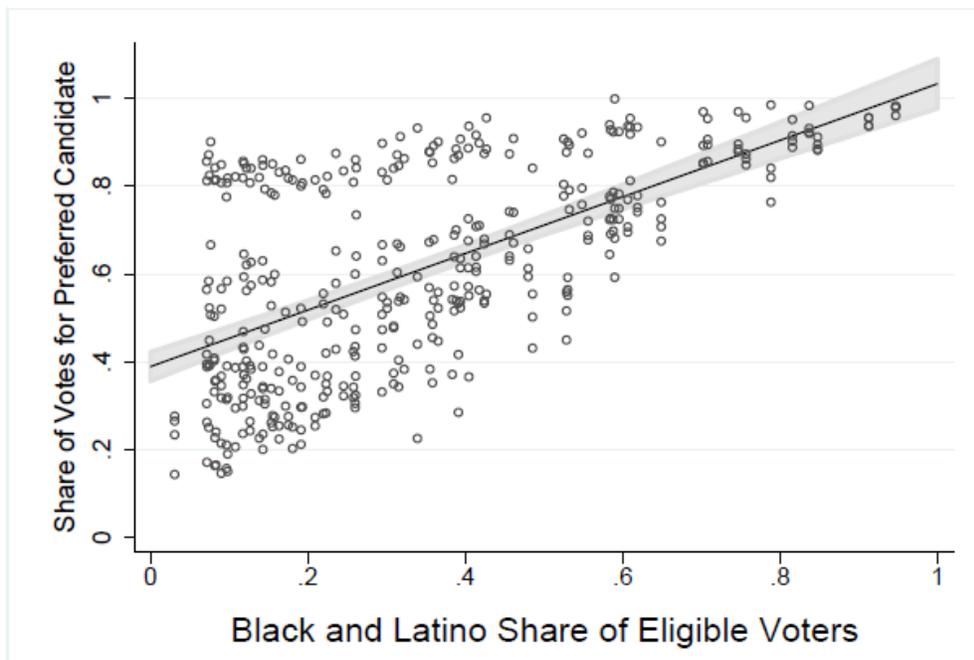
Dr. Trounstine also includes a scatterplot in her report on page 11 to illustrate the overall level of polarization in Galveston County. A copy of the plot is included here as Figure 5 below. She summarizes the plot as indicating that:

Chart 1 reveals political polarization in Galveston County. In VTDs in which the Black and Latino share of eligible voters is small, the candidates preferred by Black and Latino voters win a small share of the vote. We can therefore conclude that white voters generally prefer different candidates than do Black and Latino voters. Furthermore, it is

apparent that Black- and Latino-preferred candidates only win greater than 50% of the vote when Black and Latino voters comprise a substantial share of the electorate. However, the details of the plot suggest a more nuance conclusion. The intercept of the regression line appears to be near 40%, indicating that the expected vote share for the preferred candidate of Black and Hispanic voters in a precinct with 100% Anglo voters would be very close to 40%, a level of crossover voting that doesn't suggest clearly polarized voting. Note also that even in the range below 10% combined minority (90% Anglo), there are numerous VTDs on the plot in the range above 50% and reaching well into the 80% range in terms of vote share for the preferred candidate of Black and Latino voters. Similarly, the conclusion that "Black- and Latino-preferred candidates only win greater than 50% of the vote when Black and Latino voters comprise a substantial share of the electorate" does not tell us what substantial means. Here again we can see from the regression line that the expected share of the vote for the preferred candidate of Black and Hispanic voters in a VTD exceeds 50% at a point slightly below 20% combined minority population (80% + Anglo).

Figure 5: Reproduction of Trounstine's Chart on Page 11 titled "Chart 1: Endogenous Elections in Galveston County Reveal Racial Polarization"

Chart 1: Endogenous Elections in Galveston County Reveal Racial Polarization



Summary Conclusions

The partisan general election analysis provided in the reports of Dr. Oskooii, Dr. Trounstine, and the Barreto/Rios report indicate that Black voters cohesively support Democratic candidates, regardless of those candidates' race or ethnicity. Hispanic voters are less cohesive, falling below the 75% threshold that I suggest more appropriately defines cohesion. Similarly, Anglo voters cohesively vote for Republican candidates, and in opposition to Democratic candidates, regardless of the race or ethnicity of those Democratic candidates. Thus, it is Black and Hispanic voter support for *Democratic* candidates, and Anglo voter support for *Republican* candidates, that the general election analysis reveals. The analysis of Democratic primaries and non-partisan general elections reported by Dr. Oskooii and Dr. Trounstine shows a very different picture of voting behavior from the general elections. The relatively high and stable levels of Black and Hispanic joint support for one candidate, along with relatively high and stable Anglo support for an opposing candidate seen in the general elections, is not evident in the primary or the non-partisan contests, and in these elections that lack a partisan cue voting is not racially polarized.

March 17, 2023

A handwritten signature in black ink, appearing to read "John R. Alford", is written over a horizontal line.

John R. Alford, Ph.D.

Appendix 1

CV

John R. Alford
Curriculum Vitae
March 2023

Dept. of Political Science
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Employment:

Professor, Rice University, 2015 to present.
Associate Professor, Rice University, 1985-2015.
Assistant Professor, University of Georgia, 1981-1985.
Instructor, Oakland University, 1980-1981.
Teaching-Research Fellow, University of Iowa, 1977-1980.
Research Associate, Institute for Urban Studies, Houston, Texas, 1976-1977.

Education:

Ph.D., University of Iowa, Political Science, 1981.
M.A., University of Iowa, Political Science, 1980.
M.P.A., University of Houston, Public Administration, 1977.
B.S., University of Houston, Political Science, 1975.

Books:

Predisposed: Liberals, Conservatives, and the Biology of Political Differences. New York: Routledge, 2013. Co-authors, John R. Hibbing and Kevin B. Smith.

Articles:

“Political Orientations Vary with Detection of Androstenone,” with Amanda Friesen, Michael Gruszczynski, and Kevin B. Smith. **Politics and the Life Sciences.** (Spring, 2020).

“Intuitive ethics and political orientations: Testing moral foundations as a theory of political ideology.” with Kevin Smith, John Hibbing, Nicholas Martin, and Peter Hatemi. **American Journal of Political Science.** (April, 2017).

“The Genetic and Environmental Foundations of Political, Psychological, Social, and Economic Behaviors: A Panel Study of Twins and Families.” with Peter Hatemi, Kevin Smith, and John Hibbing. **Twin Research and Human Genetics.** (May, 2015.)

“Liberals and conservatives: Non-convertible currencies.” with John R. Hibbing and Kevin B. Smith. **Behavioral and Brain Sciences** (January, 2015).

“Non-Political Images Evoke Neural Predictors Of Political Ideology.” with Woo-Young Ahn, Kenneth T. Kishida, Xiaosi Gu, Terry Lohrenz, Ann Harvey, Kevin Smith, Gideon Yaffe, John Hibbing, Peter Dayan, P. Read Montague. **Current Biology.** (November, 2014).

“Cortisol and Politics: Variance in Voting Behavior is Predicted by Baseline Cortisol Levels.” with Jeffrey French, Kevin Smith, Adam Guck, Andrew Birnie, and John Hibbing. **Physiology & Behavior**. (June, 2014).

“Differences in Negativity Bias Underlie Variations in Political Ideology.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Negativity bias and political preferences: A response to commentators Response.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Genetic and Environmental Transmission of Political Orientations.” with Carolyn L. Funk, Matthew Hibbing, Kevin B. Smith, Nicholas R. Eaton, Robert F. Krueger, Lindon J. Eaves, John R. Hibbing. **Political Psychology**, (December, 2013).

“Biology, Ideology, and Epistemology: How Do We Know Political Attitudes Are Inherited and Why Should We Care?” with Kevin Smith, Peter K. Hatemi, Lindon J. Eaves, Carolyn Funk, and John R. Hibbing. **American Journal of Political Science**. (January, 2012)

“Disgust Sensitivity and the Neurophysiology of Left-Right Political Orientations.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **PlosONE**, (October, 2011).

“Linking Genetics and Political Attitudes: Re-Conceptualizing Political Ideology.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **Political Psychology**, (June, 2011).

“The Politics of Mate Choice.” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Journal of Politics**, (March, 2011).

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” with Peter Hatemi, John Hibbing, Sarah Medland, Matthew Keller, Kevin Smith, Nicholas Martin, and Lindon Eaves, **American Journal of Political Science**, (July, 2010).

“The Ultimate Source of Political Opinions: Genes and the Environment” with John R. Hibbing in **Understanding Public Opinion**, 3rd Edition eds. Barbara Norrander and Clyde Wilcox, Washington D.C.: CQ Press, (2010).

“Is There a ‘Party’ in your Genes” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Political Research Quarterly**, (September, 2009).

“Twin Studies, Molecular Genetics, Politics, and Tolerance: A Response to Beckwith and Morris” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (December, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Political Attitudes Vary with Physiological Traits” with Douglas R. Oxley, Kevin B. Smith, Matthew V. Hibbing, Jennifer L. Miller, Mario Scalora, Peter K. Hatemi, and John R. Hibbing, **Science**, (September 19, 2008).

“The New Empirical Biopolitics” with John R. Hibbing, **Annual Review of Political Science**, (June, 2008).

“Beyond Liberals and Conservatives to Political Genotypes and Phenotypes” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (June, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Personal, Interpersonal, and Political Temperaments” with John R. Hibbing, **Annals of the American Academy of Political and Social Science**, (November, 2007).

“Is Politics in our Genes?” with John R. Hibbing, **Tidsskriftet Politik**, (February, 2007).

“Biology and Rational Choice” with John R. Hibbing, **The Political Economist**, (Fall, 2005)

“Are Political Orientations Genetically Transmitted?” with John R. Hibbing and Carolyn Funk, **American Political Science Review**, (May, 2005). (The main findings table from this article has been reprinted in two college level text books - Psychology, 9th ed. and Invitation to Psychology 4th ed. both by Wade and Tavris, Prentice Hall, 2007).

“The Origin of Politics: An Evolutionary Theory of Political Behavior” with John R. Hibbing, **Perspectives on Politics**, (December, 2004).

“Accepting Authoritative Decisions: Humans as Wary Cooperators” with John R. Hibbing, **American Journal of Political Science**, (January, 2004).

“Electoral Convergence of the Two Houses of Congress” with John R. Hibbing, in **The Exceptional Senate**, ed. Bruce Oppenheimer, Columbus: Ohio State University Press, (2002).

“We’re All in this Together: The Decline of Trust in Government, 1958-1996.” in **What is it About Government that Americans Dislike?**, eds. John Hibbing and Beth Theiss-Morse, Cambridge: Cambridge University Press, (2001).

“The 2000 Census and the New Redistricting,” **Texas State Bar Association School Law Section Newsletter**, (July, 2000).

“Overdraft: The Political Cost of Congressional Malfeasance” with Holly Teeters, Dan Ward, and Rick Wilson, **Journal of Politics** (August, 1994).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 5th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1993).

"The 1990 Congressional Election Results and the Fallacy that They Embodied an Anti-Incumbent Mood" with John R. Hibbing, **PS** 25 (June, 1992).

"Constituency Population and Representation in the United States Senate" with John R. Hibbing. **Legislative Studies Quarterly**, (November, 1990).

"Editors' Introduction: Electing the U.S. Senate" with Bruce I. Oppenheimer. **Legislative Studies Quarterly**, (November, 1990).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 4th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1988). Reprinted in *The Congress of the United States, 1789-1989*, ed. Joel Silby, Carlson Publishing Inc., (1991), and in *The Quest for Office*, eds. Wayne and Wilcox, St. Martins Press, (1991).

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge. **The Western Political Quarterly** (December, 1986).

"Partisanship and Voting" with James Campbell, Mary Munro, and Bruce Campbell, in **Research in Micropolitics. Volume 1 - Voting Behavior**. Samuel Long, ed. JAI Press, (1986).

"Economic Conditions and Individual Vote in the Federal Republic of Germany" with Jerome S. Legge. **Journal of Politics** (November, 1984).

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"Economic Conditions and the Forgotten Side of Congress: A Foray into U.S. Senate Elections" with John R. Hibbing, **British Journal of Political Science** (October, 1982).

"Increased Incumbency Advantage in the House" with John R. Hibbing, **Journal of Politics** (November, 1981). Reprinted in *The Congress of the United States, 1789-1989*, Carlson Publishing Inc., (1991).

"The Electoral Impact of Economic Conditions: Who is Held Responsible?" with John R. Hibbing, **American Journal of Political Science** (August, 1981).

"Comment on Increased Incumbency Advantage" with John R. Hibbing, Refereed communication: **American Political Science Review** (March, 1981).

"Can Government Regulate Safety? The Coal Mine Example" with Michael Lewis-Beck, **American Political Science Review** (September, 1980).

Awards and Honors:

CQ Press Award - 1988, honoring the outstanding paper in legislative politics presented at the 1987 Annual Meeting of the American Political Science Association. Awarded for "The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing.

Research Grants:

National Science Foundation, 2009-2011, "Identifying the Biological Influences on Political Temperaments", with John Hibbing, Kevin Smith, Kim Espy, Nicolas Martin and Read Montague. This is a collaborative project involving Rice, University of Nebraska, Baylor College of Medicine, and Queensland Institute for Medical Research.

National Science Foundation, 2007-2010, "Genes and Politics: Providing the Necessary Data", with John Hibbing, Kevin Smith, and Lindon Eaves. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2007-2010, "Investigating the Genetic Basis of Economic Behavior", with John Hibbing and Kevin Smith. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the Queensland Institute of Medical Research.

Rice University Faculty Initiatives Fund, 2007-2009, "The Biological Substrates of Political Behavior". This is in assistance of a collaborative project involving Rice, Baylor College of Medicine, Queensland Institute of Medical Research, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2004-2006, "Decision-Making on Behalf of Others", with John Hibbing. This is a collaborative project involving Rice and the University of Nebraska.

National Science Foundation, 2001-2002, dissertation grant for Kevin Arceneaux, "Doctoral Dissertation Research in Political Science: Voting Behavior in the Context of U.S. Federalism."

National Science Foundation, 2000-2001, dissertation grant for Stacy Ulbig, "Doctoral Dissertation Research in Political Science: Sub-national Contextual Influences on Political Trust."

National Science Foundation, 1999-2000, dissertation grant for Richard Engstrom, "Doctoral Dissertation Research in Political Science: Electoral District Structure and Political Behavior."

Rice University Research Grant, 1985, Recent Trends in British Parliamentary Elections.

Faculty Research Grants Program, University of Georgia, Summer, 1982. Impact of Media Structure on Congressional Elections, with James Campbell.

Papers Presented:

"The Physiological Basis of Political Temperaments" 6th European Consortium for Political Research General Conference, Reykjavik, Iceland (2011), with Kevin Smith, and John Hibbing.

"Identifying the Biological Influences on Political Temperaments" National Science Foundation Annual Human Social Dynamics Meeting (2010), with John Hibbing, Kimberly Espy, Nicholas Martin, Read Montague, and Kevin B. Smith.

"Political Orientations May Be Related to Detection of the Odor of Androstenone" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, Amanda Balzer, Michael Gruszczynski, Carly M. Jacobs, and John Hibbing.

"Toward a Modern View of Political Man: Genetic and Environmental Transmission of Political Orientations from Attitude Intensity to Political Participation" Annual meeting of the American Political Science Association, Washington, DC (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Genetic and Environmental Transmission of Political Involvement from Attitude Intensity to Political Participation" Annual meeting of the International Society for Political Psychology, San Francisco, CA (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Are Violations of the EEA Relevant to Political Attitudes and Behaviors?" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, and John Hibbing.

"The Neural Basis of Representation" Annual meeting of the American Political Science Association, Toronto, Canada (2009), with John Hibbing.

“Genetic and Environmental Transmission of Value Orientations” Annual meeting of the American Political Science Association, Toronto, Canada (2009), with Carolyn Funk, Kevin Smith, Matthew Hibbing, Pete Hatemi, Robert Krueger, Lindon Eaves, and John Hibbing.

“The Genetic Heritability of Political Orientations: A New Twin Study of Political Attitudes” Annual Meeting of the International Society for Political Psychology, Dublin, Ireland (2009), with John Hibbing, Cary Funk, Kevin Smith, and Peter K Hatemi.

“The Heritability of Value Orientations” Annual meeting of the Behavior Genetics Association, Minneapolis, MN (2009), with Kevin Smith, John Hibbing, Carolyn Funk, Robert Krueger, Peter Hatemi, and Lindon Eaves.

“The Ick Factor: Disgust Sensitivity as a Predictor of Political Attitudes” Annual meeting of the Midwest Political Science Association, Chicago, IL (2009), with Kevin Smith, Douglas Oxley Matthew Hibbing, and John Hibbing.

“The Ideological Animal: The Origins and Implications of Ideology” Annual meeting of the American Political Science Association, Boston, MA (2008), with Kevin Smith, Matthew Hibbing, Douglas Oxley, and John Hibbing.

“The Physiological Differences of Liberals and Conservatives” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Kevin Smith, Douglas Oxley, and John Hibbing.

“Looking for Political Genes: The Influence of Serotonin on Political and Social Values” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Peter Hatemi, Sarah Medland, John Hibbing, and Nicholas Martin.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the American Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Matthew Keller, Nicholas Martin, Sarah Medland, and Lindon Eaves.

“Factorial Association: A generalization of the Fulker between-within model to the multivariate case” Annual meeting of the Behavior Genetics Association, Amsterdam, The Netherlands (2007), with Sarah Medland, Peter Hatemi, John Hibbing, William Coventry, Nicholas Martin, and Michael Neale.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the Midwest Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Nicholas Martin, and Lindon Eaves.

“Getting from Genes to Politics: The Connecting Role of Emotion-Reading Capability” Annual Meeting of the International Society for Political Psychology, Portland, OR, (2007.), with John Hibbing.

“The Neurological Basis of Representative Democracy.” Hendricks Conference on Political Behavior, Lincoln, NE (2006), with John Hibbing.

“The Neural Basis of Representative Democracy” Annual meeting of the American Political Science Association, Philadelphia, PA (2006), with John Hibbing.

“How are Political Orientations Genetically Transmitted? A Research Agenda” Annual meeting of the Midwest Political Science Association, Chicago Illinois (2006), with John Hibbing.

"The Politics of Mate Choice" Annual meeting of the Southern Political Science Association, Atlanta, GA (2006), with John Hibbing.

"The Challenge Evolutionary Biology Poses for Rational Choice" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing and Kevin Smith.

"Decision Making on Behalf of Others" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the Midwest Political Science Association, Chicago Illinois (2005), with John Hibbing and Carolyn Funk.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the American Political Science Association, Chicago Illinois (2004), with John Hibbing and Carolyn Funk.

"Accepting Authoritative Decisions: Humans as Wary Cooperators" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2002), with John Hibbing

"Can We Trust the NES Trust Measure?" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2001), with Stacy Ulbig.

"The Impact of Organizational Structure on the Production of Social Capital Among Group Members" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Allison Rinden.

"Isolating the Origins of Incumbency Advantage: An Analysis of House Primaries, 1956-1998" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Kevin Arceneaux.

"The Electorally Indistinct Senate," Norman Thomas Conference on Senate Exceptionalism, Vanderbilt University; Nashville, Tennessee; October (1999), with John R. Hibbing.

"Interest Group Participation and Social Capital" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (1999), with Allison Rinden.

"We're All in this Together: The Decline of Trust in Government, 1958-1996." The Hendricks Symposium, University of Nebraska, Lincoln. (1998)

"Constituency Population and Representation in the United States Senate," Electing the Senate; Houston, Texas; December (1989), with John R. Hibbing.

"The Disparate Electoral Security of House and Senate Incumbents," American Political Science Association Annual Meetings; Atlanta, Georgia; September (1989), with John R. Hibbing.

"Partisan and Incumbent Advantage in House Elections," Annual Meeting of the Southern Political Science Association (1987), with David W. Brady.

"Personal and Party Advantage in U.S. House Elections, 1846-1986" with David W. Brady, 1987 Social Science History Association Meetings.

"The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing, 1987 Annual Meeting of the American Political Science Association.

"A Comparative Analysis of Economic Voting" with Jerome Legge, 1985 Annual Meeting of the American Political Science Association.

"An Analysis of Economic Conditions and the Individual Vote in Great Britain, 1964-1979" with Jerome Legge, 1985 Annual Meeting of the Western Political Science Association.

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge, 1985 Annual Meeting of the Southwestern Social Science Association.

"Economic Conditions and the Individual Vote in the Federal Republic of Germany" with Jerome S. Legge, 1984 Annual Meeting of the Southern Political Science Association.

"The Conditions Required for Economic Issue Voting" with John R. Hibbing, 1984 Annual Meeting of the Midwest Political Science Association.

"Incumbency Advantage in Senate Elections," 1983 Annual Meeting of the Midwest Political Science Association.

"Television Markets and Congressional Elections: The Impact of Market/District Congruence" with James Campbell and Keith Henry, 1982 Annual Meeting of the Southern Political Science Association.

"Economic Conditions and Senate Elections" with John R. Hibbing, 1982 Annual Meeting of the Midwest Political Science Association. "Pocketbook Voting: Economic Conditions and Individual Level Voting," 1982 Annual Meeting of the American Political Science Association.

"Increased Incumbency Advantage in the House," with John R. Hibbing, 1981 Annual Meeting of the Midwest Political Science Association.

Other Conference Participation:

Roundtable Participant – Closing Round-table on Biopolitics; 2016 UC Merced Conference on Bio-Politics and Political Psychology, Merced, CA.

Roundtable Participant “Genes, Brains, and Core Political Orientations” 2008 Annual Meeting of the Southwestern Political Science Association, Las Vegas.

Roundtable Participant “Politics in the Laboratory” 2007 Annual Meeting of the Southern Political Science Association, New Orleans.

Short Course Lecturer, "What Neuroscience has to Offer Political Science" 2006 Annual Meeting of the American Political Science Association.

Panel chair and discussant, "Neuro-scientific Advances in the Study of Political Science" 2006 Annual Meeting of the American Political Science Association.

Presentation, "The Twin Study Approach to Assessing Genetic Influences on Political Behavior" Rice Conference on New Methods for Understanding Political Behavior, 2005.

Panel discussant, "The Political Consequences of Redistricting," 2002 Annual Meeting of the American Political Science Association.

Panel discussant, "Race and Redistricting," 1999 Annual Meeting of the Midwest Political Science Association.

Invited participant, "Roundtable on Public Dissatisfaction with American Political Institutions", 1998 Annual Meeting of the Southwestern Social Science Association.

Presentation, "Redistricting in the '90s," Texas Economic and Demographic Association, 1997.

Panel chair, "Congressional Elections," 1992 Annual Meeting of the Southern Political Science Association.

Panel discussant, "Incumbency and Congressional Elections," 1992 Annual Meeting of the American Political Science Association.

Panel chair, "Issues in Legislative Elections," 1991 Annual Meeting of the Midwest Political Science Association.

Panel chair, "Economic Attitudes and Public Policy in Europe," 1990 Annual Meeting of the Southern Political Science Association

Panel discussant, "Retrospective Voting in U.S. Elections," 1990 Annual Meeting of the Midwest Political Science Association.

Co-convener, with Bruce Oppenheimer, of Electing the Senate, a national conference on the NES 1988 Senate Election Study. Funded by the Rice Institute for Policy Analysis, the University of Houston Center for Public Policy, and the National Science Foundation, Houston, Texas, December, 1989.

Invited participant, Understanding Congress: A Bicentennial Research Conference, Washington, D.C., February, 1989.

Invited participant--Hendricks Symposium on the United States Senate, University of Nebraska, Lincoln, Nebraska, October, 1988

Invited participant--Conference on the History of Congress, Stanford University, Stanford, California, June, 1988.

Invited participant, "Roundtable on Partisan Realignment in the 1980's", 1987 Annual Meeting of the Southern Political Science Association.

Professional Activities:

Other Universities:

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2018.

Invited Speaker, Annual Allman Family Lecture, Dedman College Interdisciplinary Institute, Southern Methodist University, 2016.

Invited Speaker, Annual Lecture, Psi Sigma Alpha – Political Science Dept., Oklahoma State University, 2015.

Invited Lecturer, Department of Political Science, Vanderbilt University, 2014.

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2014.

Invited Speaker, Graduate Student Colloquium, Department of Political Science, University of New Mexico, 2013.

Invited Keynote Speaker, Political Science Alumni Evening, University of Houston, 2013.

Invited Lecturer, Biology and Politics Masters Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2010.

Invited Lecturer, Biology and Politics Senior Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2008.

Visiting Fellow, the Hoover Institution, Stanford University, 2007.

Invited Speaker, Joint Political Psychology Graduate Seminar, University of Minnesota, 2007.

Invited Speaker, Department of Political Science, Vanderbilt University, 2006.

Member:

Editorial Board, Journal of Politics, 2007-2008.

Planning Committee for the National Election Studies' Senate Election Study, 1990-92.

Nominations Committee, Social Science History Association, 1988

Reviewer for:

American Journal of Political Science

American Political Science Review

American Politics Research

American Politics Quarterly

American Psychologist

American Sociological Review

Canadian Journal of Political Science

Comparative Politics

Electoral Studies

Evolution and Human Behavior

International Studies Quarterly

Journal of Politics
Journal of Urban Affairs
Legislative Studies Quarterly
National Science Foundation
PLoS ONE
Policy Studies Review
Political Behavior
Political Communication
Political Psychology
Political Research Quarterly
Public Opinion Quarterly
Science
Security Studies
Social Forces
Social Science Quarterly
Western Political Quarterly

University Service:

Member, University Senate, 2021-2023.

Member, University Parking Committee, 2016-2022.

Member, University Benefits Committee, 2013-2016.

Internship Director for the Department of Political Science, 2004-2018.

Member, University Council, 2012-2013.

Invited Speaker, Rice Classroom Connect, 2016.

Invited Speaker, Glasscock School, 2016.

Invited Speaker, Rice Alumni Association, Austin, 2016.

Invited Speaker, Rice Alumni Association, New York City, 2016.

Invited Speaker, Rice TEDxRiceU , 2013.

Invited Speaker, Rice Alumni Association, Atlanta, 2011.

Lecturer, Advanced Topics in AP Psychology, Rice University AP Summer Institute, 2009.

Scientia Lecture Series: "Politics in Our Genes: The Biology of Ideology" 2008

Invited Speaker, Rice Alumni Association, Seattle, San Francisco and Los Angeles, 2008.

Invited Speaker, Rice Alumni Association, Austin, Chicago and Washington, DC, 2006.

Invited Speaker, Rice Alumni Association, Dallas and New York, 2005.

Director: Rice University Behavioral Research Lab and Social Science Computing Lab, 2005-2006.

University Official Representative to the Inter-university Consortium for Political and Social Research, 1989-2012.

Director: Rice University Social Science Computing Lab, 1989-2004.

Member, Rice University Information Technology Access and Security Committee, 2001-2002

Rice University Committee on Computers, Member, 1988-1992, 1995-1996; Chair, 1996-1998, Co-chair, 1999.

Acting Chairman, Rice Institute for Policy Analysis, 1991-1992.

Divisional Member of the John W. Gardner Dissertation Award Selection Committee, 1998

Social Science Representative to the Educational Sub-committee of the Computer Planning Committee, 1989-1990.

Director of Graduate Admissions, Department of Political Science, Rice University, 1986-1988.

Co-director, Mellon Workshop: Southern Politics, May, 1988.

Guest Lecturer, Mellon Workshop: The U.S. Congress in Historical Perspective, May, 1987 and 1988.

Faculty Associate, Hanszen College, Rice University, 1987-1990.

Director, Political Data Analysis Center, University of Georgia, 1982-1985.

External Consulting:

Expert Witness, Dixon v. Lewisville ISD, racially polarized voting analysis, 2022.

Expert Witness, Soto Palmer v. Hobbs, (Washington State), racially polarized voting analysis, 2022.

Expert Witness, Pendergrass v. Raffensperger, (Georgia State House and Senate), racially polarized voting analysis, 2022.

Expert Witness, LULAC, et al. v. Abbott, et al., Voto Latino, et al. v. Scott, et al., Mexican American Legislative Caucus, et al. v. Texas, et al., Texas NAACP v. Abbott, et al., Fair Maps Texas, et al. v. Abbott, et al., US v. Texas, et al. (consolidated cases) challenges to Texas Congressional, State Senate, State House, and State Board of Education districting, 2022.

Expert Witness, Robinson/Galmon v. Ardoin, (Louisiana), racially polarized voting analysis, 2022.

Expert Witness, Christian Ministerial Alliance et al v. Arkansas, racially polarized voting analysis, 2022.

Expert Witness, Johnson v. Wisconsin Elections Commission, 2022.

Expert Witness, Rivera, et al. v. Schwab, Alonzo, et al. v. Schwab, Frick, et al. v. Schwab, (consolidated cases) challenge to Kansas congressional map, 2022.

Expert Witness, Grant v. Raffensperger, challenge to Georgia congressional map, 2022

Expert Witness, Brooks et al. v. Abbot, challenge to State Senate District 10, 2022.

Expert Witness, Elizondo v. Spring Branch ISD, 2022.

Expert Witness, Portugal v. Franklin County, et al., challenge to Franklin County, Washington at large County Commissioner's election system, 2022.

Consulting Expert, Gressman Math/Science Petitioners, Pennsylvania Congressional redistricting, 2022.

Consultant, Houston Community College – evaluation of election impact for redrawing of college board election districts, 2022.

Consultant, Lone Star College – evaluation of election impact for redrawing of college board election districts, 2022.

Consultant, Killeen ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Houston ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Brazosport ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Dallas ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Lancaster ISD – redrawing of all school board member election districts including demographic analysis and redrawing of election districts, 2021.

Consultant, City of Baytown – redrawing of all city council member election districts including demographic analysis and redrawing of election districts, 2021.

Consultant, Goose Creek ISD – redrawing of all board member election districts including demographic analysis and redrawing of election districts, 2021.

Expert Witness, Bruni et al. v. State of Texas, straight ticket voting analysis, 2020.

Consulting Expert, Sarasota County, VRA challenge to district map, 2020.

Expert Witness, Kumar v. Frisco ISD, TX, racially polarized voting analysis, 2019.

Expert Witness, Vaughan v. Lewisville ISD, TX, racially polarized voting analysis, 2019.

Expert Witness, Johnson v. Ardoin, (Louisiana), racially polarized voting analysis, 2019.

Expert Witness, Flores et al. v. Town of Islip, NY, racially polarized voting analysis, 2018.

Expert Witness, Tyson v. Richardson ISD, racially polarized voting analysis, 2018.

Expert Witness, Dwight v. State of Georgia, racially polarized voting analysis, 2018.

Expert Witness, NAACP v. East Ramapo Central School District, racially polarized voting analysis, 2018.

Expert Witness, Georgia NAACP v. State of Georgia, racially polarized voting analysis, 2018.

EXHIBIT 9

1 Let me ask you this, had you received the voter history
2 file on or around January 1st, 2023? Would you have been able
3 to include your Bayesian Improved Surname Geo-coding in your
4 report for January 13th?

5 MS. REYES: Objection, form.

6 THE WITNESS: I believe we would have liked to
7 received it, at least, a full month before the due date of our
8 report.

9 BY MR. SHEEHY:

10 Q Okay. Once you have the voter listing file, how long does
11 it take you to run the analysis?

12 A It depends on the size of the file.

13 Q And how long did it take you to run Galveston County's
14 Voter History File for your Bayesian Improved Surname
15 Geo-coding?

16 A I don't recall specifically but it might have been
17 somewhere, around two weeks before we had data that we could
18 work with.

19 Q Can you explain to me how that process works? You receive
20 the voter history file and then, you use that voter history file
21 to run a Bayesian Improved Surname Geo-coding Analysis. How
22 does that process work from when you receive the voter history
23 file?

24 A I would look in at the next few paragraphs. If you could
25 just scroll down a bit, it might be easier to follow along.

1 Q Well, that's fine. That's paragraph 29, we'll get to
2 paragraph 29 but I guess, I'm wanting to know what did you do
3 from when you received Galveston County Voter History File to
4 when you produced your rebuttal report?

5 A Well, the first step is, making sure that the file that you
6 receive is readable, that it is formatted in the correct manner.
7 I don't recall in this specific instance, because he were doing
8 other BISG and we had many back and forth with the county to
9 make sure that the file was readable. But that's always the
10 first step, to make sure the file is readable and it can come in
11 and name and address are properly formatted. So that would be
12 step one.

13 Q Okay. About how long does it take to complete step one?

14 A It just depends on how many observations there are and if
15 the file that you've received is, in fact, readable or if any
16 transformations might need to take place.

17 Q Okay.

18 A I don't recall in this specific instance how long that step
19 took.

20 Q Okay. And then, what is your next step in the process?

21 A Once the file is imported, there are two components, as I
22 outlined here in paragraphs 29 through 30, something. One
23 component is to match the surname to every single voter and the
24 second component is to match the address of every single voter
25 to census data.

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1 Q And how long did that process take for Galveston County,
2 for your rebuttal report?

3 A That process can be quite time intensive. It depends on
4 the availability of service space, the processor that you're
5 using, how many records you're able to process at once and if
6 all the records are gleaned and properly formatted. So, that
7 can be a quite time-intensive process. I don't recall
8 specifically how long this ran for all of the elections that
9 they ran it in, in Galveston.

10 Q I mean, are we talking a couple of hours or are we talking
11 a couple of days? What would you estimate?

12 A Well, it just depends. It can often take multiple days to
13 run some of the first level of matching for this process. It
14 depends on a variety of factors.

15 Q Okay. And so, approximately, how much time did it take to
16 run the Galveston County files?

17 A I don't recall, specifically, but Mr. Rios is the primary
18 data scientist that leads the BISG and so, I don't recall the
19 date. I do recall that it took a while for Galveston.

20 Q And how are you defining, a while?

21 A Multiple days.

22 Q Okay.

23 A There were a lot of data sets. It has to be run each year
24 and I believe we were working with data from across eight years
25 or so.

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1 Q 2014 to 2022?

2 A That sounds right.

3 Q Okay. So, maybe it took three to five days to run the
4 BISG, the Bayesian Improved Surname Geo-coding, for Galveston
5 County?

6 A It might have taken longer than that. I don't recall
7 specifically how long it took. I know it was quite time
8 intensive.

9 Q But you think, sitting here today, had you received the
10 Galveston County voter, election history voter file on or about
11 December 13th, you could have included it in your
12 January 13th, 2023 report?

13 MS. REYES: Objection, form.

14 THE WITNESS: Sorry. Now, I, I just don't recall all
15 of the projects that were on my plate and Mr. Rios' plate at the
16 time. Just like yourself, I assume you're working on lots of
17 different projects, it's hard to devote 100 percent of your time
18 to only one project. And so, these are quite time-intensive
19 statistical processes and we might have other things happening
20 at the same time. And so, that's why we like to receive the
21 file at least a month before when the report might due.

22 Q And that's because you think you would need a month,
23 roughly, to do the Bayesian Surname Geo-coding Analysis?

24 A Well, as I said, it depends on each jurisdiction. If
25 you've received that file before and you're replicating or if

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1 you're starting anew. So there a lot of different variables
2 involved in how quickly or how much time it takes in fully
3 running it.

4 Q Well, you worked on this report, rebuttal report. So, I
5 guess, I'm just asking, given what you know about the voter file
6 and this process, how much time did it take for you to take that
7 report, take the voter file, run the geo-coding analysis and
8 produce a report?

9 A I think I've already said a few minutes ago that I, my
10 recollection is that it was about a couple weeks, but that was
11 back at the beginning of the year and so, I don't have detailed
12 time sheets on any of that, but I know it was an intensive
13 process.

14 Q Okay. What was lacking, I guess? Because in your original
15 report you got Spanish surname registered voters and surname
16 turnout data from the Texas Legislative Counsel. What was
17 lacking in that data that required you to have the Galveston
18 County voter file?

19 A Well, the TLC data is just an aggregate output that someone
20 else has run. It's not the actual voter file. And the TLC
21 output only gives you an estimate of the number of voters that
22 have a Spanish surname. It doesn't allow you to say anything
23 about any lower Black voters in comparison. So it's not as
24 precise and it's only based on one of the tools, surname
25 matching.

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1 Q But the voter file from Galveston County gives you both
2 surname and address, correct?

3 A Yes, both of those fields are necessary for BISG.

4 Q Okay. The 29 federal statewide and local elections that
5 you analyzed from 2014 to 2022, that's the same, the same 29
6 elections that you analyzed in your January 13th report?

7 A I think so, that's right.

8 Q Okay. I just want to make sure that you didn't analyze any
9 different elections in your rebuttal report from the ones you
10 analyzed in your original report?

11 A Not in the BISG section, no.

12 Q How about in any section of your rebuttal report?

13 A I do refer to other elections in other sections of the
14 rebuttal report.

15 Q Such as the republican primary elections?

16 A Yes.

17 Q Other than the rebuttal -- republican primary elections,
18 did you analyze any other elections in your rebuttal report?

19 A Not that I recall, no.

20 MS. REYES: Counsel, I'm wondering if now would be a
21 good time to take a break? I know we had a really short one
22 before but I think, we could have, maybe, a minute break to
23 allow us to use the restroom.

24 MR. SHEEHY: Professor, would you like to take a
25 break?

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1 THE WITNESS: Yeah, if I could stretch my legs a
2 little bit, it would be nice. I'll be sitting in this chair for
3 the next few hours. It will be a long day, so but just ten
4 minutes is totally fine, no more than that.

5 MR. SHEEHY: All right. Well, it's 1:43 pm on the
6 East Coast. We'll come back at 1:53 pm on the East Coast and
7 we'll try to push it to 2:30, 3:00 for lunch, sound good?

8 MS. REYES: Okay. Thank you.

9 MR. SHEEHY: Thank you.

10 THE DEPUTY CLERK: This is the end of media number
11 one. We are going off the record. The time is 12:43 p.m.

12 (Brief recess.)

13 THE DEPUTY CLERK: The time is 12:54 p.m. and this the
14 beginning, beginning of media labeled number two. We are back
15 on the record.

16 BY MR. SHEEHY:

17 Q Professor Barreto, do you understand you're still under
18 oath?

19 A Yes, I do.

20 Q And during the break, did you have any substantive
21 conversations with anyone about your testimony?

22 A No, I did not.

23 Q Did you have conversations with anyone regarding your
24 testimony while on break?

25 A Yes. I spoke with Ms. Reyes and she asked me if case was

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1 okay and if I was doing okay break-wise and that was it.

2 Q Okay, fair enough.

3 We were talking about the Bayesian Improved Surname
4 Geo-coding analysis, correct, before we went on break?

5 A Yes. I believe we were on paragraph 29 of the rebuttal
6 report.

7 Q Yes. And you testified that for your analysis in
8 Galveston, you had the names of the Galveston County registered
9 voters, is that correct?

10 A From the voter file, we had the names and addresses.

11 Q With the addresses, you're able to then obtain the census
12 block where the voter lives, is that correct?

13 A Yes. That's part of the geo-locating process, that it
14 attempts to fit each address inside a census block.

15 Q Okay. You did not have the voter's party, registered
16 party, correct?

17 A I don't believe so. I don't believe that's available.

18 Q I don't, I don't think Texas registers by party, correct?

19 A That's my understanding.

20 Q So names and addresses and from the address you get the
21 census block, correct?

22 A From the address you geocode the file, to try to find out
23 the census block that the voter lives in.

24 Q Okay. And the BISG, so we don't have to say it every time,
25 so the Bayesian Improved Surname Geo-coding, BISG, this is

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1 intended to predict the race of individuals by using their,
2 surname and address, correct?

3 A It creates a probability estimate for every observation and
4 it assigns them a probability of different racial or ethnic
5 groups.

6 Q So it assigns a probability estimate for whether or not a
7 voter belongs to a certain racial or ethnic group. Am I
8 understanding that correctly?

9 A More or less.

10 Q Okay. What else am I missing?

11 A The signs of probability that a voter might be of each of
12 the four main racial groups that the census provides a wide
13 amount of data on. So, for each row, which is a voter, it might
14 have given them a probability of being White, non-Hispanic,
15 Black, Hispanic, Asian-American or something else. So each
16 individual observation has multiple probabilities after running
17 the BISG.

18 Q Now this paragraph 29, you say in the middle of it, that
19 the method relies on a combination of census surname analysis
20 and census block-level racial demographics, to provide an
21 overall probability assessment of the voters race or ethnicity.
22 Did I read that correctly?

23 A Yes, I believe you did.

24 Q Okay. And then you have a footnote nine that cites to an
25 article by Kosuke Imai and Kabir Khanna, improving ecological

1 of Galveston that do have large Hispanic population, there's not
2 as much variation in the high concentration as there is with the
3 African-American population, which is a bit even more
4 residentially segregated and fairly large in voting population.

5 So, I think that's what we're seeing here on the CVAP
6 confidence intervals, at least.

7 Q Okay. I think I'm done with this table. So, if you want
8 to take a ten-minute break, it's 6:59. So why don't we come
9 back at 7:10 p.m. on the east coast.

10 THE WITNESS: Okay.

11 MS. REYES: Thanks.

12 THE VIDEOGRAPHER: Okay. The time is 6:00 p.m. This
13 completes media number four and we are off the record.

14 (Brief recess.)

15 THE VIDEOGRAPHER: The time is 6:11 p.m. and this
16 begins media label number five. We are now on the record.

17 EXAMINATION (Continuing)

18 BY MR. SHEEHY:

19 Q Professor Barreto, do you understand you're still under
20 oath?

21 A Yes.

22 Q Professor Barreto, I thank you very much for your time
23 today. I don't have any additional questions for you at this
24 time. I will, however, keep your deposition open so that
25 Professor Alford can do that replication analysis on your BISG.

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1 And, perhaps, I might have some additional questions to ask you
2 once he's completed that replication analysis, but otherwise at
3 this time --

4 MS. REYES: Mr. Sheehy --

5 MR. SHEEHY: -- otherwise, at this time I do not have
6 any additional questions.

7 MS. REYES: Mr. Sheehy, we would object to keeping the
8 deposition open. Given that discovery ends tomorrow, Professor
9 Alford has had the files since, at least, when defendants
10 provided plaintiffs with it. We would object to subjecting
11 Dr. Barreto to yet another deposition.

12 MR. SHEEHY: Well, Professor Alford has had the BISG
13 analysis that Professor Barreto included in his report for less
14 than a week. So, I'm going to allow Professor Alford a few more
15 days to run his replication analysis so that I can assess
16 whether or not I have additional questions on the new analysis
17 that was given to us less than a week ago.

18 So, that's my position. We can argue about that off
19 line, but I am going to keep the deposition open for that
20 purpose. And if we need to get a Court Order to have Professor
21 Barreto sit for a second deposition, we will pursue that avenue
22 if we need to, okay.

23 MS. REYES: And please note my objection to that for
24 the record.

25 And we will reserve for trial and read and sign.

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EXHIBIT 10

**IN THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT
OF TEXAS GALVESTON DIVISION**

TERRY PETTEWAY, THE
HONORABLE DERRECK ROSE,
MICHAEL MONTEZ, SONNY
JAMES and PENNY POPE,

Plaintiffs,

v.

GALVESTON COUNTY, TEXAS,
and HONORABLE MARK HENRY,
in his official capacity as Galveston
County Judge,

Defendants.

Civil Action No. 3:22-cv-57

UNITED STATES OF AMERICA,

Plaintiff,

v.

GALVESTON COUNTY, TEXAS,
GALVESTON COUNTY
COMMISSIONERS COURT, and
HONORABLE MARK HENRY, in
his official capacity as Galveston
County Judge,

Defendants.

Civil Action No. 3:22-cv-93

DICKINSON BAY AREA BRANCH
NAACP, GALVESTON BRANCH
NAACP, MAINLAND BRANCH
NAACP, GALVESTON LULAC
COUNCIL 151, EDNA COURVILLE,
JOE A. COMPIAN, and LEON
PHILLIPS,

Civil Action No. 3:22-cv-117

<i>Plaintiffs,</i>	§
	§
v.	§
	§
GALVESTON COUNTY, TEXAS,	§
HONORABLE MARK HENRY, in	§
his official capacity as Galveston	§
County Judge, and DWIGHT D.	§
SULLIVAN, in his official capacity as	§
Galveston County Clerk	§
	§
<i>Defendants.</i>	§

DECLARATION OF MICHAEL RIOS

I, Michael Rios, pursuant to 28 U.S.C. § 1746, hereby declare and state as follows:

1. I am a retained expert for Petteway Plaintiffs and collaborated with Dr. Matthew Barreto in writing both the January 13, 2023 report and the April 14, 2023 rebuttal report.
2. I worked with Dr. Barreto to perform the Bayesian Improved Surname Geocoding (BISG) analysis on the Galveston County voter files.
3. On May 15, 2023, I attended a Zoom meeting with Drs. John Alford, Randy Stevenson and Matthew Barreto as well as several other attorneys from both the Defendants’ and Plaintiffs’ side.
4. During the call, I ran the three scripts used in RStudio to perform the three necessary steps of BISG. We had previously referenced and linked to all three of these scripts in our expert declaration filed in April 2023.
5. During this call, while Dr. Barreto and Dr. Stevenson attempted to diagnose the source of Defense experts’ confusion, and I observed their discussions. Several times I observed Dr. Alford and Counsel for Defendants interrupt Dr. Barreto and Dr. Stevenson’s discussions and insisted that a new script be turned over. However, as Dr. Barreto explained he already sent three scripts and he did not have a continuous script and so in place he was explaining step-by-step everything we did in our analysis in great detail. I also observed Dr. Barreto offer to stay on the call for as long as necessary to help fully resolved any misunderstandings in replication. Counsel for defendants refused this offer.
6. On May 31, 2023 I attended a Zoom session in which only experts were present including Drs. Matthew Barreto, Randy Stevenson and John Alford. During this session, Dr. Barreto and I walked Drs. Alford and Stevenson through the process of

our BISG analysis including the process of estimating racial probabilities in the wru software. Prior to the call, Dr. Barreto and I worked to create a new R script to conform with Dr. Stevenson's preferred method of using one continuous script to perform a BISG and eiCompare analysis. I tested the script in the RStudio software using the 2022 Galveston County Voter File and the 2022 Attorney General and Gubernatorial election results to ensure that it matched the results we already presented to the court in April 2023.

7. In the live Zoom session on May 31, 2023, which was video recorded, using screenshare, Dr. Barreto and I ran a new script we had written expressly to accommodate Drs. Alford and Stevenson's preferred method so that they could watch us run our analysis live, step-by-step. During this Zoom meeting, Dr. Stevenson asked various questions to which both Dr. Barreto and I answered fully. Near the end of the session, Dr. Stevenson asked about elections in 2020 or earlier and Dr. Barreto offered to come back online and run a live session with 2020 election data. However, Dr. Stevenson declined and stated that it would not be necessary, he just needed to know the link to where the 2020 data could be downloaded. Dr. Barreto stated that he would email Dr. Stevenson a link to the Texas Legislative Council website, and he did. This information had already been provided in our expert report.
8. Following the Zoom session, Dr. Barreto and I provided Plaintiffs' counsel with the video recording of our Zoom session and the new continuous R script that we had just run in the live session to be sent to Drs. Alford and Stevenson.
9. Since that meeting I have not heard from Drs. Alford or Stevenson about any follow up questions they have.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of July 2023.

A handwritten signature in black ink, appearing to read "Michael Rios", written in a cursive style.

MICHAEL RIOS

EXHIBIT 11



Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston County, 3-22-cv-57 - Petteway Plaintiffs' Expert Reports

Bernadette Reyes <bernadette@uclavrp.org>

Mon, May 15, 2023 at 10:17 PM

To: Joseph Russo <JRusso@greerherz.com>

Cc: Mateo Forero <mforero@holtzmanvogel.com>, Valencia Richardson <VRichardson@campaignlegalcenter.org>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>, Dallin Holt <dholt@holtzmanvogel.com>, "Vall-Ilobera, Diana" <DVall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, Jordan Raschke Elton <jraschkeelton@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Mark Gaber <MGaber@campaignlegalcenter.org>, Neil Baron <neil@ngbaronlaw.com>, Simone Leeper <SLeeper@campaignlegalcenter.org>, Sonni Waknin <sonni@uclavrp.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <ASilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <KGarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <MZhu@willkie.com>, Nickolas Spencer <nas@naslegal.com>, "Mancino, Richard" <RMancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, "Wake, Brittany (CRT)" <Brittany.Wake@usdoj.gov>, Alexandra Copper <ACopper@campaignlegalcenter.org>

Counsel—

As Judge Edison correctly explained, we were two ships passing in the night prior to tonight's call among the experts, Dr. Barreto, Dr. Stevenson, Dr. Alford, and Mr. Rios. As Dr. Barreto explained, the only R script he and Mr. Rios used to conduct their BISG analysis came from TidyCensus and WRU script that has already been produced. They then worked at the command level as the program ran, as is their practice given the frequency with which they operate these programs. During the call, we learned that Dr. Stevenson does not normally work at the command level as the program runs as Dr. Barreto and Mr. Rios do, but rather he stated that he prefers to use a series of R scripts that set out each step, or that he prefers one long continuous R script. These are two different approaches to conducting the same analysis.

Having diagnosed the confusion between the parties, Dr. Barreto then answered Dr. Stevenson's questions and, as Dr. Stevenson noted, provided all the information Dr. Stevenson could think of at the time of tonight's meeting regarding how he could replicate the BISG portion of Dr. Barreto and Mr. Rios's analysis. Dr. Barreto answered all of Dr. Stevenson's questions during the call and after both experts agreed that the BISG parameters were understood, Dr. Stevenson asked if Dr. Barreto and Mr. Rios would convert his live-program command codes to R script that contained all the instructions in one single script file. Dr. Barreto stated that this was not what he did in this specific case, but that he and Mr. Rios would work together to create live program command codes for R script that Dr. Stevenson and Dr. Alford could run for BISG. We note that this is a new R script that Dr. Barreto has created this evening as a courtesy given Dr. Stevenson's preference for this approach over making command entries as the program runs live, which was how Dr. Barreto and Mr. Rios conducted their analysis. Nevertheless, Dr. Barreto believes that this R script should assist Dr. Stevenson if he prefers to follow that approach over the approach that Dr. Barreto and Mr. Rios followed. If at any point Dr. Stevenson has further questions, or gets stuck, we can arrange a call for Dr. Barreto and Mr. Rios to answer additional questions.

During the call, for the first time, Dr. Alford raised concerns that extend beyond the BISG portion of the analysis and beyond any issue raised in the discovery dispute letter submitted to the Court. In particular, he contended that the citation to the eiCompare packages that Dr. Barreto and Mr. Rios used did not provide sufficient instructions on how to complete the EI analysis that results after the BISG portion of the work is completed. Dr. Barreto then answered several questions from Dr. Stevenson, including identifying the precinct aggregation function within eiCompare that he used. As Dr. Barreto explained, Dr. Stevenson can use the eiCompare software, or can use some other EI software to conduct this portion of the analysis. In any event, Dr. Barreto has also included in the attached this additional information requested this evening regarding the EI portion of the analysis should Dr. Stevenson choose to use eiCompare. Again, Dr. Barreto explained that he is happy to make himself available to Dr. Stevenson should he have any further questions, but Dr. Stevenson had none this evening.

We note that all of this reflects material that was entered into the program live by Dr. Barreto and Mr. Rios as the data was being processed in R, and not material that was reduced to any sort of produceable document. This is why we were at an impasse prior to tonight's meeting among the experts. That is, Dr. Barreto is tonight creating new materials to assist Dr. Stevenson in running his own expert work that did not previously exist in any writing or script or code. He is happy to

create these materials to help, however, and as we have mentioned, Dr. Barreto and Mr. Rios are also willing to make themselves available to Dr. Stevenson as he does his BISG work in the event there are follow up questions.

To ensure that we have gotten to Dr. Stevenson what he desires and answered all his questions, we would like to schedule a follow up zoom meeting among the experts, preferably tomorrow evening. Please advise on Dr. Stevenson's availability.

Best,
Bernadette

On Mon, May 15, 2023 at 12:50 PM Bernadette Reyes <bernadette@uclavrp.org> wrote:
Yes, that works for us.

On Mon, May 15, 2023 at 12:37 PM Joseph Russo <JRusso@greerherz.com> wrote:

Correct. 6p central.

Joseph R. Russo, Jr.

Greer, Herz & Adams, L.L.P.

One Moody Plaza, 18th Floor

Galveston, TX 77550

(409) 797-3200

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From: Bernadette Reyes <bernadette@uclavrp.org>

Sent: Monday, May 15, 2023 2:33 PM

To: Joseph Russo <JRusso@greerherz.com>

Cc: Mateo Forero <mforero@holtzmanvogel.com>; Valencia Richardson <VRichardson@campaignlegalcenter.org>; Shawn Sheehy <ssheehy@holtzmanvogel.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Dallin Holt <dholt@holtzmanvogel.com>; Vall-Ilobera, Diana <DVall-Ilobera@willkie.com>; Sarah Chen <schen@texascivilrightsproject.org>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; bob.boemer@co.galveston.tx.us; Angela Olalde <aolalde@greerherz.com>; dloesq@aol.com; Jordan Raschke Elton <jraschkeelton@greerherz.com>; joe@nixonlawtx.com; Mark Gaber <MGaber@campaignlegalcenter.org>; Neil Baron <neil@ngbaronlaw.com>; Simone Leeper <SLeeper@campaignlegalcenter.org>; Sonni Waknin

UCLA Voting Rights Project

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

UCLA Voting Rights Project

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

UCLA Voting Rights Project

--

Bernadette Reyes

(she/her/hers)

Voting Rights Counsel

UCLA Voting Rights Project

2 attachments

image007.jpg
1K

 **BISG R Script.zip**
2K

EXHIBIT 12

```
#Required packages
#Most packages are already installed for any social scientist running ecological
inference
install.packages(c("tidyverse","tidygeocoder","eiCompare","wru","tigris","data.table",
", "readxl"))

#Libraries
library(tidyverse)
library(tidygeocoder)
library(eiCompare)
library(wru)
library(tigris)
library(data.table)
library(readxl)

#Load in voter file excel spreadsheet
#Sample R script points to November 2022 vote history file produced by Galveston
County
data <-
read_xlsx("~/DEFS00031066-DEFS00031099/DEFS00031066-DEFS00031099_orig/DEFS011/NATIVE
S/0001/DEFS00031067.xlsx")

#Geocode using tidygeocoder
data <- geocode(
  data,
  address = "Residence Address",
  method = "geocodio")

#In the event a voter address is incomplete or missing
no_address <- data %>% filter(is.na(lat))
data <- data %>% filter(!is.na(lat))

#Load up Texas census blocks to join to voter file
tx_blocks <- blocks("TX", year = 2020)

#n = Number of voters
n <- length(data$`Voter Name`)

#Create ID for voter file to shapefile merge
data$unique_id <- 1:n

#Merge voter and Texas census blocks
data <- merge_voter_file_to_shape(data,
                                tx_blocks,
                                coords = c("long","lat"),
                                voter_id = "unique_id")

#Revert back to dataframe object from shapefile for WRU
data <- as.data.frame(data)
```

```
#If any voters had missing address merge back in
data <- full_join(data, no_address, by = NULL)

#Create two-character abbreviation for state for WRU
data$state <- "TX"

#Rename geofips columns for WRU
data <- data %>%
  rename(county = COUNTYFP20,
         tract = TRACTCE20,
         block = BLOCKCE20)

#If separate surname column does not already exist in voter file, separate "Voter
Name" column into surname and first / middle name columns
data <- separate(data, col = `Voter Name`, into = c("surname", "first_middle"), sep
= ",")

#Probabilistic race/ethnicity estimates from WRU
data <- predict_race(
  voter.file = data,
  surname.only = TRUE,
  census.geo = "block",
  year = "2020")

#Aggregate to precinct-level to feed into eiCompare
data <- precinct_agg_combine(
  data,
  group_col = "Precinct")
```

Exhibit 13

Video of May 31, 2023 Experts Meeting

Document produced in original form:

[https://www.dropbox.com/s/vhxeam5zynbs7z9/
video1863686994.mp4?dl=0](https://www.dropbox.com/s/vhxeam5zynbs7z9/video1863686994.mp4?dl=0)

*Petteway, et al. v. Galveston County, et
al. No. 3:22-cv-00057*

EXHIBIT 14

From: Randy Stevenson <randystevenson@gmail.com>
Sent: Thursday, June 1, 2023 4:41 PM
To: Matt Barreto <matt@bspresearch.com>
Subject: Re: BISG EI zoom

Thanks.

Randy

From: Matt Barreto <matt@bspresearch.com>
Sent: Thursday, June 1, 2023 9:36 AM
To: John.R.Alford@rice.edu <John.R.Alford@rice.edu>; randystevenson@rice.edu <randystevenson@rice.edu>; michaelrios@uclavrp.org <michaelrios@uclavrp.org>
Cc: randystevenson@gmail.com <randystevenson@gmail.com>
Subject: Re: BISG EI zoom

Got a bounce back on your gmail, resending to your rice

Randy, as we stated in our report, we relied on publicly available data from the Texas Legislative Council, the exact link is here - https://data.capitol.texas.gov/dataset/historical_elections_2010s

From: Matt Barreto <matt@bspresearch.com>
Sent: Thursday, June 1, 2023 9:19 AM
To: John.R.Alford@rice.edu <John.R.Alford@rice.edu>; randystevenson@rice.edu <randystevenson@rice.edu>; michaelrios@uclavrp.org <michaelrios@uclavrp.org>
Cc: randystevenson@gmail.com <randystevenson@gmail.com>
Subject: Re: BISG EI zoom

Randy, as we stated in our report, we relied on publicly available data from the Texas Legislative Council, the exact link is here - https://data.capitol.texas.gov/dataset/historical_elections_2010s

From: Matt Barreto
Sent: Tuesday, May 30, 2023 8:50 AM
To: John.R.Alford@rice.edu <John.R.Alford@rice.edu>; randystevenson@rice.edu <randystevenson@rice.edu>; michaelrios@uclavrp.org <michaelrios@uclavrp.org>
Cc: randystevenson@gmail.com <randystevenson@gmail.com>
Subject: BISG EI zoom
When: Wednesday, May 31, 2023 3:00 PM-5:00 PM.
Where:

<https://ucla.zoom.us/j/96283698254?pwd=YTd laklxUnZzdUNaRjRpQlFUbEFyZz09>

EXHIBIT 15

ALFORD - CROSS BY MS. CALABRESE

1 Q. So that's about two percent of the total Catalist file?

2 A. Sounds about right.

3 Q. Okay. You can put that away.

4 Dr. Alford, you didn't personally try to get Barreto and
5 Collingwood's BISG script to run, correct?

6 A. That's correct.

7 Q. But you did ask Dr. Stevenson if he could get it to run?

8 A. That's correct.

9 Q. Are you aware that Dr. Stevenson testified at his
10 deposition that he ran the script, and there were some hiccups
11 that he had to deal with, but he got it to run?

12 A. I am -- I am assuming that he got it to run on the basis
13 of the table and what I have seen here during trial.

14 Q. My question was: Were you aware that he gave sworn
15 testimony that he ran the script, and there were some hiccups
16 that he had to deal with, but he got it to run?

17 A. I am aware of that, yes.

18 Q. And are you aware that Dr. Stevenson further testified at
19 his deposition that he got it to produce the precinct-level
20 estimates of the races reached?

21 A. Yes.

22 Q. And finally, are you aware that Dr. Stevenson testified at
23 his deposition that he reported to you that he was able to do
24 it?

25 A. To do -- yes.

ALFORD - CROSS BY MS. CALABRESE

1 Q. And was it true that he reported to you that he was able
2 to do it?

3 A. He reported to me that he was not able to replicate the
4 BISG results, but I think he was able to create a precinct
5 summary file.

6 Q. And he reported to you that he was able to create that
7 precinct summary file?

8 A. So --

9 Q. That's a yes or no.

10 A. I believe he did. I think he both reported to me that he
11 was not able to and that he was able to. So if that would be
12 true, I think.

13 Q. Was the final answer that he was able to?

14 A. Yes.

15 Q. And, Dr. Alford, you didn't consider PX 183, which are the
16 results of Dr. Stevenson's effort to replicate Dr. Barreto's
17 BISG estimates, when you wrote it in your report? And you can
18 turn to PX 183 in your cross binder if you need to.

19 A. I am sorry. The question?

20 Q. Sure. Dr. Alford, the question was: You didn't consider
21 PX 183, which are the results of Dr. Stevenson's effort to
22 replicate Dr. Barreto's BISG estimates, when you wrote it in
23 your -- when you wrote your report?

24 A. That's correct. Correct. I did not consider this.

25 Q. And whether or not you were able to get Dr. Barreto's

ALFORD - CROSS BY MS. CALABRESE

1 script to run, you could have run BISG yourself with the voter
2 files for the elections in the District?

3 A. Yes.

4 Q. But you did not do that?

5 A. No.

6 Q. It's true that you did not do that, correct?

7 A. Yes.

8 Q. And if you wanted to run WRU or Who Are You, you could
9 have run it, correct?

10 A. Yes.

11 Q. But you did not run it?

12 A. Correct.

13 Q. Correct?

14 Dr. Alford, you did not attempt to replicate Dr. Barreto's
15 algebraic calculations because you did not find them useful in
16 reaching conclusions about minority cohesion, correct?

17 A. Correct.

18 Q. You have no question that Drs. Barreto and Collingwood
19 performed their algebraic calculations accurately?

20 A. Correct.

21 Q. Dr. Barreto performed an RxC and King EI analysis --
22 sorry -- King's EI analysis of the 2012 presidential election,
23 correct?

24 A. Correct.

25 Q. But you did not replicate Dr. Barreto's RxC and King's EI

ALFORD - CROSS BY MS. CALABRESE

1 analysis of the 2012 presidential election, correct?

2 A. Correct.

3 Q. Dr. Barreto performed RxC using CVAP looking at White
4 versus non-White for all contested elections between 2013 and
5 2017, correct?

6 A. Correct.

7 Q. But you did not replicate Dr. Barreto's RxC using CVAP
8 analysis?

9 A. Correct.

10 Q. Dr. Barreto performed the iterative approach to King's EI
11 using CVAP, Catalist and BISG, correct?

12 A. I believe for at least some elections all of those things,
13 yes.

14 Q. But you did not replicate Dr. Barreto's iterative EI
15 analyses, correct?

16 A. Correct.

17 Q. And you did not perform any analysis of the 2018 Board
18 election?

19 A. Correct.

20 Q. Dr. Alford, you would agree that the point estimate is the
21 more probable value out of all of the estimates that your
22 analysis produced?

23 A. Correct.

24 THE COURT: More probable? So that means of all the
25 possibilities, that's the most likely one? Does it mean -- but

ALFORD - CROSS BY MS. CALABRESE

1 it doesn't mean more likely than not?

2 THE WITNESS: I think it's similar to the confusion
3 about concordance. So the point estimate might have a
4 probability of say .001, a very low probability, but still be a
5 higher probability than any other estimate. That's what I --
6 when the confidence interval gets wide, the probability levels
7 drop for everything because they are being spread out. The
8 hundred percent probability, in this case the 95 percent
9 probability, is being stretched out over a lot more numbers.
10 So it's true that with a narrow interval, it's probably not
11 very confusing. The most probable value is probable about
12 50 percent probable; but as that stretches out, again, it can
13 be continued to be the most probable value while being a very
14 improbable value.

15 THE COURT: If the most probable outcome is that --
16 is probable, and all the other outcomes are even less probable,
17 how does it add up to one?

18 THE WITNESS: Well, it just depends -- how many --
19 well, you have a very large number of values here. So you can
20 add them all up and you will get -- probably is not anything as
21 extreme as that, but in principle, it could be.
22 So here, given that we are constrained by zero and a hundred,
23 you know, the most probable value probably has a value that's,
24 you know, some positive whole number percentage point.
25 The point being that, again, part of the purpose of having that

ALFORD - CROSS BY MS. CALABRESE

1 confidence interval is to avoid the mistaken impression that
2 regardless of whether the confidence interval is narrow or
3 wide, that the point estimate is highly reliable. That just
4 isn't the case.

5 BY MS. CALABRESE:

6 Q. In your opinion, the point estimates and confidence
7 intervals for white voters in this case can lead us to be
8 confident in what white voters are usually doing in East Ramapo
9 Board elections?

10 A. Yes.

11 Q. And in your opinion, Latino voters in East Ramapo are
12 supporting candidates that are not gathering majority support
13 regardless of the ethnicity of those candidates?

14 A. I have been given -- given the issue of the confidence
15 intervals, I'm -- I'm not sure that I can say that's correct
16 stated in the positive form.

17 Q. But you would certainly say that Latino -- but you would
18 certainly say that the lack of variability in both the White
19 vote results and the Latino vote results with regard to
20 ethnicity of candidates suggests that whatever is generating
21 that stability, it's not race?

22 A. Correct.

23 Q. Dr. Alford, is it -- it is your opinion that, generally
24 speaking, if you have similar results from different analyses
25 or from different analysts, you would feel more comfortable

ALFORD - CROSS BY MS. CALABRESE

1 with those results?

2 A. Yes.

3 Q. When you see similar results from different analyses or
4 from different analysts, you would call that a pattern?

5 A. I -- I don't think I would refer to it as a pattern, no.

6 Q. If you see similar results repeating year after year,
7 that's a pattern?

8 A. Yes. That's a pattern.

9 Q. And in certain situations where you see patterns, then the
10 confidence intervals carry less weight in your analysis?

11 A. I don't think so.

12 Q. But you would agree that -- let me start over.

13 Let's talk about that. Let's assume hypothetically you examine
14 the voting patterns in one election, and it indicated
15 racially-polarized voting. Then you might be concerned about
16 concluding that the election actually showed evidence of
17 racially-polarized voting because it could possibly be
18 explained as randomly occurring. Would you agree with that?

19 A. I guess that's always a possibility.

20 Q. And if you wanted to determine that the result you saw in
21 that one election actually demonstrated racially-polarized
22 voting instead of being a randomly-occurring event, then
23 confidence intervals could be helpful in making that
24 determination, correct?

25 A. They could help us estimate the likelihood that something

ALFORD - CROSS BY MS. CALABRESE

1 like that would occur as a random event, so they would be
2 helpful, yes.

3 Q. And that's because confidence intervals can help you
4 understand if what looked like polarized voting was really just
5 a product of random occurrence?

6 A. I am -- certainly, that's one of the things, yes. I don't
7 think all of this is about random occurrences, but yes, if it
8 was -- I guess I am not clear what you mean by a random
9 occurrence. I think generally -- no, I think generally, the
10 confidence intervals don't help you with the question you are
11 asking, but I could be wrong.

12 Q. But if you saw the same pattern of racially-polarized
13 voting in say eight out of ten elections, you would agree that
14 all of those results are unlikely to be explained as a random
15 event?

16 A. Again, this is -- I think I was right in revising my
17 response to this random event discussion.
18 The random events you are talking about are in no way captured
19 by confidence intervals.

20 Q. That wasn't my question. My question was: If you saw the
21 same pattern of racially-polarized voting in, say, eight out of
22 ten elections, you would agree that all of those results are
23 unlikely to be explained as a random event?

24 A. They are unlikely to be explained as a random event. That
25 seems correct.

ALFORD - CROSS BY MS. CALABRESE

1 Q. And that's because you would agree that random variation
2 doesn't produce the same result eight out of ten times,
3 correct?

4 A. Random variation. We know exactly how likely random
5 variations produce the same result eight out of ten times,
6 assuming we know what the distribution is and what its
7 parameters are. So just the statement itself, I -- there is no
8 way of evaluating that absent knowing either the Poisson
9 distribution or normal distribution; what are the parameters
10 here?

11 Q. Dr. Alford, you served as an expert in the case Texas v.
12 United States; is that correct?

13 A. Texas v. United States, so that would have been a
14 pre-clearance case in Washington D.C., yes.

15 Q. And you didn't provide confidence intervals in your voting
16 analysis in that case; is that correct?

17 A. I don't recall. I may not have.

18 Q. You testified at a bench trial in that case in January of
19 2012?

20 A. That sounds familiar.

21 Q. Dr. Alford, if you turn to PX 322 in your binder,
22 that's -- is that a copy of the trial testimony in Texas v.
23 United States from January 25, 2012?

24 A. That's what it says.

25 Q. And, Dr. Alford, you were called as an expert witness for

ALFORD - CROSS BY MS. CALABRESE

1 Texas in that case?

2 A. Yes, I was.

3 Q. Texas was challenging the federal government's oversight
4 of Texas congressional maps under Section 5 of the Voting
5 Rights Act?

6 A. That's not my recollection, but it was a Section 5. I
7 think Texas was exercising its right to have that decision made
8 in a district court rather than by administrative procedure is
9 my recollection.

10 Q. Let's look at your trial testimony on page 27, line 16 to
11 page 28, line 8; and I have one question.

12 Were you asked this question, and did you give this answer:

13 "Question: But we don't know how much of these percentages you
14 provided actually might vary because you have not provided us
15 with a margin of error confidence intervals; is that correct?"

16 A. Yes.

17 Q. You answered, "Yes."

18 "And again, as I explained to you, if you are concerned with
19 how confident you are about a single result that could be
20 helpful, if you look across the set of eight primaries, and you
21 see exactly the same results in every primary, it really
22 doesn't matter what the individual confidence values are. The
23 confidence intervals say if this is done randomly, then we
24 shouldn't look at one result and be too confident; but if you
25 see the same result seven out of eight times, that's really a

ALFORD - REDIRECT BY MR. LEVINE

1 different confidence interval. Random variation doesn't
2 produce the same result eight out of ten times. You asked me
3 why I was confident without knowing the confidence intervals,
4 and that's why. Because we are not looking at a single -- look
5 at all of the districts, right? It doesn't matter where we go
6 in the state."

7 Were you asked that question and did you give that
8 answer?

9 A. Yes.

10 MR. LEVINE: Objection. I am not seeing the
11 inconsistency.

12 THE COURT: Overruled.

13 MS. CALABRESE: Thank you. No further questions,
14 Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. LEVINE:

17 Q. Dr. Alford, I just want you to turn in your binder to the
18 binder that says Examination by the District and Tab 22?

19 A. Yes.

20 Q. When you created this demonstrative with Goldmunzers,
21 wasn't the object to create a demonstrative that has the
22 Goldmunzers that live at the same address?

23 MS. CALABRESE: Objection. Leading, Your Honor.

24 THE COURT: I will allow it.

25 THE WITNESS: Yes. So this would be the subset of

ALFORD - REDIRECT BY MR. LEVINE

1 Goldmunzers where there are at least two Goldmunzers at the
2 same address.

3 BY MR. LEVINE:

4 Q. Okay. Dr. Alford, you reviewed the trial transcript of
5 Dr. Barreto's direct and cross-examinations, right?

6 A. Yes.

7 Q. I am just going to ask to bring it up the trial transcript
8 page 465, lines 9 through 20. Actually, could we make it all
9 the way up to 9? Did you review this portion of Dr. Barreto's
10 transcript?

11 A. Yes.

12 Q. Do you understand him to be talking about the Catalist
13 data sheet?

14 A. Yes.

15 Q. Do you understand him to be saying that the race score
16 that gets generated using that -- for that issue is based only
17 on two pieces of information?

18 MS. CALABRESE: Objection, Your Honor. We believe
19 the trial testimony speaks for itself.

20 MR. LEVINE: I am asking for --

21 THE COURT: Well, the question is -- you asked the
22 witness about what he read in Dr. Ghitza's deposition. I will
23 let Mr. Levine ask what he read in Dr. Barreto's deposition.

24 BY MR. LEVINE:

25 Q. Do you understand Dr. Barreto to be saying that the

ALFORD - REDIRECT BY MR. LEVINE

1 names -- that the race estimates that were generated for the
2 Catalist date sheet were based upon two pieces of information?

3 A. Yes. The last name and the geography, as we have
4 discussed.

5 Q. And that was the point that you were responding to in your
6 direct testimony, correct?

7 A. That he specifically says the first and the middle name
8 are not relevant to the formula.

9 Q. One last question: Dr. Alford, did Randy Stevenson
10 replicate plaintiffs' BISG analysis?

11 A. No. He was not able to replicate their analysis.

12 Q. Why not?

13 A. He did not have either a complete script, so he had to
14 basically make decisions himself about -- so there were -- I
15 should explain.

16 This happened twice. So the first script that was
17 provided had to do with the single year for which there was --
18 or for the early version of BISG, which would have been all the
19 years except, I believe, 2015.

20 So at the beginning of the case, a script was provided that was
21 purportedly the script they used to perform the BISG analysis.
22 It consisted largely of comment lines where there should have
23 been script. So there should have been a script, for example,
24 to show how they were aggregating data to the precinct level.
25 Instead, there was a comment line that said aggregate data to

ALFORD - REDIRECT BY MR. LEVINE

1 the precinct level. That's not a script.
2 I assumed it was a script in which those lines had been taken
3 out and replaced by comments. Dr. Collingwood later testified
4 that, in fact, it was not a script at all; that it was just
5 created to reflect what he remembered doing at the console
6 typing the commands in; that they hadn't saved the script.
7 It would not run. There was no way even making assumptions we
8 could to that. So that -- when I am referring to the script
9 that would not run in any way. It was the script that we were
10 provided.

11 Later, when the plaintiffs had access to the 2015
12 voter roll, they did the analysis for 2015. This is sometime
13 later in the case. A script was provided again. This time
14 with, apparently, with less comment lines and sort of more
15 stuff filled in.

16 The second attempt to replicate is where Dr.
17 Stevenson was able to get to the stage by putting in a lot of
18 his own inputs to actually get it to produce an estimate, which
19 I guess is what the table reflects.
20 He still was not able to replicate the BISG analysis. That's
21 what I had asked him to do. He reported to me that he wasn't
22 able to replicate the analysis, and that's where it stopped.
23 That's partly, again, because we didn't have a complete script.
24 It's also because, even if we had had a complete script, what
25 would we compare it to? We could run the script and say, did

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ALFORD - REDIRECT BY MR. LEVINE

1 we get the same codings for the names that they did? They
2 didn't provide the codings for the names. Only the Catalist
3 list.

4 Could we compare our results to their precinct
5 summaries? They didn't provide their precinct summaries. So
6 we couldn't compare to that. The only thing we could do is try
7 to make an estimation of how this would work as an input into
8 an election EI that did not replicate, and which is exactly
9 what happened with the Catalist analysis.

10 At that point I am not interested in that process anymore. I
11 am not interested in coming in here with all sorts of different
12 estimates. I mean, again, this is -- they are suggesting this
13 is a more reliable technique, and they not only don't
14 demonstrate that, they provide me with nothing that I need to
15 be able to do the simplest kind of thing, to just replicate the
16 analysis, just that very first step. Is it done correctly? I
17 have no idea. I had no resources to do that, and I simply at
18 that point was not interested in wasting any more time pursuing
19 that.

20 THE COURT: What is the thing that -- I forget the
21 exhibit number now -- but the chart that Dr. Stevenson -- that
22 Ms. Calabrese showed you that Dr. Stevenson created that you
23 said you didn't take into account in your analysis. What is
24 that? Something he got to run.

25 MR. LEVINE: If you want to look at it, it's

ALFORD - REDIRECT BY MR. LEVINE

1 plaintiffs' cross of Dr. Alford binder. They were showing you
2 what's in the first tab, PX 138.

3 THE WITNESS: So as I understand in looking at it,
4 it would be the results of running the BISG, making the
5 assumptions that Dr. Stevenson had to make to get it to run at
6 all. Then making some assumptions about aggregating it and
7 aggregating it. So it is the -- it is the precinct-level
8 aggregation of Dr. Stevenson's BISG analysis. At that stage --

9 THE COURT: What more needed to be done?

10 THE WITNESS: Well, first thing I think would be the
11 obvious thing is, even before we got to the aggregation stage,
12 when he first runs it, it produces a list that looks just like
13 the Catalist list. All right? Every person with a code.
14 So the first thing we'd like to do is just compare our list to
15 their list and see if they are the same. We don't have it.
16 Then we aggregate it up to the precinct level, and now the
17 question is: Do those estimates we got at all match the
18 estimates they got? They never produced those precinct-level
19 summaries, so we can't say.

20 And even here in trial, when they want to talk about what does
21 the BISG estimate show at the precinct level? They don't use
22 something from Dr. Barreto. They used Randy Stevenson's failed
23 attempt to replicate the BISG and assert that this is what BISG
24 tells us.

25 THE COURT: Well --

ALFORD - REDIRECT BY MR. LEVINE

1 THE WITNESS: We just don't know.

2 THE COURT: I am asking a much simpler question. You
3 are saying on the one hand, you couldn't replicate BISG; but
4 there is something in Exhibit 183. What is that, and why is it
5 not BISG replication?

6 THE WITNESS: Okay.

7 THE COURT: Maybe it's a simple question. Maybe the
8 answer is not simple.

9 THE WITNESS: It's simpler than the one I just gave
10 you if that's helpful.

11 THE COURT: Good.

12 THE WITNESS: It is a BISG run based on a substantial
13 number of assumptions that Dr. Stevenson did. It is not a
14 replication of their BISG analysis because a replication means
15 we took their parameters and their technique and produced a
16 result that matched their result. That's what a replication
17 is.

18 This is an independent attempt to do BISG, and we
19 don't know if it's the same BISG they did. We don't know at
20 any stage if it matches their BISG. We do know that when we
21 put it into an EI procedure, it does not produce the results
22 their BISG produced.

23 So ultimately, it doesn't match, but so that means it
24 didn't replicate, but we don't know why because we have nothing
25 to compare it to; and we don't have a code that can simply be

ALFORD - REDIRECT BY MR. LEVINE

1 run by changing the data parameters to get the result.

2 BY MR. LEVINE:

3 Q. Dr. Alford, if you wanted to do a BISG analysis, you would
4 be able to do it, right?

5 A. Yes.

6 Q. And if Randy Stevenson had wanted to do a BISG analysis,
7 he would be able to do it, right?

8 A. Yes.

9 Q. Is that what you are attempting to do with a replication?

10 A. No. We are attempting to assess the accuracy of the
11 plaintiffs' BISG analysis, which means we need to replicate
12 their BISG analysis or have some basis for comparing our kind
13 of independent approach to it to their independent approach to
14 it, and we don't have either of those things.

15 Q. So you are not -- it's not your opinion that what's
16 reflected here in this table is reliable data that should be,
17 you know, the basis for someone's opinion?

18 A. I mean, so we did a couple of things. I mean, just, you
19 know, in terms of the kinds of things you might do to replicate
20 that data, which apparently the plaintiffs or Dr. Barreto
21 didn't do, right? So you can compare that to some real numbers
22 to see if they make sense, right?

23 So I mean, I just -- I looked at those numbers and,
24 for example, in I think it is in Ramapo High School, Dr.
25 Stevenson's BISG analysis suggests that the turnout among

EXHIBIT 16

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, SPRING VALLEY BRANCH, JULIO
CLERVEAUX, CHEVON DOS REIS; ERIC GOODWIN; JOSE
VITELIO GREGORIO; DOROTHY MILLER; HILLARY
MOREAU; AND WASHINGTON SANCHEZ,

Plaintiffs,

vs

Case No.
17-CV-8943

EAST RAMAPO CENTRAL SCHOOL DISTRICT and
MARYELLEN ELIA, In Her Capacity as the
Commissioner of Education of the State of
New York,

Defendants.

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VIDEOTAPED DEPOSITION OF
DR. RANDOLPH STEVENSON
New York, New York
Tuesday, January 29, 2019

Reported by: MELISSA GILMORE

Job No: 153870

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1 STEVENSON
 2 the data, but it's possible that he did.
 3 I never used it for anything because
 4 I couldn't, if he did. But I don't remember
 13:55:21 5 whether he did. And the reason I don't
 6 remember is because I never used it for
 7 anything, so.
 8 Q. You just -- sorry. You just
 9 mentioned that you saw a script.
 13:55:34 10 Is this a script that aggregated
 11 individual level data into precinct level data?
 12 A. The script I'm referring to, I
 13 think, was a Collingwood script that was -- I
 14 think we've been referring to as pseudo code,
 13:55:50 15 that sort of described a process by which you
 16 would take some individual level data and then
 17 you would use a method to try to estimate the
 18 percentage, the people -- the number of people
 19 in the racial categories using information on
 13:56:06 20 their names, and then running EI estimates
 21 using that, so that's the script that I'm
 22 referring to that I saw.
 23 My understanding, although I guess I
 24 never confirmed this with anyone, was that the
 13:56:21 25 numbers that I received in this file,

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1 STEVENSON
 2 It was the 2015, which they didn't
 3 originally include. And I think some data --
 4 it became possible to do that late in the game,
 13:57:47 5 and then I believe that they provided a more
 6 complete script, which John sent to me and
 7 asked if I could try to see if I could get to
 8 run, which I did.
 9 Q. Was the data that you were sent, was
 13:58:03 10 it also Catalyst data?
 11 A. I'm not sure where it came from. So
 12 I don't know whether it was Catalyst or not
 13 Catalyst.
 14 It was individual -- actually, no,
 13:58:11 15 it couldn't have been, because it was
 16 individual level. I think it was just
 17 individual level registration -- you know,
 18 registration data, election data at the
 19 individual level, where you have -- everybody
 13:58:24 20 was registered, they get their names, and
 21 that's it. I believe that's what it was.
 22 So, yeah, I wouldn't even know what
 23 the Catalyst data looked like. So I'm sure I
 24 never saw individual level Catalyst data.
 13:58:36 25 Q. Okay. And so let's turn back to

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1 STEVENSON
 2 Catalyst_2017 races, was generated using that
 3 script, but I never generated those numbers
 4 from the script as far as I know.
 13:56:38 5 So I'm assuming that those numbers
 6 came from there, but I never confirmed that.
 7 Q. Okay. So you -- you personally
 8 didn't aggregate any individual level data,
 9 right?
 13:56:49 10 A. Not for the -- not for in October,
 11 for this -- that related to this, what we're
 12 talking about right now.
 13 Q. Have you aggregated any other
 14 individual level data for this case?
 13:57:06 15 A. I think there was some additional
 16 races that were done quite recently, and there
 17 was another script that was better defined, and
 18 I was able to run that.
 19 Q. Do you recall what data you were
 13:57:21 20 aggregating from an individual level to the
 21 precinct level?
 22 A. I don't know. It would have been
 23 individual level data. I mean, I'm forgetting
 24 exactly which races it was. It was the most
 13:57:35 25 recent -- oh, I recall. Sorry.

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1 STEVENSON
 2 this 2015 data. You said this was registration
 3 forms of people who voted or --
 4 A. I believe that it was, you know, the
 13:58:53 5 secretary of state of every state keeps voter
 6 rolls. So I believe it was voter roll data.
 7 Q. And you took the individual level
 8 voter roles and you aggregated them?
 9 A. No. I took it and I ran the script
 13:59:11 10 that Collingworth had provided. I'm sorry.
 11 Collingwood. Sorry.
 12 Yeah. So I ran that, and it did the
 13 things that that script does, which included, I
 14 think, aggregation to the precinct level, but a
 15 lot of other things.
 13:59:32 16 Q. And what type of analysis did the
 17 script perform?
 18 A. A lot of different things. At the
 19 end, it did an EI analysis, although I didn't
 13:59:45 20 actually run that part of the script.
 21 What we were concerned with was
 22 could we just get the script -- ostensibly, the
 23 script takes the voter roll data, which has
 24 names, and my understanding is, and I'm
 14:00:04 25 certainly not an expert on this, but my

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1 STEVENSON
 2 understanding is that what it does is -- well,
 3 I will try not to be pedantic.
 4 Q. I have butchered many words in this
 14:00:21 5 deposition.
 6 A. So my understanding is that you want
 7 to -- you want to infer the race of an
 8 individual from their name, and you could just
 9 apply Bayes rule to do that.
 14:00:32 10 At the abstract level, it's simple,
 11 the idea. You know, I want to know the
 12 probability that this person is a African
 13 American, given they're named Smith. That's
 14 going to go to the probability that you're
 14:00:48 15 named Smith, that you're African American times
 16 the probability that you're African American,
 17 given the region. That's just an application
 18 of Bayes rule.
 19 It's much more complicated in the
 14:01:01 20 details. And my understanding is that
 21 recently, or I don't know how recently, but
 22 that there was an article and a program that
 23 does that, and that they were using that.
 24 Q. So you performed this analysis?
 14:01:16 25 A. Yeah. I ran the script. And mostly

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1 STEVENSON
 2 A. It was just the one that they sent
 3 me as part -- that was part of that script. So
 4 that's just the 2015.
 14:02:41 5 Q. Did you send these results to
 6 Dr. Alford?
 7 A. No, I told him on the phone that I
 8 had been able to reproduce the results, and he
 9 never really followed up. So he didn't ask me
 14:02:52 10 to do anything else with it.
 11 Let me be clear. I got the script
 12 to run. I didn't necessarily reproduce their
 13 results because I didn't see their -- I don't
 14 know what their estimates were for those. I
 14:03:09 15 just got the script to run. So I can't tell
 16 you whether it produced the same thing they
 17 had.
 18 Q. Sorry. Just to be clear. Is this
 19 what's referred -- like, is this -- sorry.
 14:03:21 20 Strike that.
 21 Is this what's referred -- like
 22 this -- sorry. Strike that.
 23 Does this Bayesian -- so is this
 24 Bayesian Improved Surname Geocoding that you
 14:03:45 25 performed?

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1 STEVENSON
 2 it ran. There were some hiccups that I had to
 3 deal with, but I got it to run.
 4 Q. So you ran the script, fixed any
 14:01:31 5 hiccups that popped out?
 6 A. Yeah.
 7 Q. And did you get results?
 8 A. I got it to produce the estimated,
 9 what do you call them -- the precinct level --
 14:01:48 10 the precinct level estimates of the races
 11 reached.
 12 And that's what John asked me to do,
 13 could I produce -- because up to this point, we
 14 hadn't been able to, and we still never did for
 14:02:01 15 those other races, but for these ones, we
 16 were -- I was able to do it. So I reported to
 17 him that I was able to do it.
 18 I didn't actually run the EI stuff
 19 because it wasn't obvious how -- it would have
 14:02:12 20 been a lot more work to make that work, given
 21 the way that they did it, and he didn't ask me
 22 to do that, so I just reported to him that I
 23 had been able to get it to run.
 24 Q. And is this only the 2015 voter
 14:02:28 25 file?

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1 STEVENSON
 2 MR. LEVINE: Objection.
 3 A. So in the script, it calls it
 4 something called WRU.
 14:03:54 5 Q. Uh-huh.
 6 A. My understanding is that's the --
 7 it's BISG, but I don't know -- I mean, I
 8 haven't used it myself so -- and I haven't
 9 really investigated anything about it. So the
 14:04:08 10 thing I know is that it's called something WRU.
 11 Q. Okay. That's fair.
 12 Did you perform this analysis for
 13 any other election year other than 2015?
 14 A. No.
 14:04:32 15 Q. Do you recall when you performed
 16 this analysis?
 17 A. So it would have been after October,
 18 so after I did the second stuff he asked for.
 19 I didn't review -- I didn't review
 14:04:46 20 my timeline and that. So I know it was after
 21 October. So sometime in either -- after this
 22 stuff. So either at the end of October or
 23 November. I don't think I was available most
 24 of December. So it was probably in October,
 14:05:02 25 November.

EXHIBIT 17



Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston County, 3-22-cv-57 - Petteway Plaintiffs' Expert Reports

Joseph Russo <JRusso@greerherz.com>

Wed, May 17, 2023 at 5:13 PM

To: Mark Gaber <MGaber@campaignlegalcenter.org>

Cc: Bernadette Reyes <bernadette@uclavrp.org>, Mateo Forero <mforero@holtzmanvogel.com>, Valencia Richardson <VRichardson@campaignlegalcenter.org>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>, Dallin Holt <dholt@holtzmanvogel.com>, "Vall-Ilobera, Diana" <dvall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, Jordan Raschke Elton <jraschkeelton@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Neil Baron <neil@ngbaronlaw.com>, Simone Leeper <SLeeper@campaignlegalcenter.org>, Sonni Waknin <sonni@uclavrp.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <asilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <kgarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <mzhu@willkie.com>, Nickolas Spencer <nas@naslegal.com>, "Mancino, Richard" <rmancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, "Wake, Brittany (CRT)" <Brittany.Wake@usdoj.gov>, Alexandra Copper <ACopper@campaignlegalcenter.org>

I spoke with Dr. Alford for a moment this evening. They worked on the materials since the scripts were provided yesterday morning. They did not achieve replicated results, but he said they got close on some of the figures but others are off.

I asked him about a conference, but he is unavailable this evening for a discussion on the Petteway matter. I was able to confirm with Dr Alford that he expects both will be available for the status conference tomorrow.

Joseph R. Russo, Jr. (via mobile)
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Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston County, 3-22-cv-57 - Petteway Plaintiffs' Expert Reports

Mark Gaber <MGaber@campaignlegalcenter.org>

Wed, May 17, 2023 at 2:50 PM

To: Joseph Russo <JRusso@greerherz.com>, Bernadette Reyes <bernadette@uclavrp.org>

Cc: Mateo Forero <mforero@holtzmanvogel.com>, Valencia Richardson <VRichardson@campaignlegalcenter.org>, Shawn Sheehy <ssheehy@holtzmanvogel.com>, Hilary Harris Klein <hilaryhklein@scsj.org>, Dallin Holt <dholt@holtzmanvogel.com>, "Vall-Ilobera, Diana" <dvall-Ilobera@willkie.com>, Sarah Chen <schen@texascivilrightsproject.org>, Jason Torchinsky <jtorchinsky@holtzmanvogel.com>, "bob.boemer@co.galveston.tx.us" <bob.boemer@co.galveston.tx.us>, Angela Olalde <aolalde@greerherz.com>, "dloesq@aol.com" <dloesq@aol.com>, Jordan Raschke Elton <jraschkeelton@greerherz.com>, "joe@nixonlawtx.com" <joe@nixonlawtx.com>, Neil Baron <neil@ngbaronlaw.com>, Simone Leeper <SLeeper@campaignlegalcenter.org>, Sonni Waknin <sonni@uclavrp.org>, Chad Dunn <chad@brazilanddunn.com>, "Silberstein, Andrew" <asilberstein@willkie.com>, Hani Mirza <hani@texascivilrightsproject.org>, "Suriani, JoAnna" <JSuriani@willkie.com>, Joaquin Gonzalez <joaquin@texascivilrightsproject.org>, "Garrett, Kathryn" <kgarrett@willkie.com>, "Polizzano, Michelle" <MPolizzano@willkie.com>, "Zhu, Molly" <mzhu@willkie.com>, Nickolas Spencer <nas@naslegal.com>, "Mancino, Richard" <rmancino@willkie.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, "Wake, Brittany (CRT)" <Brittany.Wake@usdoj.gov>, Alexandra Copper <ACopper@campaignlegalcenter.org>

Mr. Russo--

When is Dr. Stevenson available for a call tonight?

Thanks,
Mark

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Bernadette Reyes <bernadette@uclavrp.org>

Petteway v. Galveston County, 3-22-cv-57 - Petteway Plaintiffs' Expert Reports

Joseph Russo <JRusso@greerherz.com>

Wed, May 17, 2023 at 1:25 PM

To: Bernadette Reyes <bernadette@uclavrp.org>

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I believe our experts are still trying to duplicate results based on what you all provided. As I understand it, we will need a written script for the EI work. As of now, it is best that we keep the hearing.

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On May 17, 2023, at 2:17 PM, Bernadette Reyes <bernadette@uclavrp.org> wrote:

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Mr. Russo:

As we have not heard back from you, we gather another call is not needed and the status conference can be canceled, as the Court requested. Please let us know if there are any other questions that Dr. Stevenson has and if we need to set up another call today. We would like to advise the Court whether a status conference is necessary by 3pm CST today.

Best,
Bernadette

On Mon, May 15, 2023 at 10:17 PM Bernadette Reyes <bernadette@uclavrp.org<mailto:bernadette@uclavrp.org>> wrote:
Counsel—

As Judge Edison correctly explained, we were two ships passing in the night prior to tonight's call among the experts, Dr. Barreto, Dr. Stevenson, Dr. Alford, and Mr. Rios. As Dr. Barreto explained, the only R script he and Mr. Rios used to conduct their BISG analysis came from TidyCensus and WRU script that has already been produced. They then worked at the command level as the program ran, as is their practice given the frequency with which they operate these programs. During the call, we learned that Dr. Stevenson does not normally work at the command level as the program runs as Dr. Barreto and Mr. Rios do, but rather he stated that he prefers to use a series of R scripts that set out each step, or that he prefers one long continuous R script. These are two different approaches to conducting the same analysis.

Having diagnosed the confusion between the parties, Dr. Barreto then answered Dr. Stevenson's questions and, as Dr. Stevenson noted, provided all the information Dr. Stevenson could think of at the time of tonight's meeting regarding how he could replicate the BISG portion of Dr. Barreto and Mr. Rios's analysis. Dr. Barreto answered all of Dr. Stevenson's questions during the call and after both experts agreed that the BISG parameters were understood, Dr. Stevenson asked if Dr. Barreto and Mr. Rios would convert his live-program command codes to R script that contained all the instructions in one single script file. Dr. Barreto stated that this was not what he did in this specific case, but that he and Mr. Rios would work together to create live program command codes for R script that Dr. Stevenson and Dr. Alford could run for BISG. We note that this is a new R script that Dr. Barreto has created this evening as a courtesy given Dr. Stevenson's preference for this approach over making command entries as the program runs live, which was how Dr. Barreto and Mr. Rios conducted their analysis. Nevertheless, Dr. Barreto believes that this R script should assist Dr. Stevenson if he prefers to follow that approach over the approach that Dr. Barreto and Mr. Rios followed. If at any point Dr. Stevenson has further questions, or gets stuck, we can arrange a call for Dr. Barreto and Mr. Rios to answer additional questions.

During the call, for the first time, Dr. Alford raised concerns that extend beyond the BISG portion of the analysis and beyond any issue raised in the discovery dispute letter submitted to the Court. In particular, he contended that the citation to the eiCompare packages that Dr. Barreto and Mr. Rios used did not provide sufficient instructions on how to complete the EI analysis that results after the BISG portion of the work is completed. Dr. Barreto then answered several questions from Dr. Stevenson, including identifying the precinct aggregation function within eiCompare that he used. As Dr. Barreto explained, Dr. Stevenson can use the eiCompare software, or can use some other EI software to conduct this portion of the analysis. In any event, Dr. Barreto has also included in the attached this additional information requested this evening regarding the EI portion of the analysis should Dr. Stevenson choose to use eiCompare. Again, Dr. Barreto explained that he is happy to make himself available to Dr. Stevenson should he have any further questions, but Dr. Stevenson had none this evening.

We note that all of this reflects material that was entered into the program live by Dr. Barreto and Mr. Rios as the data was being processed in R, and not material that was reduced to any sort of produceable document. This is why we were at an impasse prior to tonight's meeting among the experts. That is, Dr. Barreto is tonight creating new materials to assist Dr. Stevenson in running his own expert work that did not previously exist in any writing or script or code. He is happy to create these materials to help, however, and as we have mentioned, Dr. Barreto and Mr. Rios are also willing to make themselves available to Dr. Stevenson as he does his BISG work in the event there are follow up questions.

To ensure that we have gotten to Dr. Stevenson what he desires and answered all his questions, we would like to schedule a follow up zoom meeting among the experts, preferably tomorrow evening. Please advise on Dr. Stevenson's availability.

Best,
Bernadette

On Mon, May 15, 2023 at 12:50 PM Bernadette Reyes <bernadette@uclavrp.org<mailto:bernadette@uclavrp.org>> wrote:
Yes, that works for us.

On Mon, May 15, 2023 at 12:37 PM Joseph Russo <JRusso@greerherz.com<mailto:JRusso@greerherz.com>> wrote:
Correct. 6p central.

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Sent: Monday, May 15, 2023 2:33 PM

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Thank you Mr. Russo. Could you clarify that you mean Dr. Stevenson is available at 6pm CST?

On Mon, May 15, 2023 at 12:27 PM Joseph Russo <JRusso@greerherz.com<mailto:JRusso@greerherz.com>> wrote: I understand what you are saying. I disagree with the need to include Dr. Stevenson if we, the party asking for information, have the appropriate expert who is directing the request and review. That said, if you insist on Stevenson being on the call, he will join at 6p today; although again, Dr. Alford is making the requests and may or may not direct work elsewhere, assuming you all provide what is needed.

Let me know whether you all are good for the conference this evening.

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Sent: Monday, May 15, 2023 2:00 PM

To: Joseph Russo <JRusso@greerherz.com<mailto:JRusso@greerherz.com>>

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Mr. Russo,

Dr. Alford testified at his deposition in this case, as he has in prior cases, that Dr. Stephenson actually conducts his analysis, and did so on prior BISG work. We think it's critical that Dr. Stephenson be a part of this conversation and be available to the Court if we have a conference on Thursday. Can you provide times when he is available?

On Mon, May 15, 2023 at 11:12 AM Joseph Russo <JRusso@greerherz.com<mailto:JRusso@greerherz.com>> wrote: Dr. Alford is available for a discussion this evening 4p/6p. Dr. Stephenson is not, but Dr. Alford believes he will be able to handle this discussion. I suggest that we move forward with it today between the available experts. Additionally, Dr. Alford proposes that counsel be involved to avoid misunderstandings between the parties. I agree with him as they may need clarification on issues.

To the extent counsel is involved, I'd propose agreement that any discussion is not to be used by counsel outside resolution of the discovery dispute. Let me know if that works for you all.

As to a list of requests, I'll talk to Alford/Stephenson, but our request is fairly clear: give us everything needed to replicate the results so they can be tested along with any results testing done on your side. In terms of mandating Dr. Stephenson's participation, again, I will defer to our experts on that; but if Stephenson is available, I have no problem with his attendance.

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Sent: Monday, May 15, 2023 10:11 AM
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Cc: Mateo Forero <mforero@holtzmanvogel.com<mailto:mforero@holtzmanvogel.com>>; Valencia Richardson <VRichardson@campaignlegalcenter.org<mailto:VRichardson@campaignlegalcenter.org>>; Shawn Sheehy <ssheehy@holtzmanvogel.com<mailto:ssheehy@holtzmanvogel.com>>; Hilary Harris Klein <hilaryhklein@scsj.org<mailto:hilaryhklein@scsj.org>>; Dallin Holt <dholt@holtzmanvogel.com<mailto:dholt@holtzmanvogel.com>>; Vall-Ilobera, Diana <DVall-Ilobera@willkie.com<mailto:DVall-Ilobera@willkie.com>>; Sarah Chen <schen@texascivilrightsproject.org<mailto:schen@texascivilrightsproject.org>>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com<mailto:jtorchinsky@holtzmanvogel.com>>; bob.boemer@co.galveston.tx.us<mailto:bob.boemer@co.galveston.tx.us>; Angela Olalde <aolalde@greerherz.com<mailto:aolalde@greerherz.com>>; dloesq@aol.com<mailto:dloesq@aol.com>; Jordan Raschke Elton <jraschkeelton@greerherz.com<mailto:jraschkeelton@greerherz.com>>; joe@nixonlawtx.com<mailto:joe@nixonlawtx.com>; Mark Gaber <MGaber@campaignlegalcenter.org<mailto:MGaber@campaignlegalcenter.org>>; Neil Baron <neil@ngbaronlaw.com<mailto:neil@ngbaronlaw.com>>; Simone Leeper <SLeeper@campaignlegalcenter.org<mailto:SLeeper@campaignlegalcenter.org>>; Sonni Waknin <sonni@uclavrp.org<mailto:sonni@uclavrp.org>>; Chad Dunn <chad@brazilanddunn.com<mailto:chad@brazilanddunn.com>>; Silberstein, Andrew <ASilberstein@willkie.com<mailto:ASilberstein@willkie.com>>; Hani Mirza <hani@texascivilrightsproject.org<mailto:hani@texascivilrightsproject.org>>; Suriani, JoAnna <JSuriani@willkie.com<mailto:JSuriani@willkie.com>>; Joaquin Gonzalez <joaquin@texascivilrightsproject.org<mailto:joaquin@texascivilrightsproject.org>>; Garrett, Kathryn <KGarrett@willkie.com<mailto:KGarrett@willkie.com>>; Polizzano, Michelle <MPolizzano@willkie.com<mailto:MPolizzano@willkie.com>>; Zhu, Molly <MZhu@willkie.com<mailto:MZhu@willkie.com>>; Nickolas Spencer <nas@naslegal.com<mailto:nas@naslegal.com>>; Mancino, Richard <RMancino@willkie.com<mailto:RMancino@willkie.com>>; Gear, Bruce (CRT) <Bruce.Gear@usdoj.gov<mailto:Bruce.Gear@usdoj.gov>>; Jayaraman, Tharuni (CRT) <Tharuni.Jayaraman@usdoj.gov<mailto:Tharuni.Jayaraman@usdoj.gov>>; Newkirk, Zachary (CRT) <Zachary.Newkirk@usdoj.gov<mailto:Zachary.Newkirk@usdoj.gov>>; Smith, K'Shaani (CRT) <K'Shaani.Smith@usdoj.gov<mailto:K%27Shaani.Smith@usdoj.gov>>; Wake, Brittany (CRT) <Brittany.Wake@usdoj.gov<mailto:Brittany.Wake@usdoj.gov>>; Alexandra Copper <ACopper@campaignlegalcenter.org<mailto:ACopper@campaignlegalcenter.org>>
Subject: Re: Petteway v. Galveston County, 3-22-cv-57 - Petteway Plaintiffs' Expert Reports

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Counsel:

In follow up to Judge Edison's ruling that the experts who are performing the BISG analysis, meet, Plaintiffs' experts Dr. Barreto and Mr. Rios are available to meet at 4pm PST today. Does that work for Dr. Alford and Dr. Stevenson? We understand from Dr. Alford's deposition testimony in this case (and his testimony in prior cases) that Dr. Stevenson actually runs BISG for Dr. Alford so we think it is critical (and part of Judge Edison's order) that Dr. Stevenson be on the call. See these excerpts from Dr. Alford's deposition transcript that we received on Friday: 40:4-16, 7:22-25, and 8:1-16. We can find another time tomorrow or Wednesday but that is the soonest our folks are available. Our thought is that we hold this first meeting and answer any questions Dr. Stevenson and/or Dr. Alford have and then schedule follow meetings as Dr. Stevenson runs BISG to address any issues that come up. It would help if Dr. Stevenson can look at the script Dr. Barreto produced and come to the meeting with a list of any questions he has. Better still if you could email the list in advance so we can make sure that we have all the answers. We also think if a hearing is needed on Thursday that Dr.

Stevenson needs to attend it. If that is any issue, please let us know right away so we can let the Court decide that dispute before Thursday.

Best,
Bernadette

On Wed, May 10, 2023 at 11:02 AM Bernadette Reyes <bernadette@uclavrp.org<mailto:bernadette@uclavrp.org>> wrote:

Attached please find Plaintiffs minor edits to the letter highlighted in yellow as well. We also added one exhibit and modified Defendants references to other exhibits numbers accordingly (highlighted in red). The revised exhibit attachment for the letter is attached below.

On Wed, May 10, 2023 at 7:48 AM Joseph Russo <JRusso@greerherz.com<mailto:JRusso@greerherz.com>> wrote: Given your insistence on extending the dispute letter length and comments on your expert's process, please see the additional highlighted language for the dispute letter on expert materials. If you can, please get back to me today so we can get this on file.

Joseph R. Russo, Jr.
Greer, Herz & Adams, L.L.P.
One Moody Plaza, 18th Floor
Galveston, TX 77550
(409) 797-3200

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From: Bernadette Reyes <bernadette@uclavrp.org<mailto:bernadette@uclavrp.org>>

Sent: Tuesday, May 9, 2023 9:35 AM

To: Mateo Forero <mforero@holtzmanvogel.com<mailto:mforero@holtzmanvogel.com>>

Cc: Valencia Richardson <VRichardson@campaignlegalcenter.org<mailto:VRichardson@campaignlegalcenter.org>>; Shawn Sheehy <ssheehy@holtzmanvogel.com<mailto:ssheehy@holtzmanvogel.com>>; Hilary Harris Klein <hilaryhklein@scsj.org<mailto:hilaryhklein@scsj.org>>; Dallin Holt <dholt@holtzmanvogel.com<mailto:dholt@holtzmanvogel.com>>; Vall-Ilobera, Diana <DVall-Ilobera@willkie.com<mailto:DVall-Ilobera@willkie.com>>; Sarah Chen <schen@texascivilrightsproject.org<mailto:schen@texascivilrightsproject.org>>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com<mailto:jtorchinsky@holtzmanvogel.com>>; bob.boemer@co.galveston.tx.us<mailto:bob.boemer@co.galveston.tx.us>; Angela Olalde <aolalde@greerherz.com<mailto:aolalde@greerherz.com>>; dloesq@aol.com<mailto:dloesq@aol.com>; Jordan Raschke Elton <jraschkeelton@greerherz.com<mailto:jraschkeelton@greerherz.com>>; joe@nixonlawtx.com<mailto:joe@nixonlawtx.com>; Joseph Russo <JRusso@greerherz.com<mailto:JRusso@greerherz.com>>; Mark Gaber <MGaber@campaignlegalcenter.org<mailto:MGaber@campaignlegalcenter.org>>; Neil Baron <neil@ngbaronlaw.com<mailto:neil@ngbaronlaw.com>>; Simone Leeper <SLeeper@campaignlegalcenter.org<mailto:SLeeper@campaignlegalcenter.org>>; Sonni Waknin <sonni@uclavrp.org<mailto:sonni@uclavrp.org>>; Chad Dunn <chad@brazilanddunn.com<mailto:chad@brazilanddunn.com>>; Silberstein, Andrew <ASilberstein@willkie.com<mailto:ASilberstein@willkie.com>>; Hani Mirza <hani@texascivilrightsproject.org<mailto:hani@texascivilrightsproject.org>>; Suriani, JoAnna <JSuriani@willkie.com<mailto:JSuriani@willkie.com>>; Joaquin Gonzalez <joaquin@texascivilrightsproject.org<mailto:joaquin@texascivilrightsproject.org>>; Garrett, Kathryn <KGarrett@willkie.com<mailto:KGarrett@willkie.com>>; Polizzano, Michelle <MPolizzano@willkie.com<mailto:MPolizzano@willkie.com>>; Zhu, Molly <MZhu@willkie.com<mailto:MZhu@willkie.com>>; Nickolas Spencer <nas@naslegal.com<mailto:nas@naslegal.com>>; Mancino, Richard <RMancino@willkie.com<mailto:RMancino@willkie.com>>; Gear, Bruce (CRT) <Bruce.Gear@usdoj.gov<mailto:Bruce.Gear@usdoj.gov>>; Jayaraman, Tharuni (CRT) <Tharuni.Jayaraman@usdoj.gov<mailto:Tharuni.Jayaraman@usdoj.gov>>; Newkirk, Zachary (CRT) <Zachary.Newkirk@usdoj.gov<mailto:Zachary.Newkirk@usdoj.gov>>; Smith, K'Shaani (CRT) <K'Shaani.Smith@usdoj.gov<mailto:K%27Shaani.Smith@usdoj.gov>>; Wake, Brittany (CRT) <Brittany.Wake@usdoj.gov<mailto:Brittany.Wake@usdoj.gov>>; Alexandra Copper <ACopper@campaignlegalcenter.org<mailto:ACopper@campaignlegalcenter.org>>

EXHIBIT 18



Bernadette Reyes <bernadette@uclavrp.org>

Deposition Needs

Joseph Russo <JRusso@greerherz.com>

Fri, Jun 9, 2023 at 10:53 AM

To: Hilary Harris Klein <hilaryhklein@scsj.org>, "Meza, Catherine (CRT)" <Catherine.Meza@usdoj.gov>, "schen@texascivilrightsproject.org" <schen@texascivilrightsproject.org>, "bernadette@uclavrp.org" <bernadette@uclavrp.org>, "Jayaraman, Tharuni (CRT)" <Tharuni.Jayaraman@usdoj.gov>, "chad@brazilanddunn.com" <chad@brazilanddunn.com>, "KGarrett@willkie.com" <KGarrett@willkie.com>, "hani@texascivilrightsproject.org" <hani@texascivilrightsproject.org>, "ASilberstein@willkie.com" <ASilberstein@willkie.com>, "MPolizzano@willkie.com" <MPolizzano@willkie.com>, Mark Gaber <MGaber@campaignlegalcenter.org>, "joaquin@texascivilrightsproject.org" <joaquin@texascivilrightsproject.org>, Adrienne Spoto <Adrienne@scsj.org>, Orion de Nevers <OdeNevers@campaignlegalcenter.org>, "Newkirk, Zachary (CRT)" <Zachary.Newkirk@usdoj.gov>, "sonni@uclavrp.org" <sonni@uclavrp.org>, Simone Leeper <SLeeper@campaignlegalcenter.org>, "Smith, K'Shaani (CRT)" <K'Shaani.Smith@usdoj.gov>, "Wake, Brittany (CRT)" <Brittany.Wake@usdoj.gov>, "Zachary@texascivilrightsproject.org" <Zachary@texascivilrightsproject.org>, "DVall-Ilobera@willkie.com" <DVall-Ilobera@willkie.com>, "neil@ngbaronlaw.com" <neil@ngbaronlaw.com>, Christina Beeler <christinab@texascivilrightsproject.org>, "Berman, Robert (CRT)" <Robert.Berman@usdoj.gov>, "JSuriani@willkie.com" <JSuriani@willkie.com>, "MZhu@willkie.com" <MZhu@willkie.com>, Gwen Kelly <gwen@brazilanddunn.com>, Valencia Richardson <VRichardson@campaignlegalcenter.org>, "nas@naslegal.com" <nas@naslegal.com>, "Gear, Bruce (CRT)" <Bruce.Gear@usdoj.gov>, "RMancino@willkie.com" <RMancino@willkie.com>

Cc: Shawn Sheehy <ssheehy@holtzmanvogel.com>, Jordan Raschke Elton <jraschkeelton@greerherz.com>, Dallin Holt <dholt@holtzmanvogel.com>, Angela Olalde <aolalde@greerherz.com>, Mateo Forero <mforero@holtzmanvogel.com>, Joe Nixon <JNixon@publicinterestlegal.org>, "MRiordan@publicinterestlegal.org" <MRiordan@publicinterestlegal.org>, Christian Adams <a@electionlawcenter.com>

All, there are several depositions Defendants need to take. First, given Commissioner Holmes' disclosed documents and testimony last week regarding ongoing conversations, analysis and development of maps, we need to depose Chad Dunn, Sarah Chen and Michael Rios on those topics. Please let us know availability for Mr. Dunn, Ms. Chen and Mr. Rios as soon as possible.

Additionally, we intend to notice depositions of the following individuals relating to information provided to the Department of Justice which was disclosed to us after Court mandated interrogatories:

Lillie Aleman

Tierri'shia Gibson

Keith Henry

Mary Patrick

Robert Quintero

Mark Salinas

Kimberly Yancy

Please let us know your availability for these depositions as soon as possible. Alternatively, if any of the Plaintiff groups oppose any of these requests, please let me know the basis for that so that we can get the issue before the Court. Let me know if you want to discuss anything as well.

Joseph R. Russo, Jr.

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