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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SHANNON PEREZ, ET AL,                    )  
    Plaintiffs,                            )  
  ) No. SA:11-CV-360  
    vs.                                    )  
  ) San Antonio, Texas  
RICK PERRY, ET AL,                    )  
    Defendants.                            ) September 8, 2011  
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VOLUME 3

TRANSCRIPT OF BENCH TRIAL

BEFORE THE HONORABLE ORLANDO L. GARCIA,  
          THE HONORABLE XAVIER RODRIGUEZ,  
          UNITED STATES DISTRICT JUDGES,  
AND THE HONORABLE JERRY E. SMITH,  
          UNITED STATES CIRCUIT JUDGE

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1 (September 8, 2011.)

2 JUDGE GARCIA: Okay. Good morning. Let's continue.

3 MR. HEBERT: Your Honor, I have one brief  
4 housekeeping matter, if I may. As you recall, Mr. Morris is a  
5 pro se plaintiff in the case, who is not an attorney. His  
6 claim was dismissed, a partisan gerrymandering claim. He  
7 would like to make an offer of proof. And what I suggested to  
8 him was he put it in the form of a sworn declaration that he  
9 can electronically file in the case. Is that acceptable?

10 JUDGE GARCIA: He is not in the case.

11 MR. HEBERT: Right. His claims have been dismissed.

12 JUDGE GARCIA: I understand that.

13 MR. HEBERT: For purposes of making his record for  
14 any possible appeal, he would want to make an offer of proof  
15 of what he would have said in the case.

16 JUDGE GARCIA: Fine. Tell him to file it.

17 MR. HEBERT: Okay. Thank you.

18 JUDGE GARCIA: Okay.

19 MR. MATTAX: A couple of housekeeping manners, Your  
20 Honor.

21 JUDGE GARCIA: Okay.

22 MR. MATTAX: I have been discussing with the  
23 plaintiffs some ways to try to streamline this matter, and one  
24 of the ways to do that is to rely on depositions that have  
25 been taken.

1           So, for example, even with some experts that may be  
2 presented, I may limit my cross-examination to very narrow  
3 things and introduce those depositions, and then should I find  
4 something that I think the Court should read, identify that  
5 later by page and line numbers, as opposed to taking time in a  
6 live presentation on cross.

7           So if that is acceptable to the Court, I think that  
8 is acceptable to the plaintiffs.

9           JUDGE GARCIA: That would be fine.

10          MR. MATTAX: The other matter is, you mentioned to  
11 have Mr. Downton here today. We have agreed with the  
12 plaintiffs that the best way to do that is to have him here at  
13 8:00 o'clock tomorrow morning.

14          JUDGE GARCIA: That would be fine.

15          MR. MATTAX: Mr. Downton will be here at 8:00  
16 o'clock in the morning. The third thing, he mentioned to me,  
17 Mr. Downton, that there are a couple of free interim maps that  
18 are not in the record that he thinks would be useful for the  
19 Court, so I will be supplementing. These are just maps. We  
20 will put that in the Judge's books too, so when he talks about  
21 this, the Court can follow along with the iterations of his  
22 maps as they were drawn.

23          JUDGE GARCIA: All right.

24          MR. GARZA: With regard to plaintiff MALC's experts,  
25 we have got a problem with using their depositions in any way

1 now. They had a full opportunity before any sort of agreement  
2 was even discussed to cross-examine them, and if they were  
3 testifying inconsistently with their depositions, it should  
4 have been raised during cross-examination, not at this point,  
5 with --

6 We don't have any objection as to the rest of the  
7 agreement with anybody else, but we are done with our live  
8 presentation. We presented all of our experts. They have  
9 been fully deposed. There was no agreement that they would  
10 limit their cross-examination based on this understanding.

11 MS. PERALES: Your Honor, I believe that the  
12 agreement with respect to using deposition excerpts as part of  
13 the cross for experts applies to here forward, and that the  
14 experts that have testified so far, their reliance will be on  
15 their testimony in court, so MALC and the Task Force  
16 plaintiffs.

17 JUDGE GARCIA: Okay. Thank you.

18 MS. PERALES: If there aren't any more  
19 housekeeping --

20 JUDGE GARCIA: Do we have any comments on the  
21 Saturday work session?

22 MR. GARZA: We have discussed this at some length  
23 last night, and we believe that a Saturday work session would  
24 be prudent.

25 JUDGE GARCIA: Okay.

1 MR. GARZA: In light of the witness load that we  
2 still have and in light of having one of the defendant's  
3 witnesses testify tomorrow morning, so that when we begin  
4 early next week, we will still be on that schedule, where  
5 plaintiffs close with enough time to allow the defendants to  
6 proceed with the rest of their case.

7 JUDGE GARCIA: Anything from the State on that?

8 MR. MATTAX: I think that with trying to take Mr.  
9 Downton tomorrow and, again, on a streamlined nature, so that  
10 depositions can be relied on for additional information from  
11 him, that if the plaintiffs were to be done by Tuesday, that  
12 should be sufficient time, so I don't know if you need  
13 Saturday, Monday and Tuesday or not.

14 MR. GARZA: As I understood the Court, the Saturday  
15 session would be like a half-day session.

16 JUDGE GARCIA: 8:30 to 1:30.

17 MR. GARZA: And I think it would be prudent to use  
18 that time rather than to get jammed up in the following week.  
19 I mean, I think that makes us --

20 JUDGE GARCIA: Okay. 8:30 to 1:30 Saturday.

21 MS. PERALES: I believe that concludes the  
22 housekeeping portion.

23 JUDGE GARCIA: Okay.

24 MS. PERALES: Latino Task Force plaintiffs call our  
25 final lay witness, Hidalgo County Judge Ramon Garcia.



1           COURTROOM DEPUTY:  Would you please raise your right  
2 hand.

3           (Oath administered to the witness.)

4           COURTROOM DEPUTY:  Have a seat.

5           MS. COUTO:  May it please the Court.  Good morning.  
6 My name is Rebecca Couto, and I am here on behalf of the  
7 Latino Task Force plaintiffs.

8   \*-\*-\*-\*-\*-\*-\*-\*

9   DIRECT EXAMINATION

10          BY MS. COUTO:

11          Q.  Good morning, Judge Garcia.

12          A.  Good morning.

13          Q.  Would you please state and spell your name for the record?

14          A.  Ramon Garcia, R-a-m-o-n G-a-r-c-i-a.

15                 JUDGE SMITH:  I think you will need to be a little  
16 bit louder, so you may need to lean closer to the mike.

17                 THE WITNESS:  Yes, sir.

18          BY MS. COUTO:

19          Q.  Please tell the Court where you live.

20          A.  I live in McAllen, Texas, in Hidalgo County.

21          Q.  And how long have you lived in Hidalgo County?

22          A.  I was born and raised there.  I have lived there all of my  
23 life, except for about two and a half years of law school in  
24 Houston.

25          Q.  What is the broader geographical area that Hidalgo County

1 is located in?

2 A. Our South Texas area, we refer to it as the Rio Grande  
3 Valley, and when we talk about the Valley, we talk about four  
4 counties. We talk about Cameron, Willacy, Starr and Hidalgo,  
5 Hidalgo being the largest of the four, the seventh largest in  
6 the state.

7 Q. About how many people live in Hidalgo County?

8 A. The census tells us there are 774,000 population. We  
9 disagree with them. We filed a lawsuit against them  
10 contending that they grossly undercounted us, and we believe,  
11 sincerely believe that we have got over a million population  
12 in Hidalgo County alone.

13 Q. About how many people live in the Valley?

14 A. I would say in that four-county area, there are at least a  
15 million and a half population.

16 Q. Is the Valley a wealthy area?

17 A. Well, we like it. We enjoy it. But as far as when you  
18 are looking at wealth in terms of money, I mean, we have the  
19 largest indigent population in the state of Texas living  
20 amongst us, which obviously requires a tremendous amount of  
21 need of resources, financial.

22 Q. Judge Garcia, what is your job?

23 A. What is my job?

24 Q. Yes.

25 A. County judges preside over county commissioners court,

1 which administrates county budgets and is responsible for the  
2 administration of -- well, our budget, dispensing dollars and  
3 making sure the money is there to provide all of these  
4 services that are mandated by the state and federal  
5 government.

6 Q. Do you do anything else, Judge Garcia?

7 A. I am a lawyer.

8 Q. What is your specialization?

9 A. General practice. We just litigate whatever we want to  
10 get involved in.

11 Q. Can you please tell me a little bit about your community  
12 involvement?

13 A. I have been -- well, I have been involved in -- I was a  
14 county chairman of the Democratic Party in our South Texas  
15 area for about five terms, and I have been a county judge  
16 elected one term and elected to a second term now, and I am in  
17 the first year of that second term.

18 I have been a member of the board of regents of  
19 Pan-American University, which is our local university,  
20 educational institution there in our South Texas area.

21 Q. Do you feel that you have a good sense of the needs of  
22 your community?

23 A. Well, we were involved in just about every aspect of it.  
24 County commissioners are really the -- while they may be the  
25 least understood form of government, it is the one that really

1 reaches the needs of the people more than any of the other  
2 public bodies.

3           You know, we are involved in -- that is kind of like  
4 a government of last resort. Indigents come to us to pay for  
5 their healthcare. We pay for all of these lawyers that are  
6 appointed by courts. Even the pauper's funerals are paid for  
7 by the county.

8           The county, our budget right now is about \$171  
9 million and we supervise the expenditure of about three to  
10 four hundred million, but the resources that we get are not  
11 enough to be able to really, truly serve the needs of our  
12 community.

13 Q. What are the needs of your community?

14 A. Well, if you look at -- it depends on the issue you want  
15 to talk about, but if we talk about healthcare, we have the  
16 largest indigent population. The State mandates that we  
17 provide eight percent of our budget for healthcare, to be paid  
18 by taxpayer expense.

19           We have -- one thing that needs to be realized is  
20 that what while we may have about a million and a half  
21 population on the north side of the Rio Grande, there are  
22 about two -- about two and a half to 3 million living just  
23 south of that river, and that river is really no boundary. It  
24 doesn't matter how many fences you put up or -- people are  
25 going to cross, and they keep on crossing.

1           And we are having to somehow, as a result of our  
2 present immigration laws, we are having to provide medical  
3 services many times to people from Mexico that are in need and  
4 somehow make their way into the U.S. for healthcare.

5           But let me -- well, we can talk about drainage,  
6 which in our part of the world is a big deal. We live in a  
7 valley. We have been very fortunate. We haven't had a really  
8 big hurricane since Beulah in 1967, but our luck may be  
9 running out.

10           We are hoping it doesn't, at least not until we  
11 build something, I mean, an adequate drainage system, which  
12 will cost somewhere, depending on what engineer, engineering  
13 group you are listening to, it could be anywhere from \$400 to  
14 \$700 million, which is a big item for taxpayers in our area.

15           The last time that the federal government went in to  
16 work on the levee system, which is a part of the IBWC, the  
17 International Boundary Water Commission, in other words, a  
18 federal project, we had to chip in about \$60 million, with the  
19 understanding that the government would in some way, somehow  
20 pay us back. And we have been trying to get that back,  
21 because that came out of a \$100 million bond issue that is to  
22 be funded by our local taxpayers.

23 Q. And what do you mean when you say "drainage"?

24 A. Well, when you get flooding, you need to move that water.  
25 When it hits our area, you need to move it into Laguna Madre,

1 to the bay. And drainage is coming up with a system that will  
2 take the water from where it falls in our South Texas county  
3 and make sure that it doesn't stay there and that it moves and  
4 protects our property, whatever our property values are in  
5 that four-county area.

6 Q. What have the taxpayers in the Rio Grande Valley done to  
7 improve the drainage there?

8 A. Well, they put in 60 million towards the federal  
9 obligation that we are hoping to collect back some day. But,  
10 you know, we are in the process right now, we have a committee  
11 going of our members of our community that -- to evaluate the  
12 needs and look again at the engineering consultants and their  
13 recommendations and try to figure out what the cost is and try  
14 to figure out how in the world we are going to pay it. We are  
15 hoping that we will be able to get our congressmen to help us  
16 petition our government to join in that help.

17 Q. Did the taxpayers get what they expected with the bond  
18 issue?

19 A. No. When we sold that bond issue, we told them that the  
20 money was to be used for drainage in what is called the Delta  
21 area part of the county. But then the need arose, you know,  
22 when we realized and we were advised that our levee system was  
23 in bad need of work to be done to them in order to be  
24 adequate.

25 We started visiting with the government, and they

1 came in and said, you know, we only have got X amount of  
2 dollars that we can provide for you, and that wasn't enough,  
3 so we had to chip in the other 60 million, which, for our  
4 area, that is a very substantial sum.

5 Q. Can you please describe the roads in Hidalgo County?

6 A. Our area is the only area in Texas, most of the country,  
7 that doesn't have an interstate system, and we are presently  
8 working on it piecemeal and trying to accomplish an interstate  
9 designation, but we are still not there.

10 We have been working on it for probably about 15  
11 years. We are working on trying to create a loop system and  
12 trying to improve our roads, but just somehow, we were always  
13 left out historically.

14 When the moneys were being divided up by TX-DOT,  
15 back up when all of -- back when the State had money, you  
16 know, we didn't get -- I don't believe, in my opinion, at  
17 least, and many others in our area, that we got our fair share  
18 based on need.

19 And now that we appear to be at least recognized as  
20 a gateway of this country from the south, and the tremendous  
21 partnership that we have with Mexico, we need to foster it,  
22 and the need for a good road system has now become more  
23 evident.

24 The State doesn't have the resources it used to  
25 have, so we need more help in trying to petition them to fight

1 over what they do have and go to the federal government and  
2 try to get some assistance from them.

3 Q. Besides from not having an interstate, what are the other  
4 issues regarding the roads and transportation in Hidalgo  
5 County?

6 A. Well, it is a -- you know, there is a tremendous amount of  
7 need. We are becoming an urban area, and our population is  
8 growing, and we are beginning to find out what these -- what  
9 the problems are that come with lack of good roads, and we are  
10 in the process of trying to see what we can do, but, you know,  
11 we need help.

12 Q. You mentioned that, I believe, that you went to  
13 Pan-American College. Where is that?

14 A. Yes. That is in Edinburg. It used -- when it began, it  
15 was Pan-American College, and then it became a four-year  
16 university in the fifties, and then it became affiliated with  
17 the UT System some time in either -- well, some time in the  
18 early nineties, I believe.

19 Q. Judge Garcia, where did you go to law school?

20 A. At the University of Houston in Houston.

21 Q. Is there a law school in Hidalgo County?

22 A. No. Again, that is one of those things that we have been  
23 fighting for, which is professional schools, medical schools,  
24 law schools. For an area our size and population that we --  
25 that is living there, we believe very strongly that we need to



1 have more educational opportunities for our community.

2 Q. With regard to K through 12 education, what are the needs  
3 of Hidalgo County in the Valley?

4 A. I'm sorry. With regard to what?

5 Q. Primary education.

6 A. Oh. Well, we have a lot of -- a poor school district.  
7 You know, you have got the classic fight of the rich districts  
8 versus the poor districts here in Texas, and the way that  
9 funding formula was put in place, we didn't get as much  
10 resources from the State as we felt we were entitled to.

11 We had to form a committee of school board members  
12 and superintendents from our South Texas area, along with  
13 members of the business community, and we came and petitioned  
14 our state government here in Austin near the time that they  
15 were in session and our governor's office to try to do  
16 something that will make it more equitable for our part of the  
17 state, as far as when they are dividing up the financial  
18 resources.

19 Q. What did you do?

20 A. Well, the result of not having accomplished what we  
21 wanted, what we did was we came up here, obviously, to lobby,  
22 to influence. We tried to get the support of our legislature  
23 and the governor, but the result of not being able to get what  
24 we needed, you know, there has been -- you know, class sizes  
25 have been increased, teachers have been let go. In fact, some

1 of these schools have been closed in some parts of the county.

2 Q. Does the Valley have other infrastructure needs that are  
3 not necessarily being met?

4 A. Well, we have the largest number of colonias. Colonias  
5 are subdivisions that are substandard and they are substandard  
6 because back years ago, governments allowed -- county  
7 governments allowed developers to locate and develop  
8 subdivisions in areas that were low-lying areas and that  
9 flooded, and people were allowed to build homes where there  
10 was no roads, no water, no sewer. And slowly, we have been  
11 trying to provide the resources that are needed to upgrade  
12 these colonias, but we have the largest number of colonias  
13 anywhere in the state.

14 Q. You had mentioned the health care needs. Can you please  
15 tell me a little bit more about the healthcare needs in  
16 Hidalgo County?

17 A. Well, as you probably have heard, Medicare, Medicaid is  
18 being looked at at the federal level. Most of our population  
19 receives their healthcare through, qualifying through  
20 Medicare, Medicaid, and the ones that don't then fall on the  
21 county, the ones that are indigent, and we have a very large  
22 indigent population.

23 But there is this mandate from the state government  
24 and the federal that requires us to provide healthcare to our  
25 indigent population, and we try to do the best we can, but

1 there is just so -- just a tremendous amount of need.

2 MS. COUTO: David, may I trouble you to pull up  
3 H-292. If you could focus more on the southern tip of Hidalgo  
4 County.

5 BY MS. COUTO:

6 Q. Judge Garcia, is this a map of Cameron and Hidalgo  
7 Counties?

8 A. Yes, it is.

9 Q. Would having additional representation in the Texas State  
10 House of Representatives help in this area?

11 A. Very much so. I mean, we have a representative form of  
12 government in this country, and the more representation that  
13 we have, the more our voices will be heard. And we believe  
14 that because of our growing population, that instead of four  
15 state reps, we can have five, and instead of three  
16 congressional seats, we can anchor four, which would provide  
17 us with what we believe would be a better form of  
18 representation.

19 Q. With regard to the map that is in front of you, you have  
20 five districts and one that is spilling over into Cameron  
21 County.

22 Having a district that spans Cameron and Hidalgo  
23 County, how would that affect the Valley?

24 A. I mean, we are one area. We are one community. We  
25 believe in regionalization. When we are talking about some of

1 these transportation issues, drainage issues, healthcare  
2 issues, I mean, we are talking about the South Texas area that  
3 needs the representation, not necessarily Hidalgo versus  
4 Cameron.

5 MS. COUTO: Can we please have C-190 in the same --  
6 a little further out, so we can see the districts in that  
7 area.

8 BY MS. COUTO:

9 Q. Judge Garcia, you mentioned anchoring two congressional  
10 districts in Hidalgo County?

11 A. Yes.

12 Q. Is this map C-190 a map that would help the people of  
13 Hidalgo County?

14 A. Very much so. If you just divided Hidalgo County, our  
15 population, well, I realize we have got to stick to the  
16 774,000 that the census counted, although we know there are  
17 more, but even with those numbers, you can anchor two  
18 congressional seats out of Hidalgo County, and you have got  
19 your Cameron and Webb County seats, which are -- which would  
20 give us our four South Texas congressmen.

21 Q. Would this help the people of the area?

22 A. Well, very much so. They would have, well, better and  
23 hopefully greater representation.

24 MS. COUTO: I pass the witness.

25 \*-\*-\*-\*-\*-\*-\*-\*

## CROSS EXAMINATION

1  
2 BY MR. MATTAX:

3 Q. Good morning, Judge Garcia.

4 A. Good morning, sir.

5 Q. My name is David Mattax, I am an attorney with the State  
6 of Texas. Let's go ahead and put the last map back up, which  
7 we were looking at, which I believe was C-190.

8 And you indicated that there are four seats anchored  
9 in South Texas?

10 A. There could be.

11 Q. Okay. And which ones were those? There is one in --

12 A. The one in Cameron. That one, presently, Mr. Farenthold  
13 is our congressman there, but the way the lines got drawn,  
14 there will be -- somebody else is going to have to come in.  
15 There is no incumbent.

16 Then 15, Congressman Hinojosa. And then 28 right  
17 now is being -- representing us there from that area is Henry  
18 Cuellar. He is from Webb County. Then we would have the  
19 ability to have another congressional seat, which you have got  
20 labeled there as 28.

21 Q. Okay. Thank you. Could we put up C-185, please. This is  
22 your understanding of the map that was passed by the  
23 legislature?

24 A. Yes. I believe it is.

25 Q. Okay. If I see this, I see 34, which is anchored in

1 Cameron. I see 15, which is anchored in Hidalgo. I see 28,  
2 which also has part of Hidalgo, and I see 23. This is also  
3 four districts in South Texas, is it not?

4 A. I know, but you are dividing our county and you are  
5 dividing it into three, as opposed to it being a solid two,  
6 where you know that after -- during an election, you are going  
7 to be able to elect someone -- or there would be someone from  
8 Hidalgo County who would have a greater opportunity to be  
9 elected to Congress.

10 Q. So it is not a question of just adding a new district. It  
11 is having a district anchored in Hidalgo you are concerned  
12 about?

13 A. Well, it is a matter of trying to get representation from  
14 our area, not from -- not someone from Nueces County. We need  
15 somebody from South Texas.

16 Q. And with the district anchored in Cameron County and  
17 Nueces County, would that be accomplished?

18 A. Well, yes. That is one of the things that we are hoping  
19 happens.

20 Q. You mentioned that you had some concerns about the census  
21 count and the failure of the census to count all of the  
22 residents in the South Texas area. And you also mentioned you  
23 filed a lawsuit against them?

24 A. That is correct.

25 Q. Who is "them"?

1 A. The U.S. -- I believe it is the Department of Commerce,  
2 the one that administers the Bureau of the Census.

3 Q. And could you please tell the Court what the status of  
4 that lawsuit is?

5 A. We are supposed to be getting together with  
6 representatives of the Department of Commerce and try to  
7 mediate it and try to work out, hopefully, a much more  
8 representative population count.

9 Q. And are you asking this Court to withhold judgment on any  
10 of the maps until that mediation is completed?

11 A. No. I mean, I know that -- I understand the system  
12 that -- well, no. I don't understand the system.

13 Q. But is your answer to my question, no, you are not asking  
14 this Court to delay the ruling until that mediation is  
15 complete?

16 A. I really don't know. I am just here to provide the  
17 information that I am aware of, but I am not sure what would  
18 be in our best interests yet.

19 MR. MATTAX: Thank you very much, Judge. No further  
20 questions.

21 JUDGE GARCIA: Anything further over here? Anything  
22 else?

23 MS. COUTO: Two more questions, Your Honor.

24 JUDGE GARCIA: Okay. Go ahead.

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## REDIRECT EXAMINATION

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BY MS. COUTO:

Q. Judge Garcia, in the map in front of you, in C-185, is District 28 based out of Webb County?

A. No.

Q. I'm sorry. 28?

A. I can't -- frankly, I can't see that far.

Q. The gray district to the left.

JUDGE GARCIA: It is. It is in Webb County, so --

THE WITNESS: Okay.

BY MS. COUTO:

Q. Is Webb County one of the four counties in the Rio Grande Valley that you described earlier?

A. No. It is not one of those four. They are not part of the -- Rio Grande Valley of South Texas, which is our little, smaller part of the world, but certainly, we have a lot of common interests. We have a lot of similar border issues, and -- well, you know, talking about South Texas, you can talk about Laredo and McAllen in the same breath.

MS. COUTO: No further questions.

JUDGE GARCIA: Anything over here?

MR. MATTAX: No.

JUDGE GARCIA: Judge, maybe you can inform the Court, where is this pending lawsuit on the undercount pending?



1 THE WITNESS: I could ask our lawyer. He is here.

2 JUDGE GARCIA: Okay. And that would be Mr. Garza?  
3 Is that a case down in McAllen?

4 MR. GARZA: Your Honor, I don't want to testify.

5 JUDGE GARCIA: No. I am just asking a question.

6 MR. GARZA: Yes. I have advised Hidalgo County on  
7 the potential for a lawsuit against the Commerce Department.  
8 The lawsuit has not been filed.

9 JUDGE GARCIA: Okay.

10 MR. GARZA: We are going to prelitigation mediation.

11 JUDGE GARCIA: I see. Okay. I just wanted that  
12 clarified.

13 Thank you, Judge. You are excused. Have a good day  
14 and a good trip back to the Valley.

15 JUDGE RODRIGUEZ: While we are on this topic,  
16 Mr. Garza --

17 MR. GARZA: Yes, Your Honor.

18 JUDGE RODRIGUEZ: -- let's assume, hypothetically,  
19 the numbers change after this mediation.

20 MR. GARZA: Right.

21 JUDGE RODRIGUEZ: Then what happens?

22 MR. GARZA: The numbers wouldn't change for  
23 redistricting purposes, so the only way that we could receive  
24 any sort of remedy in this court for any evidence that we have  
25 been able to prove of the undercount is to use the ten-percent

1 variance under the one-person, one-vote to accommodate for the  
2 undercount; that is -- and it has happened in prior  
3 redistrictings in 1990 and in 2000, minority districts along  
4 the border are underpopulated, with the State recognizing that  
5 there are people that weren't counted in that, but only to the  
6 ranges allowed by the one-person, one-vote.

7 So that -- but, I mean, that hasn't been a major  
8 focus of our cases, as the Court has obviously seen. We have  
9 not tried to put any demographic or statistical evidence on  
10 the record regarding that portion of the claim, and it is only  
11 part and parcel of a Section 2 claim, not a stand-alone claim  
12 alleging a violation of the Constitution or Section 2 as a  
13 result of the undercount.

14 JUDGE RODRIGUEZ: Thank you.

15 JUDGE GARCIA: But any remedy you get in that  
16 lawsuit --

17 MR. GARZA: Right.

18 JUDGE GARCIA: -- is going to impact what we do in  
19 this lawsuit?

20 MR. GARZA: No.

21 JUDGE GARCIA: Of course, this lawsuit would be  
22 over.

23 MR. GARZA: Right.

24 JUDGE GARCIA: Okay.

25 MR. GARZA: Traditionally, what has happened is when

1 the census numbers are adjusted vis-a-vis the kinds of  
2 challenge that Judge Garcia was talking about, they impact  
3 federal formulas and state formulas on allocation of  
4 resources. They do not affect redistricting numbers.

5 JUDGE GARCIA: Oh. Okay. All right. Good enough.  
6 Thank you. That clarifies it.

7 Okay. Mr. Vera.

8 MR. VERA: Yes, Your Honor. Good morning, Your  
9 Honor. Luis Vera for the LULAC plaintiffs.

10 A quick stipulation we have, Judge, we have a  
11 stipulation with the State with regards to the LULAC  
12 plaintiffs. Instead of bringing them all forward, we have  
13 agreed to offer a sworn proffer on behalf, and that if the  
14 LULAC plaintiffs were to testify, they would substantially  
15 testify as to their pleadings, and I believe we have that  
16 agreement to proffer.

17 MR. MATTAX: Just the one proffer, Your Honor,  
18 agreed.

19 JUDGE GARCIA: Okay. Great.

20 MR. VERA: We also agreed, I know there was some  
21 discussion a while ago about the deposition. We have agreed  
22 that we will put in the deposition of George Korbel, who was  
23 deposed, in total, and will testify live.

24 JUDGE GARCIA: Okay.

25 MR. VERA: And we have also agreed to put, in total,

1 the deposition of Baldemar Garza, who was one of the LULAC  
2 representatives who was deposed, and we will put that in  
3 total; is that correct?

4 MR. MATTAX: Agreed. And then should some of the  
5 sworn statements require some deposition be taken after trial,  
6 my assumption is they probably won't, and then to the extent  
7 there is anything in those depositions that we think the Court  
8 should be alerted to, we will provide page and line numbers  
9 and explanations to the Court as to what should be looked at.

10 JUDGE GARCIA: All right. Thank you, gentlemen.  
11 Anything else? Do you have a witness?

12 MR. VERA: Thank you, Judge. Our first witness will  
13 be George, middle initial J., last name Korbel, or Korbel.

14 And for the Judge's reference, Mr. Korbel -- I'm  
15 sorry. LULAC exhibits are marked in white number 9. They are  
16 marked on the side and on the front, number 9.

17 COURTROOM DEPUTY: Please raise your right hand.

18 (Oath administered to the witness.)

19 MR. VERA: And, Your Honors, you were also given  
20 this morning, I believe, a short clip. This is a summary of  
21 his testimony on the districts, and we planned on not  
22 repeating a lot of the information you heard there from the  
23 other experts. We hope to offer you information that you have  
24 not heard --

25 JUDGE GARCIA: Fine.

1 MR. VERA: -- from other experts.

2 JUDGE GARCIA: Thank you.

3 MR. VERA: And also, George Korbels expert report  
4 is located in joint binder of the experts number 2, and it is  
5 Exhibit No. 11. Joint binder number 2 of expert reports, and  
6 that would be Exhibit 11. It would be a black binder. It  
7 says joint binder.

8 JUDGE GARCIA: All right. Go ahead. Go ahead.

9 JUDGE SMITH: But that is not the big number that we  
10 are using, number 2. What is the big master number of the  
11 binder?

12 JUDGE GARCIA: On the joint report, right?

13 MR. VERA: I'm sorry, Your Honor. Joint binder 2 --

14 JUDGE RODRIGUEZ: It is binder 3, gentlemen.

15 MR. VERA: I apologize, Your Honor.

16 JUDGE GARCIA: Okay. Go ahead. It is right here.

17 MR. VERA: May I begin, Your Honor? Thank you,  
18 Judge.

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20 DIRECT EXAMINATION

21 BY MR. VERA:

22 Q. Would you give your full name for the record, please?

23 A. George Korbels, K-o-r-b-e-l.

24 Q. And, Mr. Korbels, would you give the Court your educational  
25 background?

1 A. I graduated from college in Minnesota from a school called  
2 St. John's University. I attended the University of Minnesota  
3 Law School, graduated from the University of Minnesota Law  
4 School.

5 Q. What year did you graduate?

6 A. I graduated in 1968.

7 Q. You have been a lawyer ever since?

8 A. I have been a lawyer ever since.

9 Q. Would you give the Court some of your areas of legal  
10 expertise? What have you been involved with?

11 A. When I first came to Texas in 1968 -- or 1971, I should  
12 say. When I first came to Texas in 1971, I practiced three  
13 years, and I was in private practice with my father in  
14 Minnesota.

15 I came down here and went to work for the  
16 Mexican-American Legal Defense Fund. I later became the Texas  
17 director of the Mexican-American Legal Defense Fund. The  
18 first case that was going on when I got down here in November  
19 was White vs. Regester, or Graves vs. Barnes, I guess was the  
20 title of it, and I got assigned that case.

21 And so it is one of those things where you get  
22 involved in a piece of litigation that you have never been  
23 involved in, and then everybody thinks you know what you are  
24 doing, and so I have been involved in that sort of litigation,  
25 voting litigation and that sort of litigation ever since.

1 Q. And White vs. Regester, of course, as the Court knows,  
2 went all the way to the United States Supreme Court?

3 A. White vs. Regester was the first case in which the Supreme  
4 Court affirmed a finding that at-large elections violated the,  
5 at that time, 1983, because the Voting Rights Act had not been  
6 extended to Texas. But that was the first time the Supreme  
7 Court did that, and they created the proof pattern that we  
8 then actually still use today, same proof pattern.

9 Q. Will you tell the Court a little bit about some of the  
10 other significant cases that you have been involved with  
11 involving the Voting Rights Act?

12 A. Well, we were involved in White vs. Regester, which I  
13 think has -- I think has twelve citations, and three  
14 iterations where it was tried and retried, and we dealt with  
15 Bexar County and Dallas County, initially, and then we dealt  
16 with Nueces County and Galveston and Lubbock and Jefferson and  
17 El Paso and Hidalgo and all of the other counties in the state  
18 that had at-large elections.

19 And that went up to the Supreme Court. We tried  
20 that in -- we tried the first case in White vs. Regester in  
21 '71. It was filed in -- it was filed at Thanksgiving and we  
22 tried it in December, so it was on even a faster track than  
23 this case was, but the evidence was simpler.

24 That case went up to the Supreme Court. It was  
25 affirmed by the Supreme Court, remanded, and then we tried all

1 of the rest of the cases. And that was in '74 when we tried  
2 the rest of the cases.

3 And while the -- we won all of the rest of the  
4 cases. The State had a direct appeal, of course, from the  
5 three-judge court to the Supreme Court. And while the Supreme  
6 Court was -- the Supreme Court granted and heard the case, we  
7 argued the case with all of the other jurisdictions.

8 And before the Supreme Court decided, issued the  
9 decision, the Voting Rights Act was extended to cover Texas,  
10 and the Justice Department came in and objected to all of the  
11 plans.

12 And so as a result of that, the Supreme Court never  
13 issued its opinion in the second White vs. Regester, but we  
14 got our remedy through the Voting Rights Act, and the Court  
15 created the plans for all of those jurisdictions.

16 Q. Now, did you take part in the extension of the Voting  
17 Rights Act of Texas in 1975?

18 A. Yes. I had come to Texas and spent three years here and  
19 decided it was time to go back to the place where the seasons  
20 change, and so I took a job with the Equal Employment  
21 Opportunity Commission, heading a project that they had with  
22 commissioner charges.

23 In other words, rather than an individual making a  
24 charge, the commissioners would decide we are going to sue  
25 Goodyear Tire & Rubber, for example, and no charge, but the



1 commissioner would proceed in its own name.

2 And while I was up there, the commissioners got into  
3 an argument and stopped meeting, and so we couldn't get them  
4 to approve a charge, and I was -- they told me, if I wanted  
5 to, I could work on the extension and the expansion of the  
6 Voting Rights Act of Texas.

7 And so I took essentially a year while I was working  
8 for the EEOC, with their permission, to work on the extension  
9 of the Voting Rights Act of Texas. I wrote a -- I was asked  
10 to write a document called "The case for the extension of the  
11 Voting Rights Act to Texas."

12 Dr. Bernal, who testified earlier, used to use that  
13 in his classes as a textbook, and it formed the basis of our  
14 argument. It formed the basis of my testimony, and I think  
15 that it was helpful to the House and the Senate committees in  
16 the passage of the Act.

17 The Act was passed, extended to Texas in 1975. It  
18 started in -- it was effective in '76. I think actually  
19 signed the bill in 1976. And the bill had a reversion clause,  
20 so that even though it was signed in '76, it covered all  
21 political changes between November of 1972 and 1976.

22 So that is the reason that it pulled the original  
23 redistricting, the 1971 redistricting into the coverage, and  
24 those were some of the first objections that we have gotten.

25 Q. And that monograph has actually been cited by the U.S.

1 Supreme Court on a number of occasions; has it not?

2 A. Yes. I have been cited by United States Supreme Court  
3 several times, two times shortly after the passage of the Act  
4 and the interpretation of the Act, my interpretation of the  
5 Act.

6 Q. Okay. And since 1975, Mr. Korbelt, of course, the Act has  
7 been extended at least twice, I believe, like three times?

8 A. Three times.

9 Q. Did you take part in that, and how?

10 A. Yes, I did. In 1980, the Act was extended again, passed  
11 first in '75, or extended to Texas in '75, then extended in  
12 1980 again, because it was running out. I testified in that.  
13 And then in 19 -- I think 1985, if I am not mistaken, I  
14 filed -- I filed some briefs in that. I didn't go over to  
15 Washington to testify on that one. And then the most recent  
16 one, I was involved in the preparation of the arguments that  
17 several witnesses used.

18 Q. And I believe you also testified before a Senate panel,  
19 did you not, during this last redistricting on behalf of  
20 LULAC?

21 A. I appeared several times in the redistricting process.  
22 While the hearings were being held, some of them around the  
23 state, and I was asked to appear on behalf of LULAC and on  
24 behalf of several senators.

25 And the argument or the -- what we were showing,

1 because the data had not been released yet, they held the  
2 hearings around the state before the data was released, was  
3 showing the growth patterns and showing that we were expecting  
4 that Hispanics or the minorities would make up 90 percent of  
5 the growth in Texas, that Anglos would only contribute  
6 ten percent of the growth, that we were going to -- Texas was  
7 going to receive four congressmen as a result of the growth,  
8 and that without the growth, Texas would probably have lost a  
9 congressman.

10 So the argument was that it was only logical and  
11 moral that if we were going to get four congressmen that the  
12 minority population ought to get the lion's share of them.

13 Q. Now, Mr. Korbel, tell the Court, other than the monogram  
14 you wrote on the Voting Rights Act, what other literature have  
15 you taken part in that you have written and has been  
16 published?

17 A. One of the first arguments I had at the Fifth Circuit  
18 involved Charles Alan Wright. And the lawyer on the other  
19 side, David Richards, was citing Charles Alan Wright against  
20 him, against the position that Charles Alan Wright was taking,  
21 and so I decided I wouldn't write any law review articles,  
22 putting in my opinions as to what the law was.

23 But I have published in academic journals. The most  
24 notable one is in the Journal of Politics, and that was cited  
25 in Thornburg versus Gingles. And the Journal of Politics was

1 a study as to what the results were of the creation of single-  
2 member districts, going from at-large elections to single-  
3 member districts.

4 There was a series of cases that I was a part of and  
5 Mr. Garcia was a part of -- Garza I should say, was a part of,  
6 and Mr. Rios was also in this case, who was a part of, in  
7 which we filed initially 100 cases on behalf of LULAC against  
8 various jurisdictions in Texas, and I think it ended up with  
9 like 130 pieces of litigation.

10 And so what we did is we took all of those lawsuits,  
11 and together with all of the adopted plans that the  
12 legislature had adopted for single-member districts and we  
13 were trying to compare the results of, if the plaintiffs drew  
14 the plans and they were adopted by the Court, what difference  
15 would it make between that or if the defendants drew the  
16 plans?

17 And we ended up in looking at the data, of having a  
18 number of other findings, but that was published in the  
19 Journal of Politics, as I say, and it has been cited over and  
20 over and over again, and by the Supreme Court, I think twice.  
21 Q. And as far as the actual teaching others of redistricting,  
22 how it is done, have you been doing that?

23 MR. MATTAX: I will stipulate to, if you want to  
24 qualify him as an expert, unless the Court wants to hear this,  
25 either way.

1 JUDGE GARCIA: All right. So stipulated, and let's  
2 move on.

3 MR. VERA: That is on the Voting Rights Act. I need  
4 to also qualify him, Judge, on the area of maps and how that  
5 is done and so on and so forth; if you would like for me to  
6 ask a few questions or --

7 MR. MATTAX: Let's just move on.

8 MR. VERA: You will stipulate to that?

9 MR. MATTAX: Yes.

10 MR. VERA: We ask the Court to make George Korbel as  
11 an expert in the history of the Voting Rights Act, the  
12 discrimination involving the Voting Rights Act and as an  
13 expert in map drawing.

14 MR. MATTAX: No objection.

15 JUDGE GARCIA: All right. It is done.

16 BY MR. VERA:

17 Q. Mr. Korbel, let's go straight, how long have you been  
18 drawing maps?

19 A. In 1971, when I got assigned White vs. Regester, I also  
20 took on the responsibility of drawing proposed maps for the  
21 State, which we offered as litigation in -- offered as  
22 exhibits, excuse me, in that litigation.

23 And so I ended up, since the State didn't seem to  
24 accept the fact that they had to produce new plans, the Court  
25 ended up adopting all of the plans that we had proposed and

1 that I would have been responsible for.

2 Q. Now, was there a big difference in 1971 and now 2011 in  
3 drawing maps?

4 A. Well, there is an amazing difference in technology. We  
5 are going to make a demonstration, just a short demonstration,  
6 in just a minute as to how the technology works. But in those  
7 days, you had to do it with maps and grease pencils and  
8 plastic overlays, and it took a long time.

9 And in drawing the state of Texas, when you would  
10 start on one end and get to the other, sometimes you would  
11 have 149 districts and sometimes you would have 150 districts,  
12 and it is easier now with the computer to avoid that.

13 Q. Mr. Korbel, I don't want to belabor too much on it, but I  
14 do want to touch on the discussion that was being made a while  
15 ago between the Court and Mr. Garza with regards to the other  
16 count of Latino voters.

17 How aware have you been and the State been aware of  
18 that problem?

19 A. Well, I think that is a problem that everybody agrees  
20 exists, but nobody can agree on how much of an undercount and  
21 there is also an overcount. They discovered an overcount of  
22 Anglos and an undercount of Hispanics and blacks and Asians  
23 and the other groups, but no one can agree on exactly what  
24 that amount is.

25 When President Clinton was in office, the Bureau of

1 the Census had agreed and had decided that they were going to  
2 adjust the census, but before the census was taken, the  
3 adjustment was taken out. When the administration changed,  
4 the adjustment was taken out.

5 Q. Now, you have personal knowledge of how the undercount or  
6 overcount was handled during all of those years, do you not?

7 Personal knowledge?

8 A. Personal knowledge. I think so, yes.

9 Q. And tell the Court how you know that.

10 A. Well, representing MALDEF or later on representing Texas  
11 Rio Grande Legal Aid, where I work now, I was involved in  
12 negotiations with the leadership in the House and the Senate  
13 on the actual drawing of the plans. And when the plans were  
14 being laid out, and we were deciding, they would -- they had  
15 agreed to, informally agreed to, where it helped, to  
16 underpopulate the minority districts and overpopulate the  
17 Anglo districts.

18 We were doing that because we thought the law was  
19 that there was a ten-percent deviation in those days. And so  
20 we would -- to the extent we could, we would underpopulate the  
21 minority districts and overpopulate the Anglo districts, by  
22 two or three percent or four percent overpopulated, and two or  
23 three or four percent underpopulated, and in that way, we felt  
24 we were correcting for the census.

25 Q. When you say "we agreed," who agreed?

1 A. Well, it was the various people that were involved in the  
2 actual drafting of the plans, from the -- sometimes from the  
3 Speaker's office and sometimes from the Lieutenant Governor's  
4 office, and sometimes from the office of one of the committee  
5 chairmen. Sometimes the Democratic chairman had a great deal  
6 to say about how many of the plans were being drawn, and  
7 sometimes he made those decisions.

8 Q. So the State was intimately involved in dealing with the  
9 undercount of the Latino vote; is that correct?

10 A. Well, what the State was trying to do was trying to comply  
11 with the Voting Rights Act, and in complying with the Voting  
12 Rights Act, they were trying to create as many minority  
13 districts as they could, and one of the ways you create more  
14 minority districts is by underpopulating their districts.

15 JUDGE RODRIGUEZ: What time frame are we talking  
16 about?

17 THE WITNESS: Do you want me to respond, Judge? It  
18 was in 1980, 1990 and, to a lesser extent, in 2000.

19 BY MR. VERA:

20 Q. You currently represent a number of jurisdictions in the  
21 map drawing, do you not?

22 A. Yes. Rolando Rios and I have had a business for the past  
23 20 years in representing jurisdictions in drawing their  
24 districts, counties and school districts and cities. Most of  
25 our clients were jurisdictions that we had originally sued,



1 and they hired us to do their map drawing.

2 Q. Okay. Let's go straight to one of the big issues that has  
3 been discussed in this case.

4 MR. VERA: I direct the Court's attention to LULAC  
5 Exhibit No. 5. And, Your Honors, also, the front of the LULAC  
6 exhibit, there is an index list that gives you all of the  
7 exhibits.

8 JUDGE GARCIA: Right.

9 MR. VERA: But LULAC Exhibit No. 5.

10 JUDGE SMITH: Yes. We have it. Thank you.

11 JUDGE GARCIA: Go ahead.

12 MR. VERA: Thank you.

13 BY MR. VERA:

14 Q. Mr. Korbel, do you have that exhibit in front of you?

15 A. I don't, but I am very familiar with it.

16 Q. Do you recognize what it is?

17 A. Yes.

18 Q. Or you know what it is?

19 A. Yes.

20 Q. This is a much talked-about e-mail that was sent by  
21 Congressmen Lamar Smith, correct?

22 A. That is correct.

23 Q. Now, the judges are looking at 5-A, which is the map that  
24 was sent by Congressman Lamar Smith to, I believe, the Speaker  
25 of the House or the leadership here in the State House.

1           Mr. Korbel, tell the judges, who drew this map?

2           A.   Actually, I drew that map.

3           JUDGE GARCIA:  We are talking about 5-A?

4           THE WITNESS:  5-A.

5           BY MR. VERA:

6           Q.  5-A.  And that map was sent from Congressman Lamar Smith  
7           that he calls "the voting rights district."  You drew that  
8           map, didn't you?

9           A.  Yes.  That was one of the maps that Rolando Rios gave to  
10          Congressman Smith.

11          Q.  Now, would you tell the judges a little bit about that  
12          meeting, and how many meetings did you have with Congressman  
13          Lamar Smith to help him create what he calls a voting rights  
14          district?

15          A.  Congressman Cuellar, who I have represented in the past,  
16          asked Rolando Rios and myself to go over to Washington and to  
17          meet with the Democratic delegation and also to meet with  
18          Congressman Smith.  And we met with the Democratic delegation  
19          over lunch, and then we met with Congressman Smith afterwards.

20                 And there had been a tentative agreement, actually,  
21          a pretty formal agreement, between Congressman Smith and  
22          Congressman Cuellar, Congressman Smith handling the  
23          redistricting for the Republican part of the delegation and  
24          Congressman Cuellar trying to represent the Democrats in the  
25          caucus.

1           There had been an agreement of the minorities in the  
2 Congress, because virtually all of the congressmen are  
3 minorities. There had been an agreement between Smith that  
4 had been proposed by Congressman Smith that the Republicans  
5 and the minorities -- he referred to them as "voting rights  
6 districts" -- be split. The Republicans would get two  
7 congressmen and the minorities would get two congressmen.

8 Q. Did Congressman Smith ever once in the number of meetings  
9 you had with him ever use the word Republicans versus  
10 Democrats in drawing the maps?

11 A. While we were discussing the drawing of the maps, he -- I  
12 believe he always used the term Democrats -- excuse me --  
13 republicans and minority districts or voting rights districts.  
14 I think that's the way he refers to it in that memorandum,  
15 voting rights districts.

16 MR. MATTAX: Your Honor --

17 JUDGE GARCIA: Hold on, Mr. Vera.

18 MR. MATTAX: For the record, this is all hearsay, I  
19 think, for the purposes of this trial. Hearing what he had to  
20 say on that, I think, is fine, but it is all hearsay, and so I  
21 do lodge an objection on the grounds of hearsay.

22 MR. VERA: I believe, Judge, he has personal  
23 knowledge of that.

24 JUDGE GARCIA: I am going to permit it. Go ahead.

25 MR. VERA: Your Honors, I ask you to turn to page

1 5-B.

2 BY MR. VERA:

3 Q. Mr. Korbelt, do you recognize the next Exhibit 5-B, do you  
4 not? Do you know what it is?

5 A. 5-B is the memorandum that was sent by Congressman Smith  
6 to the Speaker.

7 Q. And that's it? That's the much-talked-about e-mail that  
8 everyone talks about in the memorandum?

9 A. That's the e-mail, yes.

10 Q. And in there, again, what -- he outlines four districts  
11 that he would want to create or would suggest to be created,  
12 correct?

13 A. Yes.

14 Q. And I believe the first three are the Republican districts  
15 and the fourth district is the, again, the voting rights  
16 district?

17 A. Well, he refers to three Republican districts and then  
18 what he refers to as a voting rights district, and then what  
19 he refers to as a district that has been changed into a voting  
20 rights district.

21 Now, that was somewhat different than what I  
22 understood the negotiations were between Congressman Cuellar  
23 and Congressman Smith, but that is what he says in there.

24 Q. Now, you actually gave Congressman Smith map B with how  
25 many districts for minorities?

1 A. Well, I never -- we only gave him the maps on Dallas.  
2 There were maps on Harris County that I think he already had  
3 that we had been involved in, and maps in South Texas that,  
4 actually, he had drawn that were acceptable. He was talking  
5 about putting another minority district in South Texas.

6 Q. And the rest of the exhibit in 5 are all some form of  
7 overlay of the Dallas-Tarrant County district, are they not?

8 A. That is correct. Can I say one more thing about this  
9 relationship between Congressman Cuellar and Congressman  
10 Smith? I have -- because I am a lawyer and because I have  
11 represented Congressman Cuellar in the past, I have asked him  
12 if he has any problem with me discussing these things, because  
13 I believe -- I believe that he thought there was an  
14 attorney-client relationship, and he has no problem with that,  
15 and he is going to testify also, so -- and --

16 JUDGE GARCIA: Do we have a question?

17 MR. VERA: Yes, Your Honor.

18 BY MR. VERA:

19 Q. Mr. Korb, we will now turn to LULAC's Exhibit No. 1.  
20 That would be the very front of the book. Did you want to use  
21 the Elmo for this?

22 A. No. Not for this one, I don't need to.

23 Q. Now, Mr. Korb, there has been much talk, of course, to  
24 the Courts about population, population growth.

25 What is different in this exhibit that the Courts

1 can see eye to eye that has not been seen through the other  
2 experts?

3 A. What these exhibits are is -- or what these maps or these  
4 photographs, I should say, are, is looking at a 70-year spread  
5 in time, from the time White vs. Regester was argued. And  
6 what we want to do is, we want to follow up on the article  
7 where we measured the change, and, again, continuing to  
8 measure the change and then use the measurement of change as a  
9 result of single-member districts to project what we expect to  
10 be the change in the next 30 years.

11 The data for the out years comes from the Texas  
12 State Data Center, the projections that they use, and the data  
13 for '70 through 2000 is from the U.S. Census.

14 Q. So you have LULAC 1-A and then LULAC 1-B?

15 A. Yes. And that is the -- LULAC 1-B is for Harris County,  
16 the growth in Harris County over a 70-year period.

17 Q. Okay. The first map was for the whole state, 2-B -- I'm  
18 sorry. 1-B is Harris County --

19 A. That is correct.

20 Q. -- that we were talking about. 1-C, I believe, deals with  
21 Dallas County?

22 A. Yes. Dallas County.

23 Q. Okay. 1-D is for Tarrant County?

24 A. 1-D is for Tarrant County.

25 Q. 1-E?

1 A. For Bexar County.

2 Q. And 1-F?

3 A. Travis County.

4 Q. 1-G is what, George?

5 A. Well, 1-G is a map to show the population growth in Texas  
6 from 2000 and 2010, showing essentially what the Anglo growth,  
7 the Anglo -- what I think the Anglo growth was and what the  
8 census says the minority growth is.

9 Q. Okay. So in the Court's evaluation of all of these expert  
10 reports and maps, whatever, these graphs actually show, or bar  
11 graphs actually show them what the population breakdown is and  
12 is projected to be?

13 A. Yes. And what it was between 2000 and 2010.

14 Q. Is there anything else that you think is important about  
15 these maps that you would like to point out to the Court?

16 A. Well, 1-H is the same sort of growth map in the Dallas  
17 metroplex, defining the Dallas metroplex, and Dallas and  
18 Tarrant and all of the counties ringing Dallas and Tarrant.  
19 And it shows there is a growth of 155,000 Anglos and a million  
20 minorities.

21 And then in the Houston metropolitan area, again,  
22 Houston and the counties that surround it, the growth is about  
23 70,000 Anglos and a million minorities again. Much of the  
24 growth of the state took place in these two areas, these two  
25 areas in the Rio Grande Valley.

1 Q. Okay. Now, Mr. Korbelt, going to the next LULAC Exhibit  
2 No. 2, of course, there has been a lot of talk already about  
3 the Dallas-Tarrant County area and the maps they represent. I  
4 know there is something different that we are going to point  
5 out to the Court.

6 Do you need the Elmo for this?

7 A. No. We are going to use the Red Appl. And I know that  
8 has been talked about a lot. I wanted the Court to get an  
9 idea of how this works, how the Red Appl works, because I  
10 think it is important for the testimony so far.

11 Okay. So this is the Red Appl, and this is the  
12 Dallas and Tarrant mix. Could you move that over just a  
13 little bit to the right, so we can see all of -- all of  
14 District 33.

15 JUDGE RODRIGUEZ: Mr. Korbelt, just to make the  
16 record clear, Red Appl is a software application that you are  
17 running; is that correct?

18 THE WITNESS: Yes. It is a software that the State  
19 of Texas used. There are other softwares that we use, but  
20 this is the one the State of Texas used.

21 All right. So this is the Dallas metroplex. And I  
22 would like to have you zoom in on any part of 33, so I can  
23 show how we move a district. So I guess my laser pointer  
24 doesn't make it that far.

25



1 MR. VERA: Do you need a pointer?

2 THE WITNESS: Yes. If you have got one. This one  
3 doesn't make it that far. That's all right. That's all  
4 right. Can you just zoom in so we can look at one block in  
5 23 -- excuse me -- in 33? Maybe the most north and most east  
6 block in 33. That one right there, yes.

7 JUDGE GARCIA: Go ahead. Thank you.

8 THE WITNESS: Thank you.

9 MR. MATTAX: You're welcome. Don't use all of my  
10 batteries up.

11 THE WITNESS: Can I get a little closer to the map?

12 JUDGE GARCIA: Sure. Of course, Mr. Korbel.

13 THE WITNESS: Now, we are looking at District  
14 No. 33, Judge.

15 JUDGE GARCIA: Okay.

16 MR. MATTAX: I'm sorry. For clarification, do you  
17 mean 183? What map? I'm sorry.

18 THE WITNESS: The adopted plan.

19 MR. MATTAX: 165. 185.

20 THE WITNESS: Well, let's focus in on this voting  
21 precinct. We could ask him to put the numbers of the voting  
22 precinct up or the population or anything else. But for the  
23 purpose of moving that, I am just going to ask him to move  
24 that voting precinct into -- from 33 into 6.

25 And you will see the population changes at the

1 bottom. The District Number 6 now is overpopulated by 3,000  
2 and District 33 would be underpopulated.

3 So would you move that back, David? Now, David,  
4 could you put the shading on it for Hispanics and  
5 African-Americans combined?

6 This is the shading for the districts themselves.  
7 And the colors are a little faded with this, but essentially,  
8 the darker the color, the more heavily minority it is. And we  
9 can also do this down to the block level. Could you just zoom  
10 in on there to the block level?

11 All right. So if we zoom in further, we could  
12 actually see the blocks that are shaded again, as to whether  
13 or not there is any population or whether or not there is  
14 minority or Anglo population.

15 If -- there are a number of other ways we could  
16 shade this. We could shade this for virtually every election  
17 since, I guess, 2000. We can shade this for every  
18 combination. We could do it for Anglos. We could do it for  
19 blacks. We could do it for Hispanics, and that is the way --  
20 that is the way that system works.

21 JUDGE GARCIA: Okay. Thank you.

22 BY MR. VERA:

23 Q. Mr. Korbel, I think what you are showing the Court, and  
24 correct me if I am wrong, that every single time someone moves  
25 that map, they know exactly what the outcome and the numbers

1 are going to be, as far as race, ethnicity and so forth; is  
2 that correct?

3 A. That is correct. And oftentimes, you would see people in  
4 drawing the plans, and myself, you would light up the minority  
5 percentages, check to make sure that the districts you were  
6 drawing were going to be districts that would pass the Voting  
7 Rights Act.

8 Q. So in other words, if I were to tell you, "Draw me a  
9 minority district" --

10 A. Yes.

11 Q. -- can you do that?

12 A. Well, you would have to tell me where, but, yes, we could  
13 do that.

14 Q. If I told you to draw me a nonminority district, get rid  
15 of the minorities or make sure that there are no minorities in  
16 that district, can you do that work?

17 A. Yes. In fact, I can -- one of the things we were showing  
18 the Court is how that is done.

19 Q. Well, why don't you show them how that is done.

20 A. All right.

21 TECHNICALIAN: Your Honor, may I assist him with the  
22 Elmo, please?

23 JUDGE GARCIA: Yes. Of course. Thank you for your  
24 help.

25 THE WITNESS: I might say while they are doing this,

1 this is all screen shots taken from Red Appl, so --

2 JUDGE GARCIA: Okay.

3 THE WITNESS: 2-A is merely a map that shows the  
4 different districts that are involved in Dallas and Tarrant  
5 Counties. 2-B starts an analysis in each one of those  
6 districts.

7 JUDGE GARCIA: Which one are you referring? This --

8 MR. VERA: Yes. LULAC Exhibit 2.

9 THE WITNESS: No, Judge.

10 JUDGE GARCIA: Oh, here.

11 THE WITNESS: District 2, yes.

12 JUDGE GARCIA: Okay. Go ahead. All right.

13 THE WITNESS: District 2 is the one that I like to  
14 call the elbow. This is the elbow. And as the Court can see,  
15 what it does is it takes a large portion of the population of  
16 Wise County -- the heaviest population of Wise County is  
17 closer to Fort Worth -- all of Parker County, and then goes  
18 into Tarrant County, picks up a portion of the minority  
19 community in the southern part of the county, and reaches  
20 around and picks up all of the minority population in the  
21 heavily growing and heavily expanding minority population in  
22 the center city area.

23 And to put that into context, the first -- the first  
24 unmarked exhibit that we gave you is, using the Red Appl, we  
25 divided District Number 33 into Districts 33 -- 33 and 3, and

1 331. (sic) And that is this. That is this map. And you  
2 probably can see that a little bit better on the maps we have  
3 given you.

4 And the reason that I have broken it down by  
5 population is, because when you see a map like this, you see  
6 large areas of lower population, and then large areas of  
7 higher population, and this shows the minority pop -- the  
8 minority breakdown.

9 What it essentially shows is that the district  
10 starts out as 58.8 percent Anglo. But if you look at the  
11 minority population that has been taken out, this area here  
12 and this area here, and aggregate that together using Red  
13 Appl, you find that it involves 300,000 people that are only  
14 30 -- only 29-percent Anglo and 64-percent Hispanic plus  
15 African-American.

16 That is the area that was taken out by that arm that  
17 reaches down through. And district -- that is this arm.  
18 District Number 26 is the district that extends down into --

19 MR. VERA: That is LULAC Exhibit twenty -- 2-C, Your  
20 Honor, on the right, in the white folder.

21 JUDGE GARCIA: Right. Okay.

22 MR. VERA: And then page 2 of the clip-on that we  
23 gave you that gives a narrative.

24 THE WITNESS: This is Exhibit 2, which is this  
25 district that has been described as a lightning bolt. To me,

1 it looks more like Italy. But you can see there it extends  
2 down into Tarrant County from Denton County.

3 Now, we know that Denton County is a suburban,  
4 largely white county, and you can see that from the data. And  
5 if you look just at the minority population that is taken out,  
6 this area here, minority population that is taken out is a  
7 total of 134,829 people that are black and Hispanic  
8 population, 76.5 percent, and the district started at  
9 58-percent Anglo.

10 So what they did was they took a heavily Anglo area  
11 and tied it in with this boot. And Exhibit No. 2-D shows the  
12 boot, the sheath that this boot was stuck into, and -- or the  
13 sock that the shoe -- and you can see that there are heavily  
14 minority areas in here, which correspond, of course, to the  
15 minority areas that were in the -- that were in the lightning  
16 bolt or boot that came down.

17 And I will direct your attention to Plaintiff's 2-E,  
18 which shows those two districts side by side. And you can see  
19 how this district fits inside this district, and the minority  
20 population here is essentially adjacent to the minority  
21 community there. So what they actually have done is they have  
22 split the minority community with this boot district.

23 And if I could show the Court one more thing. We  
24 could call it up on the Red Appl, but it is faster to show it  
25 this way, I think.

1           This is the Dallas-Fort Worth metroplex. Again,  
2 this is the Dallas-Fort Worth metroplex, and you can see  
3 District 26 here coming down into Dallas and Tarrant County.  
4 And -- or excuse me, Tarrant County, and right into the  
5 minority community, how they are split.

6           Now, I wasn't there when this line was drawn, but I  
7 know how this works, and what has happened is the map drawer  
8 has lit up the minority population, and you can see it comes  
9 down in here and goes all the way around that, right around  
10 the minority population, comes down into here, picks up the  
11 rest of the -- what essentially is the Hispanic community in  
12 Tarrant County.

13           The next one I will direct the Court's attention to  
14 is District 2-F. District 2-F is a district that takes in two  
15 suburban counties, and then goes into the balance of the  
16 minority population in Tarrant County and into literally  
17 almost the center of the city of Dallas.

18           And I think that 2-G is a blowup of the area that  
19 comes into -- well, in any event, the area that comes into  
20 Dallas is heavily, heavily minority, a minority district, as  
21 well as the mid-city area.

22           That is a better picture of that district. You can  
23 see that this is heavily minority. Now, we --

24           JUDGE GARCIA: Okay. Mr. Korbelt --

25           THE WITNESS: Yes.

1           JUDGE GARCIA: Okay. You are showing us how this  
2 system works, and I think we believe now that it does work,  
3 obviously, and how it works. Do you have any other testimony  
4 along those lines?

5           THE WITNESS: Well, Judge, I think what I am trying  
6 to do here is to explain to the Court how each one of those  
7 districts was gerrymandered to pick up a percentage of the  
8 minority community.

9           And what we have given you is a summary of what my  
10 testimony would be, and I will be glad to rest on that. What  
11 we are trying to do is to show the effect of the shape of  
12 these districts.

13          JUDGE GARCIA: All right. Okay.

14          THE WITNESS: Is that --

15          JUDGE GARCIA: That's good enough.

16          MR. VERA: While Mr. Korbelt is getting that, if the  
17 judges can follow everything in sequence, you will see exactly  
18 what he showed you, that the Red Appl system, there is -- in  
19 no way, form or fashion can the State claim that they didn't  
20 know exactly what they were doing step by step in removing  
21 members of the minority community in any district in Texas.

22          JUDGE GARCIA: Right. Well, the system is not  
23 Voting Rights Act foolproof.

24          MR. VERA: That is correct.

25          THE WITNESS: And the only other comment that I



1 wanted to make as a result of all of those maps put together  
2 is that if you take the minority population which was  
3 contiguous, if you recall, the way the districts came in, and  
4 you look just at Tarrant County, the three districts in  
5 Tarrant County, 33, 26 and 12, you have a population of  
6 693,907 persons, of which well over two-thirds are minority.  
7 And one of the districts that we proposed or that we show in  
8 the exhibit book is a district which, in effect, puts the  
9 minority population in each one of those current districts  
10 together.

11 JUDGE RODRIGUEZ: And where can that be found?

12 THE WITNESS: That is -- if you will give me a  
13 second, Judge. That is in one of the maps. It is  
14 Exhibit 12-1-B in the exhibit book.

15 JUDGE SMITH: 12 1-A --

16 THE WITNESS: 12-1 --

17 JUDGE GARCIA: You said B?

18 THE WITNESS: B, I think.

19 MR. VERA: 12-1-B.

20 JUDGE SMITH: Okay.

21 THE WITNESS: And this is it.

22 JUDGE GARCIA: What does it show?

23 THE WITNESS: What it shows is if you take the  
24 minority population from each one of those districts, divided  
25 up the minority population, put it back together, you end up

1 with a district like this.

2 And the reason that that is important is oftentimes  
3 when people are drafting districts, you start out with the  
4 district that you want to avoid the most, you draw that and  
5 then you divide it up. And that is what it looks like to me  
6 was actually done here.

7 JUDGE GARCIA: What do you mean, the district you  
8 want to divide up the most?

9 THE WITNESS: Well --

10 JUDGE GARCIA: Give me an example.

11 THE WITNESS: Well, I think this is an example. A  
12 district that you want to make sure doesn't exist. You divide  
13 it --

14 JUDGE GARCIA: Or it doesn't get created?

15 THE WITNESS: Doesn't get created, yes.

16 JUDGE SMITH: And is this -- you are referring to  
17 Plan C-196; is that right? I just want to make sure. 12-1-B  
18 appears to be Plan 196; that is correct?

19 THE WITNESS: Yes. Plan 196, that is the plan  
20 number -- for Red Appl. And we could do the same thing if we  
21 went through Dallas County. And in Dallas County, if you put  
22 the excess population together, the excess minority areas  
23 together, you come up with a population of 622,033, and there  
24 is an additional minority population that you would bridge to  
25 put those two parts together, and that would be almost a

1 perfect district.

2 And, again, that would be well in excess of  
3 two-thirds of the -- or approximately two-thirds of a  
4 district, of a minority population in the district.

5 JUDGE RODRIGUEZ: Is that also shown in Exhibit 12?

6 THE WITNESS: That is shown in another exhibit.

7 MR. VERA: I believe the index, Your Honor, will  
8 show you any district you want to look at that Mr. Korbel has  
9 testified about, and we are not going to go through the whole  
10 exhibit book, but the index will give you a breakdown, county  
11 by county, under the different exhibits and the subparts that  
12 go with it. It will give you maps and data.

13 MR. MATTAX: If I could make a request, however.  
14 Prior to trial, we have identified different maps. We have a  
15 notebook number 1 with the maps in them. If it is possible  
16 for Mr. Korbel to say, "That is map number something," it  
17 would be a lot easier for me to cross and for everyone to  
18 follow along. I understand what he just talked about was  
19 C-196.

20 THE WITNESS: Yes.

21 MR. MATTAX: Identify the map that we have in the  
22 record. So if, for example, he mentions something about  
23 Dallas County, I don't know if he was referring to a map that  
24 is in here or something else. So I would just request if he  
25 could identify --

1 JUDGE GARCIA: Okay.

2 MR. MATTAX: -- by reference what map was given to  
3 counsel and produced for this trial, that would help  
4 everything, I think.

5 BY MR. VERA:

6 Q. Mr. Korbel, if you will look at the index of the LULAC  
7 exhibit, it should reference you to the maps.

8 A. The first thing to do is look at the index.

9 Q. What was the last --

10 JUDGE RODRIGUEZ: I might have derailed things here.  
11 I was asking what map he was last referring to.

12 THE WITNESS: Yes.

13 JUDGE RODRIGUEZ: Please don't let my question hold  
14 things up. Why don't you --

15 THE WITNESS: I can provide that to the Court, if  
16 you don't mind.

17 JUDGE RODRIGUEZ: Why don't you go ahead and  
18 continue on, Mr. Vera.

19 MR. VERA: Thank you, Judge.

20 BY MR. VERA:

21 Q. Mr. Korbel, for brevity, Nueces County, Bexar County, Rio  
22 Grande Valley, and every district that every expert testified  
23 to or has testified to, the Court can find in our exhibits the  
24 data that you provided that almost matches what you have done  
25 with Dallas County and Tarrant County, is there not?

1 A. Yes. For each area of the state, we take the districts  
2 and divide the minority population on the ends off and compare  
3 that with the balance of the population in the districts. And  
4 in almost every case, there is about 200,000, a group of about  
5 200,000 persons of which minorities are the vast portion that  
6 is taken -- that is added to essentially white areas of the  
7 state, or Anglo areas of the state.

8 Q. Now, let's talk a little bit about precinct splits. How  
9 many precincts were actually split across the state of Texas  
10 in the redrawing of these maps?

11 JUDGE GARCIA: Well, first of all, how many  
12 precincts presently exist in the state?

13 THE WITNESS: I can't -- I can provide you that  
14 information. I don't have it offhand.

15 JUDGE GARCIA: Hold off on your question. Because  
16 when you say how many, if you were to say 50, that doesn't  
17 tell me anything.

18 BY MR. VERA:

19 Q. Let's go to --

20 A. Just hold on a second.

21 THE WITNESS: I'm sorry, Judge.

22 BY MR. VERA:

23 Q. Mr. Korbel, I know you don't know the exact count, but if  
24 we -- if you would accept, which I think is pretty accurate,  
25 there are somewhere around 8,000 precincts across the state of

1 Texas.

2 A. Yes. Probably.

3 Q. That is more or less, right?

4 A. (Nods head.)

5 MR. VERA: Just to give the Court a reference point,  
6 about 8,000.

7 MR. MATTAX: That's right. I think for purposes of  
8 this, we can stipulate to 8,400.

9 JUDGE GARCIA: All right.

10 MR. VERA: We will accept that.

11 THE WITNESS: And there are approximately 800 parts  
12 of precincts that result from the splits of precincts. In  
13 other words, about 400 -- the congressional plan split about  
14 400 precincts, and one of the exhibit shows each of the splits  
15 by county and by district.

16 JUDGE SMITH: If I could just ask you a question  
17 about that, so I will understand.

18 THE WITNESS: Yes, sir.

19 JUDGE SMITH: As I understand it, for the  
20 congressional maps, there is no leeway, so that the population  
21 needs to be exact down to the person.

22 THE WITNESS: (Nods head.)

23 JUDGE SMITH: This is kind of an uninformed  
24 question, but I mean, isn't that always going to require a  
25 precinct split so that it will come out exactly right?

1           THE WITNESS: That is correct, Judge. And usually,  
2 if you are careful, you can actually create a congressional  
3 map by splitting only one precinct, because a precinct will  
4 have quite a number of blocks in it, city blocks in it with  
5 various populations, and you just have to pick the -- it is  
6 just a numerical picking out of numbers in order to make the  
7 ideal population.

8           Now, some of -- one of these precincts -- one of  
9 these districts splits 100 precincts, and another one splits,  
10 another congressional district splits three precincts, and the  
11 three precincts, they were being careful by just picking the  
12 population out; in the 100, 100 precincts, I think that has  
13 been discussed before, and there is something going on here.

14 BY MR. VERA:

15 Q. In a nutshell, what it means is, depending on how you want  
16 to draw the lines will depend how many precincts are split in  
17 that district?

18 A. That is correct. And that is important for, you know, two  
19 reasons. One, of course, is political organization. You  
20 either change out precincts or split them. You make it more  
21 difficult, especially in the short period that will be  
22 available between this Court's action and the election, to get  
23 the -- to get your -- for a candidate or for the people in the  
24 district to get organized in order to vote. That is -- and it  
25 is also important --

1 JUDGE SMITH: Well, you have answered my question.  
2 Thank you. Excuse my interruption.

3 MR. VERA: No, Judge. That's okay. I appreciate  
4 that myself.

5 JUDGE SMITH: I wanted to understand that.

6 BY MR. VERA:

7 Q. Mr. Korpel, in Travis County, how many precincts were  
8 split in Travis County?

9 A. In Travis County, that is one of the counties we are  
10 redistricting, and --

11 Q. You currently represent them now?

12 A. I currently represent them, yes, for redistricting  
13 purposes. And they have, I think -- I can check on this, but  
14 they have 55, I think, precincts that are actually split in  
15 Travis County. And in drawing the new voting precincts for  
16 the county, the split of those 55 precincts, together with the  
17 overlay of the small number of splits from the House and from  
18 the Senate, is probably going to require the creation of  
19 somewhere between 25 and 40 new polling places, and they  
20 estimate that cost at about \$9,000 to hold the first election,  
21 so it is a significant cost for the jurisdictions to split all  
22 of these precincts.

23 Q. And that is all bore by the county? That's not by the  
24 State of Texas?

25 JUDGE GARCIA: Are costs a factor that we consider



1 whether a redistricting map is lawful or not? I mean, it is  
2 not? I mean, it is an important consideration, given these  
3 difficult economic times for state budgets and city budgets  
4 and county budgets, but is that -- that is not a factor?

5 THE WITNESS: Well, I think, Judge, when you  
6 consider the shape of the districts, and if you look in Dallas  
7 County, the numbers in Dallas County, each one of those  
8 districts cuts an excessive number of precincts, 50 or more.

9 If you can look at -- if you look at the shape of  
10 the districts, the number of precincts that are split, and --  
11 you can see that something is going on. There is some intent.  
12 There is some intent involved. And then the costs is the cost  
13 to the counties, who are coming down and testifying saying,  
14 please don't do that.

15 JUDGE GARCIA: Well, when you say, "Something is  
16 going on," what exactly is going on?

17 THE WITNESS: I think what is going on --

18 JUDGE GARCIA: And does that run afoul of the law?  
19 That is what it boils down to. And the number -- while it may  
20 sound incredible, and it may be of significance, when someone  
21 says, well, did you know that the district was split,  
22 precinct -- there were 156 precincts split. Well, that  
23 sounds -- well, it sounds like 156 is more than saying we  
24 split only one precinct.

25 But is that of any consequence? And I don't know

1 about my two colleagues here, but I don't know. And so when  
2 you say, "Something is going on," what are you implying? What  
3 are you telling me? What are you telling the Court?

4 THE WITNESS: I am using the term that one of the  
5 witnesses used yesterday. I think that there was some goal  
6 that was being -- that had been set for the mapmaker and the  
7 mapmaker was dividing the precincts so that he could hit that  
8 goal or she could hit that goal.

9 JUDGE GARCIA: And the goal being?

10 THE WITNESS: Well, I don't know what the goal is.  
11 I mean, certainly, one of the things that it does is it  
12 divides the minority community. And it also could be they  
13 were trying to do away with an existing member. They do that  
14 sometimes.

15 It could be that they were -- that they were trying  
16 to create a district to elect somebody to office, which they  
17 do a lot. It could be any number of things. But the ultimate  
18 effect, I think, as far as this Court is concerned, is on the  
19 division of the minority population.

20 BY MR. VERA:

21 Q. Again, going back to Travis County, the split of  
22 congressional districts are into how many? Do you know how  
23 many congressional districts the new plan forms in Travis  
24 County?

25 A. There are five congressional districts that come in to

1 Travis County.

2 Q. Before, there were how many, in the existing plan?

3 A. I am not sure. I'm sorry.

4 JUDGE GARCIA: Well, is there any county in Texas  
5 that is represented by five different congresspersons?

6 THE WITNESS: Well, Dallas and Tarrant, if they  
7 were -- excuse me -- Dallas and Tarrant, if they were put  
8 together could be represented by five.

9 JUDGE GARCIA: But they are not?

10 THE WITNESS: They are not, no. And the same thing  
11 with Harris County. If they were put together, they could be  
12 represented, I think, by four, but they are not. They are  
13 divided up into these pie-shaped arrangements.

14 BY MR. VERA:

15 Q. Well, Bexar County is much larger than Austin. How many  
16 congressmen represent their county? How many come in?

17 A. Well, currently, there is, Congressman Cuellar takes a  
18 part of Bexar County. Congressman Smith takes a part of Bexar  
19 County. Congressman Gonzalez's district is entirely in Bexar  
20 County, and then District 23 also comes in to Bexar County.

21 Q. So there are four?

22 A. Yes.

23 Q. Three, four times the size of Austin, Travis County?

24 A. Bexar County is slightly larger, about 800,000 larger than  
25 Travis County.

1 Q. And in 2000, I believe, the Travis County area had three  
2 congressmen representing them; is that correct?

3 A. I don't have the map in front of me.

4 JUDGE SMITH: Can a study be made on Red Appl that  
5 tells Red Appl: Don't split any precincts or only split one,  
6 or anything like that? Can that be a global command, or is  
7 that something that has to be adjusted individually?

8 THE WITNESS: Judge, it is not a global command, but  
9 you have to -- you have to change levels in the geography, and  
10 we would -- we could -- as the Court saw, it takes quite a  
11 while to actually do. You have to change the level in the  
12 geography in order to split precincts.

13 JUDGE SMITH: And so you get a finer and finer  
14 resolution --

15 THE WITNESS: Yes.

16 JUDGE SMITH: Is that --

17 THE WITNESS: That is correct. That is correct.  
18 And the precincts go from precincts to city blocks. And so  
19 you have to intend to split the precincts in order to split  
20 them. You have to actually make a move in the Red Appl.

21 BY MR. VERA:

22 Q. Mr. Korbel, and the same thing applies, I think, in Bexar  
23 County in Congressional District 23. How many precincts are  
24 split here in Bexar County?

25 A. District 23 splits 19 precincts in Bexar County.

1 Q. And you have heard some discussion already about the  
2 splitup, fracturing of Maverick County -- congressional  
3 district, and the removal --

4 THE REPORTER: Counsel, I am sorry. Could you speak  
5 up?

6 MR. VERA: I'm sorry.

7 BY MR. VERA:

8 Q. In the Harlandale area, which is the southern part of  
9 Bexar County, now has been split into three congressional  
10 districts; is that correct?

11 MR. MATTAX: Objection. I am not sure whether that  
12 is testimony or a question, but I object.

13 JUDGE GARCIA: What was your question again,  
14 Mr. Vera?

15 BY MR. VERA:

16 Q. The Harlandale community has been split into how many  
17 congressional districts, Mr. Korbel?

18 A. Well, the largest portion has been essentially split into  
19 two precincts, into two districts, I should say.

20 Q. And how many congressional districts actually come into  
21 that area now?

22 A. I think three do, but, essentially, it is between two.

23 Q. And in Maverick County, the Court, of course, heard all of  
24 the evidence on that, and that has been split in half.

25 What is significant about that split, though, other

1 than they cut it in half?

2 A. I think the county judge will testify, but essentially  
3 Maverick County is a county of about 58,000 people, and what  
4 this movement did -- and it also splits precincts. It splits  
5 three precincts in Maverick County. It comes in and almost  
6 evenly divides the population between two congressional  
7 districts.

8 It puts half of the population into Congressman  
9 Cuellar's district and half of the population into District  
10 23. I think the reason that that is important is that in  
11 terms of politics, Maverick County is one of the -- is one of  
12 the more mature Hispanic areas.

13 The county judge's father was the first Hispanic  
14 county judge there, and they turn out usually between 8,000  
15 and 12,000 votes, so that if you split that county and those  
16 votes go almost totally for the choice of the Hispanic  
17 community, if you split those 4,000 votes out, that could  
18 itself be the difference in the election.

19 JUDGE GARCIA: How big is Maverick County?

20 THE WITNESS: 58,000, Judge.

21 JUDGE GARCIA: And has Maverick County ever been  
22 split?

23 THE WITNESS: Never been split, as far as we can  
24 tell.

25 JUDGE GARCIA: In a congressional district?

1 THE WITNESS: Never been split in a congressional  
2 district.

3 JUDGE GARCIA: Thank you.

4 MR. VERA: Thank you, Your Honor. That was going to  
5 be my next question.

6 BY MR. VERA:

7 Q. Mr. Korbel, let's -- and I don't mean to be jumping back  
8 and forth, but, again, looking at LULAC Exhibit No. 7, which  
9 is a map of the Travis County commissioners precinct, core  
10 precincts, what is the significance of showing this map to the  
11 Court in relation to a congressional map?

12 A. The reason we are showing that to the Court, or that I  
13 think it is important is because if you were trying to create,  
14 if I was trying to create a minority district in Travis  
15 County, I would begin with the two commissioner precincts,  
16 which are about 250,000 persons apiece, one that elects a  
17 Hispanic and one that elects a black.

18 I would put those two together and then I would add  
19 some additional minority population that adjoins those two  
20 commissioner precincts, and you would come up with essentially  
21 one congressional district that would be a minority  
22 opportunity district.

23 Q. So there would be no need -- there is absolutely no need  
24 for them to come from the southern and northern point of  
25 Travis County all the way down to south Bexar County, because

1 they have enough numbers there in Travis County alone to form  
2 a minority-majority district, is there not?

3 A. If you wanted to create a majority-minority district  
4 outside of Bexar County, around Travis County, built around  
5 those two voting -- those two commissioner precincts, yes, I  
6 think you could, yes.

7 JUDGE RODRIGUEZ: And those two precincts are 1 and  
8 4?

9 THE WITNESS: 1 and 4, yes, Judge.

10 JUDGE GARCIA: That alone could create one  
11 congressional district?

12 THE WITNESS: No. The two together make 500,000.

13 JUDGE GARCIA: And you need 700?

14 THE WITNESS: You need 700,000, and then you take  
15 the minority population out of Hays and Comal Counties and out  
16 of Guadalupe County, and you have the population; Bastrop  
17 County, you have the population. So that if the intent of the  
18 State was to create a minority district there, it could have  
19 been done a much easier way.

20 BY MR. VERA:

21 Q. Than the way they have done it now?

22 A. Than the way they have done it, yes.

23 JUDGE GARCIA: What is contained in 185 is the part  
24 from Austin to San Antonio?

25 THE WITNESS: Yes. It comes in and -- it comes from



1 Austin, actually splits the minority community in Travis  
2 County, and then comes down into San Antonio and picks up the  
3 lion's share of the Edgewood School District.

4 BY MR. VERA:

5 Q. Harlandale?

6 A. Excuse me. The Harlandale School District. And in San  
7 Antonio, at least elections on the south side, are often  
8 organized on the basis of school districts, so that removing a  
9 school district, in this case, from District 23, is the same  
10 effect as splitting 4,000 voters out of Maverick County. It  
11 reduces the organizational impact that the Hispanic voters  
12 have.

13 JUDGE GARCIA: Okay.

14 BY MR. VERA:

15 Q. Mr. Korbelt, let's now go to, beginning with LULAC's  
16 Exhibit No. 8.

17 You begin to talk, or you are showing the Court now  
18 with regard to the splits, the county splits throughout the  
19 state under plan 185?

20 A. Yes.

21 MR. VERA: LULAC Exhibit No. 8 is the white  
22 notebook, Your Honor.

23 BY MR. VERA:

24 Q. Number 8, George. Do you have that?

25 A. Yes. Yes. That's the one we have been talking about is

1 the splits on --

2 Q. Go through these numbers. Exactly, tell the Court, you  
3 have the district number, which county and then the precincts  
4 that are split? This is a split precinct --

5 A. Yes. Well, let's look at the congressional district  
6 first. Congressional district -- the congressional districts  
7 are, of course, made up of 36 congressional districts, and  
8 nine of the districts have more than 40 splits in precincts,  
9 and ten of the districts have fewer than 15 splits of  
10 precincts.

11 The largest -- the largest number of split precincts  
12 is in District 35, and that is 100. District 35 is the one  
13 that runs down Highway 35 from Austin to San Antonio.

14 JUDGE GARCIA: Right.

15 THE WITNESS: The smallest number of precinct splits  
16 is in 31, and they do it in three splits. They go to zero  
17 deviation on the three splits.

18 MR. VERA: Your Honor, I may have put it wrong in  
19 your notebook. The first one should have been LULAC 8-A,  
20 which is the district splits and VTDs. LULAC 8-B was the  
21 split precincts by district, by county. So I don't know  
22 which -- it got turned wrong in my book.

23 JUDGE RODRIGUEZ: That's fine.

24 MR. VERA: Okay.

25

1 BY MR. VERA:

2 Q. So, George, that involves the split precincts by counties,  
3 is what you are looking at? By district, by county?

4 A. Yes.

5 Q. Okay. And then as they go through the exhibit book, they  
6 will have a different --

7 THE REPORTER: Counsel, if you will slow down.

8 MR. VERA: I'm sorry.

9 BY MR. VERA:

10 Q. 8-B -- the rest of that data, Mr. Korbel, gives them --

11 MR. VERA: Again, Your Honor, for reference, the  
12 index will tell you exactly what it is showing you in all of  
13 this data.

14 BY MR. VERA:

15 Q. I believe, George, Exhibit 8-A would be the congressional  
16 plan, C-185, precinct splits by district, by county.

17 Exhibit 8-B is the Texas congressional plan, with splits of  
18 VTDs by district, by county; is that correct?

19 A. That is correct. And then the next two are the House  
20 plan, same sorts of splits for the House plan.

21 Q. And 8-C would be the State House plan, split VTDs, by  
22 district, by county. And 8-D shows House Plan 283 precinct  
23 splits by district, by county.

24 So the Court should be able to see throughout the  
25 state the splits in the congressional plans and the House

1 plans in viewing this exhibit.

2 A. (Nods head.)

3 Q. Is there anything else the Court would need to know about  
4 that exhibit?

5 A. I think there are 53 House districts where there are no  
6 splits, and most of the splits take place in the urban areas,  
7 in Tarrant and Dallas and Bexar and Harris.

8 Q. Now, George, going to Exhibit 9, now we are showing the  
9 actual split by county, by district.

10 A. Number 9 is the Senate plan. Senate districts are  
11 approximately the same size as a congressional district. And  
12 the Senate plan that Texas just adopted split 20 precincts.  
13 The whole plan split 20 precincts.

14 Q. So are there any --

15 JUDGE SMITH: There is a big difference there,  
16 because you have, with the State Senate, you have deviation  
17 allowed?

18 THE WITNESS: Well, I mean, that is one of our  
19 arguments, is that the Supreme Court has said that that is not  
20 the case. But the point I think that is important here,  
21 Judge, is that we demonstrate, for example, that one of their  
22 districts split only three precincts, and I think it would  
23 have been very easy to have drawn the entire plan splitting  
24 only three or five precincts. I mean, I just wanted to show  
25 that the Senate plan has a much different impact.

1 JUDGE GARCIA: There are less splits in the Senate  
2 plan?

3 THE WITNESS: Yes. Ten percent of the congressional  
4 plan, essentially.

5 JUDGE GARCIA: What would the reason for that be?

6 THE WITNESS: Well, one of the reasons that, as  
7 Judge Smith points out, is that if the State was shooting for  
8 a deviation of 9.9 percent or ten percent, which they  
9 traditionally have, you wouldn't have -- you wouldn't have to  
10 be so careful to go down to zero deviation.

11 But I think you go to zero deviation, and the State  
12 plan demonstrates it with splitting only a few precincts. And  
13 that has, if you look -- if you look at these plans, that has  
14 a direct impact on the minority community.

15 You can see those, how the Dallas County and Tarrant  
16 County were split, Dallas and Tarrant County were split, and  
17 if we had gone through Harris and Bexar, you would see the  
18 same thing.

19 JUDGE GARCIA: All right.

20 JUDGE SMITH: Thank you.

21 BY MR. VERA:

22 Q. Going on, George, to LULAC Exhibit No. 10, what we call  
23 historical data, congressional Senate plans, again, not going  
24 through this whole thing with the Court, that they can use  
25 that in their research, what is this going to show the Court,

1 LULAC Exhibit No. 10, in total?

2 A. Well, it shows the plans that were adopted in 1990 and  
3 2000 and what the minority percentages were in those plans.  
4 In most cases, they also have the registered voter numbers.  
5 And I think what is significant in this is that the registered  
6 voter numbers for the Hispanic precincts have crept up since  
7 they were adopted in 1980 or 1990.

8           Excuse me. They have gotten more and more -- have  
9 been put in to districts that are already electing minorities.  
10 So they are -- in effect, there is selective packing in those  
11 districts.

12 Q. We did, talk, George, we had quite a discussion about  
13 Travis County. LULAC Exhibit No. 11, we actually give the  
14 Court a bird's-eye view of the effect of plan 185 on Travis  
15 County.

16           Is that what LULAC Exhibit No. 11 is?

17 A. That is the last iteration of the splits that are going to  
18 be necessary for Travis County. And as you can see, most of  
19 the splits are in the minority areas, in the areas just that  
20 are -- just on both sides of 35, or the areas that are in east  
21 Austin.

22           JUDGE GARCIA: How many split precincts will there  
23 be now in Travis County as a result of the plan for Travis  
24 County?

25           THE WITNESS: Well, we don't know yet, Judge. We

1 are trying to find -- or they are trying to find polling  
2 places for these splits.

3 JUDGE GARCIA: All of these precincts are going to  
4 be split?

5 THE WITNESS: Yes. Yes. The precincts are going to  
6 be split, and when there are three numbers, it is going to  
7 have to be, probably have to be a new precinct, and if there  
8 are -- excuse me. If there are four numbers, it has to be a  
9 new precinct.

10 If there are three numbers, we may be able to  
11 operate with the existing precincts. But it becomes a much  
12 greater job to redraw the precincts in Travis County. We only  
13 have four commissioner precincts, and we are going to be  
14 redrawing dozens and dozens and dozens of voting precincts,  
15 and that is the only point that we were making.

16 JUDGE GARCIA: Okay.

17 BY MR. VERA:

18 Q. I think Judge Smith originally asked a question, well,  
19 redistricting naturally involves some, you know, redrawing of  
20 precinct lines or splitting.

21 Now, correct me if I am wrong, but what this shows  
22 is that the vast majority of the precincts are going to occur  
23 in the minority community, is it not?

24 A. Yes, it does. And I think that that is true in every one  
25 of these districts; every one of the districts, as we showed

1 in Dallas and Tarrant County, the voting -- the splits are  
2 primarily around the minority areas.

3 Q. George, Exhibit 12 is composed, 12-1, 12-A through 12-B --  
4 I should say that LULAC has brought forward, and beginning  
5 with Exhibit 12-2-A through D are Gingles plans for the State  
6 House; is that correct?

7 A. That is correct.

8 Q. Now, would you -- let's just cover some of that with the  
9 Courts. Again, with 12-1-A, that is just, I guess, a map?

10 A. 12-A is a Gingles map for a new minority congressional  
11 district in Dallas and Tarrant Counties, and it is extremely  
12 stressed to see how high we can get in terms of registration  
13 of -- in terms of the voter registration.

14 And we can get to Hispanic, I think 47-percent or  
15 46-percent voter registration. This is not a district that we  
16 would propose as a remedy district, but Gingles seems to say  
17 that it is important to show a district that will elect a  
18 minority candidate, and this district would elect -- probably  
19 would elect a minority candidate or be a district in which  
20 minority voters can elect a representative of their choice,  
21 because the Anglo population, I think, is only about 20  
22 percent of the population.

23 MR. VERA: And for the Court's reference, we are  
24 just going to go page by page.

25 JUDGE GARCIA: Okay.



1 MR. VERA: Beginning with, you know, Exhibit No. 12.

2 BY MR. VERA:

3 Q. What is the next page, George?

4 A. The next map is the one that we were discussing of Tarrant  
5 County, showing -- I don't have -- I have taken it out. I am  
6 not sure of the numbers. I think it is 12-B or -- yes. 12-B.  
7 It is the map showing a district that could be drawn by  
8 Tarrant County by stripping off the minority splits in each  
9 one of the current districts.

10 Q. And following that is just the different data. Again, the  
11 Court can use it for its reference, of the population data --

12 A. It was my understanding, Judge, that the Court wanted us  
13 to have all of these available on the Red Appl, so we put  
14 these as examples into the Red Appl, and the -- all of the  
15 data is the data which they normally call a plan package, and  
16 most of that data doesn't exist when you are doing the Red  
17 Appl. Only the minority and the political data exists when  
18 you are doing the Red Appl. You have to make special requests  
19 for the splits in the counties and splits in cities and that  
20 sort of thing.

21 Q. Okay. The next Gingles map that we have is called plan  
22 196. It is about four or five pages down.

23 A. Yes.

24 Q. And I believe it is shaded in with maroon and yellow?

25 A. Yes.

1 Q. It would be this map here, Judge.

2 JUDGE SMITH: Yes. That is 12-1-B, I believe is  
3 what it is labeled.

4 MR. VERA: It is marked as 12-B. 12-1-B. I'm  
5 sorry. I should have indexed the maps better. It was my  
6 fault.

7 JUDGE SMITH: That's all right.

8 BY MR. VERA:

9 Q. What is this one showing?

10 A. Well, it shows -- if we were to create a district in  
11 Tarrant County, it shows what the district -- a district that  
12 would be a Hispanic opportunity district in Dallas County  
13 would look like. If we took none of the population from  
14 Tarrant County and added it to Dallas County or vice versa,  
15 they would be in separate districts.

16 JUDGE SMITH: So which one of the ones in Dallas  
17 County is the Hispanic opportunity district?

18 THE WITNESS: It would be the yellow one, Judge.

19 JUDGE SMITH: 33?

20 THE WITNESS: 33, yes.

21 BY MR. VERA:

22 Q. And, again, following the next Gingles plan proposed by  
23 LULAC or submitted by LULAC, which would be 12-1-C, that is  
24 plan 199. It is a few pages down from where you were.

25 Plan 199, what is that, Mr. Korbelt?

1 A. Well, this is also a congressional plan. There are two  
2 African-Americans elected to Congress in Harris County, and  
3 this map deals with the question of, could we also draw a  
4 Hispanic, an additional Hispanic opportunity district in  
5 Harris County without affecting the numbers on the current  
6 Hispanic opportunity district that elects Congressman Green.

7 And what this shows is, this is an alternative way  
8 to do it. I think some other plaintiffs have offered  
9 different solutions, but what this does is it puts the  
10 minority population in Jefferson and Galveston Counties in  
11 with the minority population in, primarily Hispanic minority  
12 population in Harris County.

13 Now, that may seem like a stretch, but that has been  
14 traditionally done in Texas. It is just that those areas,  
15 minorities in Galveston and the minorities in Jefferson  
16 County, they have been attached to Anglo-dominated districts  
17 before, and this would just attach them to --

18 Q. If I were to follow one of these Gingles plans, that is  
19 the data that goes with that, that, again, the Court can use  
20 as a reference point to determine exactly the population and  
21 other data that is included in that?

22 A. That is correct.

23 JUDGE SMITH: And in 199, it would be District 1  
24 that would be the Hispanic opportunity district; is that  
25 right?

1 THE WITNESS: No, Judge. The two Hispanic districts  
2 would be 5 and 6.

3 JUDGE SMITH: 5 and 6?

4 THE WITNESS: 5 and 6. 1 and 2 would be the current  
5 black districts.

6 JUDGE SMITH: All right. And is 6 the current  
7 opportunity district with Representative Green?

8 THE WITNESS: That is correct.

9 JUDGE SMITH: Gene Green?

10 THE WITNESS: Yes. And it is essentially what the  
11 current Senate district electing Senator Whitmire is. It just  
12 follows, essentially, Senator Whitmire's district. And the  
13 other district, District Number 5 essentially follows the  
14 current Senate district that elects Senator Gallegos in  
15 Houston, so --

16 BY MR. VERA:

17 Q. And then the last Gingles put forth by LULAC is 12-1-D,  
18 what we call the South Texas mix.

19 Would you explain to the Court what was shown there?

20 A. Well --

21 MR. VERA: Again, Judges, they all follow about  
22 eight or nine pages from there.

23 JUDGE SMITH: That's all right. This is fine. This  
24 is working out all right.

25

1 BY MR. VERA:

2 Q. Plan 200.

3 A. Yes. Plan 200 essentially takes South Texas. Now, we do  
4 something different than the State did, and that is that we  
5 include a part of Midland and Odessa or Midland County and  
6 Ector County into District 23, and we do that because the  
7 minority population in Ector County is approaching half, and  
8 there is a county commissioner that is elected out there,  
9 which was one of the LULAC lawsuits, and the county  
10 commissioner, Hispanic county commissioner elected in Midland  
11 County, and these essentially take the Hispanic county  
12 commissioner precincts out of the district where the State  
13 puts them and puts them into 23.

14 They are heavily Hispanic and 50-percent Spanish  
15 surname registration, I think. Then it adds that to the South  
16 Texas mix. And then it does something different than the  
17 State does, and that is that it includes all of Nueces County  
18 in the South Texas mix, rather than taking it out.

19 Now, there are about 200,000 Hispanics, I think,  
20 more or less, in Nueces County, and there are about 50 percent  
21 Spanish surname registered voters. So taking that out makes a  
22 big difference.

23 And what you have, then, when you add -- when you  
24 add the Midland and Odessa area in, and you realize the  
25 population that was testified to here, the growth in Hidalgo

1 County, and adding Nueces County back in, you are actually  
2 able to create two new congressional districts.

3 JUDGE GARCIA: Has Nueces County ever been split?

4 THE WITNESS: Not that I know of. And that district  
5 was the result of a -- well, that is not true. In 1980, there  
6 was a voting rights objection to the way the district was  
7 created. And in order to achieve population deviation, a  
8 couple of voting precincts in Nueces County were split, but  
9 never split like it is split now.

10 What has happened is, they have taken all of Nueces  
11 County and put it into a district that is about 25-percent  
12 Hispanic -- excuse me -- Hispanic registered voters, and  
13 Nueces County, which is about half of a congressional  
14 district, is 50-percent Spanish surname registered voters. So  
15 this is the same sort of pattern that we have shown in Dallas  
16 and Tarrant County.

17 JUDGE GARCIA: Okay. All right.

18 BY MR. VERA:

19 Q. Mr. Korbel, again, now, let's go on, beginning with  
20 Exhibit 12-2. Now, these are LULAC's Gingles plans presented  
21 to this Court.

22 JUDGE GARCIA: Mr. Vera, let's go ahead and take a  
23 little break.

24 MR. VERA: Thank you, Judge.

25 (Brief recess.)

1 JUDGE GARCIA: Okay. Mr. Vera, you can continue.

2 MR. VERA: Thank you, Your Honor, if it may please the  
3 Court.

4 Q. (BY MR. VERA) Mr. Korbel, we were on LULAC Exhibit 12-2  
5 which we'll now talk about the state House Gingle plans.  
6 Beginning with the first one--again, that you call the Harris  
7 County mix -- do you have that, George?

8 A. 12-2-A.

9 Q. 12-2 and 12-2-A.

10 A. Yes.

11 Q. Can you explain that to the Court a little bit?

12 A. This is a plan that I drew at the request of LULAC for  
13 Harris County to CF. Using 24 districts we could accomplish the  
14 same thing as the 25 districts that I think they have always  
15 used, a process they've always followed. And I think that we can  
16 accomplish essentially the same thing.

17 JUDGE GARCIA: Okay. Where are you at now? What  
18 exhibit?

19 THE WITNESS: 12-2-B. 12-2-A.

20 MR. VERA: 12-2-A.

21 JUDGE GARCIA: Okay. Thank you.

22 THE WITNESS: It's just a map of Travis County divided  
23 up into districts. And it essentially was -- I think other  
24 parties have better maps, but we put it in anyway.

25 JUDGE GARCIA: All right.

1 Q. (BY MR. VERA) So these Gingle plans, George, that LULAC has  
2 offered in the -- shows the Court that the state of Texas had  
3 alternate plans to do as opposed to what they did?

4 A. Yes. What it shows is if you took the state House plan the  
5 way it is right now, if we plug 25 districts into Harris County,  
6 it would -- it would upset the entire balance. The whole plan  
7 would have to be redrawn which is -- but the rest of the  
8 districts that we've got set up is if you would accept the  
9 state's plan as it is, you can create another minority district,  
10 combined minority district in the -- in the Fort Bend mix that we  
11 show here and that's 12-2-B. And that could plug directly into  
12 the state's plan. We could just pull three counties out that are  
13 the current mix and put these counties in which are the -- which  
14 would create another minority district.

15 JUDGE GARCIA: Where is that?

16 THE WITNESS: That's in Fort Bend, the Fort Bend mix.  
17 It's 12-B -- Excuse me, 12-2-B.

18 MR. VERA: 12-2-B.

19 JUDGE GARCIA: So you're saying if there weren't 25  
20 districts in Harris then --

21 THE WITNESS: If there were 24 districts in Harris and  
22 we took the state plan as it is, we can create another minority  
23 district in the Fort Bend mix by just rearranging the population.

24 JUDGE GARCIA: I see. Okay.

25 THE WITNESS: And there is one for South Texas also



1 which cuts one fewer county lines which is a state responsibility  
2 under the state constitution and it -- it puts an additional  
3 district in -- between Cameron and Hidalgo counties the way it  
4 was testified and it also would plug into the state plan. You  
5 wouldn't have to redraw the entire state plan.

6 JUDGE SMITH: As to each of these exhibits--I'm just  
7 looking at Fort Bend, for example--there are various colors but  
8 there's not a legend. Does your report explain which of the  
9 districts is the opportunity district? I mean, I don't advise  
10 that you go through it now. I just want to know how I can find  
11 that.

12 THE WITNESS: The data -- the attached data would  
13 define that. I can tell you though which ones are the minority  
14 districts if you want, but the data also explains it.

15 JUDGE SMITH: No, that's okay. Go ahead.

16 Q. (BY MR. VERA) George, so -- just for the Court's reference  
17 and for the record to make it clear, 12-2-A, 12-2-B, 12-2-C and  
18 12-2-D represent Gingle's plans from LULAC -- again, 12-2-A,  
19 Harris County; 12-2B, Fort Bend County; 12-2-C, Bell County.  
20 Tell me about Bell County in 12-2-C.

21 A. Well, Bell County is where Fort Hood is, of course. And so  
22 we were asked by one of the LULAC members in Bell County could we  
23 draw a district that would -- that's in the military, could we  
24 draw a district that would better represent the Fort -- the Fort  
25 over there. So we did that district and we -- I forget what the

1 percentage is, but we get it up to a substantial minority  
2 percentage to where it is an opportunity district. It would be  
3 an opportunity district.

4 And I think that the NAACP also has a plan and there's  
5 is probably better than ours, but it does -- it also shows that  
6 it's possible. And this would also be a plug-in plan.

7 JUDGE GARCIA: Okay. You wouldn't have to change the  
8 whole map.

9 THE WITNESS: You wouldn't have to change the whole  
10 map. You would probably just only have to change one district to  
11 plug it in.

12 JUDGE SMITH: That district is pretty spread out  
13 though, isn't it? I mean, it looks like it is just as wide as a  
14 road of Highway 90 for most of that way. A lot of it.

15 THE WITNESS: Yes, Judge. It's a Gingles district and  
16 it's not intended to be a remedy district. If we were making a  
17 remedy district we probably would draw it primarily to include  
18 all of Fort Hood. Just essentially be a circle around Fort Hood.  
19 And given the voter registration and the turnout in Fort Hood and  
20 the military vote that you would expect out of Fort Hood it would  
21 be an overwhelming minority district.

22 Q. (BY MR. VERA) I will continue. I want to go back to the  
23 issue in Harris County regarding whether they should receive 25  
24 districts or 24 districts. And a debate was going back and forth  
25 on whether should it be rounded up or rounded down. Would you

1 take a look -- tell the Court a little bit about your experience  
2 of how and how do you know that the round was always up?

3 A. Well, when you get a large county like Harris County or even  
4 Bexar County you can put either one more or in Harris County's  
5 place even one less district in the -- in the county and still  
6 stay within a deviation range of 10 percent which is what we used  
7 to shoot for.

8 And so the question then becomes how many do you put in  
9 Harris County. Do you put one fewer, do you put the ideal number  
10 or do you put one more? And over the years I go from 1980  
11 through 2000 I think there have opinion 15 times Harris County  
12 has been redistricted in one way or another. And on eight of  
13 those occasions, if I'm not mistaken, the county was at less than  
14 half. In other words, 20 -- for example, 24.4, which is what it  
15 is now and it was always rounded up; or 25.4 and it was rounded  
16 up to 26; 24.4 and it was rounded up to 25.

17 And this year in order to justify putting one fewer  
18 districts in Harris County and having the collateral effect of  
19 making it much more difficult to increase the minority districts,  
20 they went to 24 and they justified it saying that this -- that  
21 they had this policy but, in fact, it never was a policy. They  
22 have always followed the difference.

23 MR. VERA: For the Court's reference--and I should have  
24 done this, Your Honor--it would be LULAC Exhibit Number 13 is the  
25 historical seat assignments to Harris County. LULAC's Exhibit

1 Number 13.

2 A. And it shows the total population of the state, the  
3 population of the county and what the percentage of the districts  
4 would be. For example, in 2000 it was 24.46 percent. 24.46  
5 districts would fit within Harris County and they rounded that up  
6 to 25.

7 JUDGE GARCIA: You say by the court and the  
8 legislature.

9 THE WITNESS: The legislature rounded it up to 25. And  
10 when the court has done it it has also done the same thing.

11 JUDGE GARCIA: Okay. All right.

12 JUDGE SMITH: But in terms of the decrease in Harris  
13 County's percentage of the statewide population the drop was from  
14 25 and a half to 24 and a half, so that's almost exactly  
15 proportional to a drop from 25 seats to 24 seats.

16 THE WITNESS: Judge, I think the drop was from 24.46 to  
17 24.4 between 2000 and 2010.

18 JUDGE SMITH: Oh, right. I was just looking -- if you  
19 look back at 1980.

20 THE WITNESS: Oh, yes. Harris County has grown  
21 slightly slower than the rest of the state over the -- over the  
22 30-year period, but between 2000 and 2010 they grew at almost the  
23 same rate as...

24 JUDGE GARCIA: Well, is LULAC's preference in this  
25 lawsuit to --

1 MR. VERA: I'm sorry, Judge?

2 JUDGE GARCIA: LULAC's preference in this lawsuit is  
3 for 25 seats in Harris County --

4 MR. VERA: That's correct, Judge.

5 JUDGE GARCIA: -- or if there was a remedy to consider  
6 the Fort Bend County district?

7 MR. VERA: I'm sorry. You're asking me a question?

8 JUDGE GARCIA: Well, either one.

9 THE WITNESS: Judge, the Fort Bend one plugs in and we  
10 also have the 24 district Harris County, which we believe would  
11 be better than the current plan in Harris County. It would plug  
12 in also. It's also a 24-district plan.

13 JUDGE GARCIA: I see. Okay.

14 THE WITNESS: The Mexican-American Hispanic caucus has  
15 a 25-district plan which I understand LULAC vastly prefers.

16 JUDGE GARCIA: Okay. Go ahead.

17 Q. (BY MR. VERA) I believe that covers, George, what we are  
18 going to cover in the exhibit list. I just have a few more  
19 questions for you. Again, there's been some testimony from  
20 others of the different hearings that were held across the state  
21 and testimonials that's provided that's part of the record.

22 What preparation or what did you do to ensure that this  
23 information that we presented to the court here and other  
24 testimony provided by LULAC representatives was available to the  
25 state? What part did you play in that?

1 A. Either at the request of a senator or a House member I came  
2 and testified or at the request of LULAC I in many cases assisted  
3 LULAC, the president of the state LULAC, for example, in  
4 preparing information to where he could testify or where other  
5 LULAC members could testify.

6 Q. You, in fact, prepared several LULAC members, I believe, who  
7 testified at almost all the hearings held across the state.  
8 Would that be an accurate statement?

9 A. It seemed like for a while that's all I was doing.

10 Q. And in regards to, again, some of the testimony regarding  
11 the primaries that are held in Texas, what is the significance of  
12 a primary for a minority county?

13 A. Well, in South Texas the primary is the election so  
14 that's -- that's the most -- in most districts in South Texas  
15 that's the most important election. In the urban areas where you  
16 have Hispanics and blacks living among each other, the primary  
17 pulls out the -- the primary choice of whatever the community is  
18 that's in the district. For example, the Democrats and the  
19 Republicans, their primary choice. And then there is -- you look  
20 at the cohesion in the election and the general election.

21 But the primary, you know, is the farm league and, you  
22 know, the major leagues are the general election.

23 Q. Mr. Korbel, I'm going to finish up with -- of course, the  
24 Court has seen the maps, they've seen the elbow, they've seen the  
25 PowerPoint presentations that we described as the different

1 shapes of these districts. Show the Court what you've done in  
2 regards to the different districts, at least an example of each  
3 one, and then that will be it for us for this go-round.

4 A. Well, we're going to obviously leave these with the Court  
5 and if the Court enjoys puzzles they can try and put them  
6 together. And I also have the cartoon in here that these were  
7 cut from so that if you can't figure out how they go together,  
8 well, you can cheat. So this gives an example of the -- in  
9 Harris County there is District 10, which comes almost to  
10 downtown Houston and then it goes all the way to Lake Austin.  
11 And the plastic would have to go to the wall in order to  
12 demonstrate that one, but this is a -- this is a very big  
13 district.

14 JUDGE GARCIA: Okay.

15 THE WITNESS: That's -- they are separated out in  
16 envelopes by county and that's one of the ones from the county.  
17 Of course, we've got this elbow and the lightning bolt and  
18 everything else from -- from Tarrant County and Dallas County.  
19 And then in each -- I won't bore the court with the rest of them,  
20 but there are similar districts in all of the rest of them.  
21 Similar strange-shaped districts and you can coordinate if you  
22 want those districts with the number of precinct cuts and you can  
23 see how the strange districts were actually formed.

24 And we'll leave that with the Court and I just  
25 think -- I just think it's important to look at districts away

1 from the map to see what they actually look like and that's what  
2 these do.

3 Q. George, you reminded me of something that I forgot. This  
4 Austin connection, do you recall -- is it a true statement that  
5 every major city--Austin, Dallas, Houston, Corpus Christi,  
6 San Antonio--somehow all got some umbilical cord going to Austin  
7 in at least one district?

8 A. Well, District 10 goes from -- from Lake Austin to -- to  
9 downtown Houston. District 25 goes from really Comal County up  
10 through Travis County picking up a large portion of the minority  
11 population in Travis County and then extending on up to Tarrant  
12 County. So it ties -- it ties Austin together with Tarrant  
13 County. There is one of the valley districts that extends a  
14 long ways, comes up to the outskirts of Austin and then goes all  
15 the way down to Corpus Christi.

16 JUDGE GARCIA: And what's the significance of that in  
17 any event?

18 THE WITNESS: Well, Judge, I think the significance of  
19 that is to show if you look at each one of the urban areas,  
20 again, how the minority population has been dispersed into  
21 adjoining districts. And the rationality, for example, of  
22 combining Comal County with Tarrant County or -- or Lake Austin  
23 with -- with Harris County. It's just I think another way to  
24 show the irrationality of the plan.

25 JUDGE GARCIA: On the exhibit reflecting the precinct



1 splits in Travis County, are all of those splits only minority  
2 communities or what percentage?

3 THE WITNESS: The vast number are in minority  
4 communities. I hate -- I haven't looked at it. I will do that  
5 if the Court wishes.

6 JUDGE GARCIA: I would like you to do that or we would  
7 like you to do that.

8 THE WITNESS: All right.

9 JUDGE GARCIA: Do you think it's greater than  
10 50 percent?

11 THE WITNESS: I think probably -- very likely it's  
12 greater than 50 percent.

13 JUDGE GARCIA: But you could get that?

14 THE WITNESS: Yes.

15 JUDGE GARCIA: Mr. Vera, anything else?

16 MR. VERA: LULAC has finished questioning Mr. Korbel.  
17 I will turn to my colleagues on the plaintiff's side and see if  
18 anyone has any particular question.

19 MR. GARZA: No questions for MALC.

20 JUDGE GARCIA: Anything from over here?

21 MR. COHEN: No, sir.

22 JUDGE GARCIA: Ms. Perales?

23 MS. PERALES: No, Your Honor.

24 MR. VERA: I'll pass the witness to the State.

25 JUDGE GARCIA: Okay. Thank you.

## EXAMINATION

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BY MR. MATTAX:

Q. Good morning, Mr. Korbel. My name is David Mattax. It's good to see you again.

I took your deposition a few weeks ago; is that correct?

A. You did.

Q. Pursuant to the agreement of the parties that deposition is going to be admitted into evidence in its entirety, but I wanted to give you the opportunity at this point if there's anything in that deposition that you think was inaccurate or that you'd like to change for the record I'd like for you to do that right now.

A. Well, I -- unfortunately I've not seen the deposition, but I'll be glad -- I mean if you want me, I'll be glad to look at it, but I have not seen that deposition.

Q. Well, I think it would be appropriate for you to look at it and make any changes that are necessary so that could be conformed to the record. Thank you.

Let's turn to LULAC Exhibit 1-A. I think I'm going to try to do this just in the series of the exhibits that are listed for these.

JUDGE GARCIA: That's fine.

Q. (BY MR. MATTAX) Although my notes are not -- in looking at the population growth -- for example, if we turn to the second one where you have it broken down into Harris County population,

1 and I'm looking at the 2010 estimates where you have it broken  
2 down by Hispanics, do you see that?

3 A. In Harris County?

4 Q. Yes.

5 A. Yes. There is a typo.

6 Q. Excuse me?

7 A. There is a typo in the total population of Harris County.

8 Q. Let's compare your numbers to mine. What is the total  
9 population of Harris County supposed to?

10 A. It should be 2,818,190. In 1990 it was 2,818,190.

11 Q. Okay. What about in 2010?

12 A. These are -- these are -- the 2010 data, as it's indicated,  
13 is the state's estimate. And it is slightly -- I think slightly  
14 smaller than what the current population is. This  
15 doesn't -- this doesn't reflect the current population. It's  
16 very close, but it isn't perfect because its the state's  
17 projections.

18 JUDGE GARCIA: But is the estimate here in the exhibit  
19 correct?

20 THE WITNESS: The estimate in the exhibit is correct,  
21 yes.

22 JUDGE GARCIA: Correct. Okay.

23 Q. (BY MR. MATTAX) For purposes of this discussion the  
24 estimate I have from the legislative council is slightly  
25 different. So what I would suggest I do is I just introduce this

1 later. We're close but just move this on and talk about it.

2 So, for example, the estimate you have has 4 million  
3 approximately people in Harris County. My estimate has  
4 3,900,000.

5 A. Yes.

6 Q. Roughly four million.

7 JUDGE GARCIA: Okay. That's from the Legislative  
8 Council.

9 MR. MATTAX: Correct:

10 JUDGE GARCIA: And this exhibit is from the Texas State  
11 Data Center. That's not the same entity, is it?

12 THE WITNESS: No, Judge, and this is the state  
13 projections. They had a number of different scenarios and this  
14 was one of the high scenarios. And we had just -- this still is  
15 with the projections. And I probably will change that this year  
16 when the new projections come out.

17 JUDGE GARCIA: Okay. And what's the figure you  
18 mentioned?

19 MR. MATTAX: This is from the Legislative Council.  
20 They accumulated this data and this was the data that was used  
21 for the 19 -- excuse me, the 2010 census that forms the basis of  
22 the --

23 JUDGE GARCIA: What was your figure?

24 MR. MATTAX: 3,909,790.

25 JUDGE GARCIA: So that's about 140,000 less?

1 MR. MATTAX: Correct.

2 JUDGE GARCIA: Okay.

3 Q. (BY MR. MATTAX) My question would be in looking at this  
4 population chart you have, 1-B, did you account or try to account  
5 for citizen voting age population?

6 A. No, I didn't.

7 Q. Is the citizen voting age population less than the total  
8 population?

9 A. Yes. The citizen voting age population is less than the  
10 total population.

11 Q. With respect to the Latino citizens or the Hispanic  
12 citizens -- I think you have it listed as Hispanic here for the  
13 Court's reference, this estimate -- this is actually quite  
14 different, but my estimate has according to the  
15 population -- I'll just move on. This is different, but I have  
16 1,500,000 Hispanic -- excuse me, 1,500,000 Hispanics in Harris  
17 County. You have 1.8 million.

18 A. Yes.

19 Q. But let me get to my question. According to my chart the  
20 estimated Hispanic citizen voting age population is 494,000.  
21 Would you agree with me that's approximately correct?

22 A. I don't have it in front of me but that's probably accurate  
23 if you represent that to be accurate.

24 Q. So you would agree then that when looking at these  
25 population charts for purposes of a Voting Rights Act case or

1 citizen voting age population it's important that we should be  
2 looking at citizen voting age population numbers, not just total  
3 numbers?

4 A. No, I don't totally agree with that.

5 Q. Please go on.

6 A. All right. In previous censuses the census asked the  
7 question are you a citizen. So we had -- we had in some cases a  
8 hundred percent and other cases I think one out of four, so where  
9 the question was asked, actually asked. So we had very accurate  
10 data and we had data that was at the same time as the census.

11           This year they didn't ask that question on the census.  
12 They used their -- their annual enumeration or the ACS, and what  
13 they did was every year there is a survey taken by the census and  
14 it's accurate to a very large number, 100,000 or something. And  
15 what they did was they averaged five years together. They  
16 averaged 19 -- excuse me, 2005, 2006, 2007, 2008 and 2009. They  
17 averaged those together and produced a number of citizens which  
18 is essentially what the citizen rate was probably four years ago.

19           And so that's the reason why I would not use that data.  
20 I don't think the data is very accurate and the census doesn't  
21 report that it's accurate. The Legislative Council in any of its  
22 reports, unless you actually requested it, did not provide that  
23 data. Anyway...

24 Q. Two questions on the citizen voting age population data. My  
25 understanding of it is that it's -- it's based on a running

1 four-year average from 2005 to 2009; is that correct?

2 A. That's correct.

3 Q. And is it your testimony that we shouldn't look at that in  
4 determining whether or not we can draw a Gingles district?

5 A. Well, I mean, obviously everything you look at, but I  
6 wouldn't place very much reliance on it because it's so far out  
7 of date.

8 Q. Well --

9 A. You know, it's so far out of date.

10 Q. Here's my question, what I'm driving at. What we have to do  
11 here in this court, if the Court was to decide something needs to  
12 be redone here, is determine is there a sufficient number of  
13 Latinos in a particular district that can elect their candidate  
14 of choice. I'm having difficulty understanding how we can  
15 determine that if I don't know how many citizens are living in a  
16 particular area.

17 So, for example, we just discussed that Houston has a  
18 much smaller percentage of Hispanic citizen voting age population  
19 in the total population. So what is your suggestion that we do  
20 not use Hispanic citizen voting age population?

21 A. Well, I think that what you should -- that if -- if the  
22 Court begins to draw districts it should look at the historic  
23 success that minority candidates have had at various levels. For  
24 example, in Harris County Senator Gallegos was elected with 38  
25 percent of the registered voters, probably 40 percent, 42 percent

1 or so, maybe 45 percent of the citizens. We didn't have that  
2 data then. We only had registered voters.

3           And we can look at -- for example, in Dallas County  
4 there is a county commissioner precinct that looks somewhat like  
5 the district that we're drawing here and we know the percentage  
6 of registered voters that elects a Hispanic to the county  
7 commissioner. We know the percentage of Hispanic registered  
8 voters in Travis County that elects their commissioner there. We  
9 know -- we know the registered voter numbers and I think that's  
10 probably more reliable than trying to use the census numbers.

11           And I would also point out, for example, in Tarrant  
12 County, if you look at that, if those numbers are to be believed,  
13 Hispanics are registered at a higher level than Anglos and blacks  
14 are registered. And it's obviously -- it obviously can't be the  
15 case. We know that that's not the case.

16 Q. Let me ask a couple of questions then because I'm going to  
17 get to your Exhibit 12 later which is where you identified some  
18 specific maps for the Court to consider. But when the Court  
19 makes that consideration in saying, okay, here is a Gingles  
20 demonstration district that would show that it performs to elect  
21 the Hispanic candidate of choice, what data in your report have  
22 you provided the court to make that determination?

23 A. I provided all the data that's in the plan packages that the  
24 Legislative Council produces.

25 Q. Okay.



1 A. And that's the data that the state would use in pre-clearing  
2 the plan if they had to pre-clear the plan.

3 Q. And that data is -- is attached -- following the map there's  
4 a series of reports generated by Red Appl that have that?

5 A. That's correct.

6 Q. And one of those reports has citizen voting age population?

7 A. Yes, they do produce that.

8 Q. And one of those reports has Spanish surname voter  
9 registration?

10 A. That's correct.

11 Q. And --

12 A. The only point I'm making here is that the Legislative  
13 Council will not provide citizen voting age population unless you  
14 request it separately.

15 Q. But --

16 A. But the voting age population and the registration is  
17 available on the machine.

18 Q. Okay. But this court has that data, that data has been  
19 provided, and so that's my question. Is that the metric that we  
20 should be discussing when discussing whether a Gingles district  
21 can be drawn referencing citizen voting age population and  
22 Spanish surname?

23 A. Well, and my response is the same as it was before. I think  
24 that I would rely more on registered voters and on what is  
25 produced compared to registered voters, a successful elected

1 official in the past.

2 Q. And I'll just ask this final question to close the loop.

3 And that type of data is not in your report or in these exhibits?

4 A. That type of data is in all the exhibits.

5 Q. All right. One last question. Where?

6 A. Well, it's in the plan package.

7 Q. Okay. Fine. And we just discussed what's in the plan  
8 package, the SSVR and the citizen voting age population?

9 A. Yes.

10 Q. Thank you.

11 MR. MATTAX: Your Honors, I'm not going to go through  
12 the rest of Exhibit 1. What I would propose to do is provide an  
13 exhibit to the Court with Legislative Council numbers on that so  
14 you'll see those different populations. And I'll provide that at  
15 lunch.

16 JUDGE GARCIA: That will be acceptable.

17 Q. (BY MR. MATTAX) Let's move on to -- if I can find the  
18 exhibit. You indicated that you participated in attempting to  
19 draw a district in North Texas and provided that to Congressman  
20 Smith?

21 A. Yes. It's one of a series of plans that we provided to you  
22 in discovery.

23 Q. Well, I'm going to turn to what's been marked as LULAC  
24 Exhibit Number 5.

25 A. Number what? I'm sorry.

1 Q. 5. And I believe you testified that 33 was the district you  
2 provided to Lamar Smith?

3 A. Yes. Now, this would be a -- this would be a district -- a  
4 district that you would actually propose to hold an election on.

5 Q. I understand that. And whether this is an exact  
6 configuration -- I'm not going to get into that. My question is:  
7 Is there any data that you provided to show this Court that  
8 District 33 has a sufficient number of citizen -- Hispanic  
9 citizen voting age population voters to actually elect the  
10 candidate of choice in this proposed 33?

11 A. We have no plan package for this. This is just their  
12 proposal.

13 Q. And my question is: Do you as the expert in this case  
14 contend that if the court were to draw a District 33 that there  
15 is a sufficient number of Hispanic citizen voting age population  
16 to elect the Hispanic candidate of choice?

17 A. Yes, I do based on the county commissioner precinct that  
18 elects a Hispanic.

19 Q. Okay. And that's based on the county commissioner  
20 precincts, but what about the data within this configuration?

21 A. Congressman Smith, he provided that data. He doesn't in  
22 this memo.

23 Q. Well, if I were to suggest to you that when a configuration  
24 like this and other configurations like this were presented to  
25 the legislature and no one could draw a district that contained a

1 sufficient -- a sufficient number of Hispanic citizen voting age  
2 populations to have a district that had a majority Hispanic  
3 citizen voting age population, would you agree with me?

4 A. If you took the data exactly the way it was -- I think  
5 MALDEF had one that had 50 percent. We had one that I think is  
6 47 percent registration that according to your data doesn't hit  
7 50 percent citizen voting age population, which is an example of  
8 what I was saying. It seems to indicate that Hispanics are  
9 registered at a higher level than Anglos. And I think probably  
10 what it -- what it reflects is the fact that the Hispanic numbers  
11 go back three years or four years and are not -- can't possibly  
12 be used with the current numbers.

13 Q. Let me ask two follow-ups on that then.

14 A. Uh-huh.

15 Q. So with respect to 33 you don't have the data -- you  
16 suggested that you had a plan that came up with 47 percent in a  
17 district that was equivalent to 33?

18 A. Equivalent to 33. It doesn't --

19 Q. Okay.

20 A. It's more stressed than 33 is, but it's -- but it's the  
21 equivalent of 33.

22 Q. Could you provide the court the plan number for that?

23 A. I believe that's 12 -- is it 12-A?

24 Q. So that would be plan number 195?

25 JUDGE GARCIA: I think so.

1 A. 195, yes.

2 Q. (BY MR. MATTAX) You mentioned when you testified that you  
3 believed there was an undercount of Latino voters. And I'm  
4 trying to quote you so please correct me if this is an incorrect  
5 statement, but I believe you said something to the effect, "But  
6 nobody can agree on how to solve that problem." Is that a fair  
7 statement?

8 A. Well, if I said that that's not what I meant. What I meant  
9 was everybody agrees that there's an undercount but nobody  
10 can -- can come up with what the undercount actually is.

11 Q. So how does one account for it if one doesn't know what it  
12 is?

13 A. Of course, that's part of the problem with the redistricting  
14 process. In the past when you had Hispanic and potentially  
15 Hispanic or African-Americans in white districts that were in  
16 proximity, they would tend to underpopulate the white  
17 districts -- excuse me, overpopulate the white districts and  
18 underpopulate the minority districts. And that way they could --  
19 they could produce additional minority districts to satisfy the  
20 Department of Justice.

21 Q. Let's talk about a Congressional district. Is it your  
22 understanding that Congressional districts have to be exactly  
23 equal to the extent possible with at most a variance of one and  
24 maybe even two might be unconstitutional throughout the state?

25 A. Well, I know the plan that was adopted by the court and is

1 in use today has a deviation.

2 Q. How high is the deviation?

3 A. It's a few hundred votes, but I don't think that's  
4 exactly -- I don't think that's what the Supreme Court has said  
5 about -- about the congressional population, but it's easy to  
6 draw them to zero deviation so we just do it.

7 Q. Well, here's what I'm driving at. Let's focus on the  
8 undercount. If we're trying to correct for an undercount because  
9 we say, okay, we think this district is undercounted, then does  
10 that mean that I have variations in the congressional districts  
11 and say I'll put 100,000 more people -- even though they weren't  
12 counted here, but I'll put 100,000 more people in this district  
13 to account for that. Is that what we're supposed to do?

14 A. No. In Congress I wouldn't -- the district is big enough to  
15 where probably we can get along without underpopulating it.

16 Q. Okay. So the underpopulation then we need to discuss is  
17 with respect to the Texas House then?

18 A. Probably, yes.

19 Q. Are you aware of a Texas constitutional provision that  
20 instructs the legislature how to allocate the number of votes  
21 within districts in the Texas House?

22 A. The population?

23 Q. Yes.

24 A. Okay. Yes, uh-huh.

25 Q. And doesn't it say in the Texas constitution you have to use

1 the census figures?

2 A. Yes.

3 Q. So you're suggesting then that you don't change the numbers.  
4 You don't, for example, overpopulate or underpopulate a district.  
5 You don't change the census numbers. You just manipulate the  
6 plus or minus five percent?

7 A. Well, I didn't. The people who were drawing the plans in  
8 negotiation with us did. Not always, but usually.

9 Q. Let's turn to 5-B. I think we were on 5-A. Let's turn to  
10 the next page. I believe you testified this was a memorandum  
11 from Congressman Smith?

12 A. That was -- his name is on it and that's what was in the  
13 e-mail that you-all sent to us covering this, this memorandum.

14 Q. And so is it your understanding that the proposal that  
15 Mr. Smith was providing would have had three -- of the four new  
16 districts that the census allows Texas to draw that there would  
17 be three districts drawn for purposes of electing a Republican  
18 and one district drawn for the purposes of a new Voting Rights  
19 Act?

20 A. Well, what he was saying was that there would be three  
21 districts for the Republicans and then two districts that would  
22 be voting rights districts that he talks about, but he's talking  
23 about changing one of the existing districts into a voting rights  
24 district.

25 Q. Now, I guess my question would be: If, in fact -- and you

1 can disagree with me if you will, but for purposes of my question  
2 assume with me that you cannot populate a district in North Texas  
3 with enough citizen Hispanic voting age population to draw a  
4 performing district, would it not be consistent with this to draw  
5 one in an area where you could populate a district with enough  
6 citizen voting age population for it to have a majority?

7 A. Well, I don't think the courts have ever said that the  
8 legislature has to have a citizen majority population. What the  
9 5th Circuit has said -- and other circuits have disagreed with  
10 this, but what the 5th Circuit has said is you look at voting age  
11 population. Excuse me. You look at citizen voting age  
12 population. But, of course, that was before we had all this  
13 problem with using the voting age population.

14 Q. Well, let me just circumvent to my conclusion, jump to my  
15 conclusion and we can move on.

16 A. Sure.

17 Q. What I'm suggesting is that we've seen that according to  
18 your testimony that Congressman Smith thought about drawing a new  
19 Latino opportunity district. One was not drawn in Dallas and I  
20 assume for purposes of my question that it can't be drawn, but  
21 one was drawn along the I-34 -- 35 corridor, wasn't it?

22 A. Yes, it was, but what's -- what I think Congressman Smith is  
23 referring in here is he was negotiating with Congressman Cuellar  
24 on two districts for Hispanics. And what he says in here is  
25 we're going to give him two districts, but one of those districts



1 is we're going to change from a -- from a current district,  
2 current Democratic district into a voting rights district. And  
3 that's -- and so really what he's doing is -- in any event,  
4 that's what he said.

5 Q. And I understand that and we can discuss all day the  
6 interpretation of a memo.

7 A. Sure.

8 Q. But the end result of the map, the congressional map that  
9 was drawn by the Texas legislature, was three additional  
10 Republican districts and one additional Latino minority  
11 opportunity district; isn't that correct?

12 A. No, I don't count it that way. I count them the same number  
13 of districts that were -- that were before.

14 Q. So we're clear on that, what do you count 35 as, district --  
15 CD 35 in the plan enacted by the legislature?

16 A. I would count District 35 as -- as the way you're  
17 criticizing or the way you're criticizing your current District  
18 23 is that it looks like -- it looks like a minority district but  
19 as your expert says 23 is really not a performing district. I  
20 think -- I think the Austin to San Antonio district is -- the way  
21 you've got it set up is not a performing district.

22 Q. Okay.

23 A. And I say that -- if I could expand.

24 Q. Please.

25 A. And I say that for a number of reasons, one of which is the

1 shortness of time between the election and the court acting or  
2 the Justice Department acting or whoever is going to act here in  
3 the election, if you're going to raise \$3 million -- we have two  
4 of the most expensive media markets in the country, San Antonio  
5 and Austin -- and if you're going to raise \$3 million, which is  
6 probably what that race is going to cost at \$5,000 a pop between  
7 now and the election, you just couldn't possibly do it.

8 Q. Well, someone is going to win?

9 A. Someone is going to win. That's right. I'm saying that a  
10 Hispanic candidate will have a very hard time raising the  
11 five -- the \$3 million or whatever it's going to cost to run  
12 that -- to run a serious campaign.

13           You understand San Antonio and Austin have never been  
14 combined in an election district as far as I'm -- as far as I  
15 know before. So there's no -- there's no coalitions that have  
16 been developed. There's no -- it's really almost the same as the  
17 district that you-all drew in 2000 that tied Austin in with  
18 Rio Grande Valley.

19 Q. Well, I don't want to digress on that very much, but that  
20 district was for basically Austin all the way to the tip of the  
21 Rio Grande Valley.

22 A. Sure. That was before the growth in the population.

23 Q. And there is a bit of growth in the population between  
24 Austin and San Antonio?

25 A. Yes, there is growth. You don't have to go all the way down

1 to the valley to get the population.

2 Q. Let me go back to my previous question because I don't  
3 accept your premise that a Latino candidate would not be able to  
4 raise funds and run an election, but notwithstanding that,  
5 assuming your premise is correct then who is going to have that  
6 money and win that race?

7 A. Well, I suspect that an existing -- I mean, an incumbent  
8 congressman would probably have that money.

9 Q. Okay. Well, 35 -- there is no incumbent in 35.

10 A. Well, there is no incumbent in 35, but there's an incumbent  
11 who was announced in 35.

12 Q. And who would that be?

13 A. Lloyd Doggett.

14 Q. Well, okay. Then I think what I just heard you testify, and  
15 correct me if I'm wrong, is that the Hispanic candidate of choice  
16 can't win 35 because he can't raise enough money to defeat Lloyd  
17 Doggett?

18 A. No, that's not -- that's not what I'm saying at all. I'm  
19 saying as you know the first election in a new -- in a new  
20 district is the most important election because you create an  
21 incumbent and incumbents have tremendous -- tremendous  
22 opportunities to -- to continue in office. We know that.

23 And so what I'm saying is that the problem of  
24 organization and raising money and the cost of actually running  
25 such a campaign would be -- would make -- would put a candidate

1 who doesn't already have money on hand -- put them in a real  
2 difficult fix.

3 Q. Well, correct my logic --

4 A. Sure.

5 Q. -- if it's incorrect, but operating on what I think I just  
6 heard you testify, a district drawn, 35, which was intended to  
7 be -- elect a candidate of choice of the Hispanic community will  
8 not do that because the incumbent -- the equivalent of an  
9 incumbent will be there, Mr. Doggett. He would win the election  
10 and therefore he is not the Hispanic candidate of choice?

11 A. He might be the Hispanic candidate of choice. We'll have to  
12 see what the -- what the results would be. He could be the  
13 Hispanic candidate of choice. I think more likely what will be  
14 is that since he's in Austin and has a high profile in Austin he  
15 probably will -- he probably will do very well or do well among  
16 minorities in Austin and less well among minorities in  
17 San Antonio and that's because of the problems in getting the  
18 election organized in such a short period of time.

19 Q. Let's move on to another topic. I appreciate your  
20 discussion of how the Red Appl system works and how the map  
21 drawing works because we're going to have the map drawer here  
22 tomorrow to demonstrate what he actually did to the court.

23 But one thing I do want to ask you about is that when  
24 you're shading different areas -- let's first start with that.  
25 What types of things can you, quote, shade an area for in drawing

1 a map?

2 A. You can shade an area for minority concentrations. You  
3 can -- Hispanic, Hispanic plus black, Anglo or other. You can  
4 shade it however you want it and you can shade it whatever  
5 percentages you want it. I think it's set up at -- if I'm not  
6 mistaken the highest number here is 80 percent and up or 60  
7 percent and up and --

8 Q. What --

9 A. -- 80 percent and up. Or -- and then you can also go in and  
10 look at all of the political data for the past several years.  
11 I'm not sure. I never -- I would never look at political data  
12 that was more than one year old because it's changing so fast,  
13 but it has all of the political information. If you wanted to  
14 shade it as to how President Obama would have done in the  
15 district or in any precinct in the district that data -- that  
16 data is available.

17 Q. So --

18 A. You can -- go ahead.

19 Q. I'm sorry. Presume with me, if you will, that I'm a map  
20 drawer --

21 A. Yes.

22 Q. -- and I want to draw a district that I think will perform  
23 for a Republican.

24 A. Yes.

25 Q. If I just turn on the Red Appl, nothing shows up besides

1 population to tell me that answer, right? You have to do  
2 something. I have to physically turn a switch or push a button  
3 or give a command?

4 A. Well, you do exactly what he did which is when I asked him  
5 to change the -- the -- just the shading of the whole district, I  
6 asked him to change the shading to minority percentages. And  
7 then we did -- we changed from -- from precinct to a block. And,  
8 yes, you would have to do that.

9 Q. So if I were a map drawer and said I just want to shade for  
10 election results --

11 A. Yes.

12 Q. -- that wouldn't tell me the ethnicity of any of the voters?

13 A. No, it wouldn't. I mean, it -- but I don't know why you  
14 would do that if -- I don't know why you would do that if you  
15 already have that data available, the full data available.

16 Q. Well, perhaps I want to do it because I don't want to draw a  
17 district based on race. Would that be a fair statement?

18 A. I think it would be difficult to comply with the Voting  
19 Rights Act by only looking at the political results of the  
20 elections.

21 Q. Well, let's take that one step further. Let's say I'm  
22 drawing a district in East Texas or far West Texas that has never  
23 had historically a voting rights issue. And so I'm like okay, I  
24 want to draw this district to have, you know, 55 percent  
25 Republicans in it. There would be no reason for me to turn on

1 the ethnicity tab, if you will, or shading. Would you agree with  
2 me?

3 A. I'm sorry. I --

4 Q. Let me ask the question a different way. Assume with me  
5 that -- this is the way I would draw a map. I don't know if  
6 people do it that way or not, but this is the way I would draw a  
7 map. If I was trying to draw map that said I want to elect this  
8 many Republicans and this many Democrats, when I'm drawing the  
9 map I have the button that says election results on it. I don't  
10 have the button that says ethnicity. Are you okay with me so  
11 far?

12 A. Yes.

13 Q. Then if it's not a Voting Rights Act district I don't really  
14 have to ever turn that ethnicity button on. But if it is and I  
15 need to see if I retrogressed, then after I drew the map I would  
16 turn the ethnicity button on to see, oh, no, I have retrogressed  
17 this district. Would that be a fair way to draw a map?

18 A. I wouldn't do it that way but that is -- I suppose it could  
19 be done that way.

20 Q. Okay. I really didn't understand. Why wouldn't you draw it  
21 that way?

22 A. The reason I wouldn't draw it that way is because I was  
23 trying to comply with the Voting Rights Act and the  
24 political -- I'm not interested in the political results. I'm  
25 only interested in complying with the Voting Rights Act.

1 Q. So to say it differently, when you draw maps you always draw  
2 them based on race?

3 A. I always have -- I always have race available to look at  
4 because I want to make sure that it complies with the Voting  
5 Rights Act.

6 JUDGE GARCIA: So then no mistake is done?

7 THE WITNESS: Yes, of course. Yes, Judge. I'm sorry.

8 JUDGE GARCIA: That's what I mean.

9 THE WITNESS: Yes.

10 JUDGE GARCIA: That's why you look at race.

11 Q. (BY MR. MATTAX) Correct. But my question is: Do you look  
12 at that to begin with or do you look at it after you've drawn  
13 your map to make sure it complies with the Voting Rights Act  
14 because there are two separate things going on. One could be I'm  
15 drawing the map based on race. The other could be I'm drawing  
16 the map based on election results and then I check my map to make  
17 sure it doesn't comply. Do you understand what I'm saying?

18 A. Sure.

19 Q. In the first methodology you wouldn't turn on the ethnicity  
20 until you were done drawing your map. Then you would turn it on  
21 and check your compliance with the Voting Rights Act?

22 A. And sometimes -- I mean, I'm pretty familiar now with the  
23 population concentrations in the state and sometimes I probably  
24 wouldn't -- I wouldn't have turned it on to begin with or I  
25 would -- I would just check it, but in order to comply with the



1 Voting Rights Act we have to look at the minority concentration.

2 Q. Well, it will be up to this court to decide, but I would  
3 suggest to you that the legal way to do this is to not look at  
4 ethnicity when you're drawing your map. Draw your map and then  
5 check to make sure you haven't violated the Voting Rights Act.  
6 Otherwise you're drawing a map based solely on race. Wouldn't  
7 you agree with me?

8 A. Well, but that's not what -- that's not what I'm talking  
9 about. What I'm talking about is you have the minority numbers  
10 running so that you can check on the map to make sure you're not  
11 violating the law. We're not drawing the map solely based on  
12 race. We're drawing the maps to comply with the federal Voting  
13 Rights Act.

14 Q. Okay. So when you were drawing your maps what were you  
15 trying to do?

16 A. Comply with -- I wanted to see if it was possible to draw  
17 districts that complied with the federal Voting Rights Act.

18 Q. And were you doing that based on having the ethnicity turned  
19 on so you could draw it based on race?

20 A. Sometimes, but it would be to check it. Not to -- not for  
21 the purpose of actually drawing it.

22 Q. So let's say you turn that off. How would you draw the map?

23 A. If I turned the --

24 Q. If you turned -- I'm sorry. Let me be more clear in my  
25 question. I apologize. You don't have to -- when you turn on

1 Red Appl that shading for ethnicity doesn't show up. So if  
2 you're not drawing it based on race but you're just checking it,  
3 what are you looking at then? When you drew your maps if you  
4 weren't drawing them based on race, what were you looking at?

5 A. Well, first of all, and it may be a small point, but it is  
6 customizable, I think, so that race would show up right away. I  
7 didn't do that but it is possible to do that.

8 Q. Let's turn to Exhibits 2-C and D. I believe this is where  
9 you're doing this cutout in Tarrant County?

10 A. Yes.

11 Q. And I believe that you said that -- that you take one of the  
12 cutouts out -- and I don't have the nice plexiglass, but I think  
13 we can just sort of figure along. If you look at 2-C with the  
14 Tarrant County finger going down -- we've had quite a bit of  
15 discussion, and then sort of insert it in 2-D and you said that  
16 that sort of split the minority -- I believe your testimony was  
17 split the minority community?

18 A. 2-C split the minority community? 2-D? Yes, they split the  
19 minority community.

20 Q. Okay. And so we're talking about apples and oranges here in  
21 this testimony. I need to be clear. When you say minority  
22 community are you saying the Latino community or are you saying  
23 the black community or are you saying both?

24 A. Well, in this particular case the lightning bolt that comes  
25 in, or the foot or whatever you want to call it, that's primarily

1 Hispanic.

2 Q. Okay.

3 A. And the areas in District 12 that are minority areas are  
4 primarily black.

5 Q. Okay.

6 A. Not really primarily black, but there's plurality in that  
7 district. Hispanics and blacks live among each other in these  
8 areas.

9 Q. So one way to interpret this map based on that testimony is  
10 that looking at 2-C and the arm coming down from Tarrant County  
11 was to try to keep those Hispanics in those areas together as  
12 Hispanics in a district, and 2-D as drawn was an attempt to  
13 create those areas of African-Americans together in a district.  
14 Is that a fair interpretation?

15 A. I don't think you do a Hispanic candidate any favor by  
16 plugging it into all of -- all of Denton County.

17 Q. That wasn't my question. My question was in looking at this  
18 insert you have here where what has apparently has happened --  
19 there may be other explanations, but at least based on your  
20 testimony the arm coming down has a concentration of Hispanics.  
21 The other part of it has a concentration of African-Americans.

22 A. Yes.

23 Q. And so all I'm suggesting is could one reason for that be an  
24 attempt to keep Hispanics in that area in the same district?

25 A. I mean, somebody might say that. I don't -- I don't think

1 it's -- I don't think it's a tenable position, but somebody might  
2 say that.

3 Q. Well, could it be true?

4 A. I don't know. I can't imagine any person that draws -- that  
5 draws maps that would say something like that.

6 Q. Well, that's fine, but it is a true statement and then we'll  
7 move on because we -- I need to move on a lot faster.

8           Final question. It is a true statement, though, that  
9 the arm coming down in 2-C is primarily Hispanic and the part in  
10 2-D is primarily African-American; is that a fair statement?

11 A. Let me look at the numbers to make sure that I'm saying them  
12 right. In 2-C-1, or 2-C I should say, the percentage is 63 -- 65  
13 percent Hispanic voting age population and 70 percent Hispanic  
14 population and 20 percent Anglo population. So that's -- it also  
15 has 6.8 percent black population, so that's primarily a Hispanic  
16 area.

17 Q. Okay.

18 A. In 2 -- in 2-D -- the population in 2-D is 40.9 percent  
19 Hispanic, 41 percent Hispanic, and 38.3 percent black --

20 Q. Okay.

21 A. -- for a total of black and Hispanic population of 78.3  
22 percent. And the blacks are slightly higher in voting age  
23 population, but that's a combination of Hispanics and blacks.  
24 They all live in the same neighborhoods.

25 Q. I understand. So when we're talking about drawing the

1 districts in the Dallas/Fort Worth area--and let's talk about  
2 Dallas first--so that we get our nomenclature correct, you're  
3 talking about drawing combination districts, as you put it,  
4 combinations between citizen voting age population of Hispanics  
5 and blacks, African-Americans; is that right?

6 A. After you demonstrate the Gingles district then the remedy  
7 district would be very much like what Congressman Smith proposed,  
8 which would be a district that -- where Hispanics were perhaps  
9 40 percent of the population, maybe 50 percent of the population,  
10 maybe 60 percent of the population, but it would look much  
11 differently than the -- than the Gingles districts.

12 Q. I want to explore this because if we -- if we get this right  
13 I think I can eliminate a lot of cross. When you're talking  
14 about drawing Gingles districts in the maps you propose, are you  
15 talking about drawing a district that the Hispanic community has  
16 the opportunity to elect its candidate of choice or are you  
17 talking about a combined minority district that has a percentage  
18 of Hispanics and African-Americans in it?

19 A. The Gingles district that we drew in Dallas County, which  
20 is, I think, 12-A if I'm not mistaken, that's designed to come up  
21 with a Hispanic voting age population, a citizen voting age  
22 population, of 50 percent.

23 Q. Where is that?

24 A. I believe that's 12-A.

25 Q. 12-A. 1-A?

1 A. 12-A, I think, isn't it? Yes, 12-1-A. Yes.

2 Q. Okay. Which district in 12-1-A? You have two here. You  
3 have a 33 and a 50. I'm sorry. 33 and a 30; is that correct?

4 A. Yes.

5 Q. Okay. And 33 -- turn -- let me see where the pages are in  
6 here. So this would be --

7 MR. MATTAX: Excuse me, Your Honor.

8 Q. (BY MR. MATTAX) One, two, three, four, five, six, seven --  
9 eight pages. The seventh and eighth pages, these are behind the  
10 statistics that come off of Red Appl. And this would be left  
11 foot first at Red 106. Do you see Red 106? It's entitled  
12 "Special Tabulation In Citizen Voting Age Population? "

13 A. That wasn't the first -- the first one.

14 Q. I understand that. It was like, I think, number seven.

15 A. Yes, uh-huh.

16 Q. Okay. So if you're looking at 30, one of the districts you  
17 have on that, the Hispanic citizen voting age population is  
18 15 percent.

19 A. District 30, yes.

20 Q. So I assume you're not contending that as a Latino  
21 opportunity district?

22 A. No, I don't.

23 Q. Looking at District 33 the citizen voting age population is  
24 47.5 percent?

25 A. That's correct.

1 Q. Do you consider that a Hispanic opportunity district?

2 A. Well, first of all, the margin of error that the census  
3 claims in here, which I think is probably very low, is one  
4 percent. And then if you consider that that data is four years  
5 old or three years old it's clearly above -- above that because  
6 the voter registration numbers in that district are 40 -- are  
7 40 --

8 Q. Go to the next page.

9 A. 44.7. Yeah. 44.2, I should say.

10 Q. Correct.

11 A. And they're estimating the citizen at only 47.5. Well, that  
12 would be -- that -- I can't imagine a situation where you would  
13 actually have those numbers, where the -- where the -- where the  
14 registered voters would be that close to the citizen voting age  
15 population in a developing area like Tarrant County.

16 Q. So for purposes of where we are today you would challenge  
17 the data provided by legislative council as not being accurate?

18 A. I don't think -- I don't think they claim it to be accurate.

19 Q. Then what data do we use in this exercise?

20 A. That's -- that's part of the problem that was created by the  
21 census. And I think what you use is you use the registered voter  
22 information and you can project from that.

23 Q. Okay. Well, let's look at the -- in District 30, the  
24 Spanish surname voter registration, which is 10.5 percent in  
25 District 30?

1 A. Yes.

2 Q. So I would assume you would agree with me that is not a  
3 Latino opportunity district?

4 A. I would not normally think of it, no.

5 Q. And District 33 has 44.2 percent Spanish surname voter  
6 registration; is that correct?

7 A. Yes.

8 Q. And do you consider that to be a Latino opportunity  
9 district?

10 A. Absolutely because the Anglo -- the Anglo citizen voting age  
11 population is -- what is it? 31.8 percent, so...

12 Q. That doesn't follow to me. I'm sorry.

13 A. All right.

14 Q. First of all, there's -- there's a disconnection between  
15 Anglo voting age population and Hispanic citizen voting age  
16 population because Hispanic voting age population is much higher,  
17 correct?

18 A. Say that again.

19 Q. Yes. Unfortunately the arithmetic in this gets a little  
20 complicated, doesn't it, but let me sort of explain how I  
21 understand this data works and see if you would agree with me.  
22 Let me see if I can find 202. A few pages before is 202. I  
23 think it's three before the ones we were talking about. And this  
24 says -- it's called Red 202 --

25 A. Yes.



1 Q. -- I think it's referred to, and we start off with a total  
2 population, correct?

3 A. Yes.

4 Q. And then they have a percentage of Anglos, percentage of  
5 black, percentage of Hispanic all the way through?

6 A. Yes.

7 Q. And when you're calculating the percentage of Anglo  
8 population you're assuming they're citizens. And when you're  
9 calculating the percentage of black population you're assuming  
10 they're citizens; is that correct?

11 A. That's correct. Well, there's obviously a slippage there,  
12 but they're largely citizens.

13 Q. We recognize, just due to the configuration of Texas and  
14 where we are, that with the Hispanic population we need to make  
15 an adjustment for citizen voting age population or Spanish  
16 surname population to try to find out who are in fact the  
17 eligible voters in a particular district. Do you agree with me?

18 A. Well, you have to be a citizen to register to vote, yes.

19 Q. So when I'm looking at these numbers -- and what I'm trying  
20 to do here so you'll understand is make this uniform throughout  
21 all of your plans?

22 A. Uh-huh.

23 Q. I don't want to have to go through each and every one of the  
24 plan numbers that you have listed here and go through this  
25 exercise. I may pick one or two others. But are [sic] any of

1 your plans have a citizen voting age population above 50 percent  
2 or do any of your plans have a Spanish surname voter registration  
3 above 50 percent?

4 A. Yes.

5 Q. Which one?

6 A. The south Texas -- all the south Texas plans.

7 Q. Okay.

8 A. And the Congress and House.

9 Q. Well, let's stop there. Let's talk about then -- maybe we  
10 can just eliminate this for Dallas. What about any in the  
11 Dallas/Fort Worth area?

12 A. Well, I would contend because of the -- because of the  
13 problems with the data that the district -- the district 12-1  
14 is a majority Spanish surname registration. Excuse me. A  
15 majority Spanish surname citizen. And I think MALDEF has one.

16 Q. Let's just talk about your maps for today. And I understand  
17 your contention that even though it's less than 50 percent and  
18 you have a view of that, let's get back to my question so we can  
19 try to move on.

20 A. Sure.

21 Q. In the Dallas/Fort Worth area do you have any demonstration  
22 maps that show a Hispanic citizen voting age population above  
23 50 percent or a Spanish surname voter registration population  
24 above 50 percent?

25 A. No.

1 Q. In the Houston area, other than the ones that have been  
2 currently drawn, do you have any of those?

3 A. Yes.

4 Q. Which one?

5 A. The one that wouldn't have an incumbent in it. The district  
6 looks like Senator Gallegos's district. If I can find it.

7 Q. When you find it if you could identify the plan number I  
8 would appreciate it.

9 A. Yes. I believe district five has --

10 Q. I'm sorry. What's the plan number?

11 A. Excuse me. The plan number is 199.

12 Q. I'm sorry.

13 A. And it has a citizen voting age population of 55.1 percent.

14 Q. Which one is this? I'm sorry.

15 A. That's district number five in plan 199.

16 Q. Let's turn two pages. Let me see. I'm sorry, your Honors.  
17 One, two, three pages after that map, which we're now looking at  
18 Red 199. And if we look at the far right-hand column --

19 A. Yes.

20 Q. -- under SSVR --

21 A. Yes.

22 Q. -- you have three districts. One that says 14.7, one that  
23 says 11.4 and one that says 21.7; is that correct?

24 A. Yes.

25 Q. Do you contend that any of those are Hispanic opportunity

1 districts?

2 A. Well, yes, I contend that district number six probably  
3 would -- if it didn't have an incumbent in it probably would  
4 elect a Hispanic.

5 Q. Okay. And that's based upon a 21 percent Spanish surname  
6 voter registration?

7 A. That's based upon experience in Harris County, previous  
8 experience in Harris County.

9 Q. Other than your personal experience do you have any other  
10 data to present to the court on that conclusion?

11 A. No.

12 Q. If you look at district five --

13 A. Yes.

14 Q. Under your plan is this a -- a -- is there a vacancy?  
15 There's no incumbent in your district five?

16 A. There's no incumbent in that district.

17 Q. Let's turn two pages past that and look at the incumbents  
18 under plan 199. Are you pairing two current representatives?  
19 This is Red 350.

20 A. I see what you're saying. Again, this is intended to be a  
21 Gingles district and to demonstrate that it's possible to draw a  
22 Hispanic district above 50 percent registration. It would not  
23 be -- it would not be a final district. I think -- I think other  
24 parties have in their packages, and we gave to you in the  
25 deposition, plans that would probably look more like a plan if

1 you were actually holding an election under it.

2 Q. The two representatives you have paired are Representative  
3 Green and Representative Jackson-Lee. Is it your understanding  
4 they are currently in districts that are minority districts?

5 A. Yes, they are, but understand this is just a Gingles  
6 district. It wouldn't be a district you would hold an election  
7 under.

8 Q. And let's talk about that because, unlike some of the other  
9 plaintiffs who sort of present a full map so we can sort of see  
10 where all the counties are and the populations, you only present  
11 partial maps?

12 A. Well, I only present partial maps because in most cases they  
13 just plug into your current map.

14 Q. Well, you said in most cases. Which cases do they and which  
15 cases don't they?

16 A. They don't -- they don't in this particular district in  
17 Harris County, but you would only have to modify two or three  
18 additional congressional districts to plug it in.

19 Q. But you haven't done that?

20 A. Not on this one exactly. No. On some that looked like it,  
21 yes.

22 Q. If I go through this exercise with the different maps that  
23 you proposed and going through the percentages and things of that  
24 nature, would you agree with me that these -- these documents  
25 that are provided by the legislative council with respect to

1 these percentages will speak for themselves or do I need to go  
2 through them one by one?

3 A. Obviously, sure, of course they speak for themselves with  
4 the caveats that we've talked about.

5 Q. Correct. Well, then I don't think I'm going to go through  
6 each one of these plans.

7 Let's get to a new issue and that has to do with the  
8 precinct splits.

9 A. Yes.

10 Q. And I think we've agreed that approximately -- there's  
11 approximately 8400 precincts in Texas and approximately 400 of  
12 them were split I think on a congressional map. Does that sound  
13 about right?

14 A. Well, yes, there are 400 split, but that creates 800 -- at  
15 least 800 districts. Excuse me. Yeah. 400 split, but it  
16 creates at least 800 districts because of the way they're split.

17 Q. Now, the fact that a precinct is split is not illegal?

18 A. No.

19 Q. You're only using this to alert the court to look at  
20 something that may be illegal?

21 A. If I were looking at a plan that's the first thing I would  
22 look at, especially where you have a swing between three and a  
23 hundred.

24 Q. But are you suggesting that the mere fact that a county or a  
25 district or an area has a lot of precinct changes in it that

1 makes that illegal?

2 A. Not -- not just in and of itself. The results of it might,  
3 not just in and of itself.

4 Q. So with respect to those different areas of the state that  
5 you think have high precinct cuts in them, does your report  
6 identify for the court why you think those precincts cut result  
7 in an illegal plan?

8 A. Say that -- I'm sorry. I missed that.

9 Q. Sure. Let me try to rephrase it. We can all agree the mere  
10 fact that there are precinct cuts does not render a plan illegal,  
11 correct?

12 A. No, I agree with that.

13 Q. Okay. And you've presented some raw data which I don't  
14 dispute. I mean, the cuts are the cuts that suggest that there  
15 are precinct cuts under the congressional and the House map,  
16 correct?

17 A. Yes, yes.

18 Q. So what is it that we now can take that in your report or in  
19 the data and say okay, because of these cuts in this area that  
20 results in this area being illegal? Where do I find that?

21 A. Well, when you put -- the point that I'm making is that when  
22 you put all of these things together, the shape of the districts,  
23 the minority splits as well as the precinct splits, which seem to  
24 be related to the minority splits, when you put all that data  
25 together you come up with a -- it seems to me, a plan that not

1 only disadvantages the minority population but may very well be  
2 intentional discrimination.

3 Q. I guess my question is more specific. Can you  
4 identify -- we've talked about Travis County, for example, that  
5 has a lot of precinct cuts in it. Now, Travis County wasn't in  
6 any kind of protected district?

7 A. Well, the district that elected Doggett, I think, had a  
8 fairly high percentage minority, but I would not consider that a  
9 Hispanic opportunity district.

10 Q. So if I'm cutting precincts in a district that isn't  
11 protected by the Voting Rights Act, what difference does it make?

12 A. For that particular district?

13 Q. Sure.

14 A. Well, it makes a difference as to what you do with  
15 what's -- with what you -- what you do with what you cut.

16 Q. I guess what I'm trying to drive at, because it wasn't  
17 apparent to me in reading your report, how you piece together  
18 these things you're talking about and say, okay, now I know  
19 there's county lines -- excuse me, precinct cuts here and, you  
20 know, something else over here and so, oh, now this is illegal.  
21 Is there something in your report that helps piece all that  
22 together that I just missed?

23 A. Well, I think the bottom line, what results.

24 Q. So is this your bottom line conclusion?

25 A. Well, it's the bottom line conclusion that comes from the



1 reports, yes.

2 Q. And there's no -- nothing else you can point to the court as  
3 far as specific data other than this general analysis we've  
4 talked about?

5 A. Well, the determination of whether someone's -- the reason  
6 that someone does something on the computer or on anything else  
7 is a black box. I can't get into their head to tell why they did  
8 something. All I can do is see what happened. And I think that  
9 the -- I think that's what the Voting Rights Act gets at, what  
10 happened.

11 Q. That's fine. I understand that. I'm just trying -- in my  
12 own brain I could never sort of piece together the precinct cuts  
13 with that, but let's just move on. Maybe it's in there.

14 A. Well, as lawyers we deal with black boxes all the time.

15 Q. Okay. It's a black box that I couldn't figure out. Let's  
16 just move on to another line of inquiry.

17 If I could read my own notes this would help, but I  
18 think that you also testified, as you just sort of mentioned, you  
19 never really know what the goal of someone is. You can't get in  
20 their mind, but you mentioned some goals in redistricting could  
21 be to create a district for someone to run in?

22 A. That's correct.

23 Q. Or to create a district for an existing member?

24 A. That's correct.

25 Q. So an existing member can say, geez, this population has

1 changed a little bit. Can you put those people in my district?

2 Could that be a request from a member?

3 A. Yes.

4 Q. And that could result in a county line cut or, excuse me, a  
5 precinct cut?

6 A. It could, sure.

7 Q. Or they could say, you know, I want these over here because  
8 that's going to give me a political advantage. That could be  
9 another reason?

10 A. Usually there's a fairly high correlation between  
11 neighborhoods and precincts, but it could result in a cut, yes.

12 Q. Now, I believe you mentioned in looking at your county line  
13 cut exhibit that in the Travis County area where you had a  
14 four-digit number, that's where a new precinct would have to be  
15 drawn? I wasn't really clear on your testimony so if you could  
16 help me out on that I'd appreciate it.

17 A. Well, that exhibit is -- is a -- is a work in progress.  
18 Mr. Rios is working with them right now to -- to  
19 continue -- continue to refine that, but that was where it was  
20 at.

21 Q. Okay. I'm looking at Exhibit Number 11.

22 A. Yes.

23 Q. Before I do that was I correct in your testimony that you  
24 discussed that when you have a four-digit number that's where you  
25 have to redraw a precinct, but if it's a three-digit number you

1 don't?

2 A. Right. I didn't explain that very well. A four-digit  
3 number is where we absolutely know there has to be a new precinct  
4 because we can't combine it with any other precinct because of  
5 the laws on combining precincts.

6 Q. Okay.

7 A. And in those we absolutely know. There will be others that  
8 where Travis County is not able to locate a place to hold an  
9 election which will -- which will require separate precincts.

10 Q. Sure. But at least for purposes of Exhibit 11 where you  
11 have these numbers listed with four digits, those are ones that  
12 you've testified you think will have to be in a new precinct?

13 A. That's the first cut, yes.

14 Q. So --

15 A. I would imagine that there will be probably at least that  
16 many, if not more, that we're finally going to have to have as  
17 new voting proceeds.

18 Q. Let's turn to Exhibit Number 11 if we could. LULAC Number  
19 11.

20 A. I don't have a copy of that. I'm sorry.

21 Q. It's in the exhibit book.

22 A. It is. For some reason it's in not in my exhibit book.

23 MR. MATTAX: He doesn't have the Exhibit 11 in his  
24 book.

25 MR. VERA: I'm sorry?

1 MR. MATTAX: He doesn't have the Exhibit 11 in his  
2 book. Do you have an extra for him?

3 MR. VERA: LULAC 11?

4 MR. MATTAX: Yes.

5 MR. VERA: You don't have the exhibit book?

6 THE WITNESS: I've got the exhibit book, but it's not  
7 in there.

8 Q. (BY MR. MATTAX) Let me ask you a preliminary question. How  
9 familiar -- how familiar are you with the population demographics  
10 of Travis County?

11 A. I'm fairly familiar with the population demographics of  
12 Travis County.

13 Q. I just want to highlight a couple of these and then move on  
14 because the data will show what the data shows. And if we need  
15 to provide the court something else later we can do that, but I  
16 don't want to waste a lot of time on this. But let me just find  
17 one that's easy for me to see, which is in the left-hand corner  
18 of this, which is 3721, which is a four-digit number so we will  
19 have to have a new precinct there according to your testimony?

20 A. Yes.

21 Q. Is that a new minority area?

22 A. No, but that plan is also -- that cut is not a result of the  
23 precinct cuts. That change is going to be the result of location  
24 of polling places and the population in the -- in that area.

25 Q. Then I'm a little confused and then we'll have to move on.

1 So not all the numbers you list on Exhibit 11, LULAC Exhibit 11,  
2 are the results of precinct cuts?

3 A. None of the ones -- there are three on here that are not the  
4 result of precinct cuts. I think the 370 -- 3721, the -- there  
5 is one -- anyway, I think there the three that are not the result  
6 of precinct cuts, but they are -- some of them are indirectly the  
7 result of precinct cuts because it would be areas that we  
8 could -- we could have put together with another polling place,  
9 but we can't now because of -- because of the cut.

10 Q. You indicated that you thought a majority minority district  
11 could be drawn in Travis County, I believe?

12 A. In population, yes.

13 Q. And that would be a coalition district. Is that the word we  
14 want to use, coalition or joint? Or what word do you like to use  
15 for these districts that have -- that include multiple  
16 minorities?

17 A. It's a minority district, coalition district, whatever you  
18 want to call it.

19 Q. Well, I'll just call it a coalition district so we can -- we  
20 can -- to emphasize that it's not just either a Latino  
21 opportunity district or an African-American/Latino opportunity  
22 district.

23           When you looked at that would that have prevented the  
24 drawing of district -- if you created that district you're  
25 talking about in Travis County that would be a coalition

1 district, would that have prevented the ability to draw 35 which  
2 is a Latino opportunity district?

3 A. Yes, but we could then put district -- a district in south  
4 Texas that would -- that would cover that.

5 Q. Which district in south Texas?

6 A. I'd have to look at the plan. It's whatever one is above  
7 32.

8 JUDGE GARCIA: You said yes, but I didn't hear the last  
9 part, Mr. Korb. The question was -- I believe the question  
10 was even if you had created a minority opportunity district in  
11 Travis County could the legislature still have created District  
12 35; is that right?

13 MR. MATTAX: Correct. That was my question.

14 JUDGE GARCIA: And your answer was?

15 A. It could have created 35, but not in the present -- not in  
16 the present configuration. It would be more located in south  
17 Texas.

18 JUDGE GARCIA: What do you mean connected to south  
19 Texas or not have created 35 and go down to south Texas and  
20 create a new district?

21 THE WITNESS: Yes, you create a new district that you  
22 could call 35.

23 MR. MATTAX: The latter.

24 JUDGE GARCIA: Oh, okay. Right.

25 Q. (BY MR. MATTAX) Because you have created two new districts,

1 two new Latino minority opportunity districts?

2 JUDGE GARCIA: You created one in Travis and one in  
3 south Texas, yes?

4 Q. (BY MR. MATTAX) Let me clarify if you created a combined  
5 opportunity district in Travis County--and I'll assume for the  
6 purposes of this question you can--then could you have created  
7 two Latino opportunity districts in Texas or just the one you've  
8 just described that sort of goes down to south Texas?

9 A. Well, on one of the plans -- let me answer it this way. One  
10 of the plans we gave you in discovery was a plan that put Corpus  
11 Christi together with Austin and did have a 50 percent -- there  
12 were two districts in south Texas then including Austin with  
13 50 percent or -- two new districts with 50 percent or more  
14 registered voters, yes.

15 Q. Okay. I appreciate that. So the answer is yes, you could  
16 have created two Latino opportunity -- two additional  
17 Latino -- excuse me. Let me back up.

18 Right now what we have is a Latino opportunity district  
19 created, 35, that goes from San Antonio to Austin. You're  
20 suggesting to get rid of that and create a combined district in  
21 Travis County. I'm trying to find out is is this just a  
22 preference that I'd rather draw a different 35, which is fine if  
23 that's your preference, but that's different than saying --

24 JUDGE RODRIGUEZ: Didn't we already get an answer to  
25 that? He disputes that CD 35 is a Latino opportunity district,

1 so he disputes -- I think we've already heard it. He disputes  
2 your underlying assumption.

3 Q. (BY MR. MATTAX) Is that true?

4 A. That's correct.

5 JUDGE RODRIGUEZ: So we've already heard all of this.

6 A. That doesn't mean that a configuration like that couldn't be  
7 drawn, but the one you've got there I don't consider to be a  
8 functional district, no.

9 Q. (BY MR. MATTAX) Okay. Just to close the loop on this and  
10 the map the court should look at that you would suggest they draw  
11 instead of 35 is what number?

12 A. Well, we're not -- these are not remedy plans. These are  
13 plans to demonstrate that alternative plans were available and I  
14 can tell you what it is.

15 JUDGE RODRIGUEZ: Just to move things along, is that  
16 200?

17 THE WITNESS: I'm sorry, Judge?

18 JUDGE RODRIGUEZ: To move things along, is that 200?

19 THE WITNESS: I believe that's right, Judge.

20 Q. (BY MR. MATTAX) Let's talk briefly about your analysis of  
21 the decision to create 24 -- I think we're going to move briefly  
22 to the House plan now, your Honors. I think we're done with the  
23 congressional.

24 JUDGE GARCIA: Okay.

25 Q. (BY MR. MATTAX) Let's talk about the 24 versus 25 districts



1 in Houston.

2 A. Yes.

3 Q. Is it your understanding that it is illegal -- let me back  
4 up. When you divide the total population in Harris County by the  
5 ideal district and you come up with 24.41, is it your  
6 understanding that it is illegal to draw 24 districts?

7 A. I think it's the configuration in your plan that violates  
8 the law. Not the -- not the fact that there is 24 or 25. The  
9 justification that has been given for the drawing in your plan is  
10 that you had -- you had to draw 24 rather than 25 and -- and you  
11 were bound by a rule which never actually was a rule. That's  
12 what we're trying to demonstrate.

13 Q. Let me just ask you a little differently.

14 A. Sure.

15 Q. The number is 24.41 which is less than 25?

16 A. It is, yes.

17 Q. Normally in arithmetic you don't round up from 24.41,  
18 correct?

19 A. Well, the districts are such that you can put additional  
20 districts or fewer districts in the -- in the plan. And at -- at  
21 24.4 10 years ago you put 25 districts in. At 24.4, whatever it  
22 is now, you put 24 districts in.

23 Q. I don't --

24 A. And the result of that is the apparent difficulty the state  
25 has in drawing additional minority opportunity districts.

1 Q. I guess my question is the legislature chose -- actually I  
2 don't think it was the legislature that chose to put 25 districts  
3 in last time. I think it was the Legislative Review Board; is  
4 that correct?

5 JUDGE GARCIA: The LRB.

6 Q. (BY MR. MATTAX) The LRB.

7 A. Yes.

8 Q. Okay. Are you aware --

9 A. It was the same thing as the management of the House, yes.

10 Q. Are you aware that although the map was never passed out of  
11 the House that -- the map was being considered by the House,  
12 there was a vote to put 24 districts in Houston?

13 A. I'm sorry?

14 Q. Are you -- even though the House never passed the map and  
15 therefore it was redrawn by the Legislative Redistricting Board,  
16 the LRB, are you aware that there was discussion about putting  
17 24 districts in Houston ever?

18 A. Yes, there was a discussion of a lot. Yes, of course.

19 Q. So that is a prerogative of the legislature to decide how  
20 many districts it wants to put in?

21 A. Well, the legislature never decided. That's the point. The  
22 legislature didn't act. I mean, the discussion in the committee  
23 is -- on a law that's never passed is -- I don't know what  
24 legislative history that would be.

25 Q. You didn't know whether there was a vote on that issue?

1 A. There may have been a vote on that issue, but you would have  
2 to pass a bill before you could start talking about the meaning  
3 of legislative history.

4 MR. MATTAX: I wanted to finish before noon and I think  
5 I'm pretty close if I could have a moment just to --

6 JUDGE GARCIA: Go ahead.

7 MR. MATTAX: -- to see if there's anything else.

8 Thank you Mr. Korbel. I appreciate your time.

9 JUDGE GARCIA: Okay. Thank you. Mr. Vera.

10 MR. VERA: Very brief, Judge.

11 JUDGE GARCIA: Okay.

12 EXAMINATION

13 BY MR. VERA:

14 Q. Mr. Korbel, just briefly there was a lot of discussion by  
15 Mr. Mattax with you in regards to what's the court to do, what's  
16 the court to do. Have you personally drawn maps that have been  
17 accepted by the courts as remedy maps in other cases?

18 A. Yes, I have.

19 Q. And have you specifically drawn congressional districts and  
20 state house districts in litigation that you were involved in?

21 A. Yes, I have.

22 Q. And are you available to this court should they choose to  
23 ask for your assistance in drawing remedy maps if in fact they  
24 find that a remedy is required?

25 A. I certainly would -- I certainly would do anything that the

1 court asked or I would help you in preparing a plan that you  
2 would propose to the court, but yes, I am available.

3 MR. VERA: No more questions, Judge. Thank you.

4 MR. MATTAX: Nothing.

5 JUDGE GARCIA: Thank you, Mr. Korbel. You're excused.

6 Counselors, we'll be recessed until 1:30.

7 (Change of reporter.)

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1 (Open court, 1:35 p.m.)

2 THE CLERK: Would you raise your right hand, please?

3 THE WITNESS: Yes, ma'am.

4 (The oath was administered)

5 MR. VERA: Sorry, Your Honor, can't see y'all.

6 May it please the Court, Your Honor? Two  
7 housekeeping matters, the state and LULAC has agreed, the  
8 exhibits that we gave you as a summary of Mr. Korbel's  
9 testimony we've now numbered 16A through 16P, and we ask it be  
10 admitted, and I don't believe there's an objection from the  
11 state.

12 MR. MATTAX: No objection.

13 JUDGE GARCIA: All right. Admitted.

14 MR. VERA: And they also have the data that corrects  
15 a typo that we have and the data dealing with the census.  
16 We've agreed that that will be coming in as Defendant's 51.

17 MR. MATTAX: 51. This was the tabulation of the  
18 Hispanic citizen age -- Hispanic citizen voting age population  
19 by county, with a demonstrative map behind it, color  
20 coordinated, to show the populations.

21 JUDGE GARCIA: Okay. Thank you.

22 MR. VERA: We have no objection, Your Honor.

23 JUDGE GARCIA: All right.

24 MR. VERA: May it please the Court, Your Honor.

25 **DAVID SAUCEDO, PLAINTIFF'S WITNESS, SWORN**

**DIRECT EXAMINATION**

1  
2 BY MR. VERA:

3 Q. Would you please give your name to the Court, please?

4 A. Yes, sir. My name is David R. Saucedo.

5 Q. And I refer to you as Judge Saucedo. Why are you referred  
6 to as Judge Saucedo?

7 A. I am the Maverick County judge.

8 Q. Okay. And how long have you been the Maverick County  
9 judge?

10 A. I've been Maverick County judge for the last eight months  
11 finished my ninth.

12 Q. So you were elected county judge in the last election?

13 A. That's correct.

14 Q. In 2010?

15 A. Yes, sir.

16 Q. Okay. Now, tell the judges, as far as your political  
17 experience, how old were you when you were first elected to  
18 office in Maverick County?

19 A. Well, we first announced for office in 1992. I was 20  
20 years old. I had the opportunity to run for constable in the  
21 northern district of Maverick County. I served as the  
22 constable for two years. I went on to serve on the Eagle Pass  
23 Bridge Board for another two years, then I decided to come back  
24 to county politics and ran for county commissioner in 1996. I  
25 served from '97 to 2010, then I took a year off. I had to

1 take a year -- resign to run.

2 Q. And, Judge Saucedo, I'm going to ask you to talk a little  
3 bit louder.

4 A. Yes, sir.

5 Q. Get the speaker closer to you so everyone can hear you,  
6 especially the court reporter. Okay?

7 A. Yes, sir.

8 Q. Thank you. So you served as county commissioner for how  
9 long?

10 A. For 13 years.

11 Q. Thirteen years.

12 A. Yes, sir.

13 Q. And then county commissioner you immediately became -- or  
14 you ran for the county judge after 13 years?

15 A. That's correct. Resigned to run, I ran for county judge  
16 and I'm serving as county judge.

17 Q. Prior to you running for office, how did you get involved  
18 in politics?

19 A. I've been involved in politics all of my adult life. And  
20 as a child I was around politics. My father was the county  
21 judge. He was party chairman. My uncle was the party  
22 chairman. My mother was on the school board.

23 Q. Now, isn't it a true statement your dad, your father, was  
24 actually the first Latino county judge elected from Maverick  
25 County?

1 A. Yes. That is correct.

2 Q. And how long did he serve as county judge?

3 A. He served as county judge for 15 years. He took over for  
4 a judge who passed away in office, and then he served  
5 subsequently three more terms, from -- I believe from '68 to  
6 1983.

7 Q. So you've been involved in politics since you were a  
8 child; is that correct?

9 A. Yes, sir, that's correct.

10 Q. And are you very -- would you say that you're very  
11 familiar of not only Maverick County now as county judge and  
12 the pluses and minuses that goes with the job, but with the  
13 community, how the community reacts, how the community either  
14 is or is not together and all those factors? Are you familiar  
15 with that?

16 A. Yes, sir, absolutely. I can remember campaigns as far as  
17 1978 when John Hill ran for governor. Mr. Trejo was our state  
18 senator. Chick Kazen was our congressman. So my family had  
19 been involved in campaigns. And as far as I can remember, I  
20 think I was seven years old when I started tagging along and  
21 being part of -- meeting with the people and getting to know --

22 Q. Other members of your family and extended family also  
23 serve in office there in Maverick County, do they not?

24 A. Yes, sir, they do.

25 Q. And who are some of those family members?



1 A. I have a brother who's presently on the Eagle Pass  
2 Independent School District board. He's a board trustee. And  
3 I have a cousin who is the mayor of the City of Eagle Pass,  
4 which is the county seat, county seat of Maverick?

5 Q. Judge Saucedo, were you born and raised in Maverick  
6 County?

7 A. Yes, I was.

8 Q. And you went to school there?

9 A. I did go to school there. I went to public school there.  
10 I started off in private school, and then I went to public  
11 school, graduated and went to college.

12 Q. And where did you get your degree from, and what is it in?

13 A. I went to college, the University of Texas, for two years,  
14 returned to Eagle Pass, finished there, Sul Ross State  
15 University, and I received a bachelor of arts and a social  
16 studies composite, and I did teach after that.

17 Q. Now, when you were county commissioner and county  
18 constable and those kinds of things, that didn't pay very much  
19 money, did it?

20 A. No.

21 Q. How did you make a living all these years?

22 A. Like I mentioned, I was a schoolteacher for the majority  
23 of that time. I worked for the Eagle Pass Independent School  
24 District, started off with a federal program under -- a program  
25 where they hired community aids, which recruited migrant

1 families that came in that did seasonal work up north, which we  
2 consider the states of Minnesota -- mostly Minnesota, but some  
3 in Illinois and even as far south as Georgia and as far west,  
4 of course, as Oregon.

5           So I had the opportunity to meet with families on  
6 a daily basis, worked with them for ten years under federal  
7 programs in the school district until I received my degree and  
8 became a teacher.

9 Q. How long did you actually teach?

10 A. I was in the classroom for nine years.

11           JUDGE GARCIA: Mr. Vera, what are the points you wish  
12 to bring to the Court's attention?

13           MR. VERA: Thank you, Your Honor.

14 BY MR. VERA:

15 Q. Commissioner Saucedo -- could you bring the county map up?  
16 DO you recognize that? Is that the county of Maverick County?

17 A. That's the -- most of the county, yes.

18 Q. That line that you see going through the middle of that,  
19 what does all this represent, Judge?

20 A. The line is a division that has been put into Maverick  
21 County to separate it into two different -- or put it in two  
22 separate congressional districts.

23 Q. This is the proposed line now, correct?

24 A. Yes, sir.

25 Q. Okay. And what's dividing -- what is this area right

1 here, all this little squiggly line going -- now, what is that  
2 area?

3 A. That is actually the new boundary line that's been drawn  
4 to separate the 23rd from the 28th.

5 Q. But what neighborhoods are those? Can you --

6 A. Those are all neighborhoods that fall within the City of  
7 Eagle Pass, neighborhoods inside of Maverick County that  
8 include three of the precincts that -- three precincts actually  
9 fall into two districts now.

10 JUDGE GARCIA: Let me ask you this, Judge.

11 THE WITNESS: Sir.

12 JUDGE GARCIA: And thank you for being here. The  
13 Court does appreciate you're being here.

14 What's the population of Maverick County?

15 THE WITNESS: It's close to 60,000.

16 JUDGE GARCIA: And of those 60,000 what percent are  
17 Hispanic?

18 THE WITNESS: I would have to say it's more than 95  
19 percent.

20 JUDGE GARCIA: 95 percent.

21 THE WITNESS: Yes, sir.

22 JUDGE GARCIA: And to your knowledge and memory has  
23 Maverick County ever been split?

24 THE WITNESS: No, sir. It's never been split.

25 JUDGE GARCIA: Always been contained within one --

1 THE WITNESS: -- congressional district, yes, sir.

2 JUDGE GARCIA: Did the legislature or members of the  
3 legislature or in that capacity come to y'all and ask you -- or  
4 did they -- when did you learn for the first time that Maverick  
5 County was going to be split?

6 THE WITNESS: Not from any member of the legislature.  
7 It was through the media.

8 JUDGE GARCIA: Did y'all ask the members -- did you  
9 tell your member of the legislature or other members of the  
10 legislature, we don't want our county being split?

11 THE WITNESS: That had been -- I believe, Judge, I  
12 would say that that was understood. It was never in the realm  
13 of possibility that Maverick County -- it was never thought  
14 that Maverick County would have been split.

15 JUDGE GARCIA: And if you had your way, you would  
16 rather have it all contained in one county?

17 THE WITNESS: Absolutely.

18 JUDGE GARCIA: I mean, rather, one congressional  
19 district?

20 THE WITNESS: Yes, sir.

21 JUDGE GARCIA: And why is that?

22 THE WITNESS: Because the way it's split right now,  
23 it dilutes any of the voting strength that the citizens of  
24 Maverick County have. Over the years, having been involved in  
25 the community, even from a grassroots level, having to have had

1 sit in rooms where there are people that I have opposing views  
2 with, but when it came to statewide politics, when it came to  
3 federal politics, they all understood that they needed to get  
4 behind one candidate, and we did. We put all of those  
5 differences aside.

6 By cutting the district in two, you're now diluting  
7 the power that Maverick County once had, because despite what  
8 they might have felt of each other, we always knew that we had  
9 to vote together as a bloc, regardless of which candidate we  
10 supported. And by cutting it in two, then you no longer have  
11 the same strength. I think we need to be realistic in  
12 politics, that a representative is going to pay more attention  
13 to a community that puts out a certain amount of votes and a  
14 voting bloc, as a comparison to one that doesn't have the same  
15 strength that it used to have.

16 JUDGE GARCIA: Okay.

17 MR. VERA: Thank you, Judge.

18 I really don't have too many more questions.

19 JUDGE GARCIA: No. I don't intend to cut you off,  
20 Mr. Vera.

21 MR. VERA: No, Judge. I have no problem at all.

22 BY MR. VERA:

23 Q. Judge, let me do this. If -- do you think -- just your  
24 opinion, what was the intent of splitting your county? Was it  
25 in your -- was it absolutely necessary for them to do that?

1 A. No, sir. It was not necessary. It was not necessary. I  
2 think, if you're asking me my opinion, I believe it was  
3 intentionally done. As I mentioned to the honorable judge,  
4 what had transpired in Maverick County over a period of time  
5 was that you had apathy, probably the way you would see in any  
6 other community. But the citizens in Maverick County mobilize  
7 themselves to say, look, we haven't been receiving services the  
8 way we should be. We're represented by possibly a congressman  
9 who pays more attention to an urban area than a midsize rural  
10 area like ours.

11 So when that came about, everybody came together  
12 and said, look, this is what we need to do. And I would have  
13 to probably put somewhere around 2000 where you started seeing  
14 a record amount of numbers of people come out to vote. When  
15 you did that, the people in Maverick County were very well  
16 aware of the dynamics of the 23rd. Everybody that was involved  
17 understood that Maverick County could outdo a Medina County,  
18 could outdo an Uvalde County, could outdo a Val Verde County,  
19 and they were cognizant of that. They said, our job is to go  
20 out there and to show the strength that this county has in  
21 electing a representative.

22 And they're going to have to listen to us. It's  
23 not if they want to or they don't want to. They're going to  
24 have to because Maverick County is a player now.

25 We have a lack of services. We don't have

1 clinics, as some of the urban areas do. Our veterans have to  
2 go as far -- north of San Antonio, and now they're being sent  
3 to the Valley, which is 250 miles away. Of course, the  
4 government's come back and said, okay, you can go back to San  
5 Antonio, but your records are in the Valley. We've got to get  
6 those records before you can get service. We were already  
7 fighting for a regional clinic. We actually were. And I think  
8 we had our footing, and we had our foot in the door, and the  
9 footing was there. And now they're just taking the door,  
10 period.

11 Q. I mean, is there any advantage or no advantage to having  
12 two congressmen?

13 A. Absolutely not. Absolutely not.

14 JUDGE GARCIA: And why is that so, Judge?  
15 Wouldn't -- I guess the argument could be made, well, why  
16 wouldn't the county want two congressmen instead of one?

17 THE WITNESS: Because you would have two congressmen  
18 that would be -- the way it's drawn up, that would have the  
19 strength in a large urban area, one being Webb County now,  
20 which would be the main portion of the 28th, and one being in  
21 San Antonio, which would be the portion of the 23rd. There  
22 wouldn't be such a need to pay attention to a county like  
23 Maverick when it's not producing the amount of people that  
24 it --

25 JUDGE GARCIA: What you're saying is you -- if I'm

1 correct --

2 THE WITNESS: Yes, sir.

3 JUDGE GARCIA: -- Maverick County would rather be a  
4 significant part of one district than an insignificant part of  
5 two districts?

6 THE WITNESS: That's correct. Yes, sir.

7 JUDGE GARCIA: Okay.

8 BY MR. VERA:

9 Q. Just -- let's go numbers. How many -- in a presidential  
10 year how many votes could Maverick produce now?

11 A. Anywhere from 12 to 14,000.

12 Q. Okay. In a non-presidential year how many votes does it  
13 normally produce?

14 A. Eight to nine.

15 Q. And that's during good years, right, both of those?

16 A. That is correct, yeah. That's during good years. But  
17 we've had good years in the past ten years, I would add,  
18 comparatively speaking.

19 MR. VERA: Judge, I don't have any more questions of  
20 the judge. I am going to turn it over to see if my colleagues  
21 have any questions to ask.

22 MS. BONO: I just have a few questions, Your Honor.

23 JUDGE GARCIA: Yes, of course.

24 MR. VERA: Thank you, Judge.

25 JUDGE GARCIA: Thank you, Mr. Vera.



**CROSS-EXAMINATION**

1  
2 BY MS. BONO:

3 Q. Good afternoon, Mr. Saucedo.

4 A. Good afternoon.

5 Q. Just a moment ago you mentioned the need for health care  
6 for veterans in your community. Can you talk about any other  
7 issues related to the Latino community that you're familiar  
8 with in Maverick County?

9 A. Yes. As you know, Maverick County is a border community.  
10 There's been some issues along the border, all through the  
11 State of Texas. And with those issues came upon some funding  
12 that's come from TDHCA, which is the Texas Department of Health  
13 and Community Affairs, now ORCA, which the county was able to  
14 tap in receiving funding for giving basic social services to  
15 the colonia areas, which would be -- and basic as it comes,  
16 bottled water, sewer, paving, security. Those are all programs  
17 that we've been able to utilize in the community for the  
18 minority groups, which is the majority of Maverick County, you  
19 know, to provide those services to them, and the county.

20 Also, educational -- on the educational side we've  
21 been fighting for a four year university now for the past  
22 couple of -- I believe the last two legislative terms Maverick  
23 County is also pushing to try to get an institution, a four  
24 year institution within the region. Maverick County falls as  
25 part of the region. It's the central location between San

1 Antonio, Webb and possibly Val Verde, all the way to Alpine.

2 Q. And why is a four year institution important to Maverick  
3 County?

4 A. It's important because most of the people who do graduate  
5 from school leave the college and they don't return. Some of  
6 the only professions that are offered at the universities that  
7 we have, the majority will be in nursing or associates degrees.  
8 We don't have a true four year university. So we're not able  
9 to provide them with the institution that they need. The  
10 population is there, but it appears that the clout doesn't  
11 exist, and even less more so now with the split.

12 Q. Can you describe the employment experience of Latinos in  
13 Maverick County?

14 A. Unfortunately, we have high unemployment, and it ranges  
15 anywhere from 14 to 20, depending on the season. As I  
16 mentioned before, I worked with a migrant program. We have a  
17 large migrant population that has to leave Eagle Pass to seek  
18 employment during the summer months. And they usually come  
19 back around October. So the unemployment will actually  
20 increase around that span of time. That's why it tends to  
21 fluctuate a little bit.

22 Q. How about the housing, residential experience of Latinos  
23 in the county?

24 A. I'd have to put the -- if you categorize -- if you look at  
25 the home in Maverick County, it would have to be lower income

1 to lower middle class. That's the type of housing that you  
2 would see in Maverick County.

3 Q. You testified earlier that the district line that you were  
4 discussing with Mr. Vera cuts the county in half; is that  
5 correct?

6 A. That's correct.

7 Q. And so it's fair to say that the district line doesn't  
8 respect the county map? Is that fair?

9 A. That's fair. It does not.

10 Q. Can we see the city lines in this image, or are these just  
11 streets?

12 JUDGE GARCIA: Who do we need -- what do you need  
13 to --

14 MS. BONO: Is there any way that we can remove --

15 JUDGE GARCIA: Well, first answer my question. What  
16 are you trying to show that we don't already know?

17 MS. BONO: I'd like to talk a little bit, Your Honor,  
18 about how the district line doesn't respect the city lines,  
19 that it cuts through Eagle Pass, and then I'd also like to have  
20 a quick conversation with Mr. Saucedo about --

21 JUDGE GARCIA: Okay. It cuts the city lines; is that  
22 correct?

23 THE WITNESS: Yes, sir.

24 JUDGE GARCIA: Okay. Fine. That's taken care of.  
25 What else would you like to know?

1 MS. BONO: I'd also like to talk a little bit about  
2 the trajectory of the line because I see, for example, that  
3 there's a Highway 57. And so I'd like to talk about where that  
4 is in town, if that's a major artery, if that's --

5 JUDGE GARCIA: This is -- this is the bottom line:  
6 Maverick County is split in half. They don't want to be split  
7 in half. It's never been split in half. The Judge has  
8 indicated that he would rather have all of Maverick County  
9 within one congressional district. It's more -- they would be  
10 a more powerful force, a greater number in one district than by  
11 being represented by two congressmen. I think that, alone, if  
12 it meets any test, is sufficient to meet that test.

13 MS. BONO: If that's sufficient for the Court, that's  
14 sufficient for me.

15 JUDGE GARCIA: Yes, it is. Thank you.  
16 Anything else over here? From here? Over here?

17 MR. MATTAX: Nothing, Your Honor.

18 JUDGE GARCIA: Okay. Judge, thank you for being here  
19 today. Have a good trip back home.

20 THE WITNESS: Thank you, Your Honor.

21 JUDGE GARCIA: Okay. Get another witness. Any other  
22 witness?

23 MR. VERA: Yes, Your Honor. We're going to call  
24 Congressman Ciro Rodriguez.

25 JUDGE GARCIA: Okay.

1 MR. VERA: Do I need to get him?

2 JUDGE GARCIA: Yes. And we won't need a very long  
3 history of everything. Let's just get down --

4 MR. VERA: If you'll just indulge me just a little  
5 bit, we'll get him in, get him out within 15 minutes.

6 JUDGE GARCIA: Okay. Well, you tell him that.

7 (Witness enters courtroom)

8 JUDGE GARCIA: Congressman, over here.

9 MR. VERA: I think there's a few things that are  
10 important to know about this.

11 THE CLERK: Would you raise your right hand, please?

12 (The oath was administered)

13 JUDGE GARCIA: Go ahead, Mr. Vera.

14 **CIRO RODRIGUEZ, GOVERNMENT'S WITNESS, SWORN**

15 **DIRECT EXAMINATION**

16 BY MR. VERA:

17 Q. Congressman, give your full name for the record, please.

18 A. Ciro D. Rodriguez.

19 Q. And Congressman Rodriguez, you served as congressman for  
20 how many years?

21 A. A little less than 12 years.

22 JUDGE SMITH: If we're through with the Maverick  
23 County easel, can we take that down?

24 JUDGE GARCIA: You're not going to need that? Okay.  
25 That's fine.

1 MR. VERA: Do you want me --

2 JUDGE GARCIA: No. I said if you need it, you can  
3 keep it.

4 MR. VERA: Oh, no, we're okay.

5 JUDGE SMITH: Thank you.

6 BY MR. VERA:

7 Q. And Congressman, you served in the 23rd, correct?

8 A. Yes, sir.

9 Q. After it was newly created by the federal district court,  
10 after LULAC versus Perry, they redrew the 23rd Congressional  
11 District?

12 A. Exactly.

13 Q. And you won that race in 2006?

14 A. Yes.

15 Q. You were reelected in 2008?

16 A. Yes.

17 Q. And then you lost, I believe, in 2010?

18 A. Exactly.

19 Q. Okay. Congressman, you were actually born in the 23rd  
20 Congressional District, were you not?

21 A. No, I was born in Mexico.

22 Q. That's true. You were raised where?

23 A. And at the age of three I was -- lived in Eagle Pass,  
24 Texas for about three years, moved to San Antonio at the age of  
25 six and have lived -- actually, since -- because the 23rd also

1 included Eagle Pass, I've lived in -- I can honestly say I've  
2 lived there, with the exception of three or four years of my  
3 life.

4 Q. A lot of the talk in this case has been that this is  
5 Republicans versus Democrat. Your first involvement in  
6 politics was what age and with who?

7 A. I started to get involved when I was in college, you know,  
8 at an early age. And it was basically in terms of the Latino  
9 movement, the Hispanic, the Chicano movement. We were involved  
10 in the voter registration, and which basically what I've been  
11 doing for the last six months also --

12 Q. Were you involved with the Democratic party?

13 A. No, I wasn't. I was -- you know, we got -- we got  
14 involved with MAYO, Mexican-American Youth Organization, and  
15 with the Raza Unida Party.

16 Q. And did you actively help campaign for the Raza Unida  
17 Party?

18 A. Yes.

19 Q. Against the Democratic party?

20 A. Exactly.

21 Q. And why is that?

22 A. Well, the Democrats, nor Republicans, were responsive in  
23 terms of our community. And so we -- at that time -- in fact,  
24 it was one of the major things that we worked on at the Raza  
25 Unida Party, was also single member districts for the City of

1 San Antonio, for example, of which my wife, Carolina, was a  
2 plaintiff on that and participated. We were, you know, trying  
3 to get Latinos elected to office, and not only in the city here  
4 but to the school districts and elsewhere, because we didn't  
5 have them. And the main obstacles during that period of time  
6 were the Democrats.

7 Q. When you first ran for office, did you run in the  
8 Democratic race or Democratic versus Republican race?

9 A. I ran -- the first time I ran was for a school board race.  
10 And so it was a nonpartisan, but I think people understood that  
11 I was Raza Unida.

12 Q. And you -- that's what you were. You were the Raza Unida  
13 candidate, weren't you?

14 A. Yes, sir.

15 Q. And how many years did you serve in Harlandale as a Raza  
16 Unida candidate?

17 A. I served 12 years. Not necessarily -- you know, because  
18 it was a nonpartisan race. But it was 12 years.

19 Q. In all of these years -- well, from there, then you were  
20 elected to the State House of Representatives, correct?

21 A. Exactly.

22 Q. And how many years did you serve there?

23 A. A little less than -- 12, 11 years and so many months.

24 Q. And that was the first time you ran as a Democrat?

25 A. Yes, sir.



1 Q. Throughout these years in -- I guess you've been in public  
2 service somewhere like 36 years, something --

3 A. Thirty-seven years in actual, yeah, public service. 12,  
4 11 and 12 in the congressional.

5 Q. Thirty something. During this time period who gave you  
6 the vast majority of support? Did it come from the Anglo  
7 community, the black community or the Latino community?

8 A. If the areas that I had run in were not Latino, I wouldn't  
9 have won. It was a Hispanic community, and that was my case.  
10 It's always been my case. And without that, very few -- in  
11 fact, it's just not me. As you well know, very few Latinos can  
12 get elected in the non-majority Hispanic district.

13 Q. And isn't it true, with your knowledge of politics, that  
14 every Latino that gets elected within the City of San Antonio,  
15 the County of Bexar, needs the massive support of the Latino  
16 community in order to do that?

17 A. I would, yeah.

18 Q. And that includes Mayor Castro, right, who just won the  
19 last two times?

20 A. Yes. Uh-huh.

21 Q. Even when he lost against Mayor Hardberger, he carried  
22 over 90 percent of Latino community on the south side, didn't  
23 he?

24 A. Yeah. I don't know the exact numbers, but I would presume  
25 he did.

1 Q. Has the south side traditionally voted as a bloc vote? In  
2 any given election do the vast majority of Latinos choose their  
3 candidate to successfully or at least stay together on a  
4 particular candidate?

5 A. Yes, it has. And it's been very successful. And  
6 basically, I can, you know, at least name two or three members  
7 of Congress that have been able to get elected because of that.  
8 Congressman Tejeda from the Harlandale area, myself, both from  
9 the same high school that produced two -- at least two Hispanic  
10 members to the U.S. Congress.

11 Q. In fact, you took Congressman Tejeda's seat in Congress  
12 when he passed away. That's how you were elected?

13 A. Yes, sir.

14 Q. Now, isn't it true that history shows that it was  
15 Congressman Tejeda and yourself who began forming the coalition  
16 of the south side? In fact, newspapers used to call it the  
17 south side coalition, that began forming the political strength  
18 for the Latino community?

19 A. Yes, it was. We were -- initially started to work  
20 together, and we formed a group on the south side, and it  
21 started as that. And then at some point I was no longer part  
22 of that group, and mainly because, you know, it was a political  
23 machine. And I personally had some concerns about political  
24 machines, and they expected me to go down the line on every  
25 candidate, and I was just not made up that way. So we quickly,

1 you know, parted, you know --

2 Q. But what it showed was that the Latinos formed a coalition  
3 and formed coalitions to get behind the candidates of their  
4 choice?

5 A. Exactly. And that's how we -- you know, after the single  
6 member elections for the city of San Antonio, we were able to  
7 get people elected there, commissioner's courts have come out  
8 of Harlandale, a few, including my brother now, and others.

9 Q. Well, I was going to get to that.

10 Isn't it true, though, that since the forming of  
11 these coalitions, every elected public official that has won  
12 not only commissioner's court, city council, mayor, constable,  
13 justice of the peace, and Congress, has had and has to have the  
14 support of this coalition of the south side that votes as a  
15 bloc for the candidate of their choice?

16 A. I would say that they'd have to. Without it, they  
17 wouldn't be able to become mayor or any other major positions.

18 Q. Now, let's get back to where we are today. You served in  
19 the 23rd, two terms. You lost in 2010, along with six other  
20 Democratic congressmen, I believe in Texas; is that right?

21 A. Yeah, along with 26 state reps and about 1,100 other, you  
22 know, people that lost. But yes, we lost in the 23rd, and a  
23 good number of other judges in the 23rd.

24 Q. We lost every judge in Bexar County, I think, with the  
25 exception of one.

1 A. An outside --

2 JUDGE GARCIA: In any event, let's get to where we  
3 need to go.

4 BY MR. VERA:

5 Q. In today's Congressional 23rd, what is proposed -- now,  
6 you've announced for a candidacy for that position. And are  
7 you campaigning for that?

8 A. Yes, I've announced, and I'm campaigning for it.

9 Q. Do you think you can win that district?

10 A. Let me explain it this way. You have to be prepared in  
11 order to get moving. You don't file until much later. What  
12 you do have to file is the paperwork so you can start raising  
13 money. If you're not prepared by then, and I'm optimistic that  
14 things will work out and that the courts will do the right  
15 thing, and when that happens, we assume that things will  
16 improve. And so -- but you got to be prepared by the time that  
17 occurs. So you don't wait until then. So we're moving now.

18 The way that it is restructured now, we feel it's  
19 going to -- it would be a very difficult fight, but we feel  
20 that if anybody's prepared, I think I would be probably the  
21 best candidate for that because of the number of counties that  
22 are there and, you know -- but the reality is, is that what has  
23 happened to the district as it was -- had about 110, 120,000  
24 over. And it could have easily just relinquished some of those  
25 voters. And instead, they added -- it was considered one of

1 the largest in the nation, and they added ten additional  
2 counties to it. They divided Maverick County, which there was  
3 no need to cut communities of interest.

4 Q. What's happened to Harlandale?

5 A. Harlandale got cut into three pieces. And that's -- you  
6 know, and that's not appropriate. The south side of San  
7 Antonio is very different from the rest of San Antonio, in that  
8 we have a good number of political subdivisions, not only  
9 Harlandale, but South San ISD, South Side ISD, Southwest ISD,  
10 Somerset ISD, East Central on one part. So you have a lot of  
11 political subdivisions. But they're communities. Harlandale  
12 is cut into three. The 35th comes in there. The 20th comes in  
13 there, and the 23rd comes in there.

14 Q. So what they've done then, the state, they've taken the  
15 highest performing Latino area and they've now cut it up into  
16 three congressional districts?

17 A. Exactly.

18 Q. The 35th, the 20th and the 23rd, is that -- that's exactly  
19 what's happened here?

20 A. Yes.

21 Q. Exactly.

22 JUDGE GARCIA: Mr. Vera, I didn't realize that.

23 Let me ask you, Congressman. I asked the judge from  
24 Maverick County a little while ago, where he told us that  
25 Maverick County had never been split. The south side has

1 always been part of one congressional district; is that right?

2 THE WITNESS: Exactly. We had Kazen before, and then  
3 Bustamante, and then Tejeda, and then myself.

4 JUDGE GARCIA: All right. I didn't realize that. Go  
5 ahead.

6 MR. VERA: And just for the Court, even when they  
7 redid the 28th, where Congressman Cuellar is, he still took in  
8 the south side of San Antonio. They didn't separate  
9 Harlandale, South San, Southwest, South Side. They kept them  
10 all together. Now they've just taken Harlandale into three  
11 separate congressional districts.

12 JUDGE GARCIA: Okay. All right.

13 MR. VERA: I think that's all the questions I have of  
14 the congressman. I don't know if my colleagues have any  
15 questions.

16 MR. GRAY: Nothing from this side, Your Honor.

17 JUDGE SMITH: Quickly one, if I may, please. It will  
18 just take a second.

19 THE WITNESS: Yes.

20 JUDGE SMITH: The previous witness, Judge Saucedo,  
21 the county judge in Maverick County, expressed a concern about  
22 districts that run from the Valley, such as Maverick County, up  
23 to an urban area. He didn't mention San Antonio, but I assume  
24 he was referring to San Antonio or Austin -- represented, as he  
25 said, by someone who lives in one of those big urban areas,

1 that their interests would be more attuned with the big urban  
2 interests, and they wouldn't serve the interests of -- as well  
3 of the people in the Valley. And he thought that would be a  
4 problem.

5 Can you -- can you reflect on that at all in terms of  
6 adequate representation of places like Maverick County?

7 THE WITNESS: Yeah. Let me -- let me just say that  
8 there's no doubt that you always have to be cautious about that  
9 in making sure that that representative is representative of  
10 everyone. And that is something that you have to watch out  
11 for. But in a case like this, where you need a district that's  
12 690 something thousand, you almost have to go into some of  
13 those urban areas.

14 But most important is the fact that you don't --  
15 communities of interest are important. And the south side is a  
16 community of interest. You know, it's an old area with the  
17 missions that has a long history. I mean, I can tell you the  
18 people that have lived here 20, 50 years, their family members,  
19 you know, and the beautiful history that's there and tied in.

20 Right now the district was 20, and now it's 30  
21 counties, and it reaches all the way to El Paso. And so, you  
22 know -- and there are some genuine concerns.

23 JUDGE SMITH: Yeah, you have answered my question. I  
24 appreciate that. Thank you.

25 THE WITNESS: Thank you, sir.

1 MR. VERA: I'll pass the witness, Judge, to the  
2 state.

3 MR. MATTAX: Couple of questions.

4 **CROSS-EXAMINATION**

5 BY MR. MATTAX:

6 Q. Good afternoon, Representative. My name is David Mattax.  
7 Just a couple of questions to see if you have a preference,  
8 because I know you've just been discussing the south side of  
9 San Antonio and the fact that you think it's sort of been  
10 broken apart. Has that been put into 35, that south side?

11 A. No, it hasn't. It's been put into three -- three  
12 districts. You know, as indicated, Harlandale is both in the  
13 20th, in the 35th and the 23rd.

14 Q. Correct.

15 A. And so -- and then the Highlands area, some of that had --  
16 a lot of it is in the 35th.

17 Q. Now, my only question is, do you have a preference? Do  
18 we -- do we -- if you want to reconstitute that, and we take it  
19 out of 35, or do we take it out of 23, or do you have a  
20 preference?

21 A. And this is not for me. You know, the community, if -- in  
22 the process of doing the districts, if you can keep the  
23 communities as -- as closely together as possible, because  
24 these are the same school boards that if they meet, it's not  
25 like they're going to be talking to -- about the Congress



1 because they're going to have three in Harlandale. And when  
2 they go out and they play ball, they go to the church, you  
3 know, and it's about keeping those communities of interest  
4 together. And I would hope that that's taken into  
5 consideration in the process of making -- you know, put it  
6 together.

7                   And, yes, of course, I would have -- you know,  
8 that was part of the previously -- the last one of the 23rd,  
9 and you might want to ask the others as to why they chose to  
10 cut it in three pieces.

11 Q. That's fine. I was just curious if you had a preference  
12 as to which district we would put that back into.

13                   JUDGE GARCIA: Let me ask --

14                   THE WITNESS: Well, I would prefer it in the 23rd,  
15 but that's my --

16                   JUDGE GARCIA: Let me ask you. The 35th, that goes  
17 from Austin all the way to south Bexar County?

18                   MR. MATTAX: Correct. San Antonio to Austin.

19                   JUDGE GARCIA: Is it the City of Austin or Travis?

20                   MR. MATTAX: Travis.

21                   JUDGE GARCIA: Where is the 35th? Does the 35th have  
22 any part of Austin?

23                   MR. MATTAX: I do not -- I will find that out for  
24 you. I do not know off the top of my head whether it has a  
25 part of the city limits or not.

1 JUDGE GARCIA: So your -- the state created a  
2 district from Austin all the way to Harlandale on the south  
3 side?

4 MR. MATTAX: They created a district from San  
5 Antonio, south San Antonio to south Austin, yes.

6 JUDGE GARCIA: Well, that's --

7 MR. VERA: Judge, I can answer that for you. It  
8 actually starts from the north end of Austin, little sliver,  
9 all the way through to southeast Austin, and all the way almost  
10 to the southern most -- well, the southern most -- San Antonio,  
11 and not that far from the Bexar County line. Yeah, north of  
12 Austin to south of San Antonio.

13 JUDGE GARCIA: All right. Thank you.

14 MR. MATTAX: You're welcome. I have no further  
15 questions. Thank you.

16 MR. VERA: I don't have any more questions, Your  
17 Honor. Thank you.

18 JUDGE GARCIA: Thank you, Congressman.

19 THE WITNESS: Thank you.

20 JUDGE GARCIA: Your next witness.

21 MR. VERA: I have no more questions, Your Honor. The  
22 only thing we reserve left is we do have Mr. Korbelt listed as a  
23 rebuttal witness if necessary. If not, then we would rest.

24 JUDGE GARCIA: Okay. So you have no other witnesses?

25 MR. VERA: That's all I have.

1 JUDGE GARCIA: Okay. Thank you. And who's next?

2 MS. RIGGS: The NAACP and the congressional  
3 intervenors.

4 MR. GARZA: Okay. And how many? I'm sorry. Who are  
5 your witnesses?

6 MS. RIGGS: In light of the Court's concerns, we  
7 reduced our experts from three to one.

8 JUDGE GARCIA: Okay.

9 MS. RIGGS: And the NAACP is planning to call one  
10 state legislator and four lay witnesses who will be ten minutes  
11 each.

12 JUDGE GARCIA: Okay. Go ahead. Okay. Let's begin.  
13 Thank you.

14 MS. RIGGS: And that's -- the Congress people are  
15 represented by --

16 JUDGE GARCIA: Right.

17 MS. RIGGS: -- and Dr. Murray. The NAACP plaintiffs  
18 call Representative Sylvester Turner.

19 JUDGE GARCIA: Okay.

20 (Witness enters courtroom)

21 JUDGE GARCIA: Over here, Representative.

22 THE CLERK: If you'll raise your right hand.

23 (The oath was administered)

24 **SYLVESTER TURNER, PLAINTIFF'S WITNESS, SWORN**

25 **DIRECT EXAMINATION**

1 BY MS. RIGGS:

2 Q. Good morning, sir. Can you state -- my name is Allison  
3 Riggs. Can you state your full name for the Court, please?

4 A. Sylvester Turner.

5 Q. Where do you reside, Representative Turner?

6 A. Houston, Harris County, Texas.

7 Q. How long have you lived in Texas?

8 A. With the exception of law school, I've been there all my  
9 life.

10 Q. Were you educated in Texas?

11 A. University of Houston undergrad and then Harvard Law  
12 School and then back to Texas.

13 Q. And what is your line of work?

14 A. I'm an attorney, and I'm also in the Texas House of  
15 Representatives.

16 Q. How long have you been involved in Texas politics?

17 A. Since 1989.

18 Q. Were you elected to the House in 1989?

19 A. I was elected in 1989, have been there ever since.

20 Q. Sir, can you tell us what the Legislative Black Caucus is?

21 A. It's a body that's made up of all of the African-American  
22 legislators in the Texas House.

23 Q. And what is your involvement with the Texas Legislative  
24 Black Caucus?

25 A. I have been the chair of the caucus for the last year and

1 a half.

2 Q. Is the Legislative Black Caucus a nonpartisan group?

3 A. Yes, it is.

4 Q. And do you have members of both parties?

5 A. There are members from both parties. There are now --  
6 there are 15 African-Americans that are Democrats, and there  
7 are two that are Republicans.

8 Q. Does the Legislative Black Caucus work with other minority  
9 caucuses and minority members of the state legislature?

10 A. Yes.

11 Q. Can you give me an example of one group that you work  
12 with?

13 A. We've worked with MALC in the past and work with them  
14 currently. We have worked with the legislative study group.  
15 We have worked -- we work with the rural caucus. Quite  
16 frankly, we work with any group where our interests are  
17 mutually beneficial to the constituencies that we represent.

18 Q. Can you tell me about some of the specific campaigns that  
19 you've worked with MALC on?

20 A. We've worked on educational issues. We've worked on  
21 budgetary matters. We've worked on things dealing with health  
22 care, criminal justice, voter ID, redistricting.

23 Q. What are some of the specific education issues you've  
24 worked on together?

25 A. Whether they were dealing with, let's say, financing for

1 public education, whether we're talking about financial aid for  
2 higher ed, Texas Grants Program, for example, anything  
3 pertaining to the budget, things pertaining to testing the  
4 students, for example. I mean, there are a number of issues  
5 that we work with on a regular, ongoing basis.

6 Q. Do you feel that you have a lot of the same concerns with  
7 legislation that comes before your body?

8 A. Yes.

9 Q. When did the Texas Legislative Black Caucus first start to  
10 prepare for the 2011 redistricting cycle?

11 A. We started talking about it at the beginning of this  
12 legislature -- legislative session. Everyone knew  
13 redistricting was coming up. It was going to be an issue that  
14 we were going to have to tackle. We started talking about it  
15 at the beginning of the session. I then appointed, for  
16 example, the executive director of the caucus, started working  
17 on the issue. But we really didn't get started until the  
18 numbers came back from the U.S. Census, which was right around  
19 March of this year.

20 Q. Did you arrange for the Legislative Black Caucus to have  
21 capacity to draw maps for the caucus and its members?

22 A. Yes.

23 Q. And how did you go about doing that?

24 A. Well, Murray Matthews, the executive director of the  
25 caucus -- and I wanted him to get familiar with the Red Apple

1 system. And then Lemeo Price, who is on the staff of  
2 Representative Yvonne Davis, the two of them spearheaded the  
3 caucus initiative in terms of learning the system, taking a  
4 look at the numbers coming from the U.S. Census, talking with  
5 the various members of the caucus, and making sure that when  
6 the numbers were made available, that we were ready to work on  
7 drawing maps that would be in the best interest of the caucus.

8 Q. I'd like to go through your experience in this  
9 redistricting process chronologically. Which plans got worked  
10 on first?

11 A. Just in a general sense the House plans came up first.  
12 That was the first deal that was -- that was filed in the Texas  
13 House. There was a -- kind of like a skeleton bill that was  
14 filed by the chairman. But let me just back up.

15 The speaker appointed the redistricting committee.  
16 All committees are appointed at the same time. And those  
17 committees were appointed, let's say, two to three weeks after  
18 the session started, which would have been like the end of  
19 January, the first week in February. So all the committees  
20 were appointed by the speaker then.

21 The redistricting committee was appointed at that  
22 time. And that chairman was Chairman Solomon. And then they  
23 proceeded with the process.

24 Q. You said the House redistricting was the first addressed.  
25 Which was next?

1 A. The House bill came up first, then followed by the Senate,  
2 and then followed by the congressional maps.

3 Q. Were there any African-Americans appointed to the House  
4 committees?

5 A. On the redistricting committee, Representative Marc Veasey  
6 out of Fort Worth was the only African-American on the  
7 redistricting committee.

8 Q. You mentioned a skeleton bill. When was that -- was that  
9 filed?

10 A. The skeleton bill was filed by Representative Solomon, I  
11 would say, right around March -- March. And essentially, it  
12 was a bill that provided a general framework. You couldn't  
13 read anything from it. Just a -- just what I call holding  
14 something in the House, putting something in the hopper. We  
15 knew something was going to come up. The substantive  
16 redistricting bill was not filed by Representative Solomon  
17 until -- I believe it was April 13 of this year.

18 Q. And then what happened after that bill was filed?

19 A. He filed the substantive bill on April the 13th. And then  
20 he came to the -- if my memory serves me right, he came to the  
21 floor of the Texas House and informed the members of the Texas  
22 House that he had filed his redistricting bill.

23 And he notified us that on April the 15th of --  
24 about 48 hours later, that will be the first public hearing on  
25 the bill that he filed on April the 13th. It was at that time



1 that some of us, including myself, went to the back mike in the  
2 Texas House. You have the front mike and the back mike. I  
3 went to the back mike and indicated to Representative Solomon  
4 that that was on a very short -- he was providing us very short  
5 notice in order to notify people in our respected districts to  
6 come up for -- to testify, provide any public comments on a  
7 substantive map that was just filed on April the 13th.

8 But he indicated that the public hearing, the  
9 initial one, was going to take place on April the 15th, that  
10 Friday. And then the second public hearing would take place on  
11 Sunday, on April the 17th. And again, many of us voiced  
12 objections, that that was -- that that time line was too -- was  
13 too quick.

14 I've gone through -- this would have been my third  
15 redistricting process. And when you compare it to the previous  
16 two, this was a much more expedited time line, and it didn't  
17 provide us with enough opportunity to get the word out, to have  
18 people come up to testify on maps, on a substantive map, that  
19 was just introduced on April the 13th.

20 JUDGE RODRIGUEZ: In the past how many days were  
21 allowed before public hearings were held?

22 THE WITNESS: It could be -- Judge, it could be --  
23 sometime there were between maybe a couple of weeks or so or a  
24 week and a half at least. But to have it done in 48 hours  
25 after the substantive map was filed, that's an expedited time

1 line.

2 BY MS. RIGGS:

3 Q. After that Sunday hearing on the 17th, what was the next  
4 step in the chronology?

5 A. Okay. So the public hearing was held on Friday, April  
6 15th, and then on Sunday, on April the 17th. And he indicated  
7 that the committee, the redistricting committee would vote the  
8 redistricting map out on Tuesday, April the 19th.

9 JUDGE GARCIA: So Representative, the bill was  
10 introduced on what day?

11 THE WITNESS: It was -- the substantive bill was  
12 introduced on April the 13th, a Wednesday, public hearing on  
13 Friday.

14 JUDGE GARCIA: Friday the --

15 THE WITNESS: 15th.

16 JUDGE GARCIA: -- 15th.

17 THE WITNESS: And on Sunday, the 17th. And the  
18 committee voted the bill out on Tuesday, April the 19th.

19 JUDGE GARCIA: So you only had two committee  
20 hearings?

21 THE WITNESS: There were only two public hearings for  
22 the public to participate.

23 JUDGE GARCIA: How many total hours would you say the  
24 committee heard testimony?

25 THE WITNESS: That I can't say. I would say, you

1 know, several hours, for those who were able to come up on that  
2 short notice. But it was -- you know, it was very difficult,  
3 for example, for people, let's say, coming from Houston, to all  
4 of the sudden change their plans to come up on that Friday.

5 JUDGE GARCIA: Was there a reason told to you of the  
6 great necessity to get this thing done rather quickly?

7 THE WITNESS: The leadership was on an expedited  
8 schedule with respect to redistricting.

9 JUDGE GARCIA: And the reason for the expedited  
10 schedule, that you know, not that you can -- I'm not asking you  
11 to guess.

12 THE WITNESS: The only thing I can tell you, Judge,  
13 is that when I questioned the time line, I was simply told that  
14 we were operating on an expedited schedule.

15 JUDGE GARCIA: But this was in April, and the session  
16 wasn't scheduled to end until the end of May, right?

17 THE WITNESS: The end of May.

18 JUDGE GARCIA: So there was still five, six weeks  
19 left?

20 THE WITNESS: That's -- and that's precisely the  
21 observation that people like myself was making, that we --

22 JUDGE GARCIA: So it wasn't like the session was  
23 ending that night at midnight?

24 THE WITNESS: That is correct.

25 JUDGE GARCIA: Or the following week?

1 THE WITNESS: That is correct.

2 JUDGE RODRIGUEZ: Can we continue the time line? So  
3 it gets committee vote on the 19th? When did it get passed?

4 THE WITNESS: Committee voted it out on the 19th,  
5 which, best I recall, very few substantive changes to the bill  
6 that was initially introduced.

7 JUDGE GARCIA: In committee?

8 THE WITNESS: In committee. And then Chairman  
9 Solomon came back to the floor again that week and indicated  
10 that for all of the other members who were not on the  
11 redistricting committee, that they -- we would be given until  
12 that following Friday to make any amendments, to file any  
13 amendments to the bill that was voted out on the 19th.

14 So the bill was voted out on the 19th. We will be  
15 given till that following Friday. I, again, went to the  
16 floor -- to the back mike and raised my concerns about the time  
17 line, and indicated that that Friday was Good Friday. And on  
18 Good Friday --

19 JUDGE GARCIA: The house met -- pardon me,  
20 Representative. The house met on Good Friday?

21 THE WITNESS: No.

22 JUDGE GARCIA: Okay. So the chairman had said, okay,  
23 the bill is out of committee.

24 THE WITNESS: The bill is out of committee.

25 JUDGE GARCIA: For those members who wish to offer, I

1 guess, a floor amendment --

2 THE WITNESS: Well, what he indicated was that it was  
3 the intent of the leadership to have a vote of the full  
4 House --

5 JUDGE GARCIA: Okay.

6 THE WITNESS: -- on the committee bill the following  
7 week.

8 JUDGE GARCIA: Which is what day?

9 THE WITNESS: Which would be like the -- let's say  
10 the initial intent was to -- like to vote on it that following  
11 Tuesday. And he was giving members, all of the members an  
12 opportunity to offer any amendments to the bill that they had  
13 voted out of committee. The deadline was going to be 5:00 on  
14 Good Friday.

15 JUDGE GARCIA: Okay.

16 THE WITNESS: I went to the floor, the Texas House,  
17 to the back mike, and indicated to Chairman Solomon and to the  
18 others that that was Good Friday; that I -- speaking for  
19 myself, I was not going to work on Good Friday. Every Friday  
20 on Good Friday I'm at my church, Brookhollow Baptist Church. I  
21 intended to be there this coming Friday, and I would not work.  
22 And many of the other members joined in with that concern.

23 And then the time line was changed. And when -- we  
24 were given until Monday. All of the other members were given  
25 until Monday to come forth and file any amendments that you had

1 to the bill that was voted out of committee on the 19th. And  
2 that we would vote as a body on the committee's bill on the  
3 27th, which would have been that Wednesday or Thursday -- that  
4 Thursday, I believe. So that was the time line.

5 So you had until Monday to file your amendments, and  
6 the plan was to vote on the House bill I think a couple of days  
7 later. And, again, I raised some -- I raised concerns that  
8 this time line was simply not adequate when we are dealing with  
9 redistricting with the magnitude of the changes that we were  
10 seeing in the committee's bill.

11 JUDGE GARCIA: And -- okay. And the next step was  
12 you had a floor vote, I guess, or vote?

13 THE WITNESS: The next step, we had a floor vote on  
14 the 27th. But prior to that, I went -- Chairman Solomon  
15 offices across the hall from me. And I've worked with  
16 Representative Solomon for many years. I went to Chairman  
17 Solomon, and I raised concerns to him about the lack of input  
18 coming from the Legislative Black Caucus; that we had had no  
19 input in the process. And I raised specific concerns -- my own  
20 district, and I told Burt that my district is being changed  
21 significantly. And as chairman of the caucus, when were you  
22 all going to talk to people like me about this map?

23 And he indicated that I should talk to someone in his  
24 office, which I did. But there were not any changes, any  
25 substantive changes made to the map before it went to the floor

1 of the Texas House. So on the 27th of April is when I think we  
2 started debating the bill itself on the floor of the Texas  
3 House.

4 BY MS. RIGGS:

5 Q. Can you tell me a little bit more about folks who may have  
6 gone to the speaker's office to offer amendment changes as  
7 recommended?

8 A. When the bill came to the floor of the Texas House, and  
9 you can imagine we were on the bill for a while, Chairman  
10 Solomon laid out the bill. And then there were a number of us  
11 who went around to the speaker's office to work on trying to  
12 make some changes to the bill.

13 And Javier, I think -- I can't think of his full  
14 name -- in the speaker's office, was the person that many of us  
15 talked to. I was back there. Representative Carol Alvarado  
16 was back there. Ana Hernandez, Garnet Coleman was back there,  
17 Representative Senfronia Thompson, Representative Harold  
18 Dutton, many African-American and Hispanic legislators were in  
19 the back talking about their -- about their districts, about  
20 their lines.

21 We were able, in many cases, to make some, what I  
22 call, minor adjustments to the map, but nothing that changed  
23 the substance, the real substance of the map. Wasn't able to  
24 -- for example, if you thought that there -- a minority impact  
25 district had been changed, couldn't do anything about that.

1 But if you thought that there was a majority district that was  
2 represented by -- had the opportunity being represented by a  
3 minority, you couldn't do anything about that.

4 But with respect to your particular district, if  
5 you wanted to change a few lines, or if somebody else adjacent  
6 to you wanted to switch a few lines, you know, we were able to  
7 make those type of cosmetic changes, but nothing that would add  
8 to minority districts or to restore a minority district or to  
9 change a district that had been consolidated, like 140,  
10 District 149 and or District 137. Couldn't do any of that.  
11 But we were able to make some adjustments, some minor, what I  
12 call tweaks, to the district, to that plan. And by and large,  
13 the map that came out of committee, by and large, was the map  
14 that passed on the House floor.

15 Q. Just to clarify, might the person you talked to have been  
16 Gerardo Interiano?

17 A. Yes.

18 Q. How -- did the Legislative Black Caucus introduce House  
19 plans?

20 A. Yes, we did.

21 Q. How many?

22 A. We introduced two. I want to say one was labeled 214,  
23 maybe, and the other one was 202. The only difference between  
24 the two plans that we introduced in the Texas House is that  
25 initially Chairman Solomon indicated that Harris County would



1 hold on to its 25 seats. And then he indicated that Harris  
2 County was not going to hold on to 25. Harris County would be  
3 reduced to 24.

4           The Legislative Black Caucus, I instructed the  
5 people working on it -- on the maps for us, to put forth two  
6 plans; one that had Harris County at 25, which was the number  
7 214, and one that had Harris County at 24, and that was 202.  
8 When his map came out, it had already reduced Harris County to  
9 24. And so we proceeded with the Legislative Black Caucus map  
10 number 202. Everything else remained the same.

11 Q. Did you offer any amendments to House Plan 202?

12 A. There was one amendment that was offered that dealt with  
13 two districts in Harris County, two of my members,  
14 Representative Eric Johnson and Representative Barbara Mallory  
15 Caraway, their districts abut one another. And we made some  
16 adjustments there. With the exception of that, there were no  
17 other changes made to our plan.

18 Q. Did House Plan 202 create new minority opportunity  
19 districts?

20 A. Yes. It created -- essentially -- again, if I can recall  
21 correctly, there were 38 majority Hispanic districts. There  
22 were 13 majority African-American districts. There were 13  
23 other opportunity districts with black and Hispanics working  
24 together. There was one Asian district that was in there. And  
25 we also maintained 149, which is represented by Representative

1 Hubert Vo. And we maintained 137, which was a minority  
2 influence district that's presently being represented by  
3 Representative Scott Hochberg.

4 Q. I'm going to get specific about those in one second, but I  
5 want to go back to the process for one more second. So the  
6 amendment that you offered to 202, did it affect any of those  
7 districts?

8 A. No, it did not.

9 Q. How would you characterize the redistricting process in  
10 the state legislature this year?

11 A. If I -- if I can use the previous two that I participated  
12 on as a -- as kind of a benchmark, this one was less  
13 transparent. The input was less. The impact -- the adverse  
14 impact was much greater. This one I will label as more -- this  
15 one has more -- much more of an adverse effect on minorities,  
16 whether you're African-American, whether you're Hispanic,  
17 whether you're Asian, than any of the previous two  
18 redistricting processes that I've been a part of.

19 I'm more disturbed -- not just by the end result,  
20 because I think to the extent if you -- if you're okay with the  
21 process, the end result might not necessarily be something that  
22 I want. But if the process is fair, then you can deal with the  
23 end result.

24 In this particular case the process, in my view,  
25 was skewed, much more so than in the past. So the process was

1 skewed and the result is even much more reflective of the  
2 skewed process. And as a result, you happen to see more people  
3 who are raising more objections about the map that was passed  
4 out now than in the previous two -- in the previous two that  
5 I've been a part of.

6 Q. Do you believe the leadership was open to input and  
7 suggestions from the minority representatives?

8 A. I believe that the map that was voted out on April 27th,  
9 whatever -- I think the map was predetermined. I think the end  
10 vote was predetermined. And I say that because when you look  
11 at the substantive map that was introduced on April the 13th  
12 and you look at the final product, nothing too much changed.

13           The public input, when people came up to testify,  
14 really didn't make and cause any change to be made. In terms  
15 of input coming from the caucus as a whole, we were not in that  
16 process. The only real meaningful opportunity that we had to  
17 make any sort of changes was when we were voting on the plan on  
18 the floor of the Texas House, and we were only able to make  
19 minor tweaks. Beyond that, this process -- this map that was  
20 put in place was already put in place, and the end result was  
21 already predecided.

22 Q. Can we move on to the congressional redistricting plan?  
23 When did -- when was the first bill filed?

24 A. I believe on the congressional bill, I don't think that  
25 came into play until June in the special session. I believe it

1 was like June the 9th, but don't hold me to it. But I think it  
2 was sometime in June when it was filed. And I think we voted  
3 on the congressional plan, I want to say, maybe the following  
4 week.

5 Q. Can you pinpoint that any closer? Early in the week?  
6 Later in the week? How many days?

7 A. It might have been somewhere around June 14th, 15th, but  
8 don't -- but don't hold me to it. It was -- it was fairly  
9 quickly. It was a quick process as well.

10 Q. Were there public hearings between the 9th and the 14th?

11 A. I think the only public hearings we had on these maps,  
12 whether it was the House, the Senate or the congressional,  
13 dealt primarily, if I'm not mistaken, with the House.

14 Q. Was there a different or better procedure for introducing  
15 amendments to the congressional plan?

16 A. The procedure -- the procedure was -- the process was  
17 pretty much the same.

18 Q. And you felt similarly excluded?

19 A. Yes.

20 Q. Do you believe that the congressional and state House  
21 redistricting plans were drawn with the intent to discriminate  
22 against minority communities and minority representatives?

23 A. Well, I think when you -- when you look at what ended up  
24 happening -- let me just take my district. Okay. Let me just  
25 take my district. When the maps came out, my district was

1 16,000 votes under. Okay? Representative Patricia Harless who  
2 is to the north of me, a Republican -- Representative Patricia  
3 Harless and I had already talked and had already agreed that  
4 there were a couple of precincts that she was willing to give  
5 up to add to my district, and my district would have been made  
6 whole and she was satisfied with. It would have kept the  
7 community of interest together. It would have kept me compact,  
8 and it would have been consistent with the growth. And we had  
9 already agreed with that.

10 But this process totally disregarded the  
11 conversation between Patricia Harless and myself. I can't  
12 speak for her. She can speak for herself. But I will tell you  
13 it was as if the agreements that we had worked had come to --  
14 didn't mean -- didn't mean anything.

15 But when you look at my district the way it ended  
16 up, for those who are familiar with Houston, Harris County, I  
17 go from 610 on the south side, all the way down I45, down  
18 towards Kirkendall. I go close to 1960, and then I swing over  
19 across 290. I've never been close to 290 in the past. So I  
20 have -- I have multiple communities of interest. I go down  
21 towards 1960, close to it.

22 For me it's -- you know, it's one thing because  
23 when I grew up, I was bussed from the core of my district,  
24 which is Acres Home, I was bussed 18 miles one way to high  
25 school. So I was bussed across 1960 to integrate the Klein

1 Independent School District. They used us to integrate them.

2           They sold that school, the neighborhood school  
3 that I went to. The district did. They sold it to the funeral  
4 home so that the neighborhood could no longer grow, to minimize  
5 the number of African-Americans that would be integrated into  
6 the school district. That was then. 36 miles one way -- I  
7 mean, both ways.

8           Now my district, by virtue of the redistricting  
9 process, is that I'm now being shifted into that same direction  
10 and that same area. May be fine for me, while I am there. But  
11 for the next person, the district certainly could be very  
12 problematic in terms of who represents it.

13           When you look at Representative Alma Allen's  
14 District, 131, or Borris Miles' district, 146, when you look at  
15 Representative Helen Giddings' district in Dallas, which had an  
16 overage -- so she had more than enough. And when they took  
17 things away, took populations away from her and started --  
18 reduced the number of African-Americans in the area, that  
19 didn't quite make any sense when she had more than enough.

20           So when you look at what happened in  
21 Representative Vo, 149 and 137, those are minority majority  
22 districts, and you end up consolidating, that didn't make  
23 any -- that didn't make any sense. And you are eliminating  
24 minority representation.

25           On the east side of the district in Harris County

1 there's not much growth. Okay? But that's represented by an  
2 Anglo on that area. They saved that district, and they forced  
3 all of the other minority districts further north and  
4 northwest. The impact of that is adverse on Latinos and  
5 African-Americans.

6           So when you -- when you look at the results of  
7 what took place and when you -- if you accept the fact that it  
8 did not have to take place, by virtue of the maps that we  
9 submitted, then there can only be -- in my view there can only  
10 be one conclusion, that the intent was to -- based on the  
11 growth that has taken place, was to contain the growth of  
12 minorities or to weaken the growth of minorities or to  
13 dismantle the growth where there was an upward trajectory. It  
14 was one of the three. And I think they achieved that purpose.

15 Q. Can we talk a little bit about the larger session and  
16 racial tensions that may have been present during this  
17 legislative session? How would you describe the racial climate  
18 during this last session?

19 A. Well, it was a tough session. I mean, you know, we dealt  
20 with voter ID. You know, that carries its own issues. We  
21 dealt with sanctuary city bills. You know, the whole  
22 discussion over public finance and public school system and who  
23 was going to be benefitted from that, hurt by that. Then, of  
24 course, redistricting. I mean --

25 Q. Can I have you turn in binder 10 there -- Judges, I'm

1 going to look at an exhibit in binder 10. It's marked Exhibit  
2 7. This exhibit has been marked and admitted as Plaintiff's  
3 Exhibit 607.

4 MR. MATTAX: Do we have a binder 10?

5 MS. RIGGS: You can use mine.

6 MR. MATTAX: Thank you.

7 BY MS. RIGGS:

8 Q. Sir, can you tell me what Exhibit 7 is?

9 A. I believe this is the voter ID bill, Senate Bill 14.

10 MR. MATTAX: Object to questions on this. I'm not  
11 sure what the relevance is to the redistricting trial.

12 JUDGE GARCIA: I'm sorry. I didn't hear your  
13 question. What's your question?

14 MS. RIGGS: Oh, I asked him to identify what it was.

15 JUDGE GARCIA: Exhibit 7? Okay.

16 MR. MATTAX: And my objection, Your Honor, is that I  
17 don't think the voter ID bill is before the Court in this case  
18 about redistricting. So I just object to the line of  
19 questioning.

20 JUDGE GARCIA: Overruled. Let's go.

21 BY MS. RIGGS:

22 Q. Can you briefly describe the nature of debate on this  
23 bill?

24 A. There was a lot of tension centered around voter ID.  
25 There always has been when we've dealt with voter ID. The



1 concern that the impact that it would have on those going to  
2 vote, particularly as it relates to minorities. And there was  
3 a great deal of debate on this bill, as there was in the  
4 previous session.

5 Q. Did the Legislative Black Caucus and the Mexican-American  
6 Legislative Caucus work together on this issue?

7 A. Yes, we did. We met several times on voter ID.

8 Q. And did you oppose this bill?

9 A. Yes, we did.

10 Q. And did this bill pass?

11 A. Yes, it did.

12 Q. Okay. Could you turn now to Exhibit 30? This exhibit has  
13 been marked as admitted as Plaintiff's Exhibit 630.

14 A. Yes.

15 Q. Could you tell me what this is, sir?

16 A. This is Senate -- this is House Bill 54, the early voting  
17 absentee bill.

18 Q. Can you briefly describe the nature of the debates on this  
19 bill?

20 A. Similar to that of the voter ID bill, same concerns.

21 Q. What were some of the racial concerns?

22 A. Well, that the impact it would have on minority voters. I  
23 had -- it denied people who had a legitimate right to vote.

24 Q. Did you -- again, did you work with MALC on this issue?

25 A. Yes, we did.

1 Q. And did you oppose it?

2 A. Yes, we did.

3 Q. And what was the end result?

4 A. It passed.

5 Q. Moving on to -- can I actually get to 202, instead of 283?  
6 You mentioned that House Bill 202, that the caucus introduced,  
7 created new majority minority districts. Can we just go  
8 through those quickly? Can we start in Dallas County? What  
9 was the district, the new opportunity district created in House  
10 Bill 202?

11 A. I believe it was 107.

12 Q. And can you tell me a bit about this district?

13 A. That was an opportunity -- it was a minority opportunity  
14 district, in 107. We thought that with the growth of the  
15 minority community in Dallas, that the numbers were more than  
16 sufficient to establish a minority opportunity district. And  
17 so in Plan 202 we established a new District 107 in Dallas.

18 Q. Can we move to Tarrant County, please? What was the  
19 district, the new opportunity district created in 202?

20 A. In Tarrant County I believe that district was 114.

21 Q. And did House Bill 283 also create a new opportunity  
22 district in Tarrant County?

23 A. I believe it did.

24 Q. Do you remember what was different between the --

25 A. I think the primary difference between what was done in

1 283 and the leadership plan versus what was done in the  
2 Legislative Black Caucus plan, in the leadership plan it  
3 divided communities of interest. I think Grand Prairie, for  
4 example, the City of Grand Prairie was divided. In the  
5 Legislative Black Caucus plan we created the new District 114.  
6 We thought that there was sufficient growth in that area for  
7 it, and the numbers justified it, and it maintained the  
8 community of interest.

9 Q. Can we move to Bell County now, please? Do you know what  
10 the district, the new minority opportunity district in --

11 A. In Bell County, it was, I believe, District 54.

12 Q. And can you tell me about that district?

13 A. In Bell County, District 54, it would not -- the new  
14 district would not have been a majority -- a minority majority  
15 district. But when you combine the African-American population  
16 with the Hispanic population, I think the numbers would have  
17 been somewhere around 47, 48 percent, and it would have been a  
18 minority influence district in Bell County.

19 Q. Do you know if the Anglo population was below 50 percent  
20 in that district?

21 A. I can't recall.

22 Q. Can you move to Fort Bend County? What was the new  
23 district?

24 A. And I believe in Fort Bend County, I think it would have  
25 been 26.

1 Q. And can you tell me about that -- a little bit about that  
2 district?

3 A. In that district, in that area, I think there's been  
4 significant growth of the Asian population. And I think that  
5 would have been an Asian opportunity district there.

6 Q. Okay. And finally, can we move to Harris County? Can you  
7 tell me about the new opportunity district or opportunity  
8 district in Harris County?

9 A. I'm trying to think of that one. I know we maintained  
10 District 137, which is presently represented by Representative  
11 Scott Hochberg, and we maintained District 149, which is  
12 presently represented by Representative Hubert Vo in Harris  
13 County?

14 Q. Do you know what House Bill 283 did to those two  
15 districts?

16 A. House Bill 283 consolidated 149, which is presently  
17 represented by a minority, Hubert Vo, and it consolidated 149  
18 with 137, and 137 is a minority opportunity district.

19 Q. Did House Bill 202 come up for a vote?

20 A. It did.

21 Q. And how did the members of the Legislative Black Caucus  
22 vote on that plan?

23 A. I think all of us, possibly with the exception of one,  
24 voted for it.

25 Q. How did the other -- how did the party break down, though,

1 on the votes among the caucus members?

2 A. All voted for it.

3 Q. The -- did other minority groups -- did other minority  
4 representatives vote for it?

5 A. Members of -- the Democratic members of the legislative  
6 caucus voted for it. I believe all of them voted for it.

7 Q. Did any members of MALC vote for it?

8 A. Yes. And if I'm not mistaken, there were even some of the  
9 Republican members that voted for it. I do specifically recall  
10 Representative Lois Kolchorst, Representative Bill Callegari,  
11 Representative Kuempel indicated that they thought that the  
12 maps that we submitted were much better than the maps that --  
13 been presented by the leadership.

14 Q. Mr. Hanna, if could you put up on House Bill 283 --

15 JUDGE RODRIGUEZ: Before we go there, I want to make  
16 sure my list on 202 is correct. So two districts in Harris  
17 County were maintained but no new opportunity districts were  
18 created by your proposed H202; is that correct?

19 THE WITNESS: I think that's correct, Judge. We  
20 maintained 137 and 149.

21 JUDGE RODRIGUEZ: Thank you.

22 JUDGE SMITH: And created one in Fort Bend, adjoining  
23 areas?

24 THE WITNESS: And 26 we created.

25 JUDGE RODRIGUEZ: Yeah. I got that one.

1 THE WITNESS: In Fort Bend.

2 BY MS. RIGGS:

3 Q. Can we zoom in on District 139?

4 I'm not going to have you talk much about this  
5 because you did earlier. But with the map up, can you explain  
6 a little bit in more detail -- and can we get streets on there?  
7 No? That's okay.

8 A. I can explain.

9 Q. Yes.

10 A. The southern end of the district is -- will take you up to  
11 like 610 on the southern end and southern tip. On the -- on  
12 the west side, the far west side where you see that line that  
13 says 148, for example, that will take you across Interstate  
14 290, on that -- on that west side. And then -- which I've  
15 never come close to representing in the past. That is a --  
16 does this work?

17 Q. That red button. It's down low.

18 A. Oh, cool. All of this area -- well, like all of this area  
19 right in here would be new to me. All of this is new. This  
20 is -- this is 290, so this takes me on the other side of 290.  
21 Okay? This is the 610, right in this area. And then right  
22 around here is like Interstate 45. And up here is 1960.

23 Q. And you shared with the leaders -- did you share with the  
24 leadership your concerns?

25 A. Yes, I did. I talked to Javier, I believe. And then I

1 also talked to the speaker's chief of staff, Denise Davis,  
2 about my concerns for the district because you -- this is a  
3 community of interest here. This is -- this is another  
4 community of interest here. This is a community of interest  
5 here. They've got one in this area. And then this is all up  
6 into the north area of my district, and that's a different part  
7 of it as well.

8 Q. Did other members -- I'm sorry.

9 JUDGE SMITH: So what areas did you lose? Can you  
10 point to those?

11 THE WITNESS: They took out this end here. They took  
12 out up in this area, right up in here. They took out.

13 JUDGE SMITH: Well, that's fine if that's the main  
14 one. I just wanted to get some idea of --

15 THE WITNESS: Right. They took this area out right  
16 here. And then they took me further on this side up here, and  
17 then they took me up here.

18 BY MS. RIGGS:

19 Q. Was the loss of that area, do you believe, detrimental to  
20 your district?

21 A. Yes.

22 Q. Did other members of the caucus have similar issues with  
23 their districts?

24 A. Yes. I know Representative Borris Mile raised some  
25 concerns. Representative Alma Allen in Harris County raised

1 concerns. I know Barbara Mallory Caraway out of Dallas raised  
2 some concerns. Representative Hellen Giddings, represents  
3 District 109 in Dallas, had some concerns as well.

4 Q. And were any of their concerns addressed by the  
5 leadership?

6 A. I think there was some -- there was some tweaks made with  
7 respect to some of them on the night that we were voting on the  
8 map with the full House.

9 Q. Were those changes significant?

10 A. They were -- on that night there were just minor  
11 adjustments made.

12 Q. What did you interpret this to mean, all of these members  
13 of the caucus having their districts changed like that?

14 A. Well, I mean, the district was either being drawn to  
15 contain the growth so to speak or to weaken, or if there was  
16 growth potential down the road, you would either -- that was  
17 either being dismantled -- but when you add so many different  
18 communities of interest.

19           The concern -- the concern was not just how the  
20 district was being drawn today and what it represents today.  
21 The concern was what happens -- what happens four or five, six  
22 years from now? What is the district going to look like four  
23 or five, six years from now? For example -- and as a policy  
24 maker it's not just enough to represent -- to legislate on  
25 behalf of the district that you, yourself, represent. I have



1 to make myself out of it. I have to ask myself, Sylvester, if  
2 you are not here, if you are not running, will somebody that  
3 looks like you have an opportunity to win in this district? So  
4 it's not so much just about me. That's a personal assessment.

5           Yeah, in many ways -- you can draw a district all  
6 the way across 1960. I went to high school up in 1960. I did  
7 very well up in that area. So for me personally, I may be  
8 okay. But for people that look like me who's coming after me  
9 it becomes problematic whether or not that person will be able  
10 to continue to win.

11           And so you don't just look at the district today.  
12 The question is, with what's -- with the way it was drawn and  
13 what's put in the district or taken out of it, will it continue  
14 to be representative -- represented by a person that looks like  
15 you two, four, six years down the road? Because these maps  
16 will be in place for ten years.

17           And so when we come back ten years from now, have  
18 I put -- have I allowed something to be put in place that will  
19 change significantly the character of this district? And  
20 that's one of the reasons why many of us have gotten actively  
21 involved in this discussion, in this debate.

22 Q. And did you share these concerns widely?

23 A. Yes.

24 MS. RIGGS: I pass the witness.

25 **CROSS-EXAMINATION**

1 BY MR. MATTAX:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. My name is David Mattax, Attorney General's office. Good  
5 to see you again.

6 A. Good to see you, David.

7 Q. I want to be very brief on this. I'm not going to go into  
8 a bunch of numbers. I want to highlight a couple of things.  
9 We have other people talk about numbers and things like that.  
10 We don't need to waste your time on that.

11 But you identify some districts I wrote down,  
12 107 -- excuse me. Let me back up first. You are suggesting  
13 that a better plan would have been what's been referred to as  
14 H202?

15 A. Yes.

16 Q. And you mentioned four districts within that. 107, I  
17 believe --

18 A. In Dallas.

19 Q. In Dallas?

20 A. Yes.

21 Q. Let me just repeat some numbers to you here and see if  
22 this generally sounds like what you're familiar with. I have  
23 here on 107 21 percent black. "Percent B," that would be  
24 percent black, voting age population. And 20 percent Spanish  
25 surname voter registration. That to me adds up to

1 approximately -- to about 40 percent.

2           So my question is this. And in your description  
3 of what one of these opportunity districts is, this is a  
4 coalition type district, a combination of different minorities;  
5 is that correct?

6 A. I would say it would be a -- it would be a coalition  
7 opportunity district, a minority district.

8 Q. And is that true with respect to the other districts  
9 you've mentioned?

10 A. I know with respect to the one in Bell County, which is  
11 54. I think the combined numbers will be closer to about 47  
12 percent, if I'm not mistaken. And then with the one in Tarrant  
13 County, which I think it's 114, the numbers may be even higher,  
14 but I'm not certain.

15 Q. And those numbers will speak for themselves. We don't  
16 need to waste time on that.

17 A. Right.

18 Q. But the point is, these are combination districts?

19 A. And I think when you look at -- when you look at the  
20 numbers and you look at the areas and where you see an upward  
21 trajectory, which is the point that I was just talking about,  
22 you -- they -- the numbers may be -- let's say you had 47  
23 percent this year, and two years from now or four years from  
24 now the numbers will be considerably higher when you look at  
25 the trajectory and the growth. And I think one of the things

1 that you have to take into account is that trajectory.

2 Now, to the extent you dismantle that, then you  
3 have changed the opportunity for minorities, whether they're  
4 Hispanic or whether they're Asian or whether they're  
5 African-Americans or a combination thereof, working in  
6 conjunction with one another, an opportunity to represent that  
7 area.

8 Q. And I understand that. And that's fair. So I think part  
9 of the argument that's being made is that these districts may  
10 not perform today, but in the future they may have?

11 A. I think in -- more so than not they are performing today,  
12 or very close to performing today, more so than not.

13 Q. And one of the discussions you had was that your concern  
14 would be that you continue -- that you be able to continue or  
15 someone like you, to paraphrase your words, would be able to  
16 continue to represent a district?

17 A. Yes, recognizing that people -- that the voters themselves  
18 ultimately will decide.

19 Q. Okay.

20 A. Okay. And they can decide whomever they want to  
21 represent, just like if we pick -- if you take District 137,  
22 Representative Scott Hochberg represents that district. But I  
23 think that district has a substantial, if not a majority,  
24 population of Hispanic and African-Americans and others in that  
25 district. They have chosen Representative Hochberg. And

1 that's their choice. I'm more than willing to accept people's  
2 choice. They have that right. But I do think that where there  
3 are minority opportunity districts, that we should do our best  
4 to preserve that and then ultimately allow the people to  
5 decide.

6 Q. And so your view would be Representative Vo and Hochberg  
7 are these minority opportunity districts because of the  
8 combination?

9 A. Well, where section 149 -- 149, I believe, and I don't  
10 recall specifically the numbers, that may be a minority  
11 majority district on 149. But 137, I think, is either a  
12 minority majority district or quite close. But the numbers  
13 are, again -- I agree the numbers will speak for themselves.

14 Q. And do you recall -- I believe when you're saying that,  
15 with respect to Plan 202, this is a 24 district within Harris  
16 County?

17 A. If -- 202 is 24 because when Chairman Solomon presented  
18 his map, he presented a map with Harris County at 24. Now, I  
19 will tell you I disagree with his assessment because in the  
20 last redistricting process Harris County had the same numbers,  
21 the percentages, and we rounded up. We rounded to 25 with the  
22 same percentages. And we questioned Representative Solomon on,  
23 why are we changing now? Because the last time we dealt with  
24 redistricting, I think Harris County had the same numbers and  
25 we rounded up. This time we rounded down.

1 Q. Although a map wasn't passed in the 2001 legislature and  
2 ultimately that went to the LRB. Were you aware or do you  
3 recall whether or not there was a vote on a map that would have  
4 reduced Harris County from 25 to 24?

5 A. I never recall where we voted on something to reduce  
6 Harris County from 25 to 24. I do know that we fought hard for  
7 Harris County to stay at 25. And the conversation came up  
8 several times in this last legislative session, why are we  
9 reducing Harris County from 25 to 24 when the percentages are  
10 pretty much the same as they were the last time we dealt with  
11 redistricting?

12 Q. Given that answer, then I assume you don't recall voting  
13 in favor of the plan that would have reduced to get Harris from  
14 25 to 24?

15 A. I don't recall.

16 Q. Very good. Last question, you're saying you're preserving  
17 149 and 137 --

18 A. In 202.

19 Q. In a 24 member district. So which district was  
20 eliminated, or which district was combined? We had to get rid  
21 of one of them.

22 A. They combined 149 and 137.

23 Q. No, I understand that. I'm suggesting in your plan it's  
24 unclear to me, in 202, which district is being eliminated, if  
25 you know?

1 A. I can't speak to that.

2 Q. That's fine.

3 MR. MATTAX: Thank you, Your Honor.

4 JUDGE GARCIA: Thank you, sir.

5 **REDIRECT EXAMINATION**

6 BY MS. RIGGS:

7 Q. Just two, quick follow-up questions. Regarding the size  
8 of the Harris County delegation, you proposed two plans?

9 A. Yes.

10 Q. And one had 24 and one had 25?

11 A. Yes.

12 Q. But the plan that you ultimately went with, how many did  
13 it have?

14 A. It had 24. We filed both plans. But as part of the  
15 amendment process, you could only run with an amendment that  
16 lined up with the plan that came out of committee. You  
17 couldn't run with a plan that had 25, because you are amending  
18 the major bill. It would -- it wouldn't work.

19 So when the leadership made a decision to run with  
20 24, it pretty much forced everybody else to deal with 24,  
21 whether you liked it or not. I don't have to agree with it,  
22 and I didn't agree with it. But, you know, I'm a legislator,  
23 and I understand the rules, and you have to play with the hand  
24 you're dealt.

25 Q. One other Harris County specific question regarding

1 coalitions in 139 and 147, can you talk about the different  
2 minority groups that work together and vote together in those  
3 districts?

4 A. In 139, in my district --

5 Q. I'm --

6 A. You mean 137?

7 Q. Yes.

8 A. In 137, Latinos, African-Americans and I believe -- and  
9 Asians in 137. In 149, significant percentage of Latinos,  
10 African-Americans and Asian. All three of them have worked  
11 together to pick someone of their choice.

12 MS. RIGGS: No further questions.

13 MR. MATTAX: Nothing.

14 JUDGE GARCIA: Thank you, Representative Turner.  
15 Have a good day.

16 If you'll call your next witness.

17 MS. RIGGS: NAACP plaintiffs call --

18 THE WITNESS: Can I take this?

19 MR. MATTAX: I think it's state issued.

20 MS. RIGGS: NAACP plaintiffs call Anthony Fairfax.

21 JUDGE GARCIA: Okay.

22 THE CLERK: Please raise your right hand.

23 (The oath was administered)

24 JUDGE GARCIA: Are there any witnesses -- let me ask  
25 the lawyers. Are any witnesses in the courtroom that should



1 not be in the courtroom or --

2 MS. RIGGS: Expert witness --

3 JUDGE GARCIA: That are under the rule -- still  
4 remain under the rule?

5 MR. NOTZON: Nobody that's not a party or an expert  
6 is in the room.

7 JUDGE GARCIA: Okay. All right. Go ahead.

8 MS. RIGGS: Just for the Court's clarity, I'm going  
9 to be in binder 10 and binder 1 during this.

10 JUDGE GARCIA: Okay.

11 **ANTHONY FAIRFAX, PLAINTIFF'S WITNESS, SWORN**

12 **DIRECT EXAMINATION**

13 BY MS. RIGGS:

14 Q. Good afternoon, can you state your name?

15 A. Excuse me. I was looking for binder 1.

16 Q. Binder 1 is marked joint agreed maps and data.

17 A. I apologize.

18 Q. Can you state your full name for the Court, please?

19 A. Yes, Anthony Edward Fairfax.

20 Q. Mr. Fairfax, what is your occupation?

21 A. Demographic consultant.

22 Q. And where did you receive your education?

23 A. I have a bachelors of science degree from Virginia Tech in  
24 electrical engineering.

25 Q. Can you tell me more about what being a demographic

1 consultant involves?

2 A. I'm a consultant, and I split my services up into three  
3 different aspects. One is actually doing research and analysis  
4 using population data, socioeconomic data. The second part is  
5 doing training, population training, census training, GIS  
6 training, geographic information system training and mapping.  
7 And the third is redistricting services on the plan development  
8 side.

9 Q. How long have you been doing redistricting work?

10 A. For 20 years.

11 Q. How did you get started doing redistricting work?

12 A. I began, back in 1991, working for an office at a  
13 university's redistricting research project.

14 Q. Can you tell me a little bit more about that project?

15 A. Sure. The project had two missions. The first part of it  
16 was to assist nonprofit organizations that didn't have the  
17 technical wherewithal to actually develop their plans. The  
18 second was to actually go out and actually train other  
19 universities on almost duplicating the project that we actually  
20 created.

21 Q. And what kind of software did you use back then?

22 A. Used a package called ReapS, Reapportionment and  
23 Redistricting Software. It was probably, arguably, the largest  
24 or high-end system at that particular time. It was used by  
25 state legislatures, a very expensive package.

1 Q. What kind of software do you use now?

2 A. I use Maptitude for redistricting.

3 Q. As a consultant, what kind of groups do you work with?

4 A. I mostly work with nonprofit groups, nonprofit  
5 organizations. I have worked with some private entities, but  
6 mostly nonprofit.

7 Q. Do you draw plans for your clients?

8 A. Yes, I do.

9 Q. Can you give us a sampling of some of your clients?

10 A. Yes. Of course, an office at university --

11 MR. MATTAX: I have no objection to his  
12 qualifications unless the Court wishes to hear more.

13 JUDGE GARCIA: Okay.

14 MS. RIGGS: So we move the Court to designate Mr.  
15 Fairfax as an expert in redistricting --

16 JUDGE GARCIA: Yes. Sure.

17 MR. MATTAX: No objection.

18 MS. RIGGS: -- redistricting mapping.

19 BY MS. RIGGS:

20 Q. Mr. Fairfax, what were you asked to do in this case?

21 A. I was asked to review three different plans. The first  
22 plan I called the SCSJ July 5th plan. I believe it was later  
23 titled the C193 plan, congressional plan. It was a partial  
24 plan, and it was proffered or put on by the NAACP.

25 The second two, the other two was the House 202

1 plan and House 214 plan that was submitted by the Texas  
2 Legislative Black Caucus.

3 The task, essentially, was to review those plans  
4 and see if they met traditional redistricting criteria and  
5 could be adopted by the state.

6 Q. Okay. So just to confirm, C193 in binder 1 is the plan  
7 that you looked at?

8 A. Correct.

9 Q. Let's see. Were you asked to look at election results or  
10 performance data?

11 A. No.

12 Q. Can you please explain the traditional redistricting --  
13 what traditional redistricting criteria are?

14 A. These are somewhat standard criteria that map drawers used  
15 over the decades. There are five sort of main criteria that's  
16 used essentially when developing maps. You have equal  
17 population that you look at. You have contiguity. You have  
18 compactness. You have preserving political subdivisions, and  
19 then you have somewhat preserving communities of interest.  
20 Those are the -- sort of the main five that people look at.  
21 There are other state specific criteria that's also looked at.

22 Q. Can you tell me about the compactness test that you did on  
23 the plans that you looked at?

24 A. Yes. I looked at -- I used three different compactness  
25 ratios: Reock, Schwartzberg and Polsby-Pepper. And each one

1 actually does, or calculates compactness in a slightly  
2 different way. I could go into it if you want.

3 Q. Generally speaking, how do you assess the scores of those  
4 tests?

5 A. Essentially, most of the compactness ratios used a number  
6 of one or the value of one as being an ideal compact district.  
7 Usually that's a circle or a square of some type, maybe a  
8 polygon in some cases. And so the closer you get to a value of  
9 one, the more compact the district is.

10 Q. Why did you choose these three methods?

11 A. They're probably the -- three of the widely used and  
12 widely documented compactness ratios that are out there.

13 Q. Have you studied compactness of plans in litigation  
14 before?

15 A. Yes.

16 Q. What case would that be?

17 A. I worked on the Shaw v. Reno case, looking at compactness  
18 ratios for 12 to 15 different congressional districts  
19 throughout the country, comparing it to the North Carolina 12th  
20 Congressional District.

21 Q. What other -- what other tasks have you been asked to  
22 engage in relating to assessing plans or drawing plans in  
23 litigation?

24 A. Overall or this particular case?

25 Q. No. Overall.

1 A. Overall. I was one half of an expert masters team for  
2 Miami-Dade in the 1990s where the Court directed the City to  
3 actually move from an at-large system to a districting scheme,  
4 and I was the lead map drawer for that particular case.

5 Q. So you drew a district at a Court's order?

6 A. Yes.

7 Q. When you were drawing that district, did you take race  
8 into consideration as you were drawing that district?

9 A. Race was a consideration.

10 Q. And why did you do that?

11 A. Because the Court ordered actually the development of  
12 several majority minority districts in that.

13 Q. Was that related to a problem of compliance with the  
14 Voting Rights Act?

15 A. Yes.

16 Q. All right. I am now going to have you refer to some maps.  
17 And to ease the confusion and the messing around, I'm going to  
18 have you look at the maps in the joint map binder. But your --  
19 I'm going to have you look at the maps in your expert report,  
20 in our binder 10. But I'm going to have you look at the data  
21 in the joint maps and reports, if that makes sense. And I'm  
22 sorry to ask you to do that. But then you can go back and  
23 forth.

24 So first, if you could, turn to -- could you pull  
25 up Fairfax map 2? Oh, no, that's -- I'm sorry. And then in

1 the book could you flip to binder 10, tab 22?

2 A. I think that's the one that had a little accident.

3 Q. You have one there, one there. I'm sorry. That binder  
4 that fell off was --

5 JUDGE RODRIGUEZ: We've got a copy over here.

6 MS. RIGGS: Perfect. Thank you.

7 THE WITNESS: Thank you. Appreciate that.

8 BY MS. RIGGS:

9 Q. So binder 10, tab 22.

10 A. Yes.

11 Q. This map is part of the report that's been marked and  
12 admitted as Plaintiff's Exhibit 622, the expert report of Mr.  
13 Fairfax. And then, also, could you flip in binder 1 to the tab  
14 for C193? Is this Fairfax 2? Okay. Great. Is this an --  
15 C193, is this an entire plan?

16 A. No. It's a partial plan.

17 Q. Can you tell me about your general opinions and  
18 conclusions about the districts in C193?

19 A. Yes. After reviewing equal population, contiguity,  
20 compactness and political subdivision splits, I came to a  
21 conclusion that this plan met traditional redistricting  
22 criteria and could be adopted by the state.

23 Q. Okay. Then looking at -- I think I need you to flip to  
24 the next -- I believe the page I'm wanting you to look at is  
25 B3. It's Appendix B in the expert report, Exhibit 22 in binder

1 1. And it's what's being projected up there.

2 A. Okay.

3 Q. Then flipping to binder 1, the third page in, has citizen  
4 voting age population data.

5 A. Yes.

6 Q. Can you tell me what the -- can you tell me a little bit  
7 about what's up here on the map?

8 A. These are two congressional districts that actually center  
9 around -- excuse the names -- Bastrop, Caldwell, Guadalupe and  
10 Bexar.

11 Q. Can you tell me what the Hispanic citizen voting age  
12 population is for District 25?

13 A. Yes, 29.1.

14 Q. Can you tell me what the black citizen voting age  
15 population is for District 25?

16 A. 14.6.

17 Q. Can you tell me what the white alone citizen voting age  
18 population is for District 25?

19 A. 51.6.

20 Q. Moving on to District 28, can you tell me what the  
21 Hispanic citizen voting age population is?

22 A. 48.4.

23 Q. What the black citizen voting age population is?

24 A. 8.5.

25 Q. And the white alone citizen voting age population?



1 A. 40.7.

2 Q. So District 28 is a majority minority district; is that  
3 correct?

4 A. Correct.

5 Q. And do these districts each comply with the criteria that  
6 you looked at?

7 A. Yes, they do.

8 Q. The next one I think then I need on the overhead is  
9 Fairfax 3.

10 Can you tell me what we're looking at in this map?

11 A. This is District 18 and 9. They're centered in Harris  
12 County.

13 Q. What is the Hispanic citizen voting age population in  
14 District 9?

15 A. 18 percent.

16 Q. What is the black citizen voting age population in  
17 District 9?

18 A. 49.4.

19 Q. What is the white alone citizen voting age population?

20 A. 22.5.

21 Q. Would it be fair to describe this district as a majority  
22 minority district?

23 A. Correct.

24 Q. And did this district comply with all of the criteria?

25 A. Yes, it did.

1 Q. District 18, what is the Hispanic citizen voting age  
2 population in District 18?

3 A. 18.6.

4 Q. What is the black alone citizen voting age population?

5 A. 49.3.

6 Q. And the white alone citizen voting age population?

7 A. 28.1.

8 Q. Thank you. Can we move to Fairfax -- the next one. I'm  
9 sorry. Fairfax 4.

10 Can you tell me what we're looking at in this map?

11 A. Sure. This is three different congressional districts,  
12 30, 34 and 35, spanning from Dallas to Tarrant or Fort Worth.

13 Q. District 30, can you tell me the Hispanic citizen voting  
14 age population in District 30?

15 A. 14.1.

16 Q. Can you tell me what the black citizen voting age  
17 population is?

18 A. 49.6.

19 Q. Can you tell me what the white alone citizen voting age  
20 population is?

21 A. 33.6.

22 Q. Is this district majority minority by citizen voting age  
23 population?

24 A. Yes, it is.

25 Q. Okay. District -- can we look at District 35 now. And

1 could you tell me what the Hispanic -- Hispanic citizen voting  
2 age population is?

3 A. 44.6.

4 Q. What is the black citizen Hispanic voting -- black citizen  
5 voting age population?

6 A. 15.

7 Q. What is the white alone citizen voting age population?

8 A. 37.

9 Q. Did this district comply with all of the criteria that you  
10 looked at?

11 A. Yes, it did.

12 Q. And then, moving to District 34, can you tell me what the  
13 citizen voting age population -- the Hispanic citizen voting  
14 age population in District 34 is?

15 A. 15.8.

16 Q. The black alone citizen voting age population?

17 A. 32.4.

18 Q. The Asian citizen voting age population?

19 A. 4.2.

20 Q. The white alone citizen voting age population?

21 A. 46.

22 Q. If you look at the African-American, Hispanic and Asian  
23 populations, is this a majority minority district?

24 A. Yes, it is.

25 Q. It's above 50 percent of the citizen voting age

1 population?

2 A. Correct.

3 Q. And this district complied with all of the criteria that  
4 you looked at?

5 A. Yes, it did.

6 Q. Were you asked to compare the compactness of this plan  
7 with any other plan?

8 A. Yes, I did.

9 Q. What did you compare it to?

10 A. Compared it to the approved plan, C185.

11 Q. And what did you find based on that?

12 A. I found that, essentially, the districts of the C193 were  
13 all as compact as C185; except for on two tests District 35 --  
14 actually, they were less compact on District 35.

15 Q. Was it still within what you, in your expertise, consider  
16 acceptable range?

17 A. Yes, they were negligible.

18 Q. And District 34 was actually -- specifically, how did it  
19 compare to the range in 185?

20 A. On three ranges or two?

21 Q. Whichever you looked at.

22 A. Can I check?

23 Q. I guess I can rephrase it. I want to know, is it as  
24 compact or more compact than anything in C185?

25 A. District 34?

1 Q. Yes.

2 A. Yes, it was. It was in between the range of the minimum  
3 and maximum range of C185.

4 Q. Did you look at any other traditional redistricting  
5 criteria in comparison between C185 and C193?

6 A. No.

7 Q. Now I'm going to move to the House plans. So Mr. Hanna,  
8 if I could get you -- if I could get the witness and the Court  
9 to flip to H202. Can you go to Dallas County, please?

10 Mr. Fairfax, if you could flip to the seventh page  
11 under tab H202 to look at red 106. I guess it starts on the  
12 back of the page before.

13 A. Can you give me the page number up at the top? Is it --

14 Q. There don't appear to be page numbers. But it's one, two,  
15 three, four, five, six, seven. It's on the back -- well, it's  
16 the eighth page. It's on the back of the seventh page. Do you  
17 see citizen voting age population data for H202?

18 A. Yes. Yes.

19 Q. Okay. What's on the board -- what's on the screen, H107,  
20 can you look up that column, or that row for me, please?

21 A. Yes.

22 Q. Can you tell me what the Hispanic citizen voting age  
23 population in 107 is?

24 A. 23.9.

25 Q. Can you tell me what the black alone citizen Hispanic --

1 the black alone citizen voting age population is?

2 A. 26.5.

3 Q. Can you tell me what the -- what the Asian citizen voting  
4 age population is?

5 A. 4.8.

6 Q. Is this district majority minority -- is this district a  
7 majority minority district?

8 A. Yes.

9 Q. Is the Anglo population below 50 percent?

10 A. Yes, it is.

11 Q. Then can -- Mr. Hanna, can we go to Fort Bend County?

12 Oh, and I'm sorry, Mr. Fairfax. Did this district  
13 comply with all the criteria that you looked at?

14 A. Yes, it did.

15 Q. So now we're going to be looking at HD -- House District  
16 26. Can you tell me what the Hispanic citizen voting age  
17 population is of 26?

18 A. 12.9.

19 Q. Can you tell me what the black citizen voting age  
20 population is?

21 A. 14.5.

22 Q. Can you tell me what the Asian citizen voting age  
23 population is?

24 A. 23.8.

25 Q. Is this a majority minority district?

1 A. Yes, it is.

2 Q. Is it over 50 percent citizen voting age population if you  
3 add those three groups?

4 A. Yes, it is. Yes, it does.

5 Q. Did this district comply with the other criteria that you  
6 looked at?

7 A. Yes, it did.

8 Q. Mr. Hanna, can we move to Bell County, please? It's House  
9 District 54.

10 Did you find row -- the row for House District 54,  
11 Mr. Fairfax?

12 A. Yes.

13 Q. Okay. Can you tell me what the Hispanic citizen voting  
14 age population is?

15 A. 17.7.

16 Q. Can you tell me what the black alone citizen voting age  
17 population is?

18 A. 28.7.

19 Q. Can you tell me what the Asian citizen voting age  
20 population is?

21 A. 3.2.

22 Q. What is the Anglo population in this district, the citizen  
23 voting age population?

24 A. 46.4.

25 Q. So is this district majority minority?

1 A. Yes.

2 Q. Did it comply with all of the criteria that you examined?

3 A. Yes, it did.

4 Q. And then Harris County, please. Can you first read for me  
5 the -- or first go to District 149. Can you tell me what the  
6 Hispanic citizen voting age population is for 149?

7 A. 22.3.

8 Q. What is the black citizen voting age population?

9 A. 34.7.

10 Q. What is the Asian citizen voting age population?

11 A. 18.5.

12 Q. Is this a majority minority district?

13 A. Yes, it is.

14 Q. Did it meet the criteria that you examined?

15 A. Yes, it did.

16 Q. And then District 137, same map, just different row. Can  
17 you tell me what the Hispanic citizen voting age population is?

18 A. 25.

19 Q. Can you tell me what the black citizen voting age  
20 population is?

21 A. 29.4.

22 Q. Can you tell me what the Asian citizen voting age  
23 population is?

24 A. 10.4.

25 Q. Is this a majority minority district?



1 A. Yes, it is.

2 Q. Did it comply with all the criteria you looked at?

3 A. Yes, it did.

4 Q. Were you asked to compare H202 with H283?

5 A. Yes.

6 Q. On what criteria were you asked to compare them?

7 A. Compactness.

8 Q. Were you also asked to look at the number of majority  
9 minority districts in each?

10 A. That's correct.

11 Q. What did you find when you compared the compactness of the  
12 two plans?

13 A. That the H202 was overall more compact than the -- the  
14 plan that was approved by the House.

15 Q. Did -- how did they compare with the number of majority  
16 minority districts?

17 A. Let me check, please.

18 Q. Sure.

19 A. The house plan 283, I compared it to the benchmark plan.  
20 And it decreased in the number of majority Hispanic plus  
21 black -- that's the way I reviewed it -- from 57 to 53. H202  
22 increased in the number of majority Hispanic and black  
23 districts of 57 to 58.

24 Q. Did you compare the two plans on any other redistricting  
25 criteria?

1 A. Compactness.

2 Q. Just compactness.

3 MS. RIGGS: I pass the witness.

4 **CROSS-EXAMINATION**

5 BY MR. MATTAX:

6 Q. Good afternoon --

7 A. Good afternoon.

8 Q. -- Mr. Fairfax.

9 A. How you doing?

10 Q. Fine. Thank you. Nice to see you again.

11 Last -- I've got just a few questions. You just  
12 testified that when you did this comparison of the majority  
13 minority districts, which has also been called coalition  
14 districts, which is that you add -- you have a sufficient  
15 number of Hispanic citizens voting age, plus another group to  
16 exceed 50 percent. You said that the benchmark had 57 and the  
17 202 went to 58?

18 A. Right.

19 Q. Was there a particular district that that increase was?  
20 Can you identify it by a number?

21 A. It wasn't a particular district. I can tell you that 283,  
22 we're looking at the benchmark, two districts became majority  
23 Hispanic plus black new. There was 101 and 105. And six  
24 districts moved lower. And that was House District 33, 93,  
25 106, 133, 138 and 149.

1 JUDGE RODRIGUEZ: I'm sorry. Can you say that a  
2 little slower.

3 THE WITNESS: Okay. Two districts became new  
4 majority Hispanic black districts. And that was House  
5 Districts 101 and 105. Six districts moved lower than 50  
6 percent, which was HD 33, 93, 106, 133, 138 and 149.

7 JUDGE RODRIGUEZ: Thank you.

8 BY MR. MATTAX:

9 Q. In doing that comparison, did you compare the benchmark  
10 plan to the plan being proposed with -- to determine the number  
11 of Hispanic opportunity districts or Hispanic majority -- let's  
12 use this term so we don't get confused, and define opportunity,  
13 which everyone has different opinions on, I think.

14 A. Right. Right.

15 Q. Majority citizen voting age population for Hispanic  
16 districts?

17 A. No, I didn't.

18 Q. Okay. For voting -- a majority African-American voting  
19 age population districts.

20 A. No.

21 Q. You did or didn't?

22 A. Did not.

23 Q. Okay. So your view is -- or your charge was just to  
24 compare these combination districts?

25 A. Correct. And that's the standard practice in -- except

1 for certain states. Certain states it's a substantial amount  
2 of Asian population to actually include Asian, Native American  
3 and other cases.

4 Q. And when you say the standard practice, is that your view,  
5 if you have an opinion, of what the Gingles factors require,  
6 the Gingles case requires?

7 A. Yeah. I wouldn't say Gingles factors. But yes, I would  
8 say that as far as majority -- minority opportunity districts  
9 is concerned.

10 Q. So your view is that if you have a majority opportunity  
11 district combined of various different minorities, that has to  
12 be drawn?

13 A. Right.

14 Q. Theoretically, I think you're aware that the population of  
15 Texas has -- there is no majority, if you will, from a  
16 numerical standpoint, between the various ethnic groups; is  
17 that correct?

18 A. There's no majority?

19 Q. Correct.

20 JUDGE GARCIA: Ethnicity wise.

21 THE WITNESS: Ethnicity wise?

22 BY MR. MATTAX:

23 Q. Yes.

24 A. If you look at citizen voting age population, it's  
25 something like 25 percent Hispanic, 13 percent black and 4

1 percent Asian. And so I need a clarification on your --

2 Q. Okay. Well, if we do that math there --

3 A. You're saying majority as far as greater than 50 percent?

4 Q. Correct.

5 A. Correct. Not majority amongst the group.

6 Q. Correct.

7 A. That is -- that is correct. Your are correct.

8 Q. Because what I'm -- what I'm trying to focus on, and see  
9 if you believe this, is that if it's possible to draw every  
10 district in the state by combining different minorities to get  
11 over a 50-percent threshold of minorities, is it your view they  
12 all have to be drawn?

13 MS. RIGGS: Objection, calls for a legal conclusion.

14 THE WITNESS: I was going to say, I can give you my  
15 opinion.

16 JUDGE GARCIA: I'll permit it. Go ahead.

17 THE WITNESS: My opinion is I think they should. But  
18 again, I'm not an attorney.

19 BY MR. MATTAX:

20 Q. That's fine. Thank you.

21 I'm not going to go through the data. That speaks  
22 for itself. I'm also -- we had an agreement that I could just  
23 rely on your deposition for further cross.

24 Before I do that, though, I do want to give you  
25 the opportunity. Is there anything in the deposition, that we

1 took a couple of weeks ago, that you want to change or clarify?  
2 A. I haven't read the deposition. And so at this particular  
3 moment I couldn't say yes or no.

4 MR. MATTAX: If y'all want to provide an errata  
5 sheet, we get that done, that's fine. But I'll pass the  
6 witness and rely on the deposition.

7 JUDGE GARCIA: Okay.

8 MS. RIGGS: No further questions.

9 JUDGE GARCIA: Okay. Thank you, Doctor. You're  
10 excused.

11 And if you'll call your next witness, please.

12 MR. BLEDSOE: Dr. Murray, Richard Murray.

13 MR. MATTAX: I apologize to the Court, but if we  
14 could take a short break.

15 JUDGE GARCIA: Sure. Of course. We can do that.

16 (Recess at 3:37 p.m., change of reporters)  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 Houston and contributed a number of chapters to books on Texas  
2 elections and politics over the years.

3 Q. Okay. And have you testified as an expert in redistricting  
4 cases before?

5 A. I have occasionally, particularly in Texas cases.

6 Q. Okay. And probably how many times have you been designated  
7 as an expert in redistricting cases?

8 A. I've never kept close track. My guess would be in the range  
9 of 15 to 20 times.

10 Q. And, in fact, have you been an expert in congressional  
11 redistricting cases involving the state of Texas?

12 A. I have in 2001 and '3 and I think in 1991 and in the early  
13 1980s.

14 Q. Okay. So this is not your first time appearing to talk  
15 about the Texas congressional redistricting process?

16 A. That's correct.

17 Q. Okay. And have you worked for individuals of both political  
18 parties?

19 A. I have. I'm working this year locally in Houston for the  
20 Harris County Commissioners Court on a county redistricting map.  
21 They're a Republican dominating court. I've also worked for a  
22 lot of non-partisan entities like school districts or community  
23 colleges that are not partisan.

24 MR. BLEDSOE: Okay. Your Honor, we would offer  
25 Dr. Murray as an expert on political analysis and voting rights.



1 MR. MATTAX: No objection.

2 JUDGE GARCIA: All right. Go ahead.

3 MR. BLEDSOE: Thank you.

4 Q. (BY MR. BLEDSOE) Dr. Murray, one of the factors I think the  
5 court is concerned about is the history of discrimination in the  
6 State of Texas. And could you detail for the court some relevant  
7 matters that have occurred in the past, I think, that you've  
8 utilized in your research to talk about the need for voter  
9 protection?

10 A. Well, since Texas secured its political independence from  
11 Mexico in 1836 we've had a long history--now 175 years, I guess--  
12 of conducting elections and having representation issues in  
13 Texas. Much of that history in my view sadly has involved  
14 significant discrimination against the African-American  
15 population in the Republic of Texas first and then in the state  
16 and the mostly Mexican-American but large Hispanic population in  
17 our state, which --

18 The white settlement of Texas was primarily associated  
19 with slave owners moving their property into this state in the  
20 1820s and 1830s. Not surprising that given that reality that  
21 Texas quickly joined the other Deep South states in leaving the  
22 union after the 1860 election because of the fear of an  
23 abolitionist president taking office. A white Texas majority at  
24 least fought valiantly on behalf of the Confederacy. Of course,  
25 the result did not turn out well, but once the white majority

1 regained political control of the state they instituted some of  
2 the very toughest, most effective discrimination laws and  
3 practices as well as informal terrorist activity to depress  
4 minority participation in the state, African American and  
5 Mexican American. And that continued deep into the 20th century.

6 Q. And when you say deep into the 20th century, approximately  
7 when did that stop for the most part?

8 A. Well, it began to stop I think in my view in the 1940s,  
9 particularly with landmark Supreme Court decisions like Smith  
10 versus Allwright that eliminated the white primary, even though  
11 down in Fort Bend County they kept a facsimile going into the  
12 1950s where all the white folks would participate in an informal  
13 poll and then everybody but one candidate would drop out.

14 But the Congress of the United States passed a weak  
15 Voting Rights Act in 1957 with a Texan, Lyndon Johnson, the  
16 majority leader, pulling that together. And, of course, eight  
17 years later when he was President of the United States Congress  
18 passed a dramatically powerful piece of legislation, the Voting  
19 Rights Act, that to me is the single most profound legal event in  
20 breaking this state pattern of discrimination in elections.

21 Q. Could you tell the court about how the Voting Rights Act was  
22 ultimately made applicable to the State of Texas?

23 A. Well, I got here in 1966 and quickly made the acquaintance  
24 of Barbara Jordan who was a lawyer then running for the state  
25 senate in Harris County. And she won that fall and was the

1 first, since the Reconstruction, African American to serve in  
2 the Texas Senate. Subsequently she was able to win a new  
3 congressional district drawn in Houston. Some new district came  
4 to Texas in 1970 after the census. And Ms. Jordan went to  
5 Congress in January 1973 and quickly became a star in Congress  
6 largely because of the Watergate hearings and her other talents.

7           After she was reelected the next year her number one  
8 priority was the Voting Rights Act was up for renewal for the  
9 second time. It had been extended for five years in 1970 and it  
10 was coming up in 1975. She took it on her initiative to ensure  
11 that in that renewal Texas would be covered by the special  
12 provisions of the Voting Rights Act like most of the rest of the  
13 old Confederate states in the South.

14           That was a very difficult task because the state white  
15 political establishment, which was almost entirely  
16 Democrats--Dolph Briscoe was governor back then--were adamantly  
17 opposed to bringing Texas under the special provisions.

18           But the Junior United States Senator was Lloyd Bentsen.  
19 He was getting ready to run for president. And I think Barbara  
20 Jordan convinced him if he really as a Southern conservative  
21 wanted to have any chance of being the national Democratic  
22 nominee he needed to step up to the plate like Lyndon Johnson had  
23 about 10 years earlier and support the application of section 5  
24 to Texas. He agreed. With Barbara Jordan carrying the fight  
25 into the House of Representatives and Senator Bentsen in the

1 Senate they were successful. It was a long shot deal but they  
2 pulled it off.

3 And, of course, in every renewal since 1982, and I  
4 guess most recently in 2005, substantial majorities of both  
5 parties have voted to renew the Voting Rights Act and to include  
6 or continue to be a provision of Texas as being covered by the  
7 special provisions.

8 Q. Okay. Now, the Voting Rights Act, the fact that it was  
9 applied to the State of Texas, did not lead to an immediate  
10 change or improvement for African Americans or Latinos, did it?

11 A. Well, the 1970s round of redistricting was over by the time  
12 the Voting Rights Act was renewed, so there wasn't much impact in  
13 the 1970s. There was some modest impact in the 1980s. Now that  
14 voting plans in Texas did have to be pre-cleared, I think it made  
15 a difference in things like the -- the new congressional district  
16 that was assigned to South Texas. It ran from Nueces County to  
17 Cameron. Without the Voting Rights Act I doubt that that kind of  
18 district would have been created.

19 The state senate district that had been dismantled  
20 ironically, that Barbara Jordan represented so this act was  
21 clearly retrogression in the Texas State Senate in 1971, that  
22 district was restored in 1981. And new legislative districts  
23 around the state were created that gave minority voters the  
24 opportunity to elect candidates of their choice. So I think in  
25 1981, at that early -- that round, the first time we got a census

1 with Texas under those provisions, some progress was made in  
2 overcoming the significant barriers that minority voters had  
3 faced, but it was modest.

4 Q. Okay. But in reference to the effectiveness of the Voting  
5 Rights Act would one look at the population to see whether or not  
6 one is being treated fairly by the changes made by the  
7 legislature?

8 A. Well, that's a good place to start because obviously since  
9 the landmark decisions in the 1960s when we get those census  
10 numbers, the total headcount drives the process at the very  
11 beginning in the most fundamental way starting with the  
12 apportionment of seats to Congress which is based on the count of  
13 persons that the census gives us. And of course within states  
14 congressional districts have to be about exactly equal in  
15 population, very substantially and variances of only about plus  
16 or minus five percent are permitted for other districts. That's  
17 based on the headcount of persons no matter what age, race or  
18 ethnicity, citizenship status or whatever.

19 So to me I always start like -- say a portion of the  
20 congressional seats. Let's look at those population numbers.  
21 And that's a good sort of way, it seems to me, to begin to  
22 understand how political redistricting is working and how the  
23 Voting Rights Act is an issue, how this might be playing out.

24 Q. Okay. Well, let's take a look at your report.

25 MR. BLEDSOE: And, Your Honors, it's in binder

1 10 -- excuse me, joint exhibits binder 1, Exhibit 4, or it will  
2 be 601 in 10-1. Exhibit 1 in 10-1. And he has two reports in  
3 the joint exhibit, one for the House and one for the Congress.  
4 And I'm asking to go to the congressional one now.

5 Q. (BY MR. BLEDSOE) And do you see that table on page 7? I  
6 think that's the way it --

7 A. I do. I it have in front of me.

8 Q. I'll let the judge --

9 MR. BLEDSOE: Table number 2.

10 JUDGE GARCIA: Volume 10, yeah.

11 A. This table -- this summarizes the change from the 1980 to  
12 the 1990 census where Texas was adding about 2.7 million  
13 population. Growth was occurring in all of the major racial  
14 ethnic communities, but we saw a real spurt in the Hispanic  
15 growth in the '80s. An uptick in African American growth but  
16 still a substantial increase in the large but still growing Anglo  
17 population of the state. But combined, the black and Hispanic  
18 growth in the '80s added up to about 62 percent of the growth --  
19 or that's not accurate. The combined black and Hispanic growth  
20 in the state added up to about 56 percent of the total and about  
21 40 percent was Anglo.

22 Q. (BY MR. BLEDSOE) Okay. And that's between 1980 and 1990.

23 A. So that set the stage for the 1991 redistricting that was  
24 required after these numbers were released. And in my judgment  
25 that was the most effective round of redistricting for minority

1 voters in the history of the state.

2 Q. Could you explain to the court what happened in 1991 in  
3 that?

4 A. Well, we had these big population gains among blacks and  
5 Hispanics. We had three new congressional seats coming to Texas.  
6 All those seats went to minority Congress or districts that  
7 minority voters had an opportunity to elect members of Congress  
8 to because in one instance those voters chose to elect an Anglo  
9 in the 29th district of Houston.

10 But not only in the congressional representation but in  
11 state senate, state house there were notable gains for Latinos  
12 and African Americans in this round of redistricting because I  
13 think it brought together two or three factors in hindsight we  
14 can say were relatively unique in Texas history.

15 First, we were now fully covered by the Voting Rights  
16 Act and we had a pretty aggressive Justice Department in  
17 Washington, DC looking closely at Texas. The president of the  
18 United States was from Texas. He had an interest here. He had  
19 pointed I think an aggressive head of the voting rights division,  
20 Mr. Dunn, so I think we were being watched. And I think the  
21 instructions in the Justice Department was be aggressive and that  
22 word got down to Texas.

23 A second factor now that looks unique, we were a  
24 competitive two-party state at that juncture. We had a series of  
25 governor elections that had gone back and forth. Democrat wins

1 in 1974, Republican in 1978, Democrat in 1982, Republican in  
2 1986, Democrat again in 1990. Many of us teaching political  
3 science were saying, you know, Texas is finally a two-party  
4 state. Well, it was but just briefly.

5           But I think that party competition with both parties  
6 making some real effort to compete for minority voting was very  
7 helpful on the representation front because in a certain sense  
8 there was a bidding war. Each party in this competitive  
9 environment had to worry about every element of the Texas  
10 electorate and it gave more leverage to the minority legislators  
11 in securing better deals. And there was unquestionably pressure  
12 from Washington DC to treat particularly the fast-growing  
13 Hispanic minorities more favorably. And the results were the  
14 best maps, I think, in terms of improvement from status quo that  
15 we've seen in the history of the state.

16 Q. Well, your answer makes me want to go ahead with something  
17 else you've written in your report and so I'll take something out  
18 of order. In your report you talk about consequences that would  
19 necessarily occur if an individual -- if a party was not seeking  
20 the support from a group of individuals.

21 A. That is a practical consequence if you end up with a  
22 situation in partisan politics where one party writes off a  
23 segment of the electorate. That's going to spill over into some  
24 other areas. They're not going to be very responsive obviously  
25 to the legislative concerns of that segment. And when



1 redistricting rolls around if you're not competing for votes from  
2 a significant sector of the population it's going to, it seems to  
3 me, deeply color whatever your strategy is for approaching  
4 redistricting issues.

5           But in the early '90s both parties certainly were  
6 competing for the Latino vote very aggressively and even -- you  
7 know, some Texas Republicans--the senior Bush, for example, in  
8 the 1960s--aggressively competed for black votes. And my  
9 perspective after being in the state for 45 years that  
10 competition for minority voting support is a good thing. And  
11 when you don't have competition I think the consequences over  
12 time are not good.

13 Q. Is there competition now for the African American vote?

14 A. Unfortunately not really in my judgment. And that's  
15 confirmed by all the national exit polls we've done in our  
16 national elections since the 1964 election between President  
17 Johnson and Senator Goldwater.

18           The outreach efforts of Republicans have been very  
19 occasional. There was some effort in 2006 that the George W.  
20 Bush administration made particularly supporting three  
21 significant African American candidates in Ohio, in Maryland and  
22 in Pennsylvania. Those didn't work out very well. They lost  
23 overwhelmingly in the black communities in those states even  
24 though these were credible African American figures. One was a  
25 former professional athlete who was very popular in Pennsylvania.

1 Another was the lieutenant governor of Maryland. The third was  
2 the secretary of state in Ohio. They got almost no support from  
3 black voters reflecting this pattern we've seen really settle in  
4 deeply that even when you have a major political push nowadays,  
5 the well has been so deeply -- not poisoned but tainted, that  
6 it -- it's -- this partisan divide between the Republican party  
7 and black voters is one of the most striking features of modern  
8 American politics. And it's now 47 years old. We're going into  
9 a third generation, but it's almost a fixture now in our  
10 electoral politics.

11 Q. And when you say it's 47 years old are you alluding to the  
12 southern strategy?

13 A. The break point clearly now that we've got a half century of  
14 history was the early '60s. In 1960 Richard Nixon competed  
15 aggressively for black votes. In Martin Luther King's hometown,  
16 Atlanta, Nixon got more votes than John Kennedy. We've seen  
17 nothing like that since.

18           Senator Goldwater, a man in many respects I admire,  
19 made a conscious decision to, as he put it, hunt where the ducks  
20 were. And the ducks were the southern whites that were  
21 increasingly unhappy with Lyndon Johnson and the national  
22 Democratic party for basically ending legal segregation in the  
23 south.

24           And Senator Goldwater, although he said personally he  
25 was absolutely opposed to discrimination, voted against the Civil

1 Rights Act in 1964. Saw it as an intrusion on states' rights.  
2 That drew a clear line. Mr. Goldwater got less than one percent  
3 of the black vote that year. And the national Republican party  
4 has never really recovered any decent share since that time  
5 despite occasional but I think very limited outreach efforts  
6 since then.

7 Q. Now, in light of -- take a look at page 10 of your report  
8 and that's table 4. And I believe this is the next indication of  
9 the population change from 2000 to 2010. Could you explain what  
10 occurred with the population change in that time period and what  
11 resulted in redistricting during that time period?

12 A. We probably ought to skip back just momentarily to what  
13 happened between the 1990 and 2000 census because we could look  
14 at that table, but --

15 Q. You're correct. Page 8.

16 A. These trends that were emerging in the '80s accelerated.  
17 That is Hispanic growth becoming much more important as driving  
18 overall state growth, black growth also beginning to accelerate  
19 and white growth starting to slow down in that 1990 to 2000  
20 census. So that now the state's growing like 3.9 million, three  
21 million of that growth is minority growth. So the shift to our  
22 growth is being driven by our minority populations.

23           The Asian community is growing fast but it's from a  
24 small base. The larger Hispanic base is now adding very  
25 significant numbers of population. And the African American

1 growth is beginning to tick up which had been declining on a  
2 percentage basis since 1920.

3           But now we're beginning to see a different pattern  
4 emerging in our state: Slowing Anglo growth, uptick in black  
5 growth rates, continued surge in Hispanic growth. And again a  
6 small but growing Asian segment seeing large percentage  
7 increases.

8           But what we didn't see after that 2000 census in the  
9 2001 round was much net gain for minorities in Congress, state  
10 senate or state house. They basically did a little better  
11 perhaps than breaking even but not much. So a notable contrast  
12 to me between what happened in 1991 and in 2001 through '3 when  
13 we sorted out the seats after the last census before this one.  
14 And I think almost all of the minority political leaders in our  
15 state were deeply disappointed. The numbers came in, they looked  
16 great, but not much political change in the representation  
17 formulas.

18 Q.    Okay. And do you have an opinion why?

19 A.    My opinion is the two-party system turned out to be a  
20 mirage. The Democrats, for various reasons, some of them  
21 self-inflicted without question, declined as a competitive party  
22 and after 1994 didn't win a single statewide election.

23           The Republican party, not oriented toward African  
24 American voters much for understandable reasons, was solidifying  
25 its political power with Anglo Texans and therefore wasn't

1 particularly interested in pursuing substantial numbers of new  
2 districts for Hispanic voters to have an opportunity.

3           So we didn't have some of those special factors  
4 operating in 1991 that worked to the benefit of minority voters  
5 around the state and we pretty much left in place a set of  
6 districts that left their political power to elected  
7 representatives effectively where it was 10 years earlier.

8 Q.   Now, was this because minorities were one political party or  
9 was it because of -- or was race involved?

10 A.   Well, race is becoming -- is part of America -- fabric of  
11 American political life. You can't talk about partisan politics  
12 or elections without talking about race and very often ethnicity.  
13 I mean, that's why we have a Voting Rights Act. It's simply the  
14 800-pound gorilla in the American political zoo.

15           And, you know, it very much bleeds into our politics in  
16 Texas where perhaps only California, among the other states, has  
17 a demographic mix that's anywhere near ours. And our Anglo  
18 population is much more old stock Anglo-Saxon, much more  
19 conservative. So it sets up a politics in our state that has  
20 become sharply more polarized now along Anglo versus minority  
21 patterns.

22           And I think that's -- by 2001, although the Democrats  
23 had a majority of the state house, that wasn't an effective  
24 majority for redistricting because of the ability of the other  
25 chamber or the governor to block so Republicans ended up

1 controlling the process, drawing the lines and did not feel that  
2 it was to their benefit to give minorities enhanced opportunities  
3 in Congress or state senate or state house districts, so not much  
4 was done.

5 Q. Now, I think in your report you detail discriminatory  
6 incidents that occurred. There were -- that were the result of  
7 actions by both political parties; is that correct? That both  
8 had been -- have victimized the minority community in terms of  
9 redistricting?

10 A. To the extent that political parties are organized they  
11 pursue their self-interest. The Democrats for a long time were  
12 the dominant party in the state and generally used their power to  
13 preserve the power of the white Democratic establishment, very  
14 often frustrating minority political interests.

15           What we're seeing is a flip. Now the political  
16 establishment of the state is controlled by white Republicans.  
17 They pretty much take the same page out of the book that the  
18 Democrats were using in the 1960s or 1970s. Bottom line, not a  
19 good idea I think for minorities to have a one-party state, but  
20 that's beyond obviously the power of the Voting Rights Act to  
21 have any impact on.

22 Q. So the results of redistricting that we have seen over the  
23 years where minorities have not been treated fairly has been more  
24 of a result of race than politics?

25 A. That's true in my judgment in Texas because our political

1 system -- once both minority populations, A, grew and became more  
2 involved in the voting process and more important as a --  
3 particularly a factor for the now minority party, the Democrats,  
4 it really forced our election process very much into a racial  
5 ethnic dimension.

6           When you have very few blacks in the political process,  
7 which was true in Texas in the 1960s and not many Latinos,  
8 politics in Texas was mostly a fight among whites. You know,  
9 Ralph Yarborough versus John Connolly, but those days are gone.

10 Q.   Okay. Well, let's take a look at table 4 and look at the  
11 numbers of the increase from 2000 to 2010.

12 A.   Well, the trends we saw emerging in 2000 in the census  
13 continue. The Anglo growth drops even more and by the end of the  
14 decade Steve Murdock, the demographer at Rice, says virtually no  
15 Anglo growth right now. Most of that Anglo growth was early in  
16 the decade after 2000.

17           Black growth really accelerates. Nationally we've seen  
18 this return of African Americans from the north, Midwest and even  
19 California to the south. More blacks moved to Atlanta from the  
20 north than in -- ever. Dallas and Houston both have very  
21 substantial in-migration of African Americans from out of state.

22           So instead of exporting African Americans, Texas is now  
23 importing. Meantime, white migration into the state has slowed  
24 dramatically partly because of national birth rate patterns and  
25 other considerations. And Hispanic growth continues unabated

1 very similar to what happened in the -- in the previous decade,  
2 so that now we get three -- 4.3 million growth, we get  
3 non-Hispanic blacks and Hispanics accounting for almost 3.4  
4 million of that, and Asians for almost as much as what's left as  
5 Anglos. So it's a rapidly changing Texas demographically, but it  
6 hasn't changed much in the political establishment.

7 Q. Well, and let's take a look at the African American growth  
8 compared to white growth during this 10-year period. And was the  
9 African American growth greater than the white growth between  
10 2000 and 2010 in Texas?

11 A. Well, in absolute terms there were more -- the census  
12 counted more non-Hispanic blacks increase than non-Hispanic  
13 whites. Although there were 11 million non-Hispanic whites there  
14 was a big population base in two -- like four million blacks, but  
15 for the first time in certainly modern history non-Hispanic black  
16 growth exceeded non-Hispanic white growth, but far greater was  
17 the tremendous growth of the Hispanic population in the state.

18 Q. Okay.

19 A. But, yeah, we're -- the demographic change movie is speeding  
20 up. It's -- it's a very dynamic picture and no reason to think  
21 it's going to alter much in the next decade.

22 Q. So the African American growth was 589,000 and the white  
23 growth was 547,000 in this time period?

24 A. That's correct.

25 Q. Okay. And so with that as a backdrop let's talk about just



1 the overall plan without getting into the specifics. The current  
2 plan that's in effect as we -- as we are here in this courtroom  
3 today provides for 32 Congresspersons from the state of Texas; is  
4 that correct?

5 A. That's correct.

6 Q. Okay. And without regard to who specifically is in the seat  
7 now, out of those 32 seats how many are -- would you describe as  
8 potential opportunity seats or influence seats where minorities  
9 will engage in a coalition to elect a person of their choice?

10 A. I would say 11 of those are minority, are significantly  
11 minority-influenced districts, the main influence district being  
12 the one presently largely based in Travis County.

13 Q. Okay. So that's 11 out of 32; is that correct?

14 A. That's correct.

15 Q. Okay. And you've analyzed the adopted plan, the C 185, have  
16 you not?

17 A. I have.

18 Q. You have. Okay. And in that plan could you tell the Court  
19 how many of those seats would African Americans and Latinos be  
20 able to either determine the outcome by selecting the person of  
21 their choice or engaging in a coalition with others that  
22 influence the selection of the person of their choice?

23 A. I see only 10 of the 36 districts that would beat that  
24 standard with the enacted map.

25 Q. Okay. And so with 10 out of 36 that -- would you say

1 minorities are better off or worse off with this plan than under  
2 the old plan just in reference to that number?

3 A. They're worse off.

4 Q. Okay. Because members of Congress are required to vote on  
5 issues that are of importance to the minority community; is that  
6 correct?

7 A. Absolutely.

8 Q. And based on this plan and what you detailed earlier about  
9 the refusal to appeal to the African American community for  
10 votes, how does this impact the interest of the African American  
11 community in the United States Congress?

12 A. Well, if you look at the recent Texas delegations in their  
13 voting behavior, we see the old tradition of Texas congressmen  
14 standing together on a range of national issues. It's pretty  
15 much shot. Our delegation in Washington now votes on almost  
16 every major issue, Republicans on one side, Democrats on the  
17 other. And particularly that's true on issues that are relevant  
18 to our minority populations.

19 Q. Does this impact particular individual constituents?

20 A. Of course, because issues like funding of healthcare,  
21 education, immigration reform or the lack thereof, these are  
22 enormously important for Texans in all the congressional  
23 districts.

24 Q. Now, I think you indicated in your report that you felt that  
25 this -- the adoption of this plan did reflect an indication of

1 potential discrimination.

2 A. With this much population growth and this little result  
3 coming forward for Congress, for example, it seems to me to be  
4 exactly the kind of practice that Congresswoman Jordan was  
5 concerned about 40 years ago, that there needs to be a national  
6 review of what's going on in the state with so much growth and so  
7 little positive improvement for minority voters across the state.

8 Q. Okay. Now, you did look at the issue of polarized voting,  
9 did you not, --

10 A. I have --

11 Q. -- in your report?

12 A. -- looked at polarized voting.

13 Q. And could you tell us what it is that you considered to be  
14 polarized voting?

15 A. When -- you can polarize voting when a substantial majority  
16 of one race or ethnic or other group, however defined--it could  
17 be a religious community like American Mormons--vote  
18 overwhelmingly for one candidate and they are strongly for one  
19 candidate and a majority of some other group, however defined,  
20 like say Southern Baptists, if we're taking religion as an  
21 example of polarized voting, vote the other way.

22 But race is one of the most consistent areas where  
23 we've looked for racially polarized voting because sometimes we  
24 find it, sometimes we do, but it's very, very often present in  
25 American elections.

1 Q. Okay. And did you do any analyses to determine whether or  
2 not there was some indication of racially polarized voting?

3 A. I have done some.

4 Q. Okay. And if you want to turn over to page 18 of your  
5 report and that's table 5. Table 5, is that one of the analyses  
6 that you performed?

7 A. It is.

8 Q. Okay.

9 A. What you see in this table is -- first, if you look at the  
10 primaries. And of course in Texas we don't register by parties  
11 or voter --

12 Q. Could you explain what the analysis was and then go into  
13 that part and let us know what you did?

14 A. I wanted to look at primary vote participation patterns in  
15 urban Texas. And because I'm very familiar with Harris County I  
16 chose to use a method called homogeneous precinct analysis.  
17 Harris County works pretty well in that respect because we have  
18 885 voting precincts and we have over a hundred that are  
19 overwhelmingly dominated by black voters. And you can take any  
20 sample. They all tend to vote the same way. There's no issue of  
21 selectivity. We have now about 30 very substantial Hispanic  
22 majority precincts where clearly Hispanic voters are the dominant  
23 driving force. And we have a lot of precincts, although it's a  
24 shrinking number to be sure, that are still clearly dominated by  
25 Anglo voters.

1           So this is one of numerous technologies and in  
2 some -- some areas because precincts are so mixed up you can't  
3 use this method, but in Harris County it's fairly reliable. And  
4 it enables us to see in particular communities which primary  
5 they're choosing. And you have a very identifiable pattern.

6 Q.   Okay. Now, could you explain your conclusions as to black,  
7 Hispanic and Anglo precincts?

8 A.   Well, African Americans who vote in primaries vote almost  
9 entirely in the Democratic primary. There's virtually no  
10 Republican African American vote. There's a little bit but it's  
11 little in Hispanic areas. The Hispanic primary voters, like  
12 African Americans, largely vote in the Democratic primary.

13           By contrast most Anglos in Texas, if they vote in a  
14 primary these days, vote in the Republican primary. And, you  
15 know, voters in a sense vote with their feet in primaries.  
16 They're free to vote in either primary in March. But for the  
17 last 15 years we've seen this definitive pattern that the two  
18 large minority populations are voting almost exclusively in the  
19 Democratic primary if they vote. And the minority of whites who  
20 choose to vote vote almost exclusively, except in a few pockets  
21 like Travis County, in the Republican primary.

22 Q.   Okay.

23 A.   So that's to me one indication because, again, it's free  
24 choice for every voter. In March of every other year you can go  
25 vote in a primary. And we see very, very distinct differences of

1 racial ethnic vote choice in terms of which primary to  
2 participate in.

3 Q. Now, I think you extended your analysis over into table 6,  
4 did you not?

5 A. Yes.

6 Q. Okay. And was this another homogeneous precinct analysis  
7 that you did?

8 A. Same methodology, just looking at the November general  
9 elections where participation is much higher. We've got a far  
10 higher vote in general elections than in our combined primaries.  
11 Not surprisingly, given that almost no blacks vote in Republican  
12 primary, the African American vote is overwhelmingly not only  
13 Democratic by primary preference, but the even larger turnout in  
14 November of even-numbered years is in the Democratic primary, you  
15 know, with numbers like 97, 98 percent support for the Democratic  
16 candidate.

17           The predominantly Hispanic precincts in the two most  
18 recent elections were voting at about the 80 percent level with  
19 African Americans for the Democratic nominee. And the  
20 Anglo-dominated precincts were voting overwhelmingly Republican.  
21 So much more so than the nation we've become a sharply polarized  
22 state in our racial and ethnic voting, and that's increased in  
23 the last couple of election cycles.

24 Q. Okay. Because I know also attached to your report you had  
25 an analysis of how many Anglos actually voted for President Obama

1 in the last election; is that correct?

2 A. I did. I wrote a chapter in a book called "The Obama  
3 Effect" and I think it was attached to this report. It  
4 summarized nationally the President got about 43 percent of the  
5 votes of Anglos. He got about half that percentage in Texas and  
6 it was very clumped in a few areas like Travis County, upscale  
7 neighborhoods in Houston and Dallas.

8 Outside of those areas the President struggled to get  
9 15 percent -- or then Senator Obama to get 15 percent of the vote  
10 of Anglos. So we really saw a sharp polarization. Not unique to  
11 Texas. It was very noticeable across America from Appalachia in  
12 western Pennsylvania all the way to Texas. Interestingly, no  
13 increased polarization in the American west, but it sure was  
14 here.

15 Q. Now, if we turn back to table 5, first of all, what is  
16 the -- is there significance to individuals of different races  
17 voting in different parties that -- that has racial consequences?

18 A. Well, it's certainly kind of an unobtrusive measure of where  
19 they see their political interests lie. For Anglos that used to  
20 vote overwhelmingly in the Democratic primary they've almost  
21 completely abandoned it except again for a few patches of the  
22 state.

23 Minorities don't vote that heavily in primaries, but to  
24 the extent they choose to do so in Texas they almost entirely  
25 vote in the Democratic primary.

1 Q. Okay. Because under the proposed plan of the adopted plan  
2 is there any Democratic-leaning precinct that would be dominated  
3 by white voters?

4 A. Yes, there are a few. Inner city Dallas has some  
5 neighborhoods. Inner city Houston a few. The gentrification  
6 demographic trend that we see nationally, we see some upscale  
7 whites, particularly singles, gays, others moving back to the  
8 inner city, they vote very often for the same candidates black  
9 and Hispanic voters are voting for. We see in Travis County a  
10 large collection of -- of whites who often vote for the same  
11 candidates, but that's -- those are fairly exceptional in Texas.

12 Q. Okay. I guess what I'm getting at -- I don't think I  
13 phrased that correctly. I know Gene Green represents a Hispanic  
14 opportunity district. What is the likelihood of this plan that  
15 you will have members of minorities representing members of  
16 Congress for one party and another race being exclusive to  
17 another political party in terms of their representation in  
18 Congress?

19 A. Well, it's kind of hard to predict at the individual  
20 candidate level. You know, it's hard to predict which individual  
21 seat public office -- and you could have an extremely ideological  
22 conservative African American, think Clarence Thomas, that could  
23 do well with white conservative voters, but he wouldn't do well  
24 with African American voters.

25 So the concern, as it seems to me as a political



1 scientist, the Voting Rights Act is concerned about the  
2 opportunity for minority voters to cast an effective vote, the  
3 race of the candidate that wins is of some consideration but  
4 not -- not the most important.

5 Q. Okay. If there is a racial divide in terms of the color of  
6 the representation in Congress, does that have consequences for  
7 race relations?

8 A. Well, I think if you get districts that are highly polarized  
9 in voter makeup with overwhelming minority-dominated districts  
10 that are going to -- by definition whoever wins in those  
11 districts must have done awfully well or reasonably well with  
12 minority voters and the other districts pretty much bleached out  
13 so that minority voters don't have an effective opportunity,  
14 you're -- that's going to produce, it seems to me, very, very  
15 strong polarized voting once these representatives are in office  
16 whether they're in Austin or Washington.

17 Q. Now, in your analysis there in table 4 there is some Anglo  
18 precincts that had extreme voting returns. Could you explain  
19 those? I'm looking at --

20 A. Well, we have some areas now that there's almost no  
21 Democratic primary vote. It's the reverse of what we saw in the  
22 1950s where I think -- well, retired Secretary of State James  
23 Baker said we could hold the Republican primary in my garage.  
24 His wife held it. He went and voted in the Democratic primary.  
25 But now we're getting down to 15, 20 people voting in some of

1 these pretty heavily populated Anglo neighborhoods, but nobody  
2 voting the Democratic primary and very substantial voting over in  
3 the Republican primary.

4 Q. Now, if we -- are there other incidents that have occurred  
5 recently that have had an impact on the level of racially  
6 polarized voting in Texas?

7 A. Well, I think generally those who hope that the election of  
8 a black president would lead to a post-racial era, we can say  
9 those hopes are pretty much dashed. It seems to be post November  
10 2008 we've seen a sharpened racial polarization. Some of it  
11 perhaps is just reacting to the election results, but signaled  
12 particularly by the emergence of the Tea Party movement which  
13 overwhelmingly is a whites movement with very, very little  
14 minority representation.

15 Q. Okay. And could it be said that the Tea Party movement is  
16 not friendly to minorities?

17 A. That would be I think a very fair statement.

18 Q. Could you describe some of the activity that the Tea Party  
19 in Texas has engaged in?

20 A. Well, they've been at the forefront in our state of the sort  
21 of the ballot security folks that are claiming this widespread  
22 election fraud and misconduct particularly in minority  
23 neighborhoods. So in the 2010 election cycle there was a  
24 mobilization in Houston of the King Street Patriots to produce  
25 several hundred volunteers who focused virtually all their energy

1 on select -- mostly African American but to some extent Hispanic  
2 neighborhoods on the expectation that there was massive vote  
3 fraud and misconduct in those areas.

4 Q. Okay. Now, in that regard is the Obama effect that you  
5 mentioned earlier, is that in any way tied into what's occurring  
6 with the Tea Party in Texas in terms of racially polarized  
7 voting?

8 A. I think President Obama threw a lot of fat on the fire that  
9 the Tea Party movement has fed off of. It's hard to imagine the  
10 Tea Party emerging if John McCain and Sarah Palin had won the  
11 election in November 2008. All kinds of things are unknowable,  
12 but I don't see the Tea Party coming out the way it did in early  
13 2009 absent the election of President Obama.

14 Q. Were there -- could you explain the election results that we  
15 saw in Texas in 2010? Is that in any way related to the Obama  
16 effect?

17 A. Big term elections we typically get about 40 percent of  
18 age-eligible persons voting versus 60 percent lately in  
19 presidential elections so we know there's a big falloff in the  
20 midterm election. But what we saw in the 2010 election was the  
21 most significant skewing of the electorate becoming more  
22 unbalanced toward older conservative Anglo voters who turned out  
23 in near presidential levels in 2010.

24           Some dropoff in Hispanic participation. African  
25 American turnout was about average for a midterm election. So

1 the overall composition of the electorate in 2010 was  
2 dramatically different. It's not always smaller, but the makeup  
3 of the electorate was far different than it was in 2008 and  
4 almost certainly far different than it will be in 2012 when we go  
5 back to a presidential election.

6           And so we go back up from 41 percent to something like  
7 60 with a larger electorate more representative of the broader  
8 population.

9 Q.    Okay. And when you say the conservative Anglo vote turned  
10 out in greater numbers, were there many that turned out close to  
11 90 percent?

12 A.    85 to 90 percent turnout among older white conservatives is  
13 an astounding turnout for a non-presidential year.

14 Q.    And that obviously had an impact in the elections that year,  
15 did it not?

16 A.    Dramatic in districts like the 27th which had been an  
17 effective performing district for Latino voters in South Texas,  
18 but a conservative Anglo one with the super turnout mostly from  
19 Anglos in that district.

20 Q.    Have you seen any indication that the increased polarization  
21 caused by this Obama effect is -- is abating?

22 A.    No. It seems to be accelerating if we watch the Republican  
23 primaries where the sort of rush to take an even harder position  
24 on the president, immigration seems to have accelerated in the  
25 recent weeks.

1 Q. Now, are there some elections that you looked at that you  
2 believe were indicative of racially polarized voting?

3 A. Yes. We -- most elections in Texas feature racially  
4 polarized voting, most general elections, and you can almost pick  
5 any out of a basket and you could measure that.

6 Q. I think you featured a couple in your report.

7 A. Right. I think we looked at Dallas County, for example,  
8 which has been one of the most dramatically changing counties in  
9 our state. And we've gotten, you know, some high profile  
10 candidates running for local office in Dallas County besides the  
11 presidential elections.

12 Q. And I think you mentioned Victor Carillo as well, did you  
13 not?

14 A. Yes. In the 2010 Republican primary the Tea Party had a lot  
15 of impact first in the Republican side before the general  
16 election, likely in my judgment and that of many other political  
17 scientists costing the Republican party control of the U.S.  
18 Senate because in states like Delaware where you had a very  
19 strong moderate Republican who would have been almost a certain  
20 winner in November of 2010 was defeated by Christine O'Donnell  
21 who dabbled in witchcraft and this, that and the other and was an  
22 unacceptable candidate. Sharron Angle was a very weak candidate  
23 in Nevada and Mr. Buck in Colorado.

24 So, you know, in a bunch of high-profile Senate races,  
25 moderate centrist Republicans were defeated in primaries or in

1 Utah couldn't even get to the primary where Senator Bennett was  
2 unseated by a party or caucus group where you had to finish in  
3 the top two. And here in Texas we saw some of that impact in  
4 primaries. In Harris County we had an appointed Republican tax  
5 assessor-collector that the commissioner's court had put in  
6 office, Leo Vasquez, very obviously a Latino name, decisively  
7 defeated in the primary by a candidate with virtually no money  
8 but with an Anglo name. And in a Railroad Commission race where  
9 incumbent Commissioner Carillo was running, and he had won easily  
10 in 2004, but defeated again by a candidate that his only real  
11 asset that anybody can determine was his last name was Porter and  
12 not Carillo. And he got 61 percent of the vote. So the Tea  
13 Party is an interesting tiger to mount. And as is usually the  
14 case with getting on those cats, how do you get off?

15 Q. Now, even beyond the Tea Party were there -- was there a  
16 race in Harris County in 2008 involving Democratic candidates  
17 where individuals, minorities or individuals with unusual  
18 sounding names lost that might have some interpretation in terms  
19 of racially influenced voting?

20 A. Well, in 2008 with President Obama at the top of the ticket  
21 and Rick Noriega, the Democratic senate nominee and Harris County  
22 state representative, generally one of good election cycles for  
23 local Democrats. Down ballot. Very few voters know anything  
24 about these down-ballot candidates.

25 There's some gender voting, people -- women tend to

1 vote slightly for females in these races perhaps, but you can,  
2 you know, look at the names and make some judgments about -- or  
3 easily obviously guess that someone is very likely a Latino  
4 although Debra Medina might fool a few people.

5           And certain names suggest that the candidate is  
6 probably an African American. And we had several of those folks  
7 on the ballot in Harris County. And we had 27 judicial  
8 candidates, four of them were defeated on the Democratic side.  
9 23 won. The four who lost had names that looked foreign or  
10 African American.

11           We had two Asian-Indian candidates run. One put his  
12 long first name on the ballot. The other one decided he was  
13 better off known as R.D. R.D. won. Mahesh lost. Mahesh spent a  
14 hell of a lot more money and had some very good TV ads, but he  
15 got beat.

16           So voters have some prejudices about name candidates  
17 they associate with particular groups. And I advise my students  
18 if they're thinking for running for public office look at your  
19 name. Maybe it's a good time to change it before you get into  
20 politics.

21 Q. In fact, I think -- are you aware of this, that one of the  
22 candidates changed their name after that?

23 A. I understand that. She had the unfortunate last name of  
24 Murray. She had a bad first name though.

25 Q. Now, I'm going to talk a little bit about the Tea Party.

1 MR. BLEDSOE: Could you show Exhibit 21, Exhibit 21 in  
2 the binder 10-1?

3 Q. (BY MR. BLEDSOE) Could you -- this is a photograph of a Tea  
4 Party yard sign in Galveston County in that election in 2010.  
5 What does this suggest to you about racial politics in Texas?

6 A. Well, it looks to me like a very, very racist cartoon with a  
7 white cowboy kicking a black president in the rear. And, you  
8 know, get out of Texas is pretty obviously the map signal. You  
9 know, pretty rough stuff.

10 Q. And you see Tea Party on the hat there kicking the  
11 president?

12 A. I do.

13 Q. Okay. Now, if we look back at your report you analyze the  
14 change in suburban -- in suburban voting to see what -- how that  
15 was being impacted by racially polarized voting. And I think  
16 you've indicated that it had actually moved in the other  
17 direction because of blacks moving to the suburbs?

18 A. Right. We used to think about suburban growth as white  
19 growth because in the 60s and 70s most suburban vote was fueled  
20 by white flight. A, we've largely run out of whites in the older  
21 inner city neighborhoods. There's nobody much left to flee.  
22 Second, we've had this dramatic explosive growth of minority  
23 families. And they have the same motivations for moving out to  
24 the suburbs of schools, jobs, better opportunities, housing, so I  
25 track closely what's happening in the suburban school districts



1 in our state.

2           The largest suburban school district in Texas is  
3 Cy-Fair which has over 110,000 students now. And most people  
4 still think Cy-Fair is an Anglo district. They're wrong. It's a  
5 third Anglo in student enrollment. The 12th grade class is still  
6 about 46 percent Anglo. The entering class is about 20 percent.  
7 This is a big suburban school district.

8           So I think we're -- maybe reality is lagging behind the  
9 times and maybe in the application of the Voting Rights Act  
10 that's going to be a case. If you think about the American  
11 electoral universe as inner city, heavily minority, wards or  
12 barrios and they have to be protected, that's not where minority  
13 families live anymore. They're moving out to the burbs. I think  
14 a real test of the Voting Rights Act in 2011 is are minority  
15 families who have changed their residence to more mixed  
16 neighborhoods, but often the neighborhoods don't have any whites  
17 left. Does the protection of the Voting Rights Act extend to  
18 them? That's a great question that I guess we'll get answered  
19 over the next year or two.

20 Q. Now, before we move more into C 185 I wanted to ask  
21 you -- one of the matters that we've had discussed in this  
22 litigation has been the distinction between a primary election  
23 and a general election in terms of selecting or determining who  
24 is the candidate of choice for the minority community. And I  
25 think you provided a supplementary report that is in 10-1 at the

1 end of Exhibit 1 or 601 in 10-1?

2 A. I did.

3 Q. Okay. And could you tell the court what your opinion is  
4 about the primary election determining the candidate of choice  
5 for a -- for a community under the Voting Rights Act?

6 A. Well, my answer in terms of what's the effective election is  
7 time and place. In Texas obviously for much of the 20th century  
8 it was the Democratic primary. You won that primary you were  
9 going to be elected. It was critical to win it. Serious  
10 candidates ran in that primary. That's where voter participation  
11 was concentrated.

12 In the '50s you had three times as many people vote in  
13 the Democratic primary as in the general election. But in the  
14 21st century there are now only a small swath of Texans, South  
15 Texas particularly, and a handful of other areas where the  
16 Democratic primary remains the effective election. Travis County  
17 you could make a good case. Beaumont is just tipping away from  
18 that. Jefferson County previously was a Democratic primary  
19 county.

20 And all you have to do is, again, look at the numbers.  
21 The voting overwhelmingly across the spectrum is focused on the  
22 general election. In Dallas County in 2010 you've got all or  
23 part of five congressional districts there. Five -- nobody was  
24 opposed in the Democratic primary. There were no contests.  
25 There are 16 state representative districts in Dallas County. 14

1 of them had no contests. I mean candidates aren't bothering to  
2 file. Voters aren't bothering to vote.

3 So the empirical evidence, it's overwhelming it seems  
4 to me, that for most of Texas the effective election, whether  
5 you're looking at candidates, money spent and where voters vote  
6 is the general election in November. So that to me is the  
7 election you focus most attention on outside of some selective  
8 venues like South Texas --

9 Q. Okay.

10 A. -- for determining who the candidate of choice is.

11 Q. Okay. Because I guess if you -- if somebody gets remarried  
12 I think their second spouse is still their spouse of choice;  
13 isn't that correct?

14 A. That's what my wife wants me to accept.

15 Q. So under the Voting Rights Act when you're looking at a  
16 primary it's better to look at a general election to determine  
17 the candidate of choice?

18 A. In my judgment it absolutely is in most cases. There are  
19 exceptions.

20 Q. Okay. And in that regard in looking at the general election  
21 you've actually looked at data, have you not, to look at whether  
22 or not there is a coalition between African Americans and  
23 Latinos?

24 A. I have looked at the general election data in that regard.

25 Q. Okay. And you actually have a view and given reports on

1 those issues there in the city of Houston, have you not?

2 A. I have in Houston and also Dallas County and the vote  
3 patterns there. And in my judgment there is very strong evidence  
4 in our Texas November elections, the general elections, that  
5 African Americans and Latinos or Hispanics coalesce. And I see  
6 no evidence to the contrary from other forms of analysis such as  
7 regression or exit poll data.

8 So all the data fit reasonably well together whether  
9 it's by precinct level, data regression analysis. And we've had  
10 hundreds of elections lately in 2008 and '10. The pattern is the  
11 same in every one of them almost without exception.

12 Q. Now, on page 22 you lay out the facts that you think  
13 indicate coalition between African American and Latinos. There  
14 are five bullet points that you -- that you listed there. Do you  
15 want to discuss those with the Court?

16 A. To me the factors that are important are the historic  
17 discrimination that's been documented in numerous histories of  
18 the state, and I think this Court has heard testimony to that  
19 effect earlier. The second factor, very similar economic  
20 interest in the areas of education, healthcare, criminal justice.

21 The gap between white Texans and black and Hispanic  
22 Texans is stark in these respects whether it's rates of  
23 incarceration, severity of sentencing for specific crimes,  
24 enrollment patterns in public schools versus no kids in school or  
25 kids in private schools, kids are being home-schooled, uninsured,

1 having health insurance. Over and over again we see African  
2 Americans and Hispanics are pretty close together on the  
3 substantive measures that have nothing directly to do with  
4 electoral politics but compared to the Anglos.

5           And we see this very disturbing trend that I worry  
6 about for our state's long-term future like Steve Murdoch, the  
7 demographer. If the voters who vote, for example, in school  
8 elections and on school bonds are increasingly older Anglos, no  
9 kids in the school system, the kids are increasing minority kids,  
10 this sets up some, you know, non-partisan polarization that I  
11 think is profound, has profound consequences in our state.

12           But again we see, since the economic crisis three years  
13 ago, by every objective measure black and Latino Americans and  
14 Texans have been more severely impacted than Anglos.

15           Third factor, the partisan shift in the whole country  
16 has changed dramatically. The Democratic vote share nationally  
17 has been dropping steadily. The only reason the Democratic party  
18 has remained competitive is that there is, A, a much larger  
19 minority vote than there used to be, and B, it's more heavily  
20 Democratic.

21           Mr. Obama got the lowest percentage of white votes of  
22 any Democrat since Jimmy Carter, I guess, in 1980. But he won.  
23 Carter got beat badly, but Obama won because 26 percent of the  
24 electorate was non-Anglo and he got 80 percent of the votes from  
25 that united sector of Asians, Hispanics and blacks.

1           And that's the pattern even more so in Texas where  
2 Obama had even less white support and overwhelming support from  
3 blacks and good support from Hispanics and fair support -- it's  
4 hard to measure Asians, but certainly much better support from  
5 Asians than from Anglos.

6 Q.    Okay. And let's talk about that for a second like in  
7 reference to those issues that you detailed out on page 22, there  
8 are certain of those, are there not, that actually apply -- would  
9 apply to Asians as well in terms of if we were going to say  
10 whether or not there was a coalition between African Americans,  
11 Latinos and Asians there would be several that might be  
12 applicable there; is that correct?

13 A.    We don't have nearly as much data about Asians, and it's a  
14 diverse population with many different national origins. But we  
15 do see some factors that have -- a variety of Asian voters in  
16 areas particularly where we have more data like California to  
17 vote more similarly to blacks and Hispanics. The Tea Party would  
18 be one of the factors. You don't see a lot of Asians hanging  
19 around Tea Party rallies. Let's take our country back, cut off  
20 immigration tends to lump all persons that have a more recent  
21 history of coming into the United States as us against them  
22 mentality. And I think that drives Asians more to coalesce with  
23 other minorities in the country.

24           And this -- polarization policies that I felt was  
25 extremely evident in the legislative session that we just heard

1 from Sylvester Turner about, this was -- A, the makeup of the two  
2 parties has never been this polarized. Virtually all the  
3 surviving Democrats were blacks or Hispanics or are dependent  
4 upon the votes of black or Hispanics voters. And overwhelmingly  
5 the Republicans, including a couple of black Republicans like  
6 James White, a Ph.D. student at UH, they're elected almost  
7 entirely with white votes.

8           So the votes that put them in Austin were polarized and  
9 when they got to Austin they sure were polarized on policy  
10 issues. Virtually every vote was just a down-the-line party vote  
11 including the redistricting votes. Mr. Turner did say there were  
12 a couple of unhappy Republicans that crossed over, but those  
13 plans that were passed were passed on an almost pure party line  
14 basis.

15 Q.    So I think on page 21 you do detail some of the issues that  
16 occurred in this past legislative session that had somewhat of, I  
17 think, a racial overtone or tinge to them?

18 A.    Again, we've heard the testimony of Representative Turner  
19 who was on the scene, the voter ID bill. The huge impact of  
20 defunding public education by \$4 billion over what the state had  
21 promised in previous law. These are enormously consequential  
22 along racial and ethnic lines.

23 Q.    Now, in reference to the coalition with Asians, there are a  
24 couple of Asian communities in Houston that you do have data on  
25 and you're familiar with where they worked in concert with

1 African Americans and Asians and Latinos; is that correct?

2 A. The largest concentration of Asians in Texas are in the  
3 Alief area in southwest Harris County, now spilling over into  
4 Fort Bend. Without intending to do so in 2001 the Legislative  
5 Redistricting Board created an effective coalition minority  
6 district and it became an effective coalition district because  
7 they underestimated the ability of a coalition to emerge of  
8 Asians, Hispanics and blacks.

9 And as a result of that coalition one of the most  
10 powerful members of the legislature, a long-time appropriations  
11 member and chairman, Talmage Heflin, was defeated in a district  
12 that he had signed off on in 2001 but defeated in 2004 by a  
13 Vietnamese-American, Hubert Vo, who had overwhelming support from  
14 Hispanic and black voters. And he's been reelected three times  
15 through very different election cycles including surviving the  
16 Tea Party attack. An unabashed Tea Partier ran against Mr. Vo in  
17 2010, but the effective coalition performed. And Asians are  
18 vital to that working in that District 149.

19 Q. Will the elimination of his House seat have negative  
20 consequences to the minority community?

21 A. Well, the Asian-Americans in Houston sure think so. I  
22 believe Mr. Vo was left in a pairing with three of his voting  
23 precincts out of 22 or 24. So the district that's left is mostly  
24 the other guy's and his base, including most of his Asian voters,  
25 were dispersed into districts that are either African American



1 dominated or white Republican dominated, so not a very good fate  
2 for the Asian-American voters in southwest Houston.

3 Q. Now, in reference to that issue with the House since we're  
4 discussing that now, in terms of the Harris County decision  
5 to -- to decide on 24 seats, was that an appropriate decision?

6 A. I think it was very fishy decision. I've been around these  
7 redistricting cycles. I know what happened in 2001. Then when  
8 you divided the total state population by 150, the size of the  
9 state house, we get a number of 24.46 for Harris County. But  
10 Harris County with the largest populations that are undercounted  
11 in the census, that is Latino and Asian, it makes sense as in  
12 previous redistricting cycles to average up to partly compensate  
13 for this acknowledged undercount which may be somewhat imprecise.  
14 But given our size of Latino population and our Asian  
15 populations, both of which are not fully counted, make that  
16 adjustment in Harris County make sense.

17           It was made in 2001 with almost exactly the same share  
18 in 2010 after the census we averaged down. So that's an  
19 interesting shift of gears. And as Representative Turner  
20 mentioned in our county, Harris, 4,092,000 people, the slowest  
21 voting area is east county, Baytown, LaPorte, et cetera, up to  
22 Kingwood and down to Clear Lake. That area is represented now by  
23 four Anglo Republicans, but the population is dropping.

24           So you would think given that that's the area with the  
25 least growth you would probably consolidate those four districts

1 into three, but that wasn't the master plan of the map. The  
2 master plan of the map was to extend those districts much further  
3 into central Harris County, bringing in such large but not enough  
4 minority voters to give them effective opportunity to elect  
5 candidates in any of those four districts which pushes the whole  
6 map much, much further west into Harris County and at the end of  
7 the day eliminates District 149 which had -- it was in the part  
8 of the county that was growing nicely. That seat was moved to  
9 Williamson County.

10           So I questioned the need to abolish the district, but  
11 the plan that was implemented was clearly drawn to the detriment  
12 of all the minority groups including very much the Asian  
13 community because of the way it was played out.

14 Q.   Does that appear to be something that was done  
15 intentionally?

16 A.   Oh, I think it would be like the monkey typing King Lear.  
17 You wouldn't get this very often unless there was clear intent  
18 here. There had to be some kind -- the districts that  
19 were -- the way they were cut around and through, this was a  
20 very, very clever map drawing designed to minimize minority voter  
21 opportunity in my opinion.

22 Q.   And do you mean that overall for H283 or are we talking  
23 about Harris County?

24 A.   I see the same pattern in Dallas and Tarrant County when I  
25 looked at the House districts that were drawn in those counties

1 as well. So in the big urban counties we see a consistent  
2 pattern of connecting up -- either pushing in as many minority  
3 populations to create some super-combined minority districts that  
4 have a great surplus of population in voters or taking what's  
5 left and dividing them up among high-turnout Anglos. That means  
6 they can't elect anybody.

7 Q. Okay. Now -- in that regard --

8 JUDGE GARCIA: Mr. Bledsoe, we're going to retire for  
9 the day and we will reconvene at 8:00 in the morning.

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1 UNITED STATES DISTRICT COURT.)  
2 WESTERN DISTRICT OF TEXAS )

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5 I certify that the foregoing is a correct  
6 transcript from the record of proceedings in the above-entitled  
7 matter. I further certify that the transcript fees and format  
8 comply with those prescribed by the Court and the Judicial  
9 Conference of the United States.

10 Date signed: September 8, 2011.

11

/s/ Karl H. Myers

12

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