

EXHIBIT CCC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

O. John Benisek, et al.,

Plaintiffs,

vs.

Linda H. Lamone, et al.,

Defendants.

Case No. 13-cv-3233

Three-Judge Court

REPLY EXPERT REPORT OF DR. PETER A. MORRISON

May 22, 2017

I. INTRODUCTION

1. My name is Dr. Peter A. Morrison. I previously prepared a report in this matter dated April 7, 2017 (my “Initial Report”). My qualifications are included in that report and are not repeated here.
2. My original assignment in this case was to ascertain whether the boundaries of the Sixth Congressional District that were adopted by the Maryland General Assembly in 2011 can be explained by legitimate districting considerations. In particular, I was asked to assess whether the boundaries of 2013 CD6 can be explained by the maintenance of communities of interest. I also was asked to determine whether there is objective demographic evidence supporting the conclusion that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated.
3. I have been asked by counsel for Plaintiffs to comment on the theories and analyses presented in the reports of Prof. Allan J. Lichtman, Secretary John T. Willis, and Mr. William S. Cooper to the extent that they are relevant to my Initial Report. I also have been asked to review Prof. Lichtman’s criticisms of my report and his own conclusions, to evaluate their relevance and reliability with reference to standard demographic methods and data.
4. In preparing my Initial Report, I reviewed documents, depositions, interrogatory responses, and responses to requests for admissions and drew upon data from the 2010 decennial census and the annual American Community Survey. In

addition to the materials considered in my Initial Report, I have reviewed these Lichtman, Willis, and Cooper reports, the documents relied upon in those reports, and depositions that have been taken since I submitted my Initial Report. The opinions expressed in this report are based on my review of this information as well as my training and experience as a demographer and sociologist.

II. SUMMARY OF OPINIONS

5. Based on my analysis to date, I have reached the opinions that I expressed in my Initial Report, as well as the following additional opinions:
 - a) Nothing in the Lichtman, Willis, or Cooper reports has caused me to change any of the opinions that I expressed and explained in my Initial Report.
 - b) Mr. Cooper and Secretary Willis offer no critique of the methodology, data, or conclusions contained in my initial report. Only Prof. Lichtman attempts to critique the reasoning behind my demographic conclusions and methodology.
 - c) Prof. Lichtman's criticism of my Initial Report is largely irrelevant. He neither challenges any of my conclusions nor questions the data and analyses supporting those conclusions.
 - d) Prof. Lichtman appears to have misconstrued what is at issue in this case. As Plaintiffs have explained to me, the issue is whether State officials sought to impose a burden on a group of citizens in response to

their engagement in activity protected by the First Amendment, and whether they succeeded in doing so.

- e) Prof. Lichtman's criticism of my Initial Report as unscientific is misplaced. Both Prof. Lichtman and I each rely upon and reason in line with distinct scientific models. My reasoning abides by the well-defined model for drawing conclusions from quantitative data. I pose a null hypothesis, and subject it to possible rejection by empirical data. Scientific null assumptions are used to advance an alternative to the null proposition.
- f) Prof. Lichtman and I draw on different disciplines to reach our conclusions. While I am a demographer, Prof. Lichtman is an historian. His reasoning follows a different scientific model befitted to historical accounts and anecdotal evidence, not objective demographic data.
- g) The issues Prof. Lichtman raises about "community of interest" are unfounded. I have relied upon Census Bureau definitions of established communities: incorporated cities and towns and unincorporated Census Designated Places (CDPs). Demographers such as myself recognize these as standard definitions of established geographic communities of interest.
- h) I have examined the existing evidence on daily commuting patterns on I-270. Census Bureau data concerning patterns of commuting and the

deposition testimony in this case lead me to conclude that there is no community of interest based on commuting patterns on I-270.

i) Contrary to Prof. Lichtman's doubts, objective demographic facts can be used to identify the plausible intentions of the Maryland legislature and its map-makers. When supplemented by the discovery record, my analysis can be used to form a conclusion regarding the intent of the Maryland legislature and its map-makers.

j) Prof. Lichtman mischaracterizes my analysis in this case and in *Fletcher v. Lamone*.

III. Prof. Lichtman Challenges None Of My Central Conclusions Or Supporting Data

6. In my Initial Report, I reached the following conclusions, which Prof. Lichtman does not dispute:

a) First, **the reconfiguration of CD6 cannot be explained by legitimate districting considerations, such as the preservation of existing communities of interest.** As shown in Table 3 (on page 67) of my Initial Report, the 2011 Congressional Plan dismembered most established communities of interest in CD6. In the prior version of CD6 (used for the 111th Congress), 4 of 35 (11%) communities of interest (also known as "Census Places") were split by the boundaries of the Sixth District. In the current version of CD6 (used for the 113th Congress), 13 of 22 (59%) of communities of interest were split by the

boundaries of the Sixth District. Prof. Lichtman does not challenge this demographic evidence.

- b) Second, **objective demographic evidence supports the conclusion that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans.** The General Assembly did so by interchanging approximately 375,000 residents (nearly half the original CD6 population). That excessive interchange of 375,000 residents was over 20 times greater than the mere 17,249 reduction of the district's residents necessary to reapportion the total population of CD6. Prof. Lichtman does not challenge this demographic evidence.
- c) It was readily possible to reapportion the total population of CD6 without splitting so many existing Census Places. The post-redistricting increase in non-intact Census Places (from 11% of all communities to 59%) strongly indicates that the Maryland General Assembly and its map-makers had motives other than rebalancing total population.
- d) One such plausible motive was to remove Republican registered voters and scatter them across other districts, so as to burden their representational rights. This motive has been confirmed by the testimony of high-level Maryland officials, including former Governor Martin O'Malley.

- e) Prof. Lichtman questions my inferring legislative intent from objective demographic evidence. My conclusion as originally stated, however, is not in dispute: Objective demographic evidence does support this plausible motive. The newly-configured CD6 did, in fact, result in a wholesale replacement of Republican registered voters with non-Republican ones. Prof. Lichtman does not challenge this objective demographic evidence, nor does he challenge the plausibility of that motive.
- f) Third, **my partisan gain and loss accounting reveals a telltale statistical footprint presenting unambiguous evidence of partisan intent as the predominant motivating factor for dismembering CD6.** The legitimate aims of equalizing the District's total resident population and respecting existing communities of interest insofar as possible were subordinated in favor of that single-minded partisan intent. Prof. Lichtman does not challenge these objective demographic truths, nor does he challenge my conclusion that this statistical footprint presents "unambiguous evidence."

IV. Prof. Lichtman Misunderstands The Point Of My Initial Report

7. Prof. Lichtman criticizes me for examining only CD6.¹ Evidently, Prof. Lichtman misunderstands the scope of my analysis and the questions that I was retained to answer.

¹ Lichtman Rep. at 3.

8. It is my understanding that the opinions and analysis in my Initial Report stem from the central issue in this case. That issue, I was told, derives from the “First Amendment retaliation” doctrine and the following questions: Did state officials act with specific intent to impose a burden on a group of citizens in response to those citizens’ engagement in activity protected by the First Amendment, and did they succeed in imposing such a burden?
9. I set out to analyze demographic questions related to this legal inquiry, not those questions that Prof. Lichtman faults me for ignoring. I did so by examining changes just to CD6, not the entire 2011 redistricting plan. The two questions I addressed are:
 - a) Can the new boundaries of CD6 be explained by legitimate districting considerations, in particular by the maintenance of existing communities of interest?
 - b) Does objective demographic evidence support the conclusion that the Maryland General Assembly intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated?
10. If respect for communities of interest was a prominent consideration in reapportioning the total population of CD6, the map drawers easily could have drawn a different district—one that closely resembled the district that existed between 2001 and 2011 and that respected its historical continuity.² Prof.

² For example, Frederick County was included (in its entirety) in the Sixth Congressional District continuously since 1872. However, the 2011 redistricting split Frederick County’s population

McDonald's Opening Expert Report, which confirms my conclusions, demonstrates this point. He presents an alternative, illustrative map confirming that the population of the Sixth District could be reapportioned, without ripple effects, while respecting existing communities of interest.³ Based on Prof. McDonald's analysis, and my own review of relevant demographic factors, I conclude that there was some other explanation for why CD6 was drawn as it was.

V. My Scientific Model Befits Drawing Conclusions From Quantitative Data

11. Prof. Lichtman characterizes my Initial Report as "result-driven," and, therefore, unscientific and unreliable.⁴ He is mistaken.

12. Prof. Lichtman is an historian, not a demographer. Our different disciplines dictate the use of different models and data. Prof. Lichtman reasons from a different scientific model befitted to historical accounts and anecdotal information, not hard demographic data. I rely upon quantitative demographic data and methods.⁵

roughly in half between the Sixth and Eights Congressional Districts. Likewise, while Carroll County had been included in the Sixth Congressional District continuously since 1966, the redistricting removed it from the Sixth District entirely and split its population between the Eighth and First Districts.

³ Opening Expert Report of Prof. Michael P. McDonald, PhD, dated April 7, 2017.

⁴ Lichtman Rep. at 11.

⁵ Prof. Lichtman criticizes me for "pursuing [a] historical inquiry." (Lichtman Rep. at 12). Again, Prof. Lichtman appears to misunderstands my Initial Report. I offered the factual bases for my opinions including the history of how Maryland's Congressional Map was drawn. These facts confirm the demographic analysis that

13. My professional field of applied demography encompasses a diverse set of endeavors that draw on demographers' specialized knowledge, technical skills, and extensive familiarity with relevant data sources.⁶ Data are at the heart of applied demography, which is why its practitioners devote considerable effort to understanding the limits imposed by the data they use. In my field, an established model for drawing conclusions from quantitative data poses a null hypothesis, denoted as H_0 , then subjects that null hypothesis to potential rejection by empirical data. That is how I have addressed the two questions above.

14. My first step was to identify available data for subjecting the null hypotheses to empirical test. I settled on the Census Bureau's measures of established geographic communities, detailed below.

A. Census Bureau Measures Define Established Communities Of Interest

15. In my Initial Report, I explained that "the most clearly recognized communities of interest center on the residents of established communities, such as incorporated cities and towns and Census Designated Places."⁷ I elaborated as follows:

I offer in my Initial Report. Determining whether the facts supported my analysis was not an error, it is sound science.

⁶ See Peter A. Morrison, "Continuity and Change Across the Population Sciences," access at: www.researchgate.net/publication/316999486_Continuity_and_Change_Across_the_Population_Sciences.

⁷ Initial Report, ¶ 138.

The US Census Bureau defines such established communities collectively as Census “Places,” recognizing that their residents share well-defined commonalities of interest tied to place. Census Designated Places (CDPs) have been recognized and identified in each decennial census since 1980 as the counterparts of incorporated cities, towns, and villages. CDPs are populated areas that generally include one officially designated but currently unincorporated small community, for which the CDP is named, plus surrounding inhabited countryside of varying dimensions and, occasionally, other, smaller unincorporated communities as well.⁸

16. Current Census Bureau criteria require that a CDP name “be one that is recognized and used in daily communication by the residents of the community” (not “a name developed solely for planning or other purposes”) and recommend that a CDP’s boundaries be mapped based on the geographic extent associated with inhabitants’ regular use of the named place.⁹

17. My next step was to formulate the null hypothesis to be challenged by the Census Place data: “The newly configured CD6 respects existing communities of interest.”

18. To test this null hypothesis, I compared the number and percentage of Census Places that were split before CD6 was drawn and after CD6 had been reapportioned. That comparison rejects H_0 decisively: Far more Census Places (or, communities of interest) were split following redistricting than beforehand. Specifically, 59% of the 22 Census Places within the 113th CD6 were split, whereas only 11% of the 35 Census Places within the 111th CD6 were split.

⁸ *Id.*

⁹ *Id.*; see also US Census Bureau, “Geographic Terms and Concepts – Place,” <https://goo.gl/T7aKiL> (last visited April 5, 2017).

Such an extreme difference leads to the conclusion that respect for communities of interest was disregarded.

B. Commuters Are Unrecognizable As A “Community Of Interest” In CD6

19. As I pointed out in my Initial Report, the State of Maryland’s justification for attaching portions of Montgomery County to CD6 was to respect an *existing* purported “community of interest.”¹⁰ Citing testimony from certain GRAC Hearings and a portion of Senate President Miller’s deposition, Prof. Lichtman claims that commuting patterns on I-270 between Montgomery County and Frederick County justified the new boundaries of CD6.¹¹ Prof. Lichtman misconstrues this testimony. In fact, demographic data shows that commuter flows cannot justify the new boundaries of CD6.

20. To be clear, I do not deny that I-270 is used by some commuters to travel from Frederick County to Montgomery County or the District of Columbia. That is not the question. The question is whether this flow of commuters, and any other relevant factors, justify creating a new community of interest that encompasses Western Maryland and portions of Montgomery County, including Census Places such as Gaithersburg, Germantown, Potomac, Aspen Hill, and Derwood. Plaintiffs argue that this DC-bound commuter population is a vital “community of interest,” which justified adding a portion of Montgomery County to CD6 and

¹⁰ Initial Rep. at ¶¶ 136-139.

¹¹ Lichtman Rep. at 15-23.

retaining only a portion of Frederick County in the newly-drawn CD6. This is not the case. As I point out in my Initial Report:

This “community of interest” justification fades in the face of US Census Bureau data on journey to work (see Table 2). Only 21.3% of workers living in Montgomery County commute to a job in DC; most commute to jobs located *within* Montgomery County (59.4%) or in neighboring Frederick, Howard, Anne Arundel, or Prince George’s Counties. Among workers in Frederick County, a miniscule 3.4% commute to a job in DC; and in Washington County, just 1.1% do so.¹²

21. Even were one to regard workers across a region who commute to jobs within that region as a weak “community of interest,” that community cannot justify splitting the majority of established Census Places within CD6. As I note in my Initial Report:

The data in Table 3 discredit any suggestion that a purported shared interest among a small fraction of resident commuters could justify splitting the majority of established Census Places within the 113th CD6. Even granting the existence of that purported shared interest, its significance pales relative to the collective shared interests of the 13 established Census Places whose boundaries ended up being split in the 113th CD6.¹³

22. ***Senate President Miller’s Testimony.*** Prof. Lichtman’s reliance on Senate President Miller’s testimony is misplaced for several reasons:

- a) Although Senate President Miller justified the new boundaries of CD6 based on commuting patterns on I-270, Senate President Miller testified that he did not review any data concerning commuting

¹² Initial Rep. ¶ 137.

¹³ *Id.* at ¶ 144.

patterns on I-270 before voting on the Congressional map.¹⁴ Nor did Senate President Miller recall asking to see such data or reviewing it.¹⁵ Other witnesses, such as Governor's Redistricting Advisory Committee chair, Jeanne Hitchcock, did not recall seeing any data regarding commuting patterns on I-270 during her time on the GRAC,¹⁶ or requesting such data.¹⁷ When asked "Did you at all consider when voting on the proposed congressional map commuting patterns on I-270?" Michael Busch, the Speaker of the Maryland House of Delegates and a member of the GRAC, testified, "No. It never – never crossed my mind."¹⁸ Speaker Busch went on to testify that he never asked for data concerning commuting patterns on I-270 and that he did not recall anyone else asking for such data.¹⁹ In fact, although the GRAC was provided with several hundred pages of Census data and briefing materials,²⁰ these materials contained no information regarding the

¹⁴ Miller Dep. at 20:2-8.

¹⁵ *Id.* at 20:16-22:1, 44:17-45:11.

¹⁶ Hitchcock Dep. at 60:1-62:3.

¹⁷ *Id.* at 171:2-15.

¹⁸ Busch Dep. at 100:12-16.

¹⁹ *Id.* at 100:17-101:5.

²⁰ *See* Hitchcock Dep. Ex. 104.

purported “I-270 Corridor,”²¹ and Ms. Hitchcock did not request any separate briefing materials regarding the I-270 corridor.²²

b) Importantly, Senate President Miller’s testimony gets that very process of redistricting backwards. Redistricting is supposed to maintain and respect existing communities of interest, not manufacture new communities of interest. Senate President Miller did not testify that the GRAC and General Assembly were respecting *existing* communities of interest. Instead, he testified that the legislature and its map-makers created a *new* community of interest by including southern Frederick County and portions of Montgomery County in the same congressional district.²³ Creating a purported new “community of interest” is wholly different than respecting one that actually exists, based on hard demographic data. Senate President Miller’s “community of interest” envisions district lines drawn so as to

²¹ Hitchcock Dep. at 169:11-19.

²² *Id.* at 169:20-170:1.

²³ *See* Miller Dep. at 143:19-144:29 (“Q: Could the 6th Congressional District have been drawn in such a way as to keep Frederick County intact? A: Not if you keep the Potomac River Corridor or the 270 Corridor. Q: So it's your testimony that you can't keep Frederick County intact if you want to keep the I-270 Corridor or the Potomac River Corridor intact as well? A: And also enjoy the benefits of economic development from Montgomery County. Q: When you say enjoy the benefits of economic development from Montgomery County – A: Right. Q: -- how does this map spur economic development? A: Well, it creates a community of interest from the poor areas with those that -- developing areas with those areas that are developed, and it creates very -- for example, these areas are very challenged economically. Q: So you're referring to Garrett, Allegany and Washington? A: Yes.”).

connect economically disadvantaged communities in one section of Maryland with prosperous urban communities in another section. Such district lines delineate no existing “community of interest.” Rather, they artificially join residents with distinctly different interests, who reside in established communities of interest (specific established Census Places) in one or another section of the state.

23. ***GRAC Hearing Testimony.*** Prof. Lichtman’s reliance on select portions of the oral testimony offered before the GRAC is also misplaced:

- a) Prof. Lichtman’s analysis assumes that the GRAC changed the borders of CD6 in response to comments received at certain public hearings. However, the chair of the GRAC, Ms. Hitchcock, did not recall relaying any of this feedback to anyone.²⁴
- b) Prof. Lichtman focuses on the oral testimony offered at GRAC Hearings, but he ignores written comments that the GRAC received that are contrary to his analysis. Such as:
 - “This ‘plan,’ especially the gerrymandering of the sixth congressional district[,] is as subtle as being stuck in the face by a baseball bat.”²⁵
 - “To lump in a portion of Montgomery county with the remainder of the proposed 6th is ludicrous. They have a completely different set of problems just because of their population density. The rural counties of Carroll, Frederick, Washington and Allegheny have a completely different set of problems. . . . We need somebody who knows the people who live in rural areas and

²⁴ Hitchcock Dep. at 171:22-173:10.

²⁵ MCM002437.

their needs, hunting, limited government overreach, farming, etc.”²⁶

- “It would appear that you are adding just enough Montgomery County to negate the Republican voice of the western counties. The areas are as different as the people and no one person can effective[e]ly represent both of those areas in my opi[ni]on[.]”²⁷
- “This plan is just an attempt to eliminate the conservative voters from really having any say in Western Md. politics. There is no[] inherent connection with Montgomery County and Frederick County just because of I270. The people of Frederick County will not stand for this attempt to reduce our influence on how we as voters feel. Please don’t [vote] for this new district map.”²⁸

VI. Ample Testimony Corroborates My Demographic Conclusions

24. Prof. Lichtman criticizes me for using demographic data and methods to reach conclusions relevant to the intent of the Maryland General Assembly and its map-makers.²⁹ This criticism misses the mark. I am not an expert on intent, as Prof. Lichtman, supposes me to be. Instead, I opine on demographic facts and observe that those facts are consistent with the deposition testimony and other evidence.

25. Prof. Lichtman states, “No evidence, whether demographic or otherwise, simply leaps out and speaks for itself. Evidence must be culled, selected, and interpreted, especially as it relates to a complex causal question such as the

²⁶ MCM002240.

²⁷ MCM002240.

²⁸ MCM002527.

²⁹ Lichtman Rep. at 3, 12.

intent of a legislative body.”³⁰ Prof. Lichtman is correct—demographic evidence does not, and cannot, speak for itself. Instead, my analysis corroborates the testimony of key observers. I have joined my assembled empirical demographic facts with numerous specific statements by individuals concerning the intent of the legislature and its map-makers. Those facts are consistent with the demographic data documented in my report. These numerous specific statements, further corroborate my conclusions.

26. **Deposition of Governor Martin O’Malley**

a) Pages 25-27:

Q. Right, but in your capacity as governor of the state, you made a decision that what you'd like to see is the Sixth District converted from a majority of Republican voters to a majority of Democratic voters; is that a fair statement?

A. Well, I think it's fair to say that, as we did the redistricting, that we knew it would impact the Sixth, and our hope was -- my intention was -- that it would impact it in -- all things being equal -- in a more positive way for our nominee, whoever that might be. . . . Was a decision made? I suppose in the sense that we decided not to try to cross the Chesapeake Bay, that **a decision was made to go for the Sixth.** . . . [S]o, yes, we -- **everybody pretty much knew that, as we redrew the lines, it would put more Democrats and Independents into the Sixth District.** And, hopefully, in the course of the campaign, I hoped, as a Democrat, that that would mean the election of another Democrat.

b) Page 28:

Q. [W]hat specific goals were advanced by moving 350,000 Montgomery County residents into the Sixth District?

³⁰ Lichtman Rep. at 12.

- A. The Congressional representation of Montgomery County improved, the number of Democrats and Independents living in -- and progressive-minded people living in the Sixth Congressional District probably increased, and, as I said before, a couple of times, and as I, you know, it was also my hope that we would -- that the people would elect a Democratic Congressperson rather than a Republican at the end of this process.
- c) Page 43:
- A. [After meeting the statutory deadline and complying with one-person-one-vote], then a third factor was, when we redrew this, **yes, we wanted to do it in a way . . . that will make it more likely rather than less likely that a Democrat . . . is able to prevail in the general election.**
- d) Page 47:
- A. And as I've said many, many times here before, **part of my intent was to create a map that, all things being legal and equal, would, nonetheless, be more likely to elect more Democrats rather than less.**
- e) Page 63:
- A. . . . [O]ne of the considerations I had was to create a district that was more favorable rather than less favorable to Democratic nominees.
- f) Page 81:
- A. . . . [S]o, yes, **we all -- those of us in leadership positions in our party, the Speaker, the Senate President, the Democratic Dean of the Delegation, myself, Lieutenant Governor, we all understood that,** while our -- while we must fulfill our responsibility on redistricting, must be mindful of constitutional guidelines, restrictions, case law, statutes, **it was also -- part of our intent was to create a map that was more favorable for Democrats over the next ten**

years and not less favorable to them. Yes, that was clearly one of our many modus.

g) Page 82:

A. . . . [I]t was also my intent to create a map that would be more likely to elect or create -- create a district where the people would be more likely to elect a Democrat than a Republican, yes, this was clearly my intent.

27. October 3, 2011, Democratic Caucus Talking Points: The draft

Congressional map “gives Democrats a real opportunity to pick up a seventh seat in the delegation by targeting Roscoe Bartlett.”³¹

28. Deposition of Maryland Delegate Curtis Anderson:

Q. But you understood that the map would move Maryland from six Democrats and two Republicans to seven Democrats and one Republican?

A. Yes.³²

29. Deposition of Eric Hawkins (NCEC Services):

Q. When you redrew the boundaries of Maryland’s congressional districts, did you intend to make the 6th Congressional District more Democratic?

A. The intent was to see if there was a way to get another Democratic district in the state. . . .³³

30. Speech Delivered by Attorney General Douglas Gansler:

The third issue is redistricting. And the redistricting is interesting because I actually have to defend the legislature in its drawings of the map. . . . So many people have a problem with the way in which the state was gerrymandered this last time. For example, in the Sixth

³¹ Miller Dep. Ex. 139 at 2.

³² Anderson Dep. at 212:6-9.

³³ Hawkins Dep. at 230:15-231:1.

District . . . Garrett County, Maryland, a very rural, agrarian part of the state is coupled with Potomac, Maryland in Montgomery County, which is perhaps the most wealthy and least agrarian part of the state. And, yet, they are voting for the same representative in the election between Roscoe Bartlett, a long-time Congressman, and John Delaney, sort of a new-comer on the political scene. . . . So, what happened, we have eight congressional districts, . . . the Democrats had the ability . . . to look at the state gerrymandered in such a way to make it 7 [Democratic representatives] to 1 [Republican representative]. . . . They were looking do they want to make the Eastern Shore, try that again, to make it even more Democratic and make that the seventh Democratic district, or Western Maryland. They chose Western Maryland, and it's actually a 53% Democratic District.³⁴

31. October 20, 2011 Letter From Attorney General:

As indicted by those who participated in developing and adopting the redistricting plan, including the [GRAC], the Governor, and the General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including . . . partisan consideration.³⁵

32. I also cite several additional statements made by the legislators who considered and voted on the 2011 Congressional map at pages 50-57 of my Initial Report. Prof. Lichtman does not contradict these statements in anyway. Rather, he takes issue with me for including them in my Initial Report. But Prof. Lichtman never explains why it is wrong for a scientist to determine whether the evidence supports his or her key conclusions. This is a necessary and important part of any rigorous scientific inquiry, and exactly why I lay out these facts in my Initial Report and this report.³⁶

³⁴ Initial Rep. at ¶ 111.

³⁵ *Id.* at ¶ 120.

³⁶ Prof. Lichtman also misses the point when he criticizes the facts that I offer concerning cultural and media sources in Western Maryland. The point of my Initial

VII. Prof. Lichtman Misunderstands My Statements In *Fletcher v. Lamone*

33. Prof. Lichtman misunderstood the analysis that I offered in *Fletcher v. Lamone*.

My point in *Fletcher* was that there was a corridor between Baltimore and Washington, D.C. that “has grown in population and integration in the last three decades.”³⁷ As I noted in my *Fletcher* declaration, there are significant links between Baltimore and Washington, D.C. beyond commuting patterns. In particular, the African-American and Hispanic share of registered voters in this area had increased significantly between 2000 and 2010.³⁸ This migratory influx of African-Americans and Hispanics to the suburbs between Washington, D.C. and Baltimore was part of a national demographic trend toward more racially diverse suburbs, fueled by minority suburbanization.³⁹ These minority populations were younger and replacing older Caucasian voters in these

Report was that Western Maryland has its own educational and cultural institutions, newspapers, and television stations located in Western Maryland. *See* Initial Rep. at ¶ 23. Prof. Lichtman does not challenge this fact. Instead, he claims that it should be disregarded because some students at these educational institutions and attendees at cultural events may not come from Western Maryland. Lichtman Rep. at 23. Nor does Prof. Lichtman deny that communities in Western Maryland have their own newspapers, or that some individuals in Western Maryland have advocated that Western Maryland should secede from the remainder of the state. *Id.* at 25.

³⁷ Morrison Aff. at ¶ 3, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 16, 2011) (ECF No. 48-3).

³⁸ Morrison Decl. at ¶¶ 6-14, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

³⁹ Morrison Decl. at ¶¶ 18-22, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

suburban communities.⁴⁰ My analysis showed that the minority communities in this “Maryland corridor” had “common needs” and “share concerns,” making them a natural community of shared interest.⁴¹ Therefore, I concluded that a new Congressional District, proposed CD5, could be drawn connecting communities between Washington, D.C. and Baltimore.⁴²

34. Prof. Lichtman ignores most of my analysis and opinions in *Fletcher*, and claims that I concluded that a new Congressional district could be drawn based on transportation linkages alone.⁴³ That is incorrect. As I noted above, by the scientific standards in my field, an established community of interest does not exist in an area simply because a highway runs through that area.

35. In this case, my analysis and conclusions are distinct from those offered in *Fletcher*. In *Fletcher*, I called attention to demographic trends in minority populations in suburban communities between Baltimore and Washington, D.C.⁴⁴ In this case, I call attention to the massive interchange of territory and splitting of Census Places in the post-2010 reconfiguration of CD 6 and considered

⁴⁰ *Id.* at ¶¶ 23-29.

⁴¹ Morrison Aff. at ¶ 1, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 16, 2011) (ECF No. 48-3).

⁴² *Id.* at ¶ 9.

⁴³ Lichtman Rep. at 12-15.

⁴⁴ Morrison Decl. at ¶¶ 6-29, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

whether it can possibly be justified by demographic data and consistent with traditional redistricting principles.⁴⁵

36. Prof. Lichtman also appears to misunderstand the scope of my Initial Report. Prof. Lichtman argues that I “acknowledge[d] that the proper inquiry is statewide.”⁴⁶ This is not the case. In my Initial Report, I stated clearly that I was retained to examine “whether the boundaries of the Sixth Congressional District that were adopted by the Maryland General Assembly in 2011 . . . can be explained by legitimate districting considerations,” such as “maintenance of communities of interest.”⁴⁷ Therefore, contrary to Prof. Lichtman’s claim, I do not state or otherwise acknowledge that the proper inquiry in this case is statewide.

VIII. Conclusion

37. Prof. Lichtman, Secretary Willis, and Mr. Cooper do not criticize the demographic methodology, analysis, or conclusions expressed in my Initial Report. Secretary Willis and Mr. Cooper do not offer any criticism of my Initial Report in their submissions. Prof. Lichtman offers no criticism of the key conclusions expressed in my Initial Report. Instead, Prof. Lichtman makes the unfounded claim that my demographic model is unscientific and biased, and he mischaracterizes the conclusions that I reached in this case and in *Fletcher*.

38. None of Prof. Lichtman’s arguments are sufficient to show that there was a legitimate demographic justification, based in traditional redistricting principles,

⁴⁵ Initial Rep. at ¶ 140.

⁴⁶ Lichtman Rep. at 3.

⁴⁷ Initial Rep. at ¶ 11.

for the massive interchange of territory and voters that created the new Sixth Congressional District in 2011.

Date: May 22, 2017

A handwritten signature in black ink, appearing to read "Peter A. Morrison". The signature is written in a cursive style with a large initial "P" and "M".

Dr. Peter A. Morrison