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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 12, 2011

VOLUME 6

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

A P P E A R A N C E S:

FOR THE MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF
REPRESENTATIVES:

Texas Rio Grande Legal Aid
Mr. Jose Garza
1111 North Main Street
San Antonio, Texas 78212

Mr. Joaquin G. Avila
Attorney at Law
Seattle University School of Law
901 12th Avenue
Seattle, Washington 90222

Davis, Cedillo & Mendoza
Mr. Ricardo G. Cedillo
Mr. Mark W. Kiehne
755 East Mulberry Avenue
San Antonio, Texas 78212

1 FOR SHANNON PEREZ, ET AL:

2 Gray & Becker, P.C.
3 Mr. Richard Edwin Gray, III
4 900 West Avenue, Suite 300
5 Austin, Texas 78701-0001

6 Richards Rodriguez & Skeith
7 Mr. David R. Richards
8 816 Congress Avenue, Suite 1200
9 Austin, Texas 78701

10 FOR THE TEXAS LATINO REDISTRICTING TASK FORCE:

11 Mexican American Legal Defense & Educational Fund
12 Ms. Nina Perales
13 Ms. Rebecca Couto
14 Mr. Nicholas Espiritu
15 Mr. Luis Figueroa
16 Ms. Marisa Bono
17 110 Broadway Street, Suite 300
18 San Antonio, Texas 78205

19 Gale, Wilson & Sanchez, PLLC
20 Mr. Robert W. Wilson
21 115 East Travis Street, Suite 1900
22 San Antonio, Texas 78205

23 FOR LULAC:

24 Law Offices of Luis Roberto Vera & Associates
25 Mr. Luis Roberto Vera, Jr.
111 Soledad, Suite 1325
San Antonio, Texas 78205

Mr. Manuel Escobar, Jr.
Attorney at Law
201 West Poplar
San Antonio, Texas 78212

FOR TEXAS STATE CONFERENCE OF NAACP BRANCHES, ET AL:

Law Office of Robert Notzon
Mr. Robert Stephen Notzon
1507 Nueces Street
Austin, Texas 78701

1 Southern Coalition for Social Justice
Ms. Allison Jean Riggs
2 1415 West Highway 54, Suite 101
Durham, North Carolina 27707

3
4 FOR HOWARD JEFFERSON, EDDIE BERNICE JOHNSON, SHEILA
JACKSON-LEE AND ALEXANDER GREEN:

5 Law Office of Gary L. Bledsoe & Associates
Mr. Gary L. Bledsoe
6 316 West 12th Street, Suite 307
Austin, Texas 78701

7
8 FOR U.S. CONGRESSMAN HENRY CUELLAR:

9 Law Offices of Rolando L. Rios
Mr. Rolando L. Rios
10 115 East Travis Street, Suite 1645
San Antonio, Texas 78205

11 FOR EDDIE RODRIGUEZ, CITY OF AUSTIN, ET AL:

12 Law Office of Max Renea Hicks
Mr. Max Renea Hicks
13 101 West Sixth Street, Suite 504
Austin, Texas 78701

14 Perkins Cole, LLP
15 Mr. Abha Khanna
1201 Third Avenue, Suite 4800
16 Seattle, Washington 98101

17 FOR MARGARITA V. QUESADA, ET AL:

18 J. Gerald Hebert, P.C.
Mr. J. Gerald Hebert
19 191 Somerville Street, Suite 405
Alexandria, Virginia 22304

20 Goldstein, Goldstein & Hilley
21 Mr. Donald H. Flanary, III
310 South St. Mary's Street, Suite 2900
22 San Antonio, Texas 78205

23 FOR TEXAS DEMOCRATIC PARTY:

24 Brazil & Dunn
Mr. Chad W. Dunn
25 4201 FM 1960 West, Suite 530
Houston, Texas 77068

1 FOR THE DEFENDANTS, STATE OF TEXAS, ET AL:

2 Attorney General's Office
3 Mr. David J. Schenck
4 Mr. David C. Mattax
5 Mr. Bruce Cohen
6 Mr. Matthew H. Frederick
7 Mr. John McKenzie
8 Ms. Angela Colmenero
9 P.O. Box 12548
10 Austin, Texas 78711-2548

11 COURT REPORTER:

12 Karl H. Myers, CSR, RMR, CRR
13 Official Court Reporter
14 655 E. Durango Blvd., Rm. 315
15 San Antonio, Texas 78206
16 Telephone: (210) 212-8114
17 Email: karlcsr@yahoo.com

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1 (September 12, 2011.)

2 JUDGE GARCIA: Good morning.

3 MR. BLEDSOE: Good morning, Your Honor.

4 JUDGE GARCIA: Mr. Bledsoe.

5 MR. BLEDSOE: How are you? Your Honor, if I might
6 take care of a small housekeeping matter. We might have one
7 or two very short lay witnesses.

8 JUDGE GARCIA: Okay.

9 MR. BLEDSOE: Thank you. We have Congresswoman
10 Johnson, who will be our first witness.

11 JUDGE GARCIA: All right.

12 COURTROOM DEPUTY: Would you please raise your right
13 hand.

14 (Oath administered to the witness.)

15 COURTROOM DEPUTY: Thank you. Have a seat.

16 *-*-*-*-*-*-*-*

17 DIRECT EXAMINATION

18 BY MR. BLEDSOE:

19 Q. Good morning. Would you state your full name for the
20 Court, please?

21 A. Eddie Bernice Johnson. And before I go further, let me
22 explain that I have damage to my right vocal cord, so there
23 are times when my voice might fade, so if you don't hear me
24 clearly, just let me know.

25 I am a member of Congress. This is my nineteenth

1 year, serving District 30 in Dallas. The lines have changed
2 four times in that length of time.

3 Q. And I want to discuss that briefly, but what I would like
4 to do is, could you tell the Court a little bit about your
5 political background?

6 A. Yes. I started out in the House of Representatives, State
7 House of Representatives, in the election of 1972, and I
8 served six years. I took an appointment with the Carter
9 administration. I was out of elected office nine years. I
10 came back to the State Senate in 1986, and from the State
11 Senate, I went to the U.S. Congress in 1992.

12 Q. And you have been involved in congressional litigation
13 before, have you not?

14 A. I have.

15 Q. Okay. And were you involved before you became a member of
16 the United States Congress?

17 A. Yes. As a matter of fact, in the year 2000 -- excuse me.
18 In 1990, after the 1990 census, I was in the State Senate, and
19 I chaired the congressional redistricting in the State Senate.
20 Subsequently, several court cases.

21 Q. And can you, to put the matter in perspective, could you
22 tell the judges what different ways that a congressperson
23 represents constituents in wide matters presented to them?

24 A. Well, the responsibilities are very varied. One of the
25 most important things you can do is the casework. And in my

1 first congressional district, that went into Collin County, as
2 well as Tarrant County and Dallas County, my constituency was
3 extremely diverse.

4 As a matter of fact, it has been described as being
5 the most diverse district in the country, with a number of
6 Asians, Latinos, African-Americans and others. I have never
7 lost that constituency, even though my lines have changed. I
8 still work with all of them, because I am responsive to them.
9 And now I am all in Dallas County, which is the fourth
10 district I have had since I have been in Congress.

11 I have an Asian advisory committee, Latino advisory
12 committee, business, health, seniors, veterans, groups that I
13 meet with periodically to listen to their concerns; also, the
14 Southern Sector of Mayors that I meet with. Some are in my
15 district geographically and some are not, but all of them seek
16 me out for assistance.

17 Q. And are you aware of any problems that minorities have had
18 in getting representation from members of Congress when their
19 group does not vote in the majority for those members of
20 Congress?

21 A. Yes. That's when I get -- out most of the time, and that
22 was a basis of which I pleaded with my colleagues to help to
23 get at least a Latino district in the north Texas area, and I
24 said the real reason why is because I need someone to assist
25 me with casework.

1 I was told: Just don't do it. We don't do it.

2 Well, it is clear, because I am doing it, and the workload is
3 pretty heavy.

4 Q. Could you describe your current district and how the
5 communities of interest within that district interrelate?

6 A. Yes. The district is geographically diverse, but we work
7 together. I have annual diversity summits with youth that we
8 bring from all over the Dallas County area. It is very
9 international in the area now.

10 We try to bring in people from -- that are
11 immigrants from all over the world together, so they can learn
12 about each other, so they can accept the differences and value
13 and celebrate that diversity.

14 We have an annual meeting when school is out to try
15 to engage young people, so they won't get into law breaking,
16 when they don't have a lot to do. And we have an annual, what
17 we call Family Day, where we bring all of our cultures
18 together and have different ones to do artistic things, as
19 well as different participations to show the difference from
20 Native Americans, Asian Americans, and there are a number of
21 different segments of the Asian American culture, Latinos,
22 African Americans, to make sure that they intermingle and can
23 understand each other.

24 Q. Now, you have had an opportunity to, have you not, to look
25 at the adopted map, plan C-185?

1 A. I have.

2 Q. And it is notable, is it not, that that map has combined
3 black and Hispanic, I guess, voting age population over 85
4 percent?

5 A. Yes. I was very disappointed to see that map. I thought
6 it was unreasonably Balkanized, that it does not have my house
7 nor my office in it. It went out of the way to pick up a
8 large federal prison, which upped the African American
9 minority population falsely.

10 Many of the areas that I worked very hard in for
11 economic development and all of that had been removed, all of
12 the downtown area, where I worked very, very hard to make sure
13 that we had funding for our Dallas area rapid transit system.
14 The schools that had specialties, I have been very supportive.
15 I am the ranking member of the Science, Space and Technology
16 Committee. And it has been broken.

17 I mean, it is an unnecessary design that cannot be
18 done accidentally. It unnecessarily pairs large pockets of
19 minority population, who have enough population to represent
20 themselves.

21 And although I have enjoyed working and will
22 continue to do in a very big coalition, like any other
23 minority, when people have enough people to represent
24 themselves, that's really what their first desire is, and
25 that's what I was working hard to try to make sure, that it

1 would be a Latino district, because this is the area with the
2 largest growth in our state, perhaps even in the nation.

3 And I have not had any complaints of my
4 representing, but I also know the way I -- the way that
5 African Americans push and try to get representation over the
6 years, it was not because we necessarily disagreed with people
7 who were representing us, but when you know that you have
8 someone representing you that you don't have to explain what
9 it is like to be a minority, then that is your first choice.

10 Q. Now, in regards to the map that was actually adopted, you
11 attempted to work with individuals you believe to be
12 responsible for getting formal input into the map for
13 different congresspersons; is that correct?

14 A. Yes. We, as a delegation, met bipartisanly, which we do.
15 And Lamar Smith, Congressman Lamar Smith was the point person
16 that we listened to. He was our leader. He indicated that if
17 we got together and worked out a district map that it would
18 probably be acceptable to the House of Representatives and to
19 the State legislature, and we worked very hard at that.

20 I didn't -- in north Texas, I didn't have a regional
21 group necessary to work with, but I did work with Congressman
22 Marchant. I went and asked other congresspeople about certain
23 geographical areas.

24 But, basically, Congressman Marchant and I worked
25 closely together to carve out a district that would elect a

1 candidate of choice for the Latino voters. I had no reason to
2 believe that that would -- we met several times, and then
3 after that, we didn't hear very much, but I kept in touch with
4 Congressman Smith, and he kept ensuring us that things were
5 moving along.

6 After I turned the map over to him that we worked
7 on, we did some little changes to the edges around it, because
8 at that time, at the first map, once it was put into numbers,
9 my home and office was left out of it, and we restructured it
10 and we were able to correct that.

11 I asked them several times how it was going. We
12 went to his office to look at the map. And then when he
13 instructed us to meet regionally, I did meet with some
14 state-elected people, House and Senate in the Dallas area, to
15 share the map and to discuss it with them, and I gave each of
16 them copies.

17 Q. Now, let me back up a second and pick up on one of the
18 points that you just made. I think what you have indicated to
19 this Court is that you specifically and directly communicated
20 to the drafters of the map that your home and your office were
21 left out of the proposed district and you wanted them to
22 correct that?

23 A. Yes.

24 Q. Okay. And was that corrected?

25 A. It was corrected in the map that the delegation submitted.

1 It was not corrected in the map that came out of the
2 legislature.

3 Q. And it is true, is it not, I think that your office and
4 the office of both Congressman Green and Congressman Lee as
5 well were not included in the adopted districts?

6 A. That is my understanding.

7 Q. And can you tell this Court any white incumbent
8 congressperson who did not have their office in the currently
9 proposed map?

10 A. I am not aware. I am not aware of any.

11 Q. And why is it important for you to continue to have your
12 office within your district?

13 A. Well, I have been in this location a while. Constituents
14 all over the area, even as far away as Amarillo, know where
15 that office is, and they come. The entire north Texas area,
16 we have people coming for assistance, and it is convenient for
17 them. It is easy, accessible, and the rent is not nearly as
18 high as it would be in other places. The parking is free.

19 Q. Now, can you tell the Court what your response was when
20 you found out that there was a map and it didn't include your
21 recommendations?

22 A. I was extremely disappointed. As a matter of fact, I
23 thought at first it might have been a joke, because it just
24 seemed like it was so unnecessarily chopped up, in areas that
25 I had worked so hard.

1 And it paired -- it put a large number of Latinos
2 and a larger number of African Americans in the same map, and
3 a large number of African Americans that were in a federal
4 prison that were counted into the total, but obviously don't
5 have voting rights.

6 I never had that area before, and I never had to
7 count them as a part. But when I looked at that map, I
8 started smiling, because every jail, every prison in the
9 entire area had been included in that map.

10 Q. I want to show you your district in the adopted plan.
11 Could you color shade there for black and Hispanic majority?

12 Now, you have won your seat, have you not, with the
13 different levels of African American voting age population
14 within the district, have you not?

15 A. Yes.

16 Q. And I know you won with 38 percent or less in that
17 district, have you not?

18 A. Yes.

19 MR. BLEDSOE: Could we increase it a little bit to
20 show 30?

21 BY MR. BLEDSOE:

22 Q. Now, you can see your proposed district there with the
23 shading indicating black and Hispanic population in the
24 majority in those areas. And in looking at that, can you tell
25 us what areas that were included in that map that you did not

1 want to see included? Or do you need us to add the streets on
2 there?

3 A. Well, I think I am understanding the question. What has
4 happened in the community is that where it had been
5 predominantly African American is where the largest Latino
6 growth has also occurred, and what we were -- what we could
7 see clearly is to get a map where Latinos would have the
8 ability to elect a candidate of their choice had to be so
9 constructed where there was voting age and citizenship, and it
10 was easy to do, because we had the figures. We had the census
11 results, and much of it was going to overlap.

12 What happened here is that they packed all of us
13 together for one district, instead of making sure that there
14 would be a district that would elect a candidate of choice for
15 both Latino and African American.

16 Q. Okay. Now, so you actually did draw up a district, you
17 intended that district -- that would have been a Latino
18 majority district, you felt it met all of the legal
19 requirements, and then you didn't hear anything more about it;
20 is that correct?

21 A. That's right.

22 Q. Okay. Now, can you determine by looking at this map
23 exactly where the area was, at what areas in your district now
24 that would have been in that district that you proposed?

25 A. Yes.

1 Q. Here is a pointer right here. Press the little button
2 right there.

3 A. Okay. Right over here is where -- this edge is where it
4 was removed for no particular reason, a little area called
5 Balch Springs that had not, they indicated to me, the entire
6 city council, that they had not had any attention. I did go
7 out and I worked with that area. We had economic development
8 workshops, and it disappeared.

9 On the other hand, Seagoville, that I have never, of
10 course, had was put in, and I don't even understand the
11 reason. It was not necessary for that to happen.

12 This area here and around here is some of the
13 heaviest Latino growth, and going to the west is where there
14 is even heavier growth over toward the Fort Worth area. Now,
15 Latino growth is in every census track.

16 What we were looking for, a district where it could
17 actually elect a candidate of choice, and that is the reason
18 why we looked at this particular area, which has Parkland
19 Hospital and Southwest Medical School, Love Field area, all of
20 that area that I had served and worked with very, very
21 closely, and there is a large Latino population. Also, right
22 in here is a large African-American population.

23 We took the Latino votes, where we know that --
24 because they had been producing votes -- and placed them in a
25 district that they would be able to elect a candidate of

1 choice.

2 There are a lot of ways that you can just put a lot
3 of Latinos together, but it doesn't necessarily perform to the
4 point where they will elect a candidate of their choice, and
5 that's what our goal was, was to do that. At the same time,
6 preserve a District 30 for an African-American candidate of
7 choice.

8 I really never had to look that much around the
9 geographical boundaries for our service, because they had no
10 boundaries, but when it comes to voting, we did look very
11 closely, because my number one goal was to make sure that,
12 because of the growth -- it is a very obvious growth; it is an
13 unquestioned growth that was easy to follow, the voting age --
14 and someone that would represent their views. And the way I
15 knew about the views is because I was servicing that entire
16 area.

17 Q. Now, has there been a coalition in Dallas County between
18 African-American and Hispanic voters?

19 A. There has been.

20 Q. Could you describe that coalition and what that coalition
21 has worked on to the Court?

22 A. We have worked on electing candidates countywide. We have
23 elected a Latino sheriff, an African-American district
24 attorney, all of which we did together. Judges, we have
25 elected Latino, African-American judges, with the votes being

1 virtually the same in percentage with both Latino and African
2 American.

3 Same thing with the city council, county. We
4 actually elected our first Latino county commissioner, and
5 that was a coalition of us working together to do so.

6 Q. And have Asians also worked in that coalition?

7 A. Yes.

8 Q. Could you describe to the Court how Asians have worked in
9 that coalition?

10 A. The Asian population hasn't been that high, but those that
11 live in the area and even many that live outside that
12 particular area have worked with us. All of us working
13 together have produced Asian judges, as well as Latino and
14 African-American.

15 Q. Okay. And have you had occasion to even to look at some
16 of the return data relating to Asian, Hispanic and African-
17 American returns for some of the 2008 and 2010 elections?

18 A. Yes.

19 Q. And what did you determine from what you saw?

20 A. The Asian votes are not as concentrated as the African
21 American, Latino, but we worked together in support of each
22 other's candidates and voted together, and I think all of the
23 records would indicate that we did vote together to elect
24 candidates of choice.

25 Q. Did you have occasion to even look to see if there was any

1 kind of cohesion between those voters in the primaries?

2 A. Yes, there was some. We could tell, there were times when
3 there would be Latino and African Americans in the same
4 primaries. When we came together as a group of people in
5 different advisory groups and what have you, we determined the
6 candidates which we would support.

7 I remember in a City Council race, well, the city
8 councilperson that represents me now is Latino, and had an
9 African-American opponent, but I had no hesitancy in
10 supporting the Latino, who did win.

11 Q. Now, in terms of the Voting Rights Act, do you think it is
12 appropriate to join the African Americans and Latinos together
13 to create a Section 2 district?

14 A. Yes. It is very difficult not to depend one on the other,
15 because we live together, we vote together, we usually want
16 the same kinds of things from our representatives. I chaired
17 the Congressional Black Caucus, and when I was chair, I
18 organized a tri-caucus, and we take strong stands together on
19 many issues.

20 I would have to organize the Asian Pacific American
21 caucus in the Congress when I first got there, because I had a
22 large number of Asian constituents, and now I think it is
23 eight or nine Asian Pacific Americans that now carry that
24 caucus on.

25 So in the tri-caucus, we tend to take united

1 positions. We coalesce on healthcare, education, almost all
2 of the issues, positions which we think would be most helpful
3 to our constituents.

4 Q. Now, Congresswoman Johnson, can you tell us, then, if it
5 is appropriate to consider Asians as part of that equation as
6 well in creating a Section 2 district?

7 A. Yes, I do. Firstly, they have expressed an interest.

8 They recently organized an Asian group that has acted

9 politically. And, of course, it goes Dallas County north.

10 The Asian population -- let's see if I can get this to point
11 here.

12 The Asian population is in this area. Addison,
13 Plano, Richardson, Garland, Grand Prairie, Arlington, and the
14 north end of Dallas, and more and more becoming more mixed in
15 with the southern end of Dallas, because there are a lot of
16 businesses.

17 Just last week, I worked with an Asian company that
18 was supplying school supplies to both the Latino and the
19 African-American schools, in the housing projects and housing
20 around that area, for school supplies, where in that
21 particular area, there are not that many Asian students, but
22 they wanted to give where it was needed, and so I went out and
23 pulled that together.

24 Q. And how many years ago was that that you helped to cofound
25 the Asian caucus in Congress?

1 A. In 1993 and '4.

2 Q. And you have continued to work with them since that time?

3 A. Yes. It was year 2001 when I organized the tri-caucus
4 within the Congress.

5 Q. And the tri-caucus would be the black caucus, the Spanish
6 caucus --

7 A. And Asian Pacific.

8 Q. -- and the Asian Pacific. And how many members are there
9 of the Asian caucus today? Approximately.

10 A. Asian. I think it is something around nine. Some are not
11 full voting members of Congress, but they are representatives
12 of the Asian Pacific Islanders. Let's see what they are. Two
13 from Hawaii, four from California. I am trying to remember
14 who else. But it is a viable caucus, and we meet together.

15 Q. And is there a reciprocity frequently in terms of
16 supporting each other's issues, from your observation?

17 A. Oh, yes. One of the most obvious ones is that there has
18 been historically a black college initiative from before I
19 went to Congress. Since we have increased in our numbers, we
20 have put measures there that would also increase the support,
21 and I have done this a lot in the Science, Space and
22 Technology Committee, increase the support to the Asian
23 Pacific American institutions, the Native American
24 institutions and Latino-serving institutions, and we have
25 worked that together.

1 Q. Now, Congresswoman Johnson, you have actually had the
2 misfortune to be one of those Americans who had to pay a poll
3 tax; is that correct?

4 A. Yes. I am old enough to remember paying a poll tax.

5 Q. Could you tell the Court about that?

6 A. Well, I was very excited to vote for the president of the
7 United States in 1960, to learn that, from my mother-in-law,
8 that I had to pay a poll tax to be able to vote, and so I did.
9 But it was still an exciting time to reach the age where I
10 could vote for a president.

11 Q. Now, there has been some discussion in reference to
12 whether or not racially polarized voting continues into modern
13 times.

14 Do you have an observation about that?

15 A. Well, yes. I mean, the issues really do separate us.
16 When it comes to the need for education, for compensatory
17 programs, Upward Bound, historic, it is practically the
18 programs that continue to be a high priority, because those
19 are the programs that give the underserved community and the
20 kids the Title 1 programs and healthcare.

21 I have helped to get healthcare satellite community
22 centers and newly highly populated Latino areas services, and
23 it is very clear who votes to support those programs. It is a
24 matter of record. It is not a guess game.

25 Q. In terms of the -- in regards to the electorate, are there

1 problems with whites voting for different candidates than
2 African Americans and Latinos?

3 A. Yes, in many instances, and most especially in Texas.
4 When we look at the results of voting in the Congress, it
5 becomes very clear who understands the needs of minorities,
6 and it also is very clear to us when we get chopped up into
7 little bits so that we don't have influence enough to
8 influence people who represent those districts to support the
9 issues that are very important to us.

10 Q. Now, you are aware of Dr. Murray's analysis, which
11 indicates that African Americans and Latinos have influence
12 over eleven out of the current 32 congressional seats that are
13 elected in Texas, but under the new plan, they will only have
14 influence on ten of those?

15 A. I am very aware of that, yes.

16 Q. Can you tell us the consequence of that, or if that is
17 harmful to the minority community in having such a plan go
18 forward?

19 A. Well, what has been so very disappointing is to see the
20 real, very real growth and the lack of representation, where
21 there are issues that would get attention when the persons
22 have a choice of who they can influence to be elected.

23 It is clear, very clear, and the record reflects
24 that, that if you don't put a concentration, it is so easy
25 to -- as a matter of fact, you cannot put a map together that

1 divide people up like that without planning it. It is too
2 easy to put it together where they can elect people of their
3 choice that would give them the opportunity to speak up for
4 the needs of that population.

5 Q. I think I understand what you are saying, and let me ask
6 you, do you have a belief in reference to whether or not the
7 circumstances that you are aware of indicate intentional
8 discrimination in the crafting of this matter?

9 A. Without a doubt in my mind, it had to be done with the
10 pure purpose of splitting those voters up, so they could not
11 elect a candidate of their choice.

12 Q. And by the way they crafted CD-30, does that present any
13 difficulties with tension within your district and in the
14 future as a possible impact on the coalition between black and
15 Hispanic voters?

16 A. Indeed. You know, when you have a large number of people
17 and you unfairly pile them together, then it creates tension,
18 because everybody wants representation. They want to be able
19 to identify some of the people that look like them, that think
20 like them, that live with them, to represent them. And when
21 that is totally ignored and almost by design denied, it is a
22 very big problem.

23 Q. Now, you are familiar, are you not, with the NAACP
24 congressional intervenor's map that is C-193 and the proposed
25 district is a partial map that are included within that

1 district, within that plan?

2 A. Yes.

3 MR. BLEDSOE: And, Your Honors, 193 is in the joint
4 agreed maps and data book.

5 JUDGE GARCIA: What volume is that? Or number?

6 MR. BLEDSOE: It says joint agreed maps and data,
7 opposing counsel, book 1. So I don't think it is one of the
8 ones that has a volume number.

9 JUDGE GARCIA: Book 1?

10 MR. BLEDSOE: I presume book 1. It is just the one
11 with the maps.

12 JUDGE GARCIA: Oh. Okay. Go ahead.

13 BY MR. BLEDSOE:

14 Q. Now, we see this, and there is the citizenship information
15 there and the voting age population here. And so there are
16 actually two districts in the Dallas-Fort Worth area that are
17 being proposed that would be new districts that would be
18 minority opportunity districts; is that correct?

19 A. Yes.

20 Q. Okay. And those would be Districts 34 and 35 in that
21 plan; is that correct?

22 A. That is correct.

23 Q. Okay. And like you said earlier, you want to make sure,
24 not just that you have particular numbers, but that the
25 individuals who live there will be able to vote cohesively and

1 may be able to elect a candidate of their choice; is that
2 correct?

3 A. That's right.

4 Q. Okay. And you have been able to evaluate both the
5 proposed 34 and 35 in this plan, have you not?

6 A. Yes, I have.

7 Q. Okay. And 34 is a proposed African-American opportunity
8 district, and 35 is a proposed Latino opportunity district.

9 And do you feel that those districts would be
10 effective districts?

11 A. I do.

12 Q. Okay. And you can see them there on the map, I guess, if
13 we can blow that up and move --

14 JUDGE GARCIA: Mr. Bledsoe --

15 MR. BLEDSOE: Yes.

16 JUDGE GARCIA: What are you saying, ma'am?

17 MR. BLEDSOE: 193.

18 TECHNICIAN: Yes.

19 BY MR. BLEDSOE:

20 Q. And do you have familiarity with the area covered by the
21 proposed CD-35 on the map?

22 A. Yes, I do.

23 Q. Okay. Can you tell the Court what you know about that
24 area and why you believe it would be able to elect a candidate
25 of its choice, of the Latino community?

1 A. This area, it is a high concentration with a good, sound
2 voting age, and down through this area. Not as many real
3 voters here, but there is a good mixture, and they are coming
4 along. That is currently in 30, and we are working with
5 citizenship, as well as other needs. And then in order to
6 pick up the number of real voters, we had to go into this area
7 to do that, and that, without a doubt, will elect a candidate
8 of choice of a Latino.

9 Q. And in your opinion, would it be appropriate there for the
10 Court to consider African Americans and Latinos as a group for
11 the purpose of the creation of 35?

12 A. Yes.

13 Q. Because of your familiarity with them working together in
14 that area?

15 A. Yes. I can feel that that would be a good coalition,
16 because we all vote together now.

17 Q. And do you have familiarity as well with CD-34, which is
18 right beneath proposed CD-35 in the plan?

19 A. Yes, I do. Now, initially, I was not aware of the heavy
20 growth there of African Americans, I was so busy trying to
21 make sure we had a Latino district, but it became very clear,
22 after looking at those numbers, that this could create another
23 influence district that would let candidates of choice for a
24 very large concentration of African Americans; and conversely,
25 though 30 is giving up quite a bit of that area, the growth

1 there, which some of this I represented before in another
2 configuration of a district, would also maintain District 30
3 as an African-American coalition district.

4 Q. Now, if I represent to you -- you have got the data there
5 in front of you that is CD-35, excuse me, CD 34, that CD-34
6 has less than 50-percent Anglos, is that significant to you,
7 that it has less than -- the voting age population?

8 A. Yes. It is significant, because the African Americans and
9 the Latinos have mutual issues. They live in a concentrated
10 area together, and it permits the election of a candidate of
11 their choice that they can be certain would represent their
12 views.

13 Q. Okay. And do you believe that in that district, in the
14 proposed District 34, that there would be a coalition with
15 Asian voters --

16 A. Indeed.

17 Q. -- to elect a candidate of their choice?

18 A. That's right. There is a good concentration of Asian
19 voters in that area.

20 Q. And what is your familiarity with the Asian voters in that
21 area that lead you to tell this Court that they would be able
22 to join the coalition with African-American and Latino voters?

23 A. Well, I work with a lot of them now, and they have common
24 issues that they will express, that they don't feel get
25 represented.

1 Q. Okay. Now, and in reference to your district in CD-30 in
2 this plan, do you prefer this to the proposed CD-30 and C-185?

3 A. Without a doubt, this is a preferable map.

4 Q. Could you tell the Court why you prefer the proposed CD-30
5 and C-193 over the proposed CD-30 and C-185?

6 A. One thing, the candidates of choice could be elected, and
7 the voters would have confidence that their issues would be
8 represented. It would also give me, as a representative of
9 30, some needed assistance that I need for casework and for
10 giving more representation for issues that are very desired by
11 the entire community, Upward Bound, many other programs.

12 There is a lot of focus on education, healthcare
13 needs, and having the opportunity to work with the medical
14 schools and the public hospital facilities, it has been a very
15 good opportunity for me to be able to coalesce and get
16 attention to the needs of those people, whether they are
17 African American, Asian, or Latino.

18 Q. If C-185 is adopted, do you have some concerns about the
19 continued effectiveness of African-American voters to elect a
20 candidate of their choice in CD-30?

21 A. Well, yes, because there are a lot of areas in CD-185 that
22 puts a population growth where it is clear from the beginning
23 they have no voting rights. And the same with Latinos, for
24 that matter. But the growth, the largest growth, actually,
25 into what is commonly known as African American areas now are

1 Latinos. So it creates a tension, because both groups want
2 representation, and it is not necessary for that to happen,
3 because the population is bigger than that.

4 Q. Now, but you don't mean to indicate in any way that there
5 is not a coalition that is effective and operating right now?

6 A. It is effective and operating right now.

7 Q. Okay. And one other thing here. I think you mentioned
8 earlier that your district was Balkanized, so what did you
9 mean?

10 Can you tell the Court what you mean by your
11 district being Balkanized?

12 A. Well, it took out all of the economic development areas,
13 where I had been very active in making sure there were
14 transportation areas being addressed, education, city parks,
15 all of that area, and to the point where I asked one of my
16 colleagues, I said, you know, I don't even have a place in
17 this district now to have a fund-raiser. Where can I meet
18 somewhere? All of the hotels, the business areas. And I
19 worked with that entire business community. The office
20 buildings. I live right across from that west Dallas area
21 there, just inside I-35, all of that has been removed, and it
22 is very difficult to negotiate for attention for certain areas
23 if you don't have a relationship by being in your district.
24 But because of having these various areas now in the district,
25 I have been able to gain entry into corporate offices and

1 everywhere else to try to get assistance.

2 We have had a lot of computer support and other kind
3 of educational support going into neighborhoods where there is
4 public housing or an area -- I must tell you that every public
5 housing unit in District 30 has been renovated or rebuilt or
6 in the process of being rebuilt.

7 And one of the things that we insist upon is having
8 computer centers, so that there will be opportunities for
9 bilingual education, for parents to have access to English as
10 a second language, and that negotiation would be severely
11 hampered, because the areas where you go get assistance and
12 all of them have been cut out.

13 Q. And, Congresswoman Johnson, do you believe that the NAACP
14 report cards that are issued every year is an effective
15 barometer for determining which members of Congress support
16 the interests of the African-American community?

17 A. Yes.

18 Q. Okay. And you have always done exceptionally well on
19 those, haven't you?

20 A. Yes.

21 MR. BLEDSOE: Thank you. I will pass the witness.

22 JUDGE RODRIGUEZ: Anything from the state?

23 MR. FREDERICK: Yes, Your Honor.

24 *-*-*-*-*-*-*-*

25

1 CROSS EXAMINATION

2 BY MR. FREDERICK:

3 Q. Good morning, Congresswoman. My name is Matt Frederick.
4 I represent the State of Texas.5 My first question is, are you suing in this lawsuit
6 in your capacity as a member of Congress or as a voter in the
7 30th Congressional District?8 A. Well, I don't know how they separate it, but I joined with
9 the NAACP as an individual and a member of Congress.10 Q. Okay. So in your understanding, you have perhaps sued in
11 both capacities?12 A. I suppose so. To the best of my knowledge of where you
13 are taking your question, I am certainly affected both as a
14 member of Congress and as a voter.15 Q. Thank you. Based on your experience, Congresswoman, do
16 you believe that you are a candidate of choice for African-
17 American voters in Congressional District 30?

18 A. Would you repeat that?

19 Q. Yes, ma'am. Based on your experience with the district,
20 do you believe that you are the African-American candidate of
21 choice in Congressional District 30?22 A. Well, I would think so, since I have been elected since
23 1992.24 Q. Under plan C-185, the plan that got passed by the
25 legislature, do you believe that District 30, as it is drawn

1 under that plan, permits African-American voters to elect
2 their candidate of choice in District 30?

3 A. Well, it is difficult to tell, because I have been an
4 incumbent a long time. I don't know what a new personality
5 would be able to do, because it definitely would take a
6 very -- a definite coalition and an environment where people
7 feel they have been mistreated.

8 Q. Well, let me ask it a slightly different way,
9 Congresswoman. Do you believe that you are likely to be
10 reelected out of Congressional District 30 under the plan
11 C-185?

12 A. I would take my chances if I had to run it, but I would
13 feel much better if it was not configured in that manner.

14 Q. Okay. Based on your experience in the district,
15 Congresswoman, do you believe that you are the candidate of
16 choice of Latino voters in the Congressional District 30?

17 A. I think the vote has been there, but I think it is a very
18 strong desire that Latinos would like to represent themselves,
19 because the population clearly supports it.

20 Q. And when you say "represent themselves," do you mean elect
21 a Latino?

22 A. A candidate of their choice. Basically, a Latino.

23 Q. You testified, Congresswoman, that the lines of your
24 district have changed over the years, but that your
25 constituency has been the same, whether or not they are within

1 those lines.

2 Can you please describe generally what constituency
3 you were referring to?

4 A. Well, you know, it is a constituency from all over that
5 area. Many are African American, Latino, Asian, and then
6 there are others that tell us when they come that they feel
7 this is where they can get help. We don't recruit.

8 Q. I'm sorry, ma'am?

9 A. We don't recruit people for casework. They come to us.

10 Q. Okay. Are you familiar, ma'am, with the term "opportunity
11 district"?

12 A. Yes.

13 Q. Can you just please explain for the Court what that term
14 means to you?

15 A. It means to me that you have enough coalition between
16 people of like desires to elect a candidate that could be
17 African American, Latino, Asian, and sometimes Anglo, when you
18 have a candidate that people can look at and say, you know,
19 they have a history of understanding our problems and our
20 views and they band together to elect a person who will do
21 that.

22 And sometimes you will have a person elected by --
23 with the support of African Americans and Latinos that might
24 not be African American or Latino, but it is not nearly as
25 often as what it would be if the person they thought they were

1 voting for was going to represent their views.

2 Q. In your understanding, Congresswoman, is an opportunity
3 district the same as a coalition district?

4 A. You know, it is hard for me to answer that. I am not sure
5 what answer you are looking for, but what I can tell you is
6 that an opportunity district could very well be a district
7 where it is maybe 30-percent African American, 30-percent,
8 35-percent Latino, when neither group is the majority, but
9 they can elect a candidate that they believe will represent
10 their views, and to me, that becomes an opportunity district,
11 where no population of the minorities are in a clear majority,
12 but they are pleased with who they elect, because that is
13 person that is going to represent them.

14 I think that is an opportunity district. I think a
15 minority district is one where you can almost predict that a
16 minority will be elected, and that is what I see in this map
17 here of 30, 34 and 35.

18 Q. In your testimony, Congresswoman, you used the term --
19 correct me if I am wrong. I believe you used the term
20 "tension district," where you refer to some tension?

21 A. Well, I think that it is very clear to me that when people
22 know for sure that they have the population, that they feel by
23 right ought to be recognized as a concentrated population
24 where they can have an opportunity to clearly elect a person
25 of their choice -- and that choice most of the time is a

1 candidate that looks like them.

2 Now, we also know that it is very difficult to get
3 over 50 percent of African Americans or Latinos in a district
4 that will elect one of them without having a coalition with
5 the other, but when you look at a map like this one, we know
6 by looking at this map what race that is likely to win, and we
7 get behind those candidates to make sure that they win with
8 that coalition vote.

9 Q. Am I correct, then, Congresswoman, in understanding that
10 when you talk about a tension district, that's a district in
11 which, let's say, the Latino population in that district is
12 high enough that they might think that they could, for lack of
13 a better word, control a separate district and then might, as
14 a result, be unhappy with, again, for lack of a better word,
15 sharing that district with a large group of African-American
16 voters? Is that accurate?

17 A. Well, that is possible. As I have said earlier, nothing
18 is more satisfying to any minority group than to have someone
19 elected that looks like them to represent them. When you put
20 large numbers in the same area, when it is totally unnecessary
21 to do it, then -- and there is no other opportunity, which is
22 what 185 does, then you create a tension district.

23 It is like throwing a few crumbs out there to fight
24 over, for the minorities to fight over, when it is totally
25 unnecessary, totally unnecessary. The population supports

1 districts like what's up there now.

2 Q. And when you say "what's up there now," for the record --

3 A. This is map 193.

4 Q. Yes, ma'am. And I will move on, but just to be clear, so
5 the tension that you are talking about in relation to the
6 congressional map is, that is tension between African-American
7 and Latino voters; is that correct?

8 A. It could happen.

9 Q. Is there tension, in your opinion, or potential tension
10 between any other groups of voters?

11 A. Well, I am not that -- I don't know any other group of
12 voters that have been as deprived as Latinos and African
13 Americans. When they see an opportunity to represent
14 themselves, that's what they want, and they do not want to be
15 abused by being packed all in one district, when they know it
16 can take more -- when they know they can elect more than one,
17 and I think that is where the feelings began, and that's where
18 the tension can be.

19 Q. I understand. Thank you. In your responses to the
20 State's interrogatories, you stated that Congressional
21 Districts 9, 18 and 30 were not drawn properly to ensure their
22 continuation over time as African-American opportunity
23 districts. Do you recall that?

24 A. Yes. That is what I have been told. And when you look at
25 the statistics in those districts, it is very, very clear to

1 me that it is an abuse of voters to configure districts that
2 create that tension, when it is unnecessary.

3 Q. I understand, or I think I understand. So that was a
4 reference to the tension districts we have been talking about?

5 A. Yes.

6 Q. Okay. Congresswoman, did you participate in drawing plan
7 C-193?

8 A. To a small degree. What I did do, when this map was
9 presented to me, I did suggest some tweaks to it, which had to
10 do with -- I am trying to get this laser thing. The west
11 Dallas area here, where there is a good concentration of
12 African-American voters, down in here, and then right here,
13 going down into Pleasant Grove, it is a new and large growth
14 of Latino and Asian voters, and so the voting strength was not
15 as great as this part of west Dallas, Grand Prairie, Arlington
16 on over to Fort Worth.

17 Q. In your understanding, Congresswoman, what was the main
18 purpose that -- behind drawing these three districts that we
19 see up here in plan C-193?

20 A. The major purpose is to give an opportunity for those
21 concentrated minorities to elect a candidate of their choice.
22 They have expressed dissatisfaction of not having
23 representation in these areas, and when they need something,
24 they find their way to my office, which is right in here.

25 Q. When you were discussing District 35 a little while ago,

1 you mentioned, I believe, picking up real voters in
2 Congressional District 35?

3 A. Mentioned picking --

4 Q. I believe that you mentioned picking up real, quote,
5 unquote, real voters in Congressional District 35; is that
6 correct?

7 A. Yes. In order to -- in my judgment, in order to create a
8 district to give a real opportunity for people to elect a
9 candidate of their choice, you have to look for persons who
10 can actually perform, and that is what we were looking for.
11 It is not hard to find, because it is pretty concentrated.

12 Q. And just so -- I think you and I know what you are talking
13 about, but just so everyone is clear, when you say "who can
14 actually perform," you mean are eligible to vote?

15 A. Yes.

16 Q. Congresswoman, you testified that you had worked with
17 Congressman Smith and Congressman Marchant to create a
18 proposed congressional map; is that correct?

19 A. Yes.

20 Q. And in your knowledge, was that map submitted to the Texas
21 legislature?

22 A. To my knowledge, it was. That was the intent.

23 Q. But that map was not adopted by the legislature, correct?

24 A. No.

25 Q. And you testified that in the map that was adopted, your

1 home and office were not included in District 30; is that
2 correct?

3 A. That is correct.

4 Q. When did you become aware that those had been taken out of
5 your district?

6 A. When the map was adopted, because we had submitted a map
7 that had it, and we made sure that the -- my residence, of
8 course, is public knowledge, and we discussed it with
9 Representative Smith and staff, and we discussed it with the
10 other elected officials from the area, Democratic-elected
11 officials.

12 Q. And did you contact anyone in the Texas legislature at any
13 point to make them aware that your home and office had not
14 been included in the Congressional District 30?

15 A. I didn't see the map until it was law. I didn't see this
16 particular map until it was law.

17 Q. I understand. May I ask, have you talked to Congressman
18 Smith or Marchant since this map was -- not this map, but plan
19 C-185 was adopted?

20 A. Not in detail. We both just have acknowledged each other,
21 that the map we worked on did not have much relationship to
22 what came out.

23 Q. As far as -- based on your conversations, is Congressman
24 Smith also a little bit disappointed that the map you all
25 proposed was not adopted?

1 A. I could only assume that -- we have not had that type of
2 conversation.

3 Q. Okay. I understand. Just a couple more questions,
4 Congresswoman.

5 A. Sure.

6 Q. You had testified that there have been elections in which
7 African-American and Latino candidates ran in the same
8 primaries; is that correct?

9 A. Yes. I am aware of a couple.

10 Q. Do you recall in those primaries whether African-American
11 and Latino voters supported the same candidates in the
12 primary?

13 A. We supported the same candidate for sheriff. We support
14 the same candidate for City Council. We support the same
15 candidates for judge, judges, and I can't remember all of them
16 individually, but we do. We looked at some printouts to be
17 sure that what we were thinking was accurate.

18 Q. Okay. And just so I am clear, Congresswoman, when you say
19 you support the same candidates, that is, you supported the
20 same candidates in the primary elections?

21 A. To a large degree, yes. Often, there are multiple
22 candidates. Not always will you find a Latino and African
23 American in the same primary, but we did find, in looking
24 back, at least two that I remember well where African
25 Americans supported a Latino and vice versa.

1 Q. Speaking more generally, based on your experience in the
2 area, do Latinos and African-American voters generally,
3 regardless of the race of the candidates, do they generally
4 support the same candidates in the primary elections?

5 A. I can't sit and be that sure, but we have known -- I have
6 not been in a situation where we have had a lot of disgruntled
7 feelings. Very frequently, we come together on kind of a
8 group of people that we know, and we tend to vote together.

9 Q. You testified, Congresswoman, that you believed there was
10 intentional discrimination behind the adopted map, plan C-185?

11 A. I do believe that.

12 Q. And I believe that you testified that that conclusion was
13 based on looking at the map and seeing how the districts were
14 drawn?

15 A. Yes, sir. You know, I know those communities, and when
16 you take and slice up communities and take city people and
17 slice them into little parts that go off into rural areas,
18 those are not communities of interest.

19 Q. Do you believe that the Texas legislature passed the
20 congressional map, plan C-185, with the specific intent of
21 harming African-American voters?

22 A. I do indeed.

23 Q. Okay. And in your opinion --

24 A. And by "harming," I mean denying them an opportunity to
25 helpful representation.

1 Q. Sure. And do you believe that that was done because those
2 voters were African American?

3 A. I think it was done because those communities of interest
4 want someone who represents their views. Any record that you
5 look at and review, the views are just not represented when
6 they are cut into little chunks into large rural areas, when
7 they are primarily urban based. It is clear. It can be
8 documented by record.

9 Q. When you say their views are not represented, is that
10 because voters in rural areas tend to support candidates of a
11 different party?

12 A. Regardless of party, that is true. It is very clear.
13 Now, for Texas, it looks more party, but throughout this
14 country, it is not necessarily; it is color, and that's really
15 what it amounts to here, because when you split up the
16 minorities and put them in large Anglo majority districts, it
17 is clear their views are not represented, and that is clear
18 all over the country, but it is clearer by race in Texas.

19 Q. Just one last question, Congresswoman. Talking about
20 intentional -- or intent to discriminate, are you aware of any
21 facts other than how the map was drawn that would show intent
22 to discriminate based on race?

23 A. Well, I can share with you that when you look at this map,
24 as opposed to 185, look at 183 -- 193 versus 185, it is a
25 clear, overwhelming difference in whether minority voters'

1 views are now or can be represented. It is not being done;
2 when you draw a map that does not permit it, it will not be
3 done. And that's a matter of record.

4 MR. FREDERICK: Thank you very much for your time,
5 Congresswoman.

6 JUDGE GARCIA: Thank you.

7 Mr. Bledsoe.

8 *-*-*-*-*-*-*-*

9 REDIRECT EXAMINATION

10 BY MR. BLEDSOE:

11 Q. A couple of questions. I guess you were just asked about
12 opportunity districts, and your opinion in reference to
13 African Americans and Latinos being able to be joined together
14 to create a majority and then create a new opportunity
15 district under Section 2, is that supported at all by your
16 experience in the Congress and your participation in the
17 extension of the Voting Rights Act?

18 A. Yes.

19 Q. And could you tell us what your understanding was based on
20 that experience in reference to the ability of blacks and
21 browns to join together to create a district, if they can form
22 a majority and show it is an effective district?

23 A. When we can form a majority, the district is more
24 responsive to the desires and needs of the people. Now, if I
25 understand opportunity districts, I can identify an

1 opportunity district where we have voted together and produced
2 a person that represent the views that is not African American
3 nor Latino, and that is in Houston with Gene Green. It is in
4 Austin with Lloyd Doggett. Now, that gives the minorities an
5 opportunity to participate and have the influence to elect a
6 candidate that will be responsive to their needs and their
7 views.

8 Q. Now, the State just asked you some questions in reference
9 to what the basis was for the drawing of 193.

10 I think, to clarify matters, now, you didn't draw up
11 C-193; is that correct?

12 A. No.

13 Q. You added some changes to C-193; isn't that correct?

14 A. Yes.

15 Q. Okay. And would you tell the Court whether there were
16 reasons that go well beyond race that were part of the reasons
17 to put this district together?

18 A. Yes. We want to be sure that the communities of interest
19 that work together, that agree with the representation of the
20 views would not be split off into small pockets, where they
21 felt their views would not be represented.

22 Q. So would there be communities of interest that were a part
23 of the creation of CD-34 and CD-35 in 193 that go well beyond
24 race?

25 A. Yes. But it is primarily -- it is primarily race, but it

1 does go beyond race.

2 Q. Okay. But there are communities of interest that have
3 concerns about education and employment, criminal justice and
4 issues of that nature; is that correct?

5 A. Yes. Yes.

6 Q. And there are communities of interest that are added to
7 this district, these districts that would be -- that would not
8 be of a racial nature that were important to those districts;
9 is that right?

10 I mean, there are components, like you talked about,
11 in some of the communities of interest in your district that
12 are nonAfrican Americans that are major parts of your
13 district. Is that true about this district?

14 A. That is very true about this district, which includes
15 public television, public radio areas, and around that area,
16 where people have very like desires, and it is a major
17 community coalition there.

18 Q. Now, in reference to -- there are other benefits as well
19 in having these. If these districts were created, would that
20 increase the number of minorities who likely would be able to
21 serve in the United States military academies?

22 A. Yes. Very, very definitely. I have worked with, directly
23 with the military academy. We have improved the admissions of
24 minorities, and most especially Latinos a great deal, 200 and
25 300 percent, and we do get a number of students that come to

1 us that do not live in District 30 pleading for assistance to
2 go to the academies.

3 I take great satisfaction in working with young
4 people and helping them to, from junior high school up, become
5 eligible. As a matter of fact, this year I had a young man
6 that had ten siblings, that I didn't know about this until I
7 would bring him back, when we were having academy day, so that
8 young people would see examples of how you could get in the
9 academy and make it.

10 And he brought his parents this year when he came to
11 the academy to tell me, academy day, to tell me all ten of his
12 siblings were going to be driving up to Annapolis for his
13 graduation, and that they rented a house and that this was an
14 opportunity he never dreamed of in his life, and his parents
15 and him understood that.

16 Q. Okay. In reference to the primary election issue, and you
17 were talking about some of the races that you recall that had
18 significance to show African American and Latino and Asian
19 support, in those, I think there were eight that you mentioned
20 to me where you showed the commonality of support in the last
21 primary election.

22 Was there anything similar in terms of the -- was
23 there anything similar in terms of the proportions of support
24 for the same candidates that the coalition supported that the
25 African American and Latino and Asian vote supported in

1 similar numbers?

2 A. I'm sorry. Would you repeat that, please?

3 Q. Okay. I'm sorry. When we talked about what you looked
4 at, in terms of Asian, African American and Latino support of
5 candidates in the primary, and you indicated that they
6 frequently supported the same candidate, I think you just
7 indicated on cross that sometimes what it is is a coalition
8 decides it should be this district or that district, and so
9 you come together to support a candidate.

10 Was there any similarity in the returns in the
11 different precincts that might be predominantly African
12 American, predominantly Latino, predominantly Asian precincts
13 to show similar levels of support for those candidates?

14 A. Yes. As a matter of fact, what we have attempted to do is
15 to give fair opportunity for Latino and African American. And
16 there are times when we look at the makeup of the district,
17 for example, and decide that it is fair for it to be either
18 African American or Latino, and then we get behind those
19 candidates.

20 We have done that in school board elections. We
21 have done it in city council elections, and we have done it in
22 some statewide elections, that we decide as a community that
23 this is a candidate we will support.

24 Q. And what can you tell the Court about the Crowder or Lopez
25 and Moyer elections this last time?

1 A. These were people that we coalesced with the Latino
2 community, and we made a conscious effort to -- I don't know
3 that we even had a printed slate, but we knew by the way that
4 we worked to get out the vote which ones we were going to
5 support, and that is where the vote went.

6 Q. Now --

7 JUDGE GARCIA: Mr. Bledsoe, you have gone beyond the
8 area that the State of Texas crossed on, so I will permit you
9 five more minutes. Okay?

10 MR. BLEDSOE: Okay. Yes, Your Honor. That's about
11 all I have.

12 JUDGE GARCIA: Okay. Thank you.

13 BY MR. BLEDSOE:

14 Q. In reference to the issue of intentional discrimination,
15 you testified earlier that your district was Balkanized?

16 A. Yes.

17 Q. Does that support intentional discrimination in your mind?

18 A. Yes.

19 Q. And if the districts of Congresswoman Lee and Congressman
20 Green were Balkanized as well, would that support your belief
21 of intentional discrimination?

22 A. Yes.

23 Q. Would the failure to respond to input from you and the
24 other two African-American congresspersons support your belief
25 of intentional discrimination?

1 A. Yes.

2 Q. Okay. Would the fact that Anglo voters, according to Dr.
3 Murray, would be able to control 72 percent of the
4 congressional districts, while they are less than 50 percent
5 of the population, would that indicate to you some support for
6 intentional discrimination?

7 A. Yes.

8 Q. So there are many other reasons for potential
9 discrimination other than the drawing of the district? That
10 is just one example of intentional discrimination; is that
11 correct?

12 A. That is correct.

13 MR. BLEDSOE: Thank you.

14 JUDGE GARCIA: Oh, I'm sorry.

15 MR. RIOS: I was just going to --

16 MR. FREDERICK: No questions from the State.

17 MR. RIOS: I was going to state that this
18 Congresswoman and Congressman Cuellar have a flight to
19 Washington at 11:00.

20 JUDGE GARCIA: Okay.

21 MR. RIOS: I don't know if the Court is going to
22 take a break, but we will get through him in 30 minutes.

23 JUDGE GARCIA: Okay. Well, what are you requesting?

24 MR. RIOS: Well, I just didn't know if you all were
25 going to take a break.

1 JUDGE RODRIGUEZ: Let's go ahead and hear from
2 Congressman Cuellar.

3 MR. RIOS: And then afterwards take a break?

4 JUDGE RODRIGUEZ: That is pushing the plane too
5 close.

6 JUDGE GARCIA: Thank you, Congresswoman. You are
7 excused. Have a good day.

8 Okay.

9 COURTROOM DEPUTY: Please raise your right hand.

10 (Oath administered to the witness.)

11 COURTROOM DEPUTY: Thank you.

12 *-*-*-*-*-*-*

13 DIRECT EXAMINATION

14 BY MR. RIOS:

15 Q. Congressman Cuellar, I know you have a flight at 11:00, so
16 we will move this along. Could you briefly describe your
17 political career to the Court?

18 A. I started off in 1987 as a state representative for the
19 Laredo area. And then from there, I served all the way to the
20 beginning of 2001. In 2001, I was appointed by Governor Perry
21 as Secretary of State, served that year as Secretary of State.
22 Then I got elected in 2004 as Congressman for District 28, and
23 I have been serving in that district since that time.

24 Q. How long were you Secretary of State?

25 A. One year.

1 Q. Chief Election Officer?

2 A. That is correct.

3 Q. And why are you in this lawsuit, Congressman?

4 A. I am here for several reasons. The first one is, I
5 certainly want to make sure that District 28 is treated fairly
6 in this redistricting process. As you recall, during the last
7 redistricting, my hometown of Laredo, Webb County was cut in
8 half, and it took the Supreme Court to put that back again,
9 the U.S. Supreme Court to put that back again.

10 And then certainly, I want to make sure that -- what
11 we had is, that Supreme Court ordered a three-judge panel to
12 draw the South Texas districts, and I am happy with the
13 23rd -- I mean, 28th Congressional District that I represent
14 right now.

15 Q. Are you here also today as a Latino voter?

16 A. Well, you know, certainly as -- one is, I want to make
17 sure that this 28th District is represented, treated fairly,
18 should I say. The second one is, as a Hispanic Congressman,
19 as a Hispanic voter, I am disappointed by what happened with
20 this redistricting process, how Hispanics were treated.

21 When you see that, you know, you have 4.3 million
22 people that we had in growth since the last ten years, when
23 you see also that two-thirds of them are Hispanics, and when
24 you combine the Hispanics and the African Americans together,
25 minority, that amounts to about 90 percent of the total growth

1 that we saw in the last ten years, and then you have the
2 ten-percent nonminority get all four new congressional
3 districts, I think that is not fair.

4 Another reason is just simply I wanted to explain
5 the legislative process from my experience, and from what
6 happened with working with the Republican congressional
7 leadership, in particular, Lamar Smith.

8 I have seen redistricting as a state representative
9 in 1991. I saw it in 2001 as a Secretary of State, as Chief
10 Election Officer, and certainly now as a member of Congress, I
11 see this; I have seen this in 2006 and, of course, now again
12 this time.

13 What I see here is that usually the process is that
14 the House, the Texas House will draw its own maps and the
15 Senate will defer to that. The Senate will draw its own map.

16 JUDGE SMITH: Can we proceed on Q and A, rather than
17 narrative?

18 MR. RIOS: Yes, sir.

19 BY MR. RIOS:

20 Q. How many redistricting processes have you been through?

21 A. I have seen one in 1991 as a state representative. I have
22 seen one in 2001 as a Secretary of State, and then I saw the
23 one in 2006 as a member of Congress, the special redistricting
24 that the Supreme Court ordered a three-judge panel to draw the
25 lines in South Texas.

1 Q. Can you briefly describe what that process -- how that
2 process works, so that from beginning to end, we end up with a
3 plan that is being adopted by the legislature, both from the
4 House, State House, the State Senate and the Congress?

5 A. The State House plans will draw their own maps. The study
6 would defer to that. The Senate will draw its own map, and
7 then the House would defer to that. This is in the State
8 legislature. And then, of course, when it comes to the
9 congressional maps, the members of Congress will put their
10 input into this and then they, both the House and Senate will
11 consider that map.

12 Q. So you always understood that, generally, the legislature
13 would defer to the leadership, the congressional leadership as
14 to what they wanted for their districts?

15 A. My past experience, that is what it has been.

16 Q. And given that experience, I remember you and I started
17 talking about this two years ago, what did you decide to do?
18 Because you have been known to work with Republicans in the
19 past; is that not true?

20 A. That is correct. Back early in the process, over a year
21 ago, I started working with the Republican leadership,
22 congressional leadership to start drawing a bipartisan map, if
23 I can say that. In particular, it was Congressman Lamar
24 Smith, he is a friend of mine, working with his attorney, and
25 we sat down several times individually. We sat different

1 times with my attorney and their attorney, sat different times
2 with the Texas delegation, Democratic delegation, as Eddie
3 Bernice had mentioned.

4 And from there, I had told Congressman Lamar Smith
5 that I thought because of the growth that the Hispanics had
6 received, that all four of them should go to Hispanics, but
7 knowing the reality of what the politics is in Austin, what
8 the legislature is, we agreed that we would do two and two,
9 two Hispanic districts and two Republican districts.

10 And I thought under the circumstances, taken that
11 this would probably be a historical time that we will get more
12 Hispanic districts than any other time, I went ahead and
13 proceeded with that.

14 Lamar Smith, if I can continue on that, Lamar Smith
15 and I, I gave him some proposed lines for, of course, from my
16 district, for the 28th one, but since I was also concerned
17 about the Hispanics in the Dallas-Fort Worth area, through my
18 attorney, we sent them a map of how we could create a Hispanic
19 opportunity district there in the Dallas-Fort Worth area, in
20 working with Congresswoman Eddie Bernice Johnson.

21 Also gave him a proposal on how to draw a South
22 Texas district between Congressman Ruben Hinojosa and myself.
23 And then in the Houston area, we deferred that to Senator
24 Mario Gallegos, but also deferred that to my colleagues in
25 Houston.

1 Q. And were you surprised that the plan that finally came out
2 didn't reflect any of those ideas?

3 A. Well, yes, I was surprised, because our agreement was that
4 we would be doing two Hispanic congressional districts.

5 JUDGE RODRIGUEZ: Pardon me, Counselor. The map
6 that you were discussing with Congressman Smith, with regard
7 to DFW, was that the C-193 map?

8 THE WITNESS: We never drew a complete map. He
9 asked me to submit to him a part of a district -- I mean, the
10 district in the Dallas-Fort Worth, so I submitted that,
11 because since he was taking the leadership and the Republicans
12 controlled in Austin, I was working with him, so we never
13 submitted a full map, but we gave him this, and we sat down
14 with him and his attorney, and we went on how to create one of
15 those districts, and we did one for south Texas.

16 So we sent over to him a Hispanic opportunity
17 district for the Dallas-Fort Worth area, one for south Texas,
18 between Congressman Ruben Hinojosa and myself; and the Houston
19 area, I deferred that, because Senator Gallegos wanted to take
20 the lead on that one.

21 BY MR. RIOS:

22 Q. So at the end of the day, your experience that you had had
23 on the process, the first four times that you witnessed this,
24 were you surprised that this time it didn't work that way?

25 A. Certainly. I mean, it was always that they would at least

1 take the input of the congressional delegation, especially
2 this time, that I thought we had a bipartisan deal, in the
3 sense that we would have two and two, with the largest growth
4 of Hispanic new districts, and that we would have been able to
5 create that.

6 Q. I know you are not a statistician, but in your opinion, do
7 you believe that there is racially polarized voting in Texas?

8 A. You know, I have seen many things as a state
9 representative, many times as Chief Election Officer,
10 Secretary of State, certainly, as a member of Congress, and I
11 would say, yes, I think people will vote their interests.

12 Q. How many counties are in your district?

13 A. About twelve counties.

14 Q. And which district -- which county is the most populated
15 with Anglo -- nonminorities?

16 A. Guadalupe County. That is about 79.8-percent Anglo.

17 Q. And you represent that county, don't you?

18 A. I represent that county.

19 Q. Have you ever won that county?

20 A. No, I have not. The closest I ever got was 45 percent.

21 Q. Have you tried to -- what have you done for that county to
22 try and encourage them to vote for you, that is kind of
23 unusual, that you have done for that county that you didn't do
24 for some of the other counties?

25 A. Well, you know, certainly, I opened up a congressional

1 office there, the first time that any congressman has opened
2 up an office there. When --

3 Q. Let me interrupt you there. Are you saying that Guadalupe
4 County has never had a congressional office? You were the
5 first one to open one up there?

6 A. That is what my understanding is. Certainly, we have
7 office, neighborhood office hours, where we go to every single
8 time -- every town in the district. Certainly, I think I
9 brought them more money than any other congressman in the
10 past, in my opinion. So we were there. We responded to
11 constituents, but, again, the most I could get there was 45
12 percent.

13 Q. And, again, it is the one with the highest Anglo
14 population; is that correct?

15 A. My understanding, almost 80 percent.

16 Q. And all of the other counties, you carried by what? 50,
17 60 percent?

18 A. My hometown, almost 90 percent, Laredo; other areas,
19 92 percent; other areas, less than that.

20 Q. What would you want this Court to do?

21 A. Well, I would ask the Court to take all of the testimony
22 and the evidence and find that there is a violation of the
23 voting rights of the Hispanics. I would ask that the Court
24 allow me and the Hispanic groups and the African-American
25 groups, my colleagues to be able to provide some sort of input

1 in the remedy, if the Court decides to get to that part.

2 MR. RIOS: Thank you. Pass the witness, Your
3 Honors.

4 MR. SCHENCK: Your Honor, John McKenzie will be
5 performing the cross-examination.

6 *-*-*-*-*-*-*

7 CROSS EXAMINATION

8 BY MR. MCKENZIE:

9 Q. Good morning, Congressman. How are you doing?

10 A. Good morning. Good to see you again.

11 Q. Good to see you too. This will be very brief.

12 Congressman, do you think that your district as currently
13 configured in C-185 is a district in which you have an
14 opportunity to get reelected?

15 A. Yes.

16 Q. Okay. And based on your understanding of C-185, will all
17 African American and Latino incumbent candidates of choice
18 have an opportunity to be reelected?

19 A. I can't speak for any other member of Congress, who I
20 haven't had the opportunity to ask that question, but I will
21 tell you that at least in my district, in 28, I will have a
22 good opportunity to get reelected. And in particular, if I
23 can say this, to be fair, the State treated me fairly in
24 District 28. I would have made some minor changes to it, but
25 in my district, in 28, I thought I was treated fairly.

1 Q. Okay. And do you consider yourself to be a Latino
2 candidate of choice for the 28th District?

3 A. If you mean by that that the Hispanic community would
4 support me and have supported me, I would say yes.

5 Q. Okay. And do you believe that when you cast your vote in
6 the next election for the Office of Representative to the U.S.
7 House for the 28th Congressional District of Texas that your
8 vote will ultimately help lead to the election of a Latino
9 candidate of choice in that election?

10 A. If you are saying that if my residence is in District 28,
11 I would say yes. I certainly will vote for myself.

12 Q. And you think you will get reelected, right?

13 A. I hope so.

14 MR. MCKENZIE: Okay. All right. That's all the
15 questions I have.

16 THE WITNESS: Thank you very much.

17 JUDGE GARCIA: Mr. Rios?

18 MR. RIOS: One brief question, Your Honor.

19 JUDGE GARCIA: Go ahead.

20 *-*-*-*-*-*-*-*

21 REDIRECT EXAMINATION

22 BY MR. RIOS:

23 Q. Congressman Cuellar, we were talking about race and
24 polarized voting. A lot of people will say, people are just
25 voting along party lines. It is not race.

1 Have you seen anything that would respond to that
2 question, just in the example of Guadalupe County?

3 A. Well, I mean, I can tell you generally, at least I have
4 seen, for example, Quico Canseco, when he first landed the
5 28th Congressional District, he lost to an Anglo heavily in
6 Guadalupe County.

7 Q. In the primary?

8 A. In the primary. This was a primary. It was not Democrat-
9 Republican. Daniel Chavez also ran this last time in 2010 and
10 lost heavily to an Anglo in Guadalupe County. And certainly
11 across the state, I have seen it. I remember when I was
12 there, I have seen other candidates lose in the primary.

13 MR. RIOS: Thank you.

14 JUDGE GARCIA: Mr. McKenzie?

15 MR. MCKENZIE: No questions.

16 JUDGE GARCIA: Okay. Thank you, Congressman
17 Cuellar.

18 THE WITNESS: Thank you very much. Thank you,
19 Judge.

20 JUDGE GARCIA: Have a safe trip back to D.C.

21 THE WITNESS: Thank you.

22 JUDGE GARCIA: Okay. Let's take a very brief break.
23 Thank you.

24 (Brief recess.)

25 (Change of court reporters.)

1 (Change of reporters, open court, 10:03 a.m.)

2 JUDGE GARCIA: All right. Mr. Bledsoe.

3 MR. BLEDSOE: Your Honor, the Congresswoman Lee,
4 because of a schedule with -- congressional schedule, can't get
5 here until later this afternoon. She'll be here a little after
6 5:00. And I've spoken with other plaintiffs parties, as well
7 as the State, and they don't object to her being able to
8 testify when she arrives.

9 JUDGE GARCIA: So who do you have next?

10 MR. BLEDSOE: Okay. Congressman Al Green.

11 JUDGE GARCIA: All right. Okay. Congressman.

12 THE CLERK: Would you please raise your right hand,
13 sir?

14 (The oath was administered)

15 THE CLERK: Have a seat.

16 **ALEXANDER GREEN, PLAINTIFF'S WITNESS, SWORN**

17 **DIRECT EXAMINATION**

18 BY MR. BLEDSOE:

19 Q. Would you please state your full name for the Court,
20 please?

21 A. May it please the courts -- the Court, excuse me, and Your
22 Honors all, my name is Alexander Green.

23 Q. And you're a member of Congress?

24 A. I am a member of Congress, having been elected in 2004 and
25 sworn in in 2005.

1 Q. Okay. And you're a former judge and a lawyer, too; is
2 that correct, Congressman?

3 A. Former Justice of the Peace and still am a member of the
4 bar of the State of Texas.

5 Q. Okay. And I think you were also a branch president, the
6 Houston branch of the NAACP for some time?

7 A. I served for nearly ten years as president of the Houston
8 branch of the NAACP.

9 Q. Okay. And Congressman, could you tell the Court what it's
10 like to be a Congressperson representing the -- your
11 constituents in the United States of America?

12 A. The operative phrase is United States of America, because
13 I truly do love my country. I love every blade of grass, every
14 grain of sand, every drop of water, every breath of air. This
15 is a great country. It's my country, and I love it.

16 I believe that this country afforded me a great
17 opportunity, to become a member of Congress. And I know that
18 my country has had some difficulties. But I understand that
19 for every Dred Scott, every Plessy versus Ferguson, there's a
20 Brown versus The Board of Education. For every restrictive
21 covenant, there is a Shelley versus Kraemer and a Barrows
22 versus Jackson.

23 This country has demonstrated that we can have
24 problems, but there's also a means of redress. And as a member
25 of Congress, I'm proud to serve -- honored to serve and, quite

1 frankly, I believe that I'm blessed to have the opportunity.

2 Q. Now, Congressman, could you state in terms of the Ninth
3 Congressional District the variety of things that you all do as
4 a congressional office to provide support to constituents?

5 A. The Ninth Congressional District is a diverse district.
6 And as a result of the diversity, we have diversity of the
7 caseload. We have immigration cases. It is my belief that
8 we've acquired a reputation for working with persons who have
9 issues related to immigration. We've had immigration workshops
10 so that we can help persons lawfully matriculate from having
11 the green card, through the process, such that they can become
12 citizens.

13 We have had an opportunity to work with persons
14 who have had need of emergency assistance, a relative or family
15 member in another country needing to get to this country
16 because of an emergency that existed with a member of the
17 family. And we've had more than one case of this type where
18 we've actually had to help get family members into this country
19 on an emergency basis.

20 Immigration is important in the Ninth
21 Congressional District. But we also are proud of what we do
22 for our veterans. The VA is in the Ninth Congressional
23 District. And we have had cases involving disability. We've
24 had cases wherein persons were of the opinion that they -- that
25 they were not receiving the just compensation that they merit.

1 And we have had cases involving Medicare wherein persons were
2 of the opinion that they had not been properly paid the cost of
3 the services, Medicare had not properly covered the cost.
4 Medicaid.

5 We've had cases involving persons who were of the
6 opinion that they were not being treated fairly by some agency
7 of the government, and they wanted the congressional office to
8 intercede and to help out.

9 A very, very diverse caseload, one that requires
10 us to work on weekends, one that requires us to be available.
11 As a member of Congress I readily give my personal cell phone
12 number to all of my constituents. The only requirement to get
13 my cell number is to ask for it. Any person that asks can get
14 it. I don't have a secret cell. The number has been known for
15 many years, (713)858-8787. And I'm proud to share that number
16 with my constituents. That's the type of relationship we've
17 worked to build and foster with my constituents.

18 Q. Now, Congressman, is -- does -- sometimes your -- are
19 there security risks because of positions you take or things
20 that you do to support your constituents?

21 A. We have had persons to say some ugly things via the phone.
22 And we have called these things to the attention of the
23 appropriate members of the constabulary.

24 And we believe that there may be risks associated
25 with what we do. I think what happened in Arizona is an ugly

1 commentary on this. But I also know that it's an honorable
2 thing that we do, and that we cannot be deterred by those who
3 would perform dastardly deeds. That's what it means to be an
4 American, willing to do your job, do your duty without fear and
5 without favor.

6 JUDGE GARCIA: Okay. Thank you, Congressman.

7 Your next question.

8 BY MR. BLEDSOE:

9 Q. Could you tell us about the communities of interest, some
10 of the communities of interest that occur in your district,
11 Congressman?

12 A. Currently, meaning in 190 -- C185?

13 Q. No. As we sit here, the C100 plan.

14 A. C100, yes. My district has -- when it was initially
15 drawn, was approximately 36 percent African-American, 31
16 percent Latino, 21 percent Anglo and 12 percent Asian, very
17 diverse district. And within the district we have communities
18 of interest that bond around issues of interest. There is a
19 Sunny Side area and the Hiram Clarke area. These are
20 communities of interest, and they're primarily
21 African-American. They have the same needs. They have the
22 same political concerns, and they tend to work together on
23 issues.

24 We also have the Fondren area, which is heavily
25 Latino. And that area has bonded and worked with the

1 African-American community, especially when it came to the
2 election of a sheriff. We elected Sheriff Adrian Garcia, the
3 first Latino sheriff. And communities of interest within the
4 district worked together to get him elected.

5 We have the area out in the Bellaire and the
6 southwest portion of the district that we call the
7 international district. And in that area we have the Taiwanese
8 community. We have the Chinese community. We have the
9 Vietnamese community. In fact, in the Ninth Congressional
10 District the ballot is printed in three languages: English,
11 Spanish and Vietnamese. And there are those who are working to
12 try to get it in Chinese as well.

13 So the district is diverse, but that diversity is
14 something we celebrate, we appreciate and we work together.

15 Q. Has there been a coalition in Harris County, from your
16 estimation, between African-Americans and Latinos and Asians?

17 A. I'm proud to say that Judge Armando Rodriguez who --
18 Justice of the Peace in Harris County, is currently Justice of
19 the Peace. When I was a judge of the justice court, he and I
20 formed the Black and Brown -- Brown Coalition. The Black and
21 Brown Coalition addressed some political problems, economic
22 problems, but also just the problem of people similarly
23 situated working together for the common good.

24 Q. Now, Congressman, could you take a look at C185? And if
25 we can look at CD 9, get a closeup on that. And let me --

1 THE WITNESS: Your Honor, may I ask a question,
2 please?

3 JUDGE GARCIA: Brief one.

4 THE WITNESS: I'm unable to -- perhaps it's my
5 vision, but I'm unable to see the lines that would outline --

6 JUDGE GARCIA: If you need to get closer to the map,
7 if you need step down and get to it -- or, Mr. Bledsoe, if you
8 have a map that you can present to the congressman. While
9 you're asking questions over there, he can be looking at the
10 map.

11 MR. BLEDSOE: Yes, Your Honor.

12 JUDGE GARCIA: Or the congressman may approach the
13 screen, whichever is more convenient.

14 THE WITNESS: If I may, Your Honor, that one -- the
15 last one was much better. I can see that.

16 JUDGE GARCIA: Okay. Great. Thank you.

17 Go ahead, Mr. Bledsoe.

18 MR. BLEDSOE: Thank you, Your Honor.

19 JUDGE GARCIA: If at any point you can't see it, let
20 me know.

21 THE WITNESS: Thank you, Your Honor.

22 JUDGE GARCIA: Can you see it now, Congressman?

23 THE WITNESS: Yes, sir. Yes, sir.

24 JUDGE GARCIA: Okay. Great. Thank you.

25 MR. BLEDSOE: Okay.

1 BY MR. BLEDSOE:

2 Q. Could you take a look at C185 and tell us what impact it
3 has had on communities of interest within your district?

4 A. Yes. Your Honors, C185, as presented here, has negated --
5 if I may start with the district office that was in the
6 district, it is no longer in there. It has been removed from
7 the district.

8 JUDGE SMITH: Where was that? I'm sorry.

9 THE WITNESS: That was just below 610 on Buffalo
10 Speedway, right near South Main.

11 JUDGE SMITH: Yes.

12 THE WITNESS: And that area would be -- this is the
13 610 loop here. And it would be just below the 610 loop, which
14 you can't see in that area, but right in that area. It has
15 been extricated.

16 And also, the district was the home of the Astrodome,
17 which is a great identifier for persons around the country.
18 That has been removed from the district as well.

19 The Medical Center was up in this area -- is up in
20 this area and has been removed from the district.

21 There was a rail line that we've been working on for
22 some time with the mayor of Missouri City, Mayor Allen Owen;
23 mayor of Stafford, Mayor Leonard Sarcella. And that rail line
24 ran along U.S. 90A. It's called the 90A rail line. We were
25 able to have placed in an appropriations bill a million dollars

1 to get started with that project. That project has been
2 extricated, removed from the district.

3 And communities of interest have been impacted. In
4 this area we have what we call the Hiram Clarke area. It has
5 been removed from the district, the Hiram Clarke area.

6 Now, in terms of things that have been added to the
7 district, this area, which is heavily Latino, has been added to
8 the district. That's the Gulfton area, left in the district, I
9 suppose, but it's also a little bit -- an addition there. And
10 when we move down south here, Sienna Plantation has been added
11 to the district. And along here there is Shadow Creek, an
12 upscale development. And in Sienna Plantation not only do you
13 have upscale properties, but you also have estates with large
14 amounts of property that may at some point be converted to some
15 sort of tract building project, and as a result it would
16 probably be upscale as well.

17 So these are areas of concern in C185. The district
18 was about 35,000 over and did not necessitate the type of
19 surgery that has been performed. I liken it to a patient with
20 a cold and having the lungs removed and internal organs
21 removed. It just wasn't necessary.

22 JUDGE GARCIA: What percent of your original -- or
23 your current district was removed or taken out of your
24 district?

25 THE WITNESS: Well, Your Honor, I can point to the

1 areas and tell you that this was a heavily populated -- is a
2 heavily populated African-American community, the Hiram Clarke
3 area. And I can show you that over here -- let's see. That
4 was removed. I have a note here that I'll take a quick look
5 at.

6 JUDGE GARCIA: Perhaps if I ask it this way,
7 Congressman?

8 THE WITNESS: Yes, sir.

9 JUDGE GARCIA: How many current precincts in your
10 current district were removed, and how many new precincts were
11 added to your proposed 185 district?

12 THE WITNESS: I've not done that analysis in terms of
13 actual precincts.

14 JUDGE GARCIA: Okay.

15 THE WITNESS: I can tell you that the character of
16 the district has changed because it was an African-American
17 opportunity seat with African-Americans as a clear plurality.
18 And now it could become a Latino opportunity seat, or it could
19 become, as the area develops, a seat that might be held by some
20 other ethnicity. And I don't think race is the sole factor
21 that we should consider when talking about these things. I
22 merely mention this in response to the question.

23 JUDGE GARCIA: Okay. Go ahead, Mr. Bledsoe.

24 MR. BLEDSOE: Thank you, Your Honor.

25 Well, in reference to that, let me do something I was

1 going to do a little later. Can we look at C100? And if we
2 could overlay C185.

3 BY MR. BLEDSOE:

4 Q. So I guess we can look at this -- okay. Congressman,
5 looking at this, does this assist you in answering the question
6 in reference to what has been removed in your district?

7 A. I'm assuming that this is a boundary line for C185. From
8 this distance it appears to be. If it is, then you can see
9 that this area has been removed. And I assume that the
10 boundary -- from here, I have to be candid with you, it's very
11 difficult for me to see the boundary lines for 185.

12 JUDGE GARCIA: Perhaps you might dim the lights.
13 Thank you, Bill.

14 MR. BLEDSOE: You want to get closer to the screen?

15 THE WITNESS: I just think it's a question of -- I
16 think Your Honor's correct. If you dim the lights, perhaps
17 that will help me.

18 JUDGE GARCIA: Oh, that's --

19 MR. BLEDSOE: That's better.

20 JUDGE GARCIA: Thank you, Bill.

21 THE WITNESS: That's much better. Thank you.

22 JUDGE GARCIA: Okay.

23 THE WITNESS: Now, with this as the C185 boundary --
24 I'm still having -- can you, please, ma'am -- may I ask a
25 question, Your Honor? May I ask the lady if she can show us

1 just the boundary for C185 so that I can pick it up? I'm
2 trying to pick up the C185. Okay. Now, if you would, perform
3 your overlay again, please.

4 Okay. As you can see, with C185 having this as a
5 boundary, this is the Hiram Clarke area that I was speaking of,
6 Your Honors. And the rail line that -- well, the district
7 office was right in this area, which is below 610. 610 acted
8 as sort of a boundary between the 18th Congressional District
9 and the Ninth Congressional District. And south of 610, as you
10 can see, is the Ninth Congressional District on 100.

11 But this area has been removed. And if we move down
12 over here -- I want to go into this area, if I may -- you can
13 see that we have had additional population added. And down
14 here, as -- it looks like we've had area -- this is 185 here.
15 We have additional areas. The Sienna Plantation area is in
16 this area.

17 And if I can see this -- I'm not sure that I am, but
18 it looks like this is what we call Almeda. Then we have the
19 area of Shadow Creek in there.

20 BY MR. BLEDSOE:

21 Q. And could we go back to C100 and take off the overlay for
22 185? And if we could now add the overlay for C193. Now --

23 A. With this overlay, with 193 the -- line as a boundary, you
24 can see that the area that was removed, this is a heavily
25 Latino area. And it maintains the rail line that I spoke

1 about. Much of that is still maintained. The district office
2 is still in along here. The 90A rail line runs along here.
3 And the communities of interest are -- Hiram Clarke and the
4 Sunny Side area are still in. So it maintains the integrity
5 and the character of 100, 193 does.

6 Q. And Congressman, can you tell us if it is more consistent
7 with the current contours of C100, if C193 is more consistent
8 with that than C185?

9 A. I think it's visually shown that it is. And I would say,
10 yes, it is much more consistent than C185. C193, much more
11 consistent than C185.

12 Q. Okay.

13 JUDGE SMITH: If I could just ask a couple of
14 questions. I'm trying to understand.

15 THE WITNESS: Yes, sir.

16 JUDGE SMITH: So the area that you were talking about
17 that would not be in under -- it is not under C100 is that
18 Gulfton area; is that right?

19 THE WITNESS: Yes, sir.

20 JUDGE SMITH: Okay. So under C193 would that area be
21 in the 7th?

22 THE WITNESS: Under C193 I believe -- I believe it
23 is. Now, Your Honor, I ask that you not hold me to it, but I
24 believe it is.

25 JUDGE SMITH: Okay. Well, I was just -- I was

1 interested in that because, of course, you're absolutely
2 correct, that's a very heavily populated, somewhat densely
3 populated Hispanic area. But for that area to be in
4 Congressional District 7, that would not be a very effective
5 vote in Congressional 7, would it? I mean, that particular
6 community of interest in Gulfton would be kind of isolated?

7 THE WITNESS: I'm not sure that I would use the term
8 "isolated," Your Honor. If this is 7, and I'm assuming that it
9 is, the yellow.

10 JUDGE SMITH: Right.

11 THE WITNESS: If this is 7, you will see that 7 also
12 goes into -- there is more Latino area down in here as well.
13 And I don't think it's -- it would be isolated from the other
14 Latino areas.

15 JUDGE SMITH: I mean, I guess my question was more,
16 in 7 Latinos are not going to have an opportunity to elect
17 their candidate of choice in 7, under anyone's plan, as far as
18 I know. Isn't that fair to say?

19 THE WITNESS: As we have been using terminology, Your
20 Honor, 7 would be a white opportunity district.

21 JUDGE SMITH: Okay. I don't mean to belabor it. I
22 wanted to focus in on that Gulfton community, which is a
23 substantial Hispanic area, as you have said.

24 THE WITNESS: Yes, Your Honor. And I do agree that
25 it is a substantial Latino area.

1 JUDGE SMITH: Sorry for the interruption.

2 MR. BLEDSOE: Thank you, Your Honor.

3 Can we turn the lights on now? A follow-up question,
4 what Judge Smith just asked, in reference to.

5 BY MR. BLEDSOE:

6 Q. Now, we did tender, did we not, some -- the -- well,
7 you're aware, are you not, that Richard Murray, expert, did
8 indicate that it was possible to draw Latino opportunity
9 districts in Harris County that were not part of C185?

10 A. This is correct.

11 Q. Okay. And it's true, is it not, that -- in the C194 map
12 that some of those -- or at least a new Latino opportunity
13 district was suggested that would not affect the contours of
14 the proposed CD 9 that we have here?

15 A. Yes, sir. The belief is, Your Honors, that while 7
16 currently has this area, with this configuration, it can be
17 constructed such that this area could be a part of another
18 district. I'm sort of hamstrung in what is versus what could
19 be. And that's the point I would make, Your Honor; that if
20 it -- I try to be exact in my testimony, and in testifying and
21 responding this is what is. But there are other possibilities
22 that could and should be explored.

23 Q. Okay. And, in fact, if C193 is adopted, would your office
24 continue to provide services to any Latinos in and around the
25 Houston area?

1 A. We do this in concert with other officers that I'm -- we
2 have a requirement that we expend congressional dollars on
3 persons within our district, generally speaking. But we don't
4 turn people away. We've had persons -- in fact, we get many
5 persons who come in from other districts, and they have their
6 various stories. But we don't turn persons away.

7 What we do is we'll contact the other
8 congressional district and ask if we can perform this service
9 for this person who is not a constituent in the sense that they
10 are not a part of the Ninth. But they're people in need of
11 help. And we try not to turn people away who need help.

12 Q. And, Your Honor, joint agreed maps and data, I want to
13 reference this to the congressman and ask him if he would take
14 a look at District Number 9 here and tell us -- before we get
15 to voting age population and the total population in your
16 district, could you tell us the percentage of African-Americans
17 and the percentage of Latinos that are in C185, the proposed
18 district for CD 9?

19 A. As presented in this chart, the African-American
20 population is 38.3 percent. The Latino population is 38.8
21 percent.

22 Q. Okay. And from your knowledge of the growth that's
23 occurring in your district under C185, is there more Latino
24 growth; more African-American growth?

25 A. We've had a large growth in the Latino community, which is

1 reflective of what's happening in the State of Texas.

2 Q. And so would that configuration, with those numbers,
3 present difficulty down the road in terms of future challenges
4 to the existing coalition or the nature of CD 9?

5 A. Well, it presents a challenge in the sense that we have
6 had the Ninth Congressional District identified as an
7 African-American opportunity district. It is -- has been
8 identified as one of three African-American opportunity
9 districts by the state. And since it has been identified as
10 such, it is my belief that sound policy would merit maintaining
11 it as an African-American opportunity district.

12 Q. Okay. Now, the -- when you have such large numbers of
13 both groups, even though it's part of a coalition put into one
14 district, what's the necessary -- or the possible impact of
15 that?

16 A. You create an unnecessary tension when you do this,
17 because you do have persons who are similarly situated but do
18 have aspirations. And those aspirations, when properly
19 pursued, can create unnecessary tension.

20 And I say unnecessary because clearly we can have
21 Latino opportunity districts, African-American opportunity
22 districts, Anglo opportunity districts. And we have
23 demonstrated that with 185 by having this huge number of Anglo
24 opportunity districts.

25 It is -- it is a map that, for all intents and

1 purposes, has -- I think it shows a population of less than 50
2 percent Anglo, but 72 percent of the districts, thereabout --
3 and I'm calling them opportunity districts, because in every
4 one of those there's a clear opportunity for an Anglo to get
5 elected. And there probably won't be a lot of tension.

6 Q. And if you -- if you provide additional opportunity
7 outside of CD 9 for Latino representation, does this relieve
8 the potential for tension within CD 9?

9 A. It is my belief that it would. And it's my belief that it
10 can be done. And that's why we're here, because we believe
11 that this is something that is absent from C185, the
12 opportunity to have Latino opportunity districts as well as
13 African-American opportunity districts. It clearly has Anglo
14 opportunity districts.

15 Q. Now, the -- do you believe it's appropriate to join
16 African-Americans and Latinos together for the purpose of
17 creating a district under Section II of the Voting Rights Act?

18 A. Well, it's my belief that the State was correct when it
19 identified Districts 9 and 30 and 18 as opportunity districts
20 for African-Americans. And I say the State identified because
21 I hold in my hand a document from the State. If I may, Your
22 Honors, it's styled Request for Admissions.

23 And in admission number 6 from the State of Texas
24 directed to me admit that roughly proportional representation
25 would not require more than the three African-American

1 opportunity districts that currently exist. So in this request
2 for admissions, the State sort of admits that the three seats
3 that we have are African-American opportunity districts.

4 Q. Okay. And currently, the district under C100 and in both
5 of the other plans are less than 50 percent African-American
6 voting age population; is that correct?

7 A. Less than 50 percent, but a plurality in 100 and a
8 plurality in 193, of African-Americans.

9 Q. Okay.

10 A. And I think that that's important to note; that when you
11 have a clear plurality, you don't have -- you don't create the
12 tension that we've been talking about.

13 Q. Okay. And in terms of the clear plurality, does that
14 function to permit African-Americans to elect the candidate of
15 their choice in the primary?

16 A. It would. And it doesn't do it to the exclusion of
17 Latinos with a map properly drawn, having similar opportunities
18 in nearby districts.

19 Q. Okay. Now, in reference to the issue of, though, the
20 opportunity districts, African-Americans and Latinos in your
21 current district, you talk about its designation by the State
22 as an opportunity district. Currently, the way you get to 50
23 percent in your district is to add African-Americans and
24 Hispanics and/or Asians?

25 A. This is correct. When we talk about African-American

1 opportunity districts, or opportunity districts, you're talking
2 about adding minorities, if there's going to be a minority
3 opportunity district. And then, to be more specific, it can be
4 a Latino opportunity district because of the plurality of
5 Latinos. It could be an African-American opportunity district
6 because of a plurality of African-Americans. And it can be an
7 Anglo opportunity district because of a plurality of Anglos or
8 even a majority, I suppose.

9 Q. Now, Congressman, I want to visit with you about your
10 awareness in reference to racially polarized voting that might
11 exist today. Could you tell the Court whether or not you
12 believe that racially polarized voting continues to exist?

13 A. I believe it does. I believe that Lonnie Smith filed his
14 lawsuit against Mr. Allwright and he prevailed. That was in
15 Harris County, by the way. Mr. Lonnie Smith, I believe, was a
16 resident of Harris County, to eliminate the white primaries.

17 But I see C185 as a progeny of Smith versus
18 Allwright and Terry versus Adams. Because after the white
19 primaries, and there was a preprimary that was white. And by
20 the way, I take no great pleasure in saying these things. I'm
21 trying to be factual. It does not make me feel warm and fuzzy
22 to say these things. It's a painful thing. But I have to tell
23 the truth. And the truth is that from Allwright to C193, we
24 have had invidious discrimination. It does exist.

25 Q. And so in that regard, let me ask you, there is -- I want

1 to talk with you about some specific examples. And, Your
2 Honor, I think there's no objection. We wanted to offer
3 Exhibit 633, which we've tendered copies to the clerk for the
4 Court, a news article on this topic in regards to a previous
5 election in Harris County.

6 JUDGE GARCIA: Any objection?

7 MR. FREDERICK: Your Honor, I believe the State will
8 have similar things to introduce. We have no objection.

9 JUDGE GARCIA: Thank you.

10 JUDGE SMITH: At the end of your last answer you said
11 C193. I think you meant C185.

12 THE WITNESS: 185. I stand corrected. Thank you,
13 Your Honor. Thank you.

14 BY MR. BLEDSOE:

15 Q. Okay. Congressman, we've got an article here, and I think
16 you feel that this somewhat indicates the current existence of
17 racially polarized voting in Harris County, do you not?

18 A. Yes, sir. I believe this will be the same article that we
19 had at the deposition.

20 Q. Okay. Could you explain to the Court what this article
21 says and let them know what occurred within the article that
22 you believe is reflective of racially polarized voting?

23 A. Yes. Your Honors, name is important to us. It speaks
24 volumes about who we are. My mother gave me Alexander. It
25 means helper of human kind. And I am very proud of my name. I

1 would regret having to surrender my name to hold public trust,
2 which I consider a high honor.

3 This news article, which is styled *What's In a*
4 *Name*, and then the word "D-e-f-e-a-t" is spelled -- this
5 article goes into how people gave up a part of their personage
6 so that they could hold public trust.

7 And one example is highlighted with Ms. -- I
8 believe her name is Mekisha Murray, a white female. She lost
9 an election in one of the -- what we call in Harris County a
10 wave election. We have these types of elections. We've
11 literally turned some people in and some people out.

12 But in this election she lost. And according to
13 this article her husband gave an analysis that's -- that called
14 to her attention, and these are the quotes from the article.
15 You have your mother to blame for this, because the name
16 Mekisha was given to her.

17 And it goes on to point out in this article
18 that -- as she is quoted: Everyone before they meet me thinks
19 I'm black, says Murray, a 34-year-old former prosecutor, turned
20 defense attorney. And I'm not saying that's bad. I'm just
21 saying that people prejudge, and that's not right.

22 Goes on to indicate that Murray, with her fair
23 hair and skin, is about as white as they come under the Texas
24 sun -- not my words, the words from the article.

25 And finally, as it relates to her, there's an

1 indication, quote, we can't kid ourselves, end of this
2 quotation, I'm a white girl, and I'm going to have a white girl
3 name. Ms. Murray did change her name so that she would not
4 have that as an impediment, as we saw it. She changed her name
5 to, I believe, Jane as the article indicates.

6 But this transcends party affiliation because as
7 we peruse the article to a greater extent, we find that there
8 was a judge who is now Republican Cathy Cochran. And before,
9 she was Cochran. She ran. And her last name was spelled
10 H-E-R-A-S-I-M-C-H-U-K. I have chosen not to abuse the lady's
11 name, as it was. But that's the spelling. And she ran and she
12 lost. But she had the good fortune to have the Honorable Rick
13 Perry appoint her. And she decided that she would go back to
14 her maiden name, which was Cochran, so as to hold public trust.
15 The point is that name makes a difference.

16 Q. Now, in the -- in the election where Ms. Murray lost the
17 election, did most of the members of her party win election
18 that time, in this wave election that you described?

19 A. Yes, sir. According to the article, three persons who
20 lost had names that were different, "unusual" is the term that
21 was used. And by the way, Ms. Cochran was Anglo as well.

22 Q. And --

23 A. Judge Cochran.

24 Q. I think there -- Goodwille Pierre was one of the losers as
25 well.

1 A. Goodwille Pierre.

2 Q. And what race is Mr. --

3 A. He is African-American.

4 Q. Okay. And did it appear to you that the names being
5 connected with minorities had anything to do with the outcome
6 of those races?

7 A. It very much appears that way to me and to the persons who
8 lost as well it seems. And I think it's -- sometimes these
9 things are difficult to prove, but they're easy to know. We
10 may not prove it, but we know it's there. We know it.

11 Q. And the African-American candidate for district attorney
12 that year, who was running with the same party, did he lose?

13 A. There was an African-American who was running, Bradford,
14 who was former police chief, Houston, Texas. And he was
15 running county wide, along with the other candidates, and he
16 did lose.

17 Q. Now, do you feel that your input was perceived in good
18 faith in your attempts to work on the construction of a new
19 congressional map in Texas?

20 A. I was very disappointed, Your Honors, because I thought
21 that we would have the opportunity to have meaningful input. I
22 understand now and understood then that it was not my decision.
23 But I thought that we would have input. We did have one
24 meeting, and this was with the congressional delegation. And
25 the belief was that there would be follow-up meetings, but they

1 never took place.

2 The belief was that we would have something that
3 might be called a congressional map that was agreed to by
4 members of Congress, understanding that there's a majority
5 party and a minority party, but that we would try to present
6 something that would have some degree of credibility from the
7 entire Texas delegation.

8 I don't believe that occurred. If it did, it
9 occurred without my knowledge. I don't believe such a plan was
10 presented.

11 Q. And in reference to -- for example, the area where your
12 office is and some of the areas that were taken out of your
13 district, did you join with Congresswoman Lee to come together
14 with an agreement to try to make the proposed 185 plan a little
15 bit more digestible by making some changes to your district and
16 hers, that both of you agreed to?

17 A. We tried to work through staff members to restore some of
18 the areas that had been removed from both districts. And we
19 thought that if two members could accomplish this, that it
20 would be accepted. So we did try. My district office we tried
21 to place back into the Ninth Congressional District. And
22 there's an area that has been a part of the historic 18th
23 Congressional District, my suspicion is since the inception,
24 over in the Third Ward. And we tried to do what we could to
25 restore the equilibrium.

1 But the time did not -- was not on our side. And
2 also, I might add, there was also kind of a reality that we
3 were not going to get a lot of our desires adhered to.

4 Q. And so you made a proposal for modification, and that
5 proposal was not accepted?

6 A. Well, we tried to work out a proposal. I did submit, what
7 I thought would work, through member Smith, whom I have great
8 respect for, great respect. I did submit a proposal to him,
9 and his indication was that it just wasn't -- the time -- it
10 did not get done.

11 Q. Okay. Now, do you have an opinion in reference to whether
12 or not there was any intent to discriminate against
13 African-Americans and Latinos in the adoption of this map?

14 A. It is difficult to believe that it could happen by
15 accident, the type of surgery that was performed. It's very
16 difficult to believe it could happen by accident. If you
17 balance accident and intent, I think that it is not -- it would
18 not be unusual for a reasonable and prudent person to conclude
19 that there was some intent. Now, that's looking at the map on
20 its face.

21 Going beyond just looking at it on its face, the
22 way it was promulgated, not a lot of opportunity to see things
23 as it developed, something that was sort of presented. And it
24 wasn't a presented in a take it or leave it fashion. It was
25 presented, quite candidly, in a take it fashion. You have --

1 you don't have the leave it option. You have the take it
2 option.

3 And so we find ourselves here today because of
4 what happened. Not something I'm proud of. My suspicion is
5 that Thurgood Marshall wasn't proud when he delegated Smith
6 versus Allwright. But the NAACP is known to do what we do, and
7 here we are again.

8 Q. Now, you -- you're aware that Dr. Murray has indicated
9 that, contrary to now where African-Americans and Latinos kind
10 of dominate the vote in 10 of the 32 districts and have
11 influence in the vote, and in the 11th district, that this new
12 plan only provides for ten districts that would be dominated by
13 African-American or Latino voters, while the other 26
14 districts, be -- would increase four, would be dominated by
15 white voters.

16 That -- does that indicate to you any value being
17 associated with the vote of one race as compared to other
18 races?

19 A. Well, it, on its face, has an appearance of unfairness.
20 The Honorable Lee Duggan in Houston gave me words that I try to
21 use regularly. He said, it's not enough for things to be
22 right. They must also look right. Now, that doesn't look
23 right. And then when you examine the substance of it and you
24 look at the actual empirical evidence, you then find that it
25 isn't right. In my opinion such a plan invidiously

1 discriminates against minorities, and such a plan doesn't
2 happen by accident.

3 Q. Okay. And if -- if the Court found some issues or
4 problems with the current map, what would you like to see
5 happen?

6 A. I also understand that there may be an opportunity, if the
7 Court in its wisdom concludes that this -- this map is not
8 constitutionally constructed, that there may be an opportunity
9 to do some revisions. And I was not at the table when we
10 devised C185. And it's been my opinion that if you're not at
11 the table, you can be on the menu. I would dearly rather be at
12 the table than on the menu, and would like to be there through
13 either surrogates or with pen in hand to give some input so as
14 to assure fairness, not just for African-Americans, by the way,
15 but for Anglos, Latinos, Asians, fairness for all. I would
16 hope that the Court would give us the opportunity to be a part
17 of such a process.

18 Q. And would your experience in being in Congress when the
19 Voting Rights Act was extended support your belief that
20 African-Americans and Latinos, and in some instances Asians,
21 can be joined together for purposes of creating a district?

22 A. Yes, sir. When we passed that legislation, signed by the
23 Honorable George Bush, I might add, of Texas -- when we passed
24 that legislation, it was our desire that an opportunity
25 district for minorities, and then we can be more specific in

1 terms of Latino, African-American -- but for minorities would
2 consist of minorities together composing 50 percent, plus one
3 additional vote -- or one additional person. If we could get
4 50 percent minorities, plus one, then we would have an
5 opportunity district that would be called a minority
6 opportunity district, which could be further subdivided into
7 Latino and African-American. That was our intent.

8 Q. And with the changes that were made with C185, does that
9 impact your ability to leverage benefits or opportunities for
10 the people within your district?

11 A. The Medical Center provides an opportunity to -- which is
12 a part of 100, when it was constructed. The Medical Center
13 provides an opportunity for you to interact with colleagues, to
14 be of assistance, and to be mutually beneficial to each other.

15 If you have the Medical Center in your district,
16 you have the ability to work with colleagues on projects for
17 the Medical Center and work with them on projects for other
18 areas of concern to them. So it provides your district with
19 additional prowess, if you will, a kind of prowess that's
20 recognized in our political order.

21 The 90A rail line, which has been extricated --
22 the Medical Center has the 90A rail line there. If you have a
23 rail line in your district, there are other members who are
24 working on rail lines as well. You collaborate. You work
25 together. And it affords you the opportunity to have

1 A. Good afternoon.

2 Q. Or good morning, I should say. It's still morning.

3 A. Good morning, sir.

4 Q. You discussed in your testimony the process of drawing the
5 congressional redistricting plan that was plan C185. And I
6 believe that you testified that the map was presented in a take
7 it or leave it fashion. Is that accurate?

8 A. Close. I said it actually was not take it or leave it.
9 It was take it.

10 Q. Oh, just take it.

11 A. We didn't have the leave it option. And that's why we're
12 here today.

13 Q. Well, is it fair then to say that you believed that the
14 process of passing the congressional redistricting plan was
15 unnecessarily rushed?

16 A. It did appear to be rushed near the end because there was
17 a thought that this might be left to the courts. And then
18 there was an accelerated pace. And at the accelerated pace
19 near the end we had C185 promulgated.

20 Q. And it's correct, as you know -- as far as you know, that
21 the congressional redistricting plan was passed in a special
22 legislative session. Is that accurate?

23 A. I believe this to be accurate, special session, yes, sir,
24 not in the general session.

25 Q. And are you aware, Congressman Green, that the Texas

1 Constitution provides that a special session of the legislature
2 cannot last more than 30 days.

3 A. Yes, sir. Well, let me -- let me say to you, I believe
4 this to be the case. I don't -- I'm not going to be adamant
5 about it. But I do believe this to be the case. And I also
6 believe that you get to the special session because of things
7 that you didn't do when you had the time in the regular session
8 to do them.

9 Q. And are you aware, Congressman Green, that a large part of
10 the regular session was spent on budget issues?

11 A. Of course. Yes, sir, I'm aware. And I'm also aware that
12 we started this process long before the end of that session.
13 Yes, sir.

14 Q. Congressman, are you suing -- you are a named plaintiff in
15 this case, correct?

16 A. Yes, sir.

17 Q. Are you suing as a member of Congress or as a voter?

18 A. I am candidly suing as a child of God who has been blessed
19 to be a member of Congress and has a privilege of voting in the
20 United States of America. So I'm suing as a proud American
21 who's not proud of having to do what I do.

22 Q. I understand.

23 Congressman, do you believe that Congressional
24 District 9, under plan C185, the enacted plan, denies
25 African-American voters the opportunity to elect the candidate

1 of their choice?

2 A. I do believe that this can happen because there is going
3 to be, as it's constructed and as time passes, the tension that
4 has been talked about. And my suspicion is that what started
5 out as has been indicated, as an African-American opportunity
6 district, it may cease to be such.

7 Q. In your opinion, Congressman, what -- can you explain a
8 little more what would happen to make it change from an
9 African-American opportunity district to something else?

10 A. Well, it's what has happened, coupled with what can
11 happen. We have had the character of the district changed,
12 such that a district that was a clear plurality with
13 African-Americans is now borderline. We have had areas added
14 to the district that can change the composition of the district
15 in the years to come, especially in the Shadow Creek area that
16 I called your attention, the Sienna Plantation area that I
17 called to your attention. To areas can help change the
18 character.

19 So when you couple with -- couple what can happen
20 with what has been done with this map, at a time when we were
21 35,000 over and not in need of the major surgery that took
22 place, that causes a great deal of concern.

23 Q. And Congressman, when you -- when you talk about things
24 that can happen, can you -- can you explain for me and for the
25 Court specifically what would happen? Are we talking about

1 shifts in population?

2 A. I'm talking about when persons in a -- in what is styled
3 as an African-American opportunity district by the state,
4 styled as such, not performing as such, not being able to elect
5 the person of choice by virtue of the way the district is
6 constructed. We can call it an African-American opportunity
7 district, but it may not perform as such because of the
8 construction of the district and because of the growth in
9 population as it is constructed.

10 Q. Is there any specific population that -- in your
11 understanding, the growth of that population would prevent what
12 had been an African-American opportunity district from
13 continuing to perform?

14 A. Well, the Sienna Plantation area, as I indicated, is an
15 area that is upscale and will probably produce an influx of
16 Anglos. The Shadow Creek area is similarly situated and will
17 probably perform in a similar fashion.

18 And, of course, there will be additional growth in
19 other communities as well. The Latino community is a growing
20 community.

21 Q. I want to go to a slightly different area for a moment. I
22 believe you used -- we've been talking about African-American
23 opportunity districts. Is my understanding correct that when
24 you use the term African-American opportunity district, that's
25 a district in which African-American voters constitute a

1 plurality of voters?

2 A. An African-American opportunity district would mean that
3 you have African-Americans in a plurality, but they are known
4 to associate with, affiliate with, work with another minority.
5 And those two minorities, or more -- two or more minorities,
6 working together, would constitute the African-American
7 opportunity district. Just as there are Latino opportunity
8 districts where African-Americans are not a plurality, but they
9 support Latino candidates. And they would then elect the
10 candidate of their choice by and through working with the
11 Latino community.

12 Q. Well, I said plurality in my question. I suppose it's
13 possible that you could also have a majority with
14 African-American voters. And would that also be an
15 African-American opportunity district?

16 A. It is my belief that a majority of African-American voters
17 could constitute an African-American opportunity district, but
18 it doesn't mean that they have to elect an African-American.

19 Q. Okay. I understand.

20 And are you familiar, Congressman, with the term
21 "coalition districts"?

22 A. Yes, sir.

23 Q. Can you explain what that term, "coalition district,"
24 means to you?

25 A. Thank you. A coalition district, it can mean a coalition

1 between minorities, or it can mean something else. So you can
2 have a minority coalition district, which means that
3 minorities, coalescing, would elect a candidate of choice. Or
4 you could have a coalition district in general, which means
5 that a good number of ethnicities might get together to elect a
6 candidate of choice.

7 But when we had been working in Congress with the
8 Voting Rights Act, we were trying to assure that minorities
9 could coalesce and have a minority coalition that would produce
10 an opportunity district. Coalescing in and of itself does not
11 produce an opportunity district. Coalescing with minorities,
12 such that you can elect a candidate of your choice, does.

13 But there's nothing wrong with coalescing with
14 Anglos. I do it all the time. There's nothing wrong with
15 that. It's just that for the purposes of Section V of the
16 Voting Rights Act, we're talking about opportunities for
17 minorities in states that have been placed under the Voting
18 Rights Act for good reason.

19 Q. And so it is possible to have a district where there is a
20 coalition between, say, African-American and Anglo voters; is
21 that correct?

22 A. It would not be called a minority coalition for the
23 purposes of voting rights. Yes, you can have this, a coalition
24 of African-Americans and Anglos.

25 Q. Do you believe that Congressional District 9, as drawn in

1 plan C185, is a coalition district?

2 A. I believe that, as drawn in 185, it is a district that in
3 time will not perform as it has been captioned. You have
4 captioned it as an African-American opportunity district. I
5 don't think that that style is going to be indicative of the
6 performance as time passes.

7 Q. My next question may get to what you're talking about.
8 You testified earlier that the way Congressional District 9 has
9 been drawn in plan C185, there might be some tension in that
10 district. Is that an accurate characterization?

11 A. I think it's a fairly accurate characterization. I
12 indicated that aspirations made by themselves, tripping over
13 each other.

14 Q. When you say aspirations tripping over each other, whose
15 aspirations are you referring to?

16 A. I believe that Latinos and African-Americans are similarly
17 situated. They have similar economic concerns, similar
18 political concerns with reference to education -- education,
19 their concerns are similar. And I believe that they have been
20 locked out of the political order at one time, under the color
21 of law, until we had the courts to review and make a
22 difference. They're both desiring, as a deep burning desire,
23 to become a part of America, part of the political order. And
24 that burning desire can create the tension.

25 And that tension is unnecessary. I think that we

1 have to make a note that we're talking about unnecessary
2 tension, because the lines can be drawn such that you can have
3 Latino opportunity districts, African-American opportunity
4 districts and others as well.

5 Q. And so is my understanding correct then, that what you're
6 saying is that if -- in some districts if there is a certain
7 percentage of Latino population and a certain percentage of
8 African-American population, then the collected ambition of
9 each group might conflict with the other?

10 A. They work -- the ethnicities work together quite well.
11 They do. We've demonstrated that in the Ninth Congressional
12 District. It works well when there's a plurality. When you --
13 when you have, on balance, something less than a plurality,
14 then you can have some tension to develop. And it's
15 unnecessary tension. Tension because there are no other
16 options is one circumstance. But tension created when there
17 were other options I believe is invidious and the kind of thing
18 that is frowned upon.

19 Q. Congressman, in your experience do you believe that --
20 well, let me ask you first, are you familiar with the term
21 "cohesive voting" or "political cohesion"?

22 A. I'm not sure that I'm as familiar with it as I am the
23 terms that we've been using.

24 Q. Okay. Well, I don't -- okay. Well, I'll ask it this way
25 then. In your experience do African-American and Latino

1 voters, do they tend to vote for the same candidates in primary
2 elections?

3 A. Yes, sir. Generally speaking, Latinos and
4 African-Americans, together with others, elected Sheriff Adrian
5 Garcia. We elected judges in Harris County. And it was not
6 done because of race as much as it was because of having been
7 locked out and having capable, competent and qualified
8 candidates of all races running.

9 When you have people who are capable, competent
10 and qualified who don't get the opportunity, that is what
11 creates some of this tension that we talk about and causes
12 people to want to be a part of the process and want to see
13 candidates run. And when they do, they support them. We work
14 well together, generally speaking. Yes, sir.

15 Q. In those races that you just mentioned, those were -- were
16 those races in which the African-American and Latino voters
17 voted for the same candidate in the primary election as opposed
18 to the general election?

19 A. Primary and general. Primary and general, yes, sir.

20 Q. Okay. Well, let me ask you then, Congressman, you've
21 been -- we've been talking about potential tension districts,
22 and it's a little unclear to me if African-American and Latino
23 voters tend to favor the same candidates in primary elections,
24 then why would there be concern about tension between the two
25 groups?

1 A. Well, there is sort of a gentle persons agreement that
2 when a plurality exists, you work to further the opportunities
3 for persons who represent your views, that can come from a
4 plurality.

5 When equilibrium exists, then it could easily be
6 the case that each party wants to have the same opportunity.
7 So that's when you have unnecessary tension. And I have to
8 continue to emphasize unnecessary. Because in the scheme of
9 things we can draw districts that are Latino opportunity
10 districts, African-American opportunity districts by virtue of
11 plurality.

12 Of the Anglo seats, the 26 of them for the most
13 part, there will be no tension between Anglos and minorities in
14 those districts. They are clearly opportunity districts for
15 Anglos. The law allows African-Americans and Latinos to have
16 similar opportunities.

17 Q. You mentioned equilibrium. So is my understanding
18 correct, that as long as -- and for purposes of this question
19 let's say that the two major groups in a district are
20 African-American and Latino voters. Is it your testimony that
21 as long as either African-Americans or Latinos constitutes a
22 clear plurality, then there isn't a problem with cohesion
23 behind the same candidates?

24 A. If they constitute a majority with one as a plurality, but
25 they -- they together constitute a majority plus one. That

1 then becomes an opportunity district for either the Latinos or
2 the African-Americans. And that can be done in Texas. It is
3 not necessary to create this tension in Texas.

4 Q. Okay. I think I understand. So then the other side of
5 that would be that if you have a district, again, going back to
6 American and Latino voters, who together constitute a majority
7 in the district, but within that majority they're pretty evenly
8 split, that's where you get the potential for tension? Is that
9 accurate?

10 A. That's where the potential can exist. And it is
11 unnecessary for that to happen in the Harris County. It is --
12 it is something that does not appear to be occurring by
13 accident.

14 Q. Well, is it your -- is it your understanding that in
15 drawing a map the State has an obligation to draw districts and
16 prevent that sort of equilibrium between any two major racial
17 or ethnic groups?

18 A. I think the State has the opportunity in a voting rights
19 state to honor voting rights laws, the 14th Amendment to the
20 Constitution, the 15th Amendment. I think that the State is
21 duty bound to honor the Constitution. And I don't believe that
22 the State has to create unnecessary tension between Latinos and
23 African-Americans when there are other options clearly
24 available. The State has gone to great lengths to create 26
25 Anglo seats. There will be no tension between Anglos and other

1 ethnicities in those seats for the most part. There may be
2 some exceptions. But with the African-American seats in Harris
3 County unnecessary tension has been created.

4 Q. So if I were drawing -- if I were drawing a redistricting
5 map, how would I know if a particular district -- how could I
6 tell the difference between a minority coalition district and
7 what we might call a tension district?

8 A. A minority coalition district, when the empirical evidence
9 presents itself, would consist of minorities constituting 50
10 percent plus one and a plurality of one minority. The law
11 allows for a plurality of one minority. Race should not be the
12 only factor. It should not. And you can do this without it
13 being the only factor. And I believe that in Harris County it
14 is unfortunate, but we have this unnecessary tension that can
15 take place under C185.

16 Q. As you understand the law, Congressman, does the Voting
17 Rights Act require the legislature to draw what we've been
18 describing as minority coalition districts if it is possible to
19 do so?

20 A. I believe that the law requires that in Section V states
21 that are under the Voting Rights Act because of a history of
22 onerous behavior -- not something I'm proud of. But because of
23 that history and when you have empirical evidence showing that
24 you have the numbers to create minority seats, but you have not
25 been doing it, the Voting Rights Act requires that we remedy

1 this. And when the legislature doesn't do it, the Voting
2 Rights Act allows, thank God, the judiciary to do what the
3 legislature did not.

4 Q. Again, as you understand the law, Congressman, would the
5 creation of a tension district, would that be inconsistent with
6 the Voting Rights Act?

7 A. I believe it's inconsistent when it is done unnecessarily,
8 when it is done notwithstanding empirical evidence indicating
9 that the districts can be drawn without that tension.

10 We don't -- in this country we don't want to pit
11 people against each other unnecessarily in the political order,
12 when it comes to minorities, because of our past history.
13 That's what the Voting Rights Act's all about, our past
14 history, an opportunity for us to get it right this time. You
15 got it wrong. Now we can get it right.

16 And if you have minorities that can be elected
17 from opportunity districts, then they should be given the
18 opportunity to be elected or give the people an opportunity to
19 elect the candidate of their choice. That's what the
20 opportunity district's all about, giving people the
21 opportunity, minorities, to elect the candidate of their
22 choice.

23 Q. Just a couple of more questions, Congressman. In your
24 understanding, would the State violate the Voting Rights Act if
25 it took an existing African-American opportunity district and

1 redrew it in some way so that it became a Latino opportunity
2 district?

3 A. If the State -- there is something called the baseline.
4 And if you -- if you have growth in the African-American
5 community, in the Latino community -- to a great extent in the
6 Latino community, to a lesser extent in the African-American
7 community -- but when you have that kind of growth, if you
8 don't allow for an adjustment in your baseline pursuant to the
9 growth, I do believe that this is onerous to the Constitution,
10 I believe it's invidious discrimination. I believe it is in
11 violation of the Voting Rights Act, Sections V and II. I
12 believe that it is violative of the 14th Amendment. I believe
13 that it, indeed, impacts the 15th Amendment as well.

14 Q. One last question, sir. When -- previously, when you were
15 talking about -- let's see how well -- plan C193. I believe
16 you testified -- please correct me if I'm wrong -- that Latino
17 areas in Congressional District 7 -- actually, I think what you
18 had testified to is that Latino areas that were put in
19 Congressional District 7 in plan C185 could have been drawn
20 into an additional Latino opportunity district. Did I
21 understand that correctly?

22 A. Correctly in the sense that if we took pen in hand and
23 decided we were going to draw the lines such that Latinos would
24 be treated fairly under the Constitution as well as
25 African-Americans, yes, sir. It is my belief, based upon what

1 my expert, Mr. Murray -- Dr. Murray tells me, and other experts
2 as well. But based upon the experts, that it can be done.
3 That is my belief. I don't think that what appears to be a
4 divide and conquer methodology is going to be viewed as
5 constitutional.

6 Q. I understand. Are you aware, as you sit here today,
7 Congressman, of any proposed plan that created that kind of
8 additional Latino opportunity districts in the Houston area
9 that would include the pockets of Latino population that you
10 were referring to?

11 A. Well, I'm not pushing a plan. But my belief is that
12 there -- that it can be done. But I did not draw any plan. I
13 have tried to have some minimal amount of input so as to have
14 justice done. But I have not drawn a plan. So I'll leave that
15 to the people who specialize in this, who tell me that it can
16 be done.

17 MR. FREDERICK: I understand. I have no more
18 questions. Thank you for your time, Congressman.

19 JUDGE GARCIA: Mr. Bledsoe.

20 MR. BLEDSOE: Thank you, Your Honor.

21 **REDIRECT EXAMINATION**

22 BY MR. BLEDSOE:

23 Q. Congressman, your district as currently configured in
24 C100, the current plan, has been a performing district, has it
25 not?

1 A. It has.

2 Q. Okay. Was there a need to add more minorities to your
3 district in order to make it perform?

4 A. We were about 35,000 over. And in accordance with what my
5 expert tells me and my viewing the empirical evidence, it was
6 not necessary to do the surgery that was done and to add
7 additional minorities.

8 Q. And in reference to the -- so would you say that -- when
9 you moved your district, I think it was -- what? 76.9 percent
10 African-American and Latino combined, when the numbers moved
11 up. Would you suggest that since it's been already performing,
12 that that might be an indication of packing?

13 A. It seems to me that it is packing, coupled with the
14 addition of tension. It is packing in such a way as to create
15 unnecessary tension and to prevent other areas from being
16 developed, such that they, too, might be opportunity districts.

17 Q. Now, let's clarify one matter since we went over this
18 tension thing quite a bit on cross-examination. You're not
19 telling this Court that there is tension right now between the
20 African-Americans and Latinos?

21 A. To the contrary, I'm saying that the Latino community and
22 the African-American community coalesces well, works well
23 together in the configuration 100.

24 Q. And I followed what you said very closely when you
25 described tension districts. You said, could lead to tension,

1 not that it necessarily would.

2 A. Exactly. And unnecessarily so. I've consistently added
3 that phraseology, unnecessarily so. It is just not necessary
4 to do what has been done.

5 Q. Okay. And would you -- would you say that the potential
6 for tension is greater in a situation like this where you've
7 got a district that's packed, that's about 80 percent minority,
8 as compared to another district that might be a little over 50
9 percent or 60 or 70?

10 A. It is there. And not -- that, coupled with the ratios,
11 the balance, I think that those two things together would give
12 reason for the unnecessary tension.

13 Q. But I've taken you said it's unnecessary. But you're
14 telling this Court that if there's a way of creating a district
15 and those -- the numbers of the groups would be in somewhat
16 similar proportion, that that's better than not creating a
17 district, and that district should still be created?

18 A. Would you repeat that, please?

19 Q. Okay. What I'm getting at is, what you're telling the
20 Court in reference to creating a district, that you're not
21 saying under no circumstance would you create a district where
22 those -- the groups would be comparable in number if that was
23 the only way for them to get a district under the Voting Rights
24 Act?

25 A. I think you have spoken well. I believe that there are

1 circumstances wherein you would have the equilibrium that I
2 talked about. But when it's not necessary and when it appears
3 that it can become a means by which division takes place among
4 people that work together, I don't think that it is appropriate
5 to do it. I don't think that it is going to produce
6 opportunity districts as we have known them.

7 Q. Now, in terms of representing a group that's been packed
8 like this, where there might be another opportunity to create
9 an additional opportunity district, did this -- has this caused
10 problems to you in recommending individuals to academies or the
11 things that you're able to work on and perform as a member of
12 Congress, the committees you select and things of that nature?

13 A. Well, I think that it can create some concern. I serve on
14 the financial services committee, but I'm also a member of the
15 Asian caucus. It's called CAPAC, the Congressional Asian
16 Pacific American Caucus. And I'm a member of that caucus. I
17 think that we try, as best as we can, to serve people
18 regardless of ethnicity.

19 But when you -- when you have an opportunity to
20 nominate persons who have been excluded in the past, I think
21 it's a good thing to do. And in a district that is a minority
22 district, one would expect minority persons to be nominated to
23 military academies, to be nominated for positions as pages.
24 And unfortunately, but for districts that are constructed in
25 this fashion, sometimes it just doesn't happen to the extent

1 that it should. So I'm a big proponent of opportunity
2 districts.

3 JUDGE GARCIA: Thank you, Congressman.

4 Anything else, Mr. Bledsoe?

5 MR. BLEDSOE: Just two final, if I might, Your Honor.

6 JUDGE GARCIA: Go ahead.

7 MR. BLEDSOE: Two final questions.

8 BY MR. BLEDSOE:

9 Q. Okay. With CD 7, is it possible with the growth rate of
10 Latinos, that that district could change its character over
11 time?

12 A. Congressional District 7, as -- I will have to ask you
13 under which plan?

14 Q. Okay. The -- well, let me not ask you that. I was going
15 to ask you under 185.

16 But let me just ask you this one final question.
17 In reference to the 30-day limit on special sessions, is the
18 governor entitled to call the legislature back for more than
19 one special session?

20 A. It's my belief that the governor has that authority.

21 Q. Okay. And do you think the fact that there was a 30-day
22 special session in any way undermines your testimony about your
23 belief in regards to the discriminatory nature of what took
24 place with the adoption of C185?

25 A. Your Honors, I do not believe that the notion that time is

1 of the essence can allow for a circumvention of constitutional
2 rights. The Constitution does not allow itself to become
3 twisted and torn by virtue of those who contend that time is
4 running out. Time doesn't run out for the Constitution.

5 MR. BLEDSOE: Thank you.

6 MR. FREDERICK: Just one question.

7 JUDGE GARCIA: Sure. Of course.

8 **RECROSS-EXAMINATION**

9 BY MR. FREDERICK:

10 Q. Congressman, one quick issue.

11 A. Yes.

12 Q. You were discussing the combination of African-American
13 and Hispanic or Latino population in Congressional District 7
14 under plan C185. Is it your understanding that the
15 African-American voting population in Congressional District 9
16 under plan C185 is 37.6 percent? And I can point you to a
17 chart if you want to check it.

18 A. Yes, sir. If you have your chart, I'll be honored to take
19 a look at it.

20 Q. Sure. If you have binder 1 there, which I think is what
21 you've got, if you'll turn to -- it's tab marked C185.

22 A. C185. Yes, sir.

23 Q. And it's that first document. It's -- the title is
24 District's Population Analysis with County Subtotals.

25 A. Yes, sir.

1 Q. And it's the third page of that document. It has a line
2 for District 9.

3 A. Yes, sir.

4 Q. And if you go over, let's see, almost to the far right, I
5 think it says percent B.

6 A. Yes, sir.

7 Q. Then if you go to the second number down where it's
8 highlighted in gray, that is the black voting age population in
9 that district. Does that sound -- 37.6 percent?

10 A. It does.

11 Q. Okay. And then if you will turn -- if you'll turn to the
12 next document under that tab, this is titled American Community
13 Survey, Special Tabulation. And it's one big chart,
14 horizontally.

15 A. The next document, one page over?

16 Q. It's a few pages over, sir, but it's the next --

17 A. The next tab?

18 Q. Not the next tab. It's -- if you'll go to the --

19 JUDGE SMITH: It's sideways in your book. If you
20 just look for the next sideways page. There it is.

21 THE WITNESS: Okay. All right. Yes, sir.

22 MR. FREDERICK: Thank you, Your Honor.

23 BY MR. FREDERICK:

24 Q. And if you could look at District 9 on that chart. And if
25 you'll go over, there's a column marked Hispanic CVAP, which is

1 Hispanic citizen voting age population. Could you just tell
2 the Court what number that shows for District 9?

3 A. Hispanic CVAP appears to show 18.3 with a plus or minus of
4 .8.

5 Q. Okay. Thank you.

6 Is it your testimony today, Congressman, that the
7 combination of 37.6 percent African-American voting population
8 and 18.3 percent Latino voting -- citizen voting age population
9 is packing?

10 A. My testimony is that with the CVAP -- CVAP, excuse me --
11 with the CVAP you do have a minority that will coalesce with --
12 minorities can coalesce. But you also have, in that same
13 District 9, Sienna Plantation, Shadow Creek, other areas that
14 are going to develop, and you're going to have growth. And
15 that that in and of itself is going to create the tension that
16 we talked about because of the potential for growth that will
17 take place, and because of the numbers that are currently in
18 the district.

19 JUDGE SMITH: But I believe his question was, is that
20 packing? He gave you those numbers that you read. And then he
21 said, is that packing?

22 THE WITNESS: But my answer, Your Honor, is I believe
23 it is packing when you consider not just those numbers, but the
24 other numbers as well.

25 MR. FREDERICK: Thank you, Congressman.

1 No further questions.

2 JUDGE GARCIA: Mr. Bledsoe.

3 MR. BLEDSOE: Nothing further, Your Honor.

4 JUDGE GARCIA: Thank you, Congressman. You're
5 excused for the day. Have a good day.

6 Your next witness?

7 MR. BLEDSOE: Thank you, Your Honor.

8 (Witness enters courtroom)

9 THE CLERK: Would you please raise your right hand?

10 (The oath was administered)

11 MR. BLEDSOE: Your Honor, I'd like to ask you all to
12 look at book 10, 10-1. I'm going to be looking at Exhibit 606.

13 JUDGE GARCIA: What -- which exhibit? I know it's
14 volume 10, but which --

15 MR. BLEDSOE: Exhibit 6, Exhibit 6.

16 **HOWARD JEFFERSON, PLAINTIFF'S WITNESS, SWORN**

17 **DIRECT EXAMINATION**

18 BY MR. BLEDSOE:

19 Q. Okay. We'll get to that in a second. Could you state
20 your full name for the record, please, sir?

21 A. Howard Jefferson.

22 Q. And where do you live?

23 A. I live in Houston, Texas.

24 Q. Okay. And how many years have you lived in Houston,
25 Texas.

1 A. About 50.

2 Q. Okay. And could you tell us about -- where did you attend
3 college?

4 A. I attended college at Southern University in Baton Rouge,
5 Louisiana. I attended University of Texas on an academic year
6 fellowship. And I received a masters from the University of
7 Houston in Texas in School Administration.

8 Q. Okay. And did you have a former position with the Houston
9 Independent School District?

10 A. Yes, I did.

11 Q. Okay. And what was that?

12 A. I was a teacher. I was assistant principal. I was a
13 principal. I was a district superintendent. And I was a -- an
14 assistant superintendent supervising 120 schools and eight area
15 superintendents before I retired in '94.

16 Q. And have you actually adopted another career since
17 retiring in 1994?

18 A. Well, yes, I guess I would say the NAACP has been another
19 career.

20 Q. And are you also in private business?

21 A. Yes. I have an insurance agency.

22 Q. Okay. And you were president of the Houston NAACP for
23 what period of time?

24 A. Seven years.

25 Q. Okay. And you have since become the chairperson of the

1 state NAACP political action committee; is that correct?

2 A. That is correct.

3 Q. Okay. And going back in time, would you describe when you
4 were in the science program at the University of Texas in the
5 '60s -- could you describe your experience when you and other
6 participants took a field trip?

7 A. Well, this was in the summer of 1963. I was in the
8 National Science Foundation Fellowship for the University of
9 Texas. There were two African-Americans in that institute, and
10 there was a total of 35. And at the summer, the other
11 African-American left and I was the only one left in the
12 institute.

13 And we went to Houston to go to the Space Center
14 there. And on the way there we stopped. And I can't remember
15 whether it was La Grange or Columbus. But I believe it was La
16 Grange, to have breakfast. And everybody was served but me.

17 As a matter of fact, most of the participants was
18 back on the bus. The bus started up, and I was still sitting
19 there. And Dr. Gavana, I think that was his name, who was the
20 director of the institute came back and asked me, what's the
21 problem? And I said, I've not had any breakfast.

22 And so he went back there and talked to the
23 people. I could hear him. And he said, this is a federal
24 program. I called y'all before we came down here. We cannot
25 discriminate. You have got to feed him. And so the lady came,

1 and she threw me the menu. And I passed it back and says, ham
2 and egg, please. I don't know what happened to the food in the
3 back room, but I ate it. And the bus was still running. And I
4 went back and got on the bus.

5 Then we went on to Houston. We were to stay in
6 the famous Rice Hotel. And when -- we had all our luggage all
7 over the floor and all of us was in there. And when I got to
8 the window, he shook his head. And the director came up there.
9 And the person behind the window said, we're not going to put
10 the boy up tonight. And so there was quite a bit of confusion
11 there.

12 And there was an Anglo preacher there with me,
13 said, look, I'll go with you somewhere else to find a hotel so
14 that we can stay in. And I called back up the University of
15 Texas to my friends. And they say, if you do, don't come back
16 here. Said, you stay in that hotel tonight. This is the truth
17 of it.

18 So they made a call. The director of the
19 institute made a call to Harold Ransom who was chancellor of
20 the University of Texas at that time, and told him the problem
21 that the university was going to get in trouble because of
22 discrimination. Harold Ransom instructed them to put me up or
23 to charter a private jet and fly me -- all of us back to Austin
24 that afternoon.

25 Well, I end up spending most of my time at the

1 Rice Hotel in the room President Kennedy was in when he stayed
2 there.

3 Q. Now, the -- in your position with the NAACP, can you tell
4 the Court if problems with race discrimination have continued
5 well past the initial application of the Voting Rights Act to
6 Texas?

7 A. Well, yes, discrimination has occurred in a lot of ways,
8 more in voter discrimination, economic development and those
9 areas. I like to point out that in many of these cases there
10 were things happen that could have been avoided there, a lot of
11 discrimination, at the polls and which I would always visit. I
12 have seen people behind the polls say, no, you can't vote.
13 Now, maybe their name was not there. I don't know. But I've
14 heard them say, well, where do I go? I'm supposed to go here?
15 I don't know. I don't know, but you can't vote here. And not
16 tell them where to go.

17 I had -- we had hearings, the NAACP had hearings
18 on voter intimidation. And the people will come in there and
19 they'd testify. I was a member of those panels. And they
20 would testify in those panels that people outside would stop
21 them and say, if you go vote up there, have you paid your child
22 support, or do you have a ticket? And many of those questions
23 was asked that would stop the people from voting up there.

24 Q. Okay. And these are within the last ten years, are they
25 not?

1 A. Yes, sir.

2 Q. Okay. And do you recall any of the reports that we
3 received from Bell County relating to intimidation of
4 African-American voters this last election?

5 A. Well, I remember something about that, but I don't
6 remember the particulars about that case.

7 Q. Okay. But suffice it to say that we have election day
8 strike forces, and we continue to get complaints in reference
9 to irregularities on election day?

10 A. Yes. Let me mention a couple of other ones. Not only did
11 we have problems with being able to vote at the polls. There
12 in Houston, Texas, there was a case where they moved a lot of
13 their precincts. So the NAACP went down to talk to the county
14 clerk about moving, and sat there. She was very courteous.
15 And we asked her, how many polls have been moved? She said,
16 not -- just a few. She said, just a few. I said, well,
17 minorities at least don't know about this. She said, well, we
18 put it in the Chronicle. Well, a lot of us don't read the
19 Chronicle. How long ago did you put it in there? How many
20 polls were being moved? And we were told it's just a few.

21 I insisted that I want to see the list. I have a
22 right to see the list. And when I saw the list, it was a whole
23 lot. Hundreds of polls had been moved, and people didn't know
24 about those there. So that was a problem there.

25 Q. Now, I want to talk to you about the NAACP report card.

1 And you'll find that in Exhibit 6 there. I think you've got it
2 turned towards that, if I'm not mistaken. And you've actually
3 had an opportunity to go through this, have you not, to get
4 prepared to testify?

5 A. Yes. Yes. I've been going through these for sometime.

6 Q. The -- and I'd like taking '05, '06, for example. Could
7 you give us some examples of the ideas such as fair housing, et
8 cetera, that the NAACP has taken positions on that are of
9 importance to the African-American community?

10 A. Now, which one you asking me to look at?

11 Q. Okay. It's on the base number 232 at the bottom.

12 A. Page 2.

13 Q. Let me show you here. Keep looking at -- that's Bates
14 number 225 there. Now, is that kind of an example of the
15 issues that have been -- that were selected in that time period
16 of importance to the NAACP?

17 A. Yes. And let me explain. During the Congress, in session
18 there, the NAACP take positions on certain legislation. That's
19 one thing they do. They also ask the Congress -- certain
20 Congressperson to sponsor legislation. So there's legislation
21 going before the Congress that the NAACP support. And what we
22 do, we do a report card on each one of the positions that the
23 NAACP has taken. And we rank how all of the senators and the
24 representatives vote on our position.

25 Q. Okay. And if you turn over to number 13 in there, is --

1 increased funding for fair housing, is that one of the issues
2 that were identified for that particular --

3 A. Well, yes. You know, there are several. Fair housing,
4 education, health, justice, you know, taking care of the poor,
5 the ill, Social Security bills, those things that the NAACP
6 just stands for, which tried to help the poor and those who
7 can't help themselves. They take a position on all of those
8 usual things that the NAACP take a position on.

9 Q. Okay. And turn over to 231, the next page where you see
10 number 33 and see, did the NAACP include in one of its
11 important issues for the year the issue of continuing the
12 bilingual voting assistance under the Voting Rights Act?

13 A. Yes. The NAACP opposed that amendment there, and they
14 thought that it should not be eliminated.

15 Q. So the amendment was proposing to eliminate bilingual
16 voting assistance?

17 A. Right.

18 Q. And the NAACP took a position that that was not a good
19 thing to do, so there was --

20 A. And they opposed it.

21 Q. And this was the same year, was it not -- when they were
22 proposing to eliminate the bilingual voting assistance, this is
23 the same year that the Voting Rights Act was up for renewal?

24 A. Yes.

25 Q. Okay. And that's over on the next page, on Page 35.

1 Now -- number 35 on 232.

2 Now, also, is it -- another important issue there
3 relating to photo IDs being required for voting?

4 A. Yes.

5 Q. Okay. And that's something that actually just happened
6 this session in the Texas legislature, is it not?

7 A. Right.

8 Q. Okay. And do you have concerns with that voter ID law
9 yourself, being the political action chairperson for the state
10 NAACP?

11 A. Yes. We -- the NAACP and many other people had a problem
12 with that. And the voting, we thought, would be inhibited. It
13 would -- it would reduce the participation of minorities if
14 that would have taken place.

15 Q. Now, if we turn over to 242 where we see some of the
16 grades for Texas. And would you say those grades are
17 indicative of which congresspersons are responsive to the needs
18 or interests of the African-American community?

19 A. Yes, I would.

20 Q. Okay. Now, if we go down this list and we see the
21 numbers, we see Congressman Green, who just testified, he
22 received a hundred percent; is that correct?

23 A. Correct.

24 Q. Okay. Now, when we look at the Latino representatives, we
25 can see also that they received good grades. Hinojosa received

1 a B; is that right?

2 A. Correct.

3 Q. Reyes received a B; is that correct?

4 A. Correct.

5 Q. Okay. Gonzalez received an A; is that correct?

6 A. Correct.

7 Q. Okay. Now, Bonilla failed; is that correct?

8 A. Correct.

9 Q. But Ortiz received a C, correct?

10 A. Right.

11 Q. Okay. And Cuellar received a C?

12 A. Right.

13 Q. A passing grade.

14 Okay. And if we turn over and look at '09/'10 on

15 313 --

16 A. In 313?

17 Q. Yes.

18 A. Okay. I have it.

19 Q. And if we come down the list on 313, we'll see that

20 Congressman Reyes received an A; is that correct?

21 A. Correct.

22 Q. Congressman Hinojosa received a B; is that correct?

23 A. That is correct.

24 Q. Congressman Gonzalez received an A; is that correct?

25 A. Right.

1 Q. Congressman Rodriguez received an A; is that correct?

2 A. Correct.

3 Q. So are those examples of Latino congresspersons
4 effectively supporting the agenda of the NAACP?

5 A. Yes, sir.

6 Q. Okay. Now, you've had personal experience, have you not,
7 in working coalitions with Latinos in the Houston community?

8 A. Yes. Yes, I've had quite a bit of experience in working
9 with Latinos there. Let me say, not only in Houston, but in
10 the state. About eight or ten years ago we went to Laredo and
11 signed a memorandum of understanding with LULAC, the NAACP.
12 And we agreed there that we may not be together all the time,
13 but we have more in common than we have not in common,
14 education, health, discrimination. So we signed that
15 memorandum of understanding with the state.

16 In the Houston area a coalition, Black Brown
17 Coalition was formed by four entities, really. Congressman Al
18 Green that just testified here was a JP then, and Judge
19 Rodriguez was a JP. They formed the Black Brown Coalition,
20 along with members of LULAC and the NAACP.

21 When the JPs, minority JPs in Houston, Harris
22 County were making -- salary was less than their counterpart,
23 John Mata, who was president of LULAC, and myself, who was
24 president of NAACP, went to meet with County Judge Bob Eckels.
25 And we said, this is not right. We want to change that. So we

1 worked together on that.

2 When Mary Ramos, who is a national member of the
3 LULAC and was president of LULAC at the same time I was
4 president of NAACP, Mary called me and said that -- Mr.
5 Jefferson, Latinos is not being treated fairly at METRO.
6 They're not getting their proper numbers in terms of
7 employment, as the other races there. And it's just not right.

8 I called Shirley DeLibero who was president of
9 METRO and said, I want to bring the president of LULAC down.
10 We've got some things to talk about. I took Mary Ramos, who
11 testified in this court a couple of days ago, to the president
12 of METRO, Shirley DeLibero, and says, we got a concern we need
13 to address. So as president of NAACP I worked with the Latinos
14 to change that situation.

15 Reverend Lawson testified in here the other day
16 about the public defender. And he's a well-respected person.
17 I don't think there's a person in Houston more respected than
18 Reverend Lawson. Rodney Ellis had passed a bill that would
19 give a public defender to all counties. Harris County did not
20 have a public defender. And Rodney came to us and said, we
21 need to do something about this. Came to me. And I said, I
22 know who has more stroke than I have. Let's go to Reverend
23 Lawson.

24 So Reverend Lawson pulled together Bishop --
25 Archbishop Fiorenza and put together the Asian community, black

1 community, the Hispanic community. All of us got together. We
2 called in the county judge. We went before the county
3 commissioners with LULAC and the NAACP involved, and we were
4 able to get the public defender.

5 Very quickly, on both stadiums there -- they had
6 trouble passing when they built Enron. With ten days out, they
7 was 11 points behind. And they came to us for help. We got
8 with LULAC, and we united and says 30 percent participation we
9 participate. LULAC and NAACP led that. We were successful.
10 56 -- 50.6 to 49.4, I think, that that proposition passed.
11 LULAC and NAACP participated.

12 But one of the heavy things that happened is that
13 about two years ago, I would say, a Hispanic person shot and
14 killed a black policeman, and tension started to mount. The
15 NAACP called LULAC and the widow of the slain officer and said,
16 we can't let this get out of hand. We have friends in the
17 Latino community. This is one person. We got to have a press
18 conference and say that this can't get out of hand.

19 We called a press conference. We had LULAC there,
20 and we had the widow of the slain police officer there. And we
21 cooled the temperature.

22 Q. Now, Mr. Jefferson, in terms of the MOU between the state
23 NAACP and state LULAC, did those organizations work together to
24 complain to the United States Department of Education office,
25 Civil Rights, about the adoption of the new social study

1 standards that we -- that both groups found to be offensive to
2 their communities?

3 A. Yes, they did. And there were national officers that came
4 down. The national president of NAACP came down to testify of
5 how the social studies were leaving out the history of Latinos
6 and African-Americans. The national president, Ben Jealous,
7 came down. Dr. Rod Paige, who was Secretary of Education, came
8 down and testified along with us that that needed to be changed
9 there.

10 Q. And did the groups also join together to complain about
11 the inappropriate discipline of African-American and Latino
12 students, school districts throughout Texas?

13 A. Yes. Being the educator there, there were several
14 situations where Latinos and African-Americans were not treated
15 properly. And today, something needs to be done about -- when
16 you go in the special ed class, you see blacks and Latinos.
17 Those kids are not special ed, for the big part of them. Many
18 of those kids are not. They have behavioral problems. You
19 don't see other behavioral problem people in there to that
20 degree.

21 But these classes -- and I know. I was a
22 superintendent over 120 schools. These classes are stacked
23 special ed with Hispanics and African-Americans there. So we
24 have several concerns. When you look at the suspension lists
25 and you look at, as you go down, you see many, many blacks and

1 Latinos that have been suspended.

2 I was -- the schools in Harris Houston integrated
3 in 1970, and I was a crossover person. I was sent to Bellaire
4 High School, the most prestigious high school. There were 24
5 high schools in Houston. Bellaire had more national merits
6 than all the other 23 put together. It was in the top ten of
7 the United States. And it was a fine school and had fine
8 principals. Harlan Andrews was running it, and he treated all
9 people right in that school.

10 But what I noticed, Wheatley, where I came from,
11 there were few books, books running out, don't have books, go
12 on over to Yates and other -- trying to borrow books, robbing
13 Peter to pay Paul. And when I look at Bellaire storerooms,
14 they to the ceiling, and everybody already got books there.

15 JUDGE GARCIA: Anything else, Mr. Bledsoe?

16 MR. BLEDSOE: Just two more questions, Your Honor.

17 JUDGE GARCIA: Go ahead.

18 MR. BLEDSOE: Just two more.

19 BY MR. BLEDSOE:

20 Q. Did the Houston NAACP and MALDEF work together as
21 intervenors --

22 THE REPORTER: I'm sorry, Mr. Bledsoe. Can you slow
23 down?

24 MR. BLEDSOE: I'm sorry.

25 BY MR. BLEDSOE:

1 Q. Did the Houston NAACP and MALDEF work together as
2 intervenors in Ross versus Houston ISD, the Houston school
3 desegregation case?

4 A. Yes, they did.

5 Q. And finally, did the Houston NAACP recently work with
6 MALDEF and Regina Calvert, who testified here earlier, with
7 TAARI, Asian-American Redistricting Commission, to send a
8 letter asking the Texas legislature not to destroy the Alief
9 based Texas House district now represented by Representative
10 Vo?

11 A. Yes, sir.

12 MR. BLEDSOE: Thank you. Pass the witness, Your
13 Honor.

14 MR. FREDERICK: The State has no questions, Your
15 Honor.

16 JUDGE GARCIA: Okay. Thank you, sir. Thank you.
17 You're excused.

18 We're going to recess here in a moment. However, let
19 me ask you, Mr. Bledsoe, how many other witnesses do you have?

20 MR. BLEDSOE: I believe Congressman Lee, when she
21 gets in late today, as we mentioned, and just two others. So
22 we'd be finished --

23 JUDGE GARCIA: So you have three witnesses?

24 MR. BLEDSOE: These are going to be shorter than --

25 JUDGE GARCIA: I understand. And you have three

1 witnesses then?

2 MR. BLEDSOE: Yes, Your Honor.

3 JUDGE GARCIA: Okay. All right. And then who will
4 be presenting other witnesses?

5 Thank you, sir, and have a safe trip back to Houston.

6 THE WITNESS: Thank you.

7 MR. GRAY: Our side has no further witnesses.

8 JUDGE GARCIA: Well, I don't care who doesn't. I
9 want to know who does.

10 MR. GRAY: I think the State's going to go. I think
11 it shifts to the State.

12 JUDGE GARCIA: Oh, y'all will be concluding. Okay.
13 Then -- oh, let me ask while I'm thinking about it, Latino Task
14 Force, Ms. Perales, you filed a motion here recently to exclude
15 the testimony of one of the State's experts. Does any of the
16 other plaintiffs join that motion, or is it just Latino Task
17 Force?

18 MR. COHEN: We've reached agreement, Your Honor, with
19 respect to that.

20 JUDGE GARCIA: Oh, wonderful. You've reached an
21 agreement on that?

22 MR. COHEN: Give us another 15 --

23 JUDGE GARCIA: Wonderful. Thank you.

24 JUDGE RODRIGUEZ: So is the motion now withdrawn or
25 what's --

1 MS. PERALES: Yes, Your Honor. We'll be withdrawing
2 the motion today.

3 JUDGE GARCIA: Okay. If you'll -- if you'll file a
4 motion to that effect.

5 JUDGE SMITH: Well, are we expecting that there'll be
6 State witnesses this afternoon?

7 MR. COHEN: Yes, Your Honor. As we said on Saturday,
8 Gerardo Interiano will be available this afternoon. The
9 remaining witnesses will start tomorrow morning. There's two
10 representatives --

11 JUDGE GARCIA: How many minutes or hours would your
12 State witness consume today?

13 MR. COHEN: Well, it's my understanding that
14 Congresswoman Jackson-Lee takes -- comes at 5:00, so I think it
15 will be a wash.

16 JUDGE GARCIA: Oh, okay. Great. Wonderful. Then
17 we'll reconvene at 1:30.

18 (Recess at 12:12 p.m., change of reporters)

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1 JUDGE GARCIA: Okay. Let's proceed.

2 MR. NOTZON: Robert Notzon for the NAACP calls
3 Ms. Sylvia Gonzalez who has just been sworn.

4 SYLVIA GONZALEZ,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. NOTZON:

8 Q. Ms. Gonzalez, please state your name for the record.

9 A. Sylvia Louise Gonzalez.

10 Q. And are you native Texan?

11 A. Yes, I'm a native Texas, born and raised in Houston, Texas.

12 Q. Okay. And I know my mom said I shouldn't do this, plus my
13 wife said I shouldn't do this, but I've already cleared it with
14 you. How old are you?

15 A. I'm proud to be 67 years old and a half.

16 Q. Okay. And could you tell the Court kind of a short version
17 of your history of representation of the Latino community in
18 Houston and parts beyond through your work with LULAC?

19 A. Okay. I have been involved with the community for the past
20 43 years. I started getting active when I was 23 years old. My
21 first -- my first campaign that I worked on was George W. Bush,
22 the father, senior. I call him Daddy Bush because we still see
23 each other every now and then.

24 And I worked for the party program. I went to school
25 part-time until I graduated and then I became a probation

1 officer. I have worked with many Hispanic and black
2 organizations, the black ministers, the Black Heritage Society,
3 the Martin Luther King parade, Texas Women Empowerment, National
4 Black Lawyers Association. I worked with Congress -- Sheila
5 Jackson-Lee for the past 12, 15 years on a lot of community
6 efforts as well as Al Green and Gene Green.

7 Q. And what offices have you held with LULAC both locally and
8 nationally?

9 A. On a national basis I'm the immediate past national VP of
10 the southwest which covers five states. I gave that up due to --
11 my health has been deteriorating. I was a past national sergeant
12 at arms and parliamentarian.

13 Q. And local offices. What local --

14 A. Local offices. I was the district director for District 18
15 and I'm now the deputy district director for District 18. And I
16 was the state treasurer for LULAC.

17 Q. And could you tell the Court --

18 A. And I'm one of the founders of the Hispanic Women in
19 Leadership, which has been in existence 23 years.

20 Q. So if somebody was to say that you don't speak with
21 authority for the Latino community in Houston would they be
22 speaking accurately?

23 A. That I don't or do?

24 Q. If somebody said that you don't would they be accurate in
25 their assessment that you don't speak for the -- with knowledge

1 of the Latino community in Harris County?

2 A. No, that would be inaccurate.

3 Q. Could you tell the Court about your -- in more detail
4 specific examples of the coalition work that you've done with the
5 African-American Community and also with Sheila Jackson-Lee.

6 A. Okay. In the black community we have been working together
7 for numerous years since I can recall back in the -- you know,
8 about 45 years ago in terms of criminal justice, which is one of
9 the biggest areas of concentration that we work together with.
10 The lack of transparency in some of these police departments,
11 lack of access to help, concern over immigration issues. We've
12 been working on that diligently back and forth in the black
13 community to let them know what our position is.

14 The Voting Rights Act, unemployment. It seems to be
15 our minorities are always affected, black and Hispanics.

16 Board of Education programs. We've been fighting with
17 the state education board about our books not being there, about
18 our history for Hispanics and black are not in there.

19 And basically as a minority community we're tired of
20 being diced and sliced like a tomato.

21 Q. And in this testimony you said things weren't being there
22 for the Latino and African-American community. Are you saying
23 that in comparison to the Anglo communities' access to these
24 resources?

25 A. Exactly. And we all want a piece of the pie. It seems like

1 everything is one-sided and not divided among all of us, you
2 know. And the Asian community is rising too. They're very
3 active. We also work with them. I also work with the Jewish
4 community. And we all try to work together as a coalition, a
5 group. Houston United, another group I belong to, it's got
6 coalitions from the Asian, from the Muslims, from the black, from
7 the Hispanic, all the communities together.

8 Q. Could you now go into and tell the Court about your work in
9 coalitions with kind of electoral issues and choosing the
10 candidate that you would like to back and being successful or not
11 in your coalition with the African-American --

12 A. I have never --

13 Q. -- community in Houston?

14 A. I'm sorry. I have never been a party person. I vote for
15 the person. You know, I'm not too big into Democrats,
16 Republicans. I vote for the person that's running. Like I said
17 before, my very first campaign was the first President Bush. I
18 worked on his campaign. I worked on Perry's first campaign. And
19 then I didn't after that.

20 Judge Ed -- Judge Ed Emmett, who is a Republican, he's
21 over all of Harris County. He's a good friend of mine and I
22 worked on his campaign and still do.

23 So, you know, we've had some bad experiences. Like an
24 October march. A group of students, when we were trying to pass
25 this DREAM Act, we went to Kay Bailey Hutchison's office at the

1 federal building downtown. We had a demonstration outside with
2 nothing but students and some community activists. We went out
3 there and what does she do? She throws us out of her office, has
4 security, -- you know, to me that was an insult having --
5 being -- a retired law enforcement person on the line. She threw
6 us out of her office and had us escorted by the security down
7 there.

8 And who comes to the rescue? Sheila Jackson-Lee comes
9 to the rescue. She goes and takes us up to the office, her
10 staff, and tries to negotiate a call to Kay Bailey Hutchison's
11 office, but what Ms. Hutchison's office did is they locked the
12 door at 3:00 o'clock and they weren't taking phone calls and they
13 weren't answering the door.

14 These were kind of some of the scenarios that we have
15 gone through. At least Senator John Cornyn was a little more
16 informative, more talkative. He did let us in on another
17 occasion and did talk to us at length.

18 Q. Let me ask you a specific question.

19 A. Uh-huh.

20 Q. Do you have any examples for the Court where you're aware
21 that the Latino and African-American communities came together to
22 elect candidates of their choice in Harris County?

23 A. Yes. The mayor, the Harris County sheriff. And the
24 previous mayor before -- at least two of the mayors before Annise
25 Parker we helped -- we worked together and helped get elected.

1 And of course we also demonstrated our concerns. Like
2 we had -- we had a choice for the first time in history about a
3 couple of years ago. And we told the black community -- I said,
4 look, it's time for us to have our first Hispanic police chief.

5 And we already knew the mayor's recommendation. He was
6 Chief McClelland. He's a black American. They said, okay, we'll
7 work with you. Let's see what results. We respected that. She
8 went ahead and nominated McClelland. We got bypassed again, but
9 we honored that and we have worked with the black community in
10 all aspects.

11 Q. Okay. And if you could give just a couple of examples of
12 working with Sheila Jackson-Lee's office for the Latino community
13 in Houston.

14 A. You know, there's no comparison. To me I look at Sheila
15 Jackson-Lee as a super woman, not only because of that incident.
16 A couple of times we had two soldiers that were Hispanic soldiers
17 that were overseas. The families came to us and said, "Look,
18 Ms. Gonzalez, they're going to deport. They sent a letter of
19 deportation. He's out there serving in Iraq." And another one
20 was somewhere else. And I said, "Okay. Let's see what we can
21 do." And I called a couple of the Congresspersons. The only one
22 that came to the rescue, Sheila Jackson-Lee.

23 Q. And these families of these two soldiers, were they in
24 Sheila Jackson-Lee's district?

25 A. No, they're not. One was in Jim Green and the other one

1 was -- I forgot whose district it was.

2 Q. And one more example of working with Ms. Sheila Jackson-Lee?

3 A. Another one on the Eli Escobar case that was notorious.

4 That was a police officer that shot this young man that was 13
5 years old. Shot him point blank to the head.

6 Of course, we got involved with that immediately.
7 Sheila Jackson contacted me and said, "Sylvia, I want to go see
8 the family." I said, "Okay. We'll make arrangements." And so
9 we went and she brought a big basket of food. She didn't have to
10 do that but she wanted to. That was not even in her area.

11 But this was a big -- what do you call it -- a test
12 case, a historical case that happened in Houston because of the
13 results of the process, you know.

14 And there's been others. She's helped us out with the
15 Head Start program way back and tried to get all these minority
16 contractors -- we've been fighting with Metro, which is one of
17 the biggest transit systems in Houston. A lot of our minorities
18 were not getting the contracts so we worked together on that. A
19 couple of times we even got thrown out of the union in her --
20 because we were all there, you know, expressing our --

21 Q. The last issue. Could you tell the Court about your
22 perspective on whether or not Latino voters in Houston deserve to
23 have an opportunity district for themselves in the Houston area?

24 A. By all means. We deserve that and much more. You know,
25 we're tired of being left out on all aspects and we think it's

1 time, you know.

2 MR. NOTZON: Pass the witness.

3 JUDGE SMITH: You don't consider Gene Green's district
4 a Latino opportunity district?

5 THE WITNESS: Yes.

6 Q. By MR. NOTZON) So do you tell the Court that you deserve
7 another?

8 A. We deserve another. He does good. He's been real good to
9 the Latino community. Of course, we all would like to have our
10 own representative and somebody that understands the culture,
11 somebody that understands our plight, our fight and all the stuff
12 that we're going through.

13 Q. Is that because you think Sheila Jackson-Lee, being a
14 responsive member of Congress to the Latino community beyond her
15 district, needs help?

16 A. She goes over and beyond her help. Just like when we had
17 Hurricane Ike, that was not even her district. This is 97
18 percent Hispanic population. We couldn't get any water out
19 there. We were all volunteering out there trying to get the
20 people to get us some water. She shows up with a truck full of
21 bottled water to help out.

22 MR. NOTZON: Pass the witness.

23 MR. SCHENCK: No questions.

24 JUDGE GARCIA: Okay. Thank you, Ms. Gonzalez. Have a
25 safe trip back to Houston.

1 THE WITNESS: Thank you, sir.

2 JUDGE GARCIA: Your next witness.

3 BISHOP JAMES DIXON,
4 having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BLEDSOE:

7 Q. Would you state your full name for the court, please?

8 A. Yes. Bishop James Wallace Edwin Dixon, II.

9 Q. Okay. And Bishop, you seem to have a little difficulty
10 holding up that right hand. Do you want to explain to the court
11 what happened with that?

12 A. Yes. An automobile accident June 15th and -- leaving church
13 exhausted and fell asleep and hit an oak tree that refused to
14 move. And my life was thankfully spared and so I'm blessed to be
15 here, but the truck looks a lot worse than I do. Thank you.

16 Q. Now, you -- could you tell the Court about your church,
17 where it's located in Houston and how long you've been a bishop?

18 A. Yes. I pastor the Community Faith Church. The church is
19 137 years old. It was founded by the late Reverend Jack Gates,
20 who one of the area high schools is named after. Our church sits
21 now on Pinemount, in the 18th Congressional District. I was
22 actually born and raised in that district.

23 I'm a native Houstonian. My grandparents were business
24 owners as well in the 18th Congressional District. They owned
25 the Colbarnes Funeral Home there for better than 50 years.

1 I finished high school at Walters High School in the
2 18th Congressional District. My mother is a graduate of Phyllis
3 Wheatley High School in the 18th Congressional District. And
4 that's the same high school, of course, that the Honorable
5 Barbara Jordan graduated from as well.

6 So I've been -- I'm a native Houstonian. I'm a rare
7 person. I pastored a church five minutes from my area high
8 school and so I've lived in that district and pastored there now
9 for 30 years since age 18.

10 Q. And how would you describe the tradition that is felt among
11 members of the African-American Community within the 18th
12 Congressional District?

13 A. Well, it's robust. Frankly, the fact that this district was
14 established and with the idea and intent of enabling African
15 Americans to be represented by an African American in the United
16 States Congress and, of course, with the rich history of Barbara
17 Jordan being the first to occupy that seat.

18 The district itself is an institution all on its own.
19 It's always given African Americans and others a sense of pride
20 to say that this is something that was done justly to enable an
21 African American to be a representative of this district and of
22 this community in the United States Congress.

23 So the energy, the history, the sense of tradition, all
24 quite robust. And all of us having grown up there -- you know,
25 I've been pastoring 30 years but I was a teenager when I became

1 the pastor so I remember the campaigns of people coming by
2 through our neighborhoods talking about the redrawing of the
3 lines and we were going to get a seat even as a younger person.

4 And I remember the campaigns. I remember the speeches.
5 I remember the excitement. My family and my parents were all a
6 part of that and my grandparents. So for me personally and for
7 most that you would speak with, the excitement and sense of
8 tradition and the sense that it's an institution of its own are
9 all very significant, very important.

10 Q. Now, the Third Ward, MacGregor area has always been a part
11 of this district?

12 A. Yes, it has.

13 Q. Now, what is your feeling about it being split and about
14 part of it no longer remaining part of the 18th District under
15 the proposed map C 185?

16 A. Well, the Third Ward community in Houston is the most
17 prominent -- if you will, the most potent neighborhood community
18 of African Americans and other minorities in the city of Houston.
19 It's -- in fact, we say rather in terms of our own vernacular, we
20 consider Third Ward almost its own city because it functions as a
21 lead community in the city. It sort of sets the stage. If you
22 look at the Third Ward we have the significance of the Jack Yates
23 High School there. The Texas Southern University, Barbara
24 Jordan's alma mater, is there in the Third Ward. I actually
25 attended Texas Southern myself.

1 So much of the richness of our heritage and our culture
2 emanates out of the Third Ward section of the city. Prominent
3 churches -- and I could begin naming them. Civic associations
4 and community leaders, community organizers have for the most
5 part come up out of the Third Ward or in the Third Ward community
6 and have impacted and influenced the district and beyond.

7 So to split that district I think would have severe
8 negative consequences because these coalitions and partnerships
9 by the churches and civic clubs, the community development
10 corporations, have existed for decades. It's taken decades to
11 build those relationships and they've been maintained. And those
12 relationships and partnerships have been responsible for giving
13 birth to significant projects that have strengthened the
14 district. They have bettered the district educationally,
15 economic development, social causes, it's --

16 You know, to divide the district now, to take Third
17 Ward out or to split Third Ward means that a significant
18 percentage of those persons would have to reestablish new
19 relationships, connect to new caucuses that are not germane to
20 their own neighborhood caucus. I think that it would be -- it
21 would certainly disenfranchise. It would weaken and disempower
22 those persons who have lived for years and decades.

23 I was on the Metropolitan Transit Authority board and
24 I'm going to tell you, when the Third Ward community shows up to
25 talk about what needs to happen with transit in its communities,

1 in its neighborhoods, you're looking at some of the strongest
2 coalitions that you've ever, ever seen because these people live
3 and take pride in the community, in the Third Ward and in Houston
4 as a whole. So splitting it I think would be quite detrimental.

5 And the Third Ward community, it's a historic district.
6 If you look at Third Ward so many historic landmarks are in that
7 section of the city and so much of the richness of our history is
8 in that city, so -- in that community. I think that that would
9 be a detrimental thing to have happen.

10 Q. Now, the downtown area is also being cut from the district.
11 Will that have an impact on the district in your opinion?

12 A. Well, certainly so. Of course the downtown area is our
13 business sector, the center of business for Houston. And, of
14 course, you know, we are the energy capital of -- of the nation
15 and you've got all industries there. You've got the transit
16 authority, law enforcement. Downtown is the business sector and
17 hub of our city.

18 And to remove the downtown sector from the 18th
19 Congressional District actually diminishes its strength. Right
20 now you've got a district -- and what we've had -- we have a
21 district that is diverse. You've got Third Ward. You've got The
22 Heights. You've got neighborhoods that are strong. But then to
23 represent downtown gives that district strength that really
24 spills over into neighborhood kinds of enterprise.

25 Downtown feels now an obligation to work with Third

1 Ward and to work with The Heights and other neighborhoods that
2 are surrounding it because now they're a part of the same
3 congressional district.

4 If you take that downtown out of it, now those
5 districts lose the benefit of having partners in the downtown
6 business sector that they have enjoyed now for -- for many
7 decades. I think that would be quite detrimental.

8 Q. Would that undermine economic development?

9 A. For sure. Absolutely. And again, as I mentioned, I was on
10 the Metropolitan Transit Authority board for five years under
11 Mayor Bill White. And I understand firsthand what it means to
12 have a congressional representative like Congresswoman Lee, who
13 is able to speak for Third Ward to the business community as it
14 relates to economic development projects like the \$2 billion
15 project that we're currently working on right now at metro.
16 Very, very significant.

17 You start talking about this one person being able to
18 call the leaders in the downtown business chamber and have a
19 meeting with Reverend Lawson and with those of us in the
20 community, Third Ward, Houston Heights -- we're all a part of the
21 same district. We're talking about how can we leverage this kind
22 of project to create economic development opportunities for
23 people who do business and live in the district outside of
24 downtown.

25 So it's a very -- it's a beautiful thing to see. And I

1 think that to destroy that, to dismantle that, we certainly
2 jeopardize and weaken and diminish the economic development
3 strength and opportunity that the district now has and has
4 enjoyed for some time.

5 And -- and we're far from perfect. I need to say that
6 it's not worked perfectly but we've made significant progress.
7 And I think that the redrawing of these lines and removing
8 downtown and Third Ward from it begins to undermine the progress
9 that citizens have made together for better than 30, 40 years. I
10 think it would be a great disservice.

11 Q. Can you tell the Court about specific examples of Latino
12 candidates for political office that you've supported in the
13 primary where it's been successful and involved a coalition of
14 African Americans and Latinos?

15 A. Certainly. Certainly can. Our present sheriff, Adrian
16 Garcia. I've worked with Adrian. We tease each other. When I
17 started working with him I had hair and he was running for city
18 council. I remember when he was a police officer. I've
19 supported him for over 20 years now.

20 Carol Alvarado, who was city councilwoman and state
21 representative. Jessica Farrar as well. Murray Vallegos. I've
22 worked on any number. I could keep going back and back. Sylvia
23 Garcia, who was a former county judge. I think it's a wonderful
24 thing that --

25 JUDGE SMITH: She was county commissioner, not county

1 judge.

2 THE WITNESS: County commissioner, not judge. Thank
3 you. That -- when you see black and Latino coalitions working
4 together the way that we have in Houston all of my adult life and
5 beyond -- and I inherited some of those relationships from
6 persons, my predecessors, like Reverend Lawson, the Howard
7 Jeffersons of the world. These are the men that helped to raise
8 me and if they were in the room they would be claiming that too.

9 But to see those relationships happen --
10 cross transgenerationally and have been maintained. I'm 48 now.
11 I started pastoring when I was 18. So I've operated within the
12 sphere of those partnerships and coalitions for 30 years now and
13 I think that's quite significant. And there are others that I
14 could name as well.

15 Q. (BY MR. BLEDSOE) Okay. Could you tell the Court finally
16 about some of the specific issues involved, discrimination
17 against minorities, that you have been working with in recent
18 times that have also involved the Latino community?

19 A. Certainly. We have had a series of issues that some may
20 have read about in the news with regards to police brutality and
21 discrimination within that spectrum.

22 I have held conferences, meetings, public speaking
23 opportunities even in our church that have been quite evident of
24 African American and Latino partnerships and coalitions because
25 all of us understand that whatever affects one neighborhood

1 affects another.

2 And then, of course, we're working presently with
3 Sheriff Garcia and Congressman Lee on an effort -- the U.S.
4 Department of Justice will be investigating the sheriff's
5 department and the county jail because of a multitude of
6 complaints of discrimination by employees as well as inmates.
7 And so there's going to be a top to bottom investigation by the
8 DOJ with regards to that. That's happening right now and that's
9 in progress right now.

10 There have been a number of things in the -- in the
11 business -- in the business sector as it relates to jobs. For
12 example, even with Metro, I mentioned that earlier, making sure
13 that -- that minorities, African Americans and Latinos are not
14 being discriminated against in the procurement processes even at
15 Metro. You've got a \$2 billion project on the table and the
16 Congresswoman has been very significant in calling together
17 coalitions of persons to meet to talk about how we make sure that
18 everyone has a fair opportunity.

19 And then correcting some things. We had to rewrite the
20 small business procurement policy for Metro when I was on the
21 board. The congresswoman was very significant in that. And that
22 was not done with one community's involvement. It was done with
23 a coalition that was made up significantly of African Americans
24 and Hispanics as well.

25 So those are some of the things that have been

1 happening recently, and then the further you go back the list
2 gets to be longer.

3 Q. But at the time that happened the district office for the
4 authority, transit authority, was within the Congresswoman's
5 district; is that correct?

6 A. Absolutely.

7 Q. So did that give her a little additional leverage to work
8 with them?

9 A. It gives a significant degree of leverage to -- when she
10 shows up she's in her district and she is representing the
11 citizens of her district. She's representing the causes and
12 concerns of her district when she does come.

13 And by the way -- I'm not tooting her horn, but she's
14 greatly responsible for the fact that the New Start funding that
15 Houston Metropolitan Transit Authority needed, and has been on
16 hold now for the last couple of years, to get our project
17 jump-started again. That's now in the purview of the Federal
18 Transit Administration as we talk right now, speak right now,
19 because of it. She does have leverage that other representatives
20 of Congress do not have because Metro is in her district.

21 MR. BLEDSOE: Thank you. Pass the witness, Your Honor.

22 MR. SCHENCK: Thank you for coming. We have no
23 questions.

24 JUDGE GARCIA: Okay. Thank you, Bishop.

25 THE WITNESS: Thank you.

1 JUDGE GARCIA: Have a safe trip back to Houston.

2 Your next witness.

3 MR. BLEDSOE: Your Honor, we have the congresswoman as
4 we had discussed who will be in later today.

5 JUDGE GARCIA: Okay.

6 MR. BLEDSOE: And we'll tender like the other
7 plaintiff's parties' offers of proof so that would be the last
8 witness --

9 JUDGE GARCIA: That's your last witness.

10 MR. BLEDSOE: -- that we would tender, and it's subject
11 to closing with the offers of proof of Congresswoman Sheila
12 Jackson.

13 JUDGE GARCIA: Sure. Of course. Okay. And then are
14 there any other witnesses from the plaintiffs --

15 MR. GRAY: No, Your Honor.

16 JUDGE GARCIA: -- other than perhaps rebuttal?

17 MR. HEBERT: Your Honor, one housekeeping matter if I
18 may?

19 JUDGE GARCIA: Yes.

20 MR. HEBERT: The Quesada plaintiffs have not moved
21 formally for receipt into evidence of our exhibits. And
22 Mr. Mattax and I have discussed this. I believe there's an
23 agreement that Quesada Exhibits 1 through 70 -- I offer those for
24 receipt into evidence with the stipulation that the news articles
25 are not offered for the truth of the matter asserted.

1 JUDGE GARCIA: Okay.

2 MR. HEBERT: Simply that that was what was reported.

3 JUDGE GARCIA: Okay.

4 MR. MATTAX: No objection.

5 JUDGE GARCIA: Okay. Without objection they're
6 admitted, 1 through 70.

7 MR. HEBERT: And then the second housekeeping matter,
8 as we filed a joint stipulation last week, it's document number
9 302 filed electronically with the court. It's a stipulation of
10 facts regarding each of the named Quesada plaintiffs. I would
11 also ask that those facts also be received into evidence as part
12 of --

13 JUDGE GARCIA. Okay.

14 MR. MATTAX: No objection.

15 JUDGE GARCIA: Okay. That's in.

16 MR. HEBERT: Thank you.

17 JUDGE GARCIA: Anything else? Anything else from this
18 side, from the plaintiffs? If not, we can begin with the State's
19 case.

20 MR. MATTAX: Good afternoon, Your Honor. I'm David
21 Mattax for the State. We call Gerardo Interiano to the stand.

22 JUDGE GARCIA: All right.

23 GERARDO INTERIANO,

24 having been first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MATTAX:

2 Q. Please state your name for the record.

3 A. Gerardo Interiano.

4 Q. For the court reporter's convenience why don't you spell
5 that, please.

6 A. G-E-R-A-R-D-O, last name, I-N-T-E-R-I-A-N-O.

7 Q. Thank you. What role did you have in the redistricting
8 process?

9 A. I was the counsel to the Speaker.

10 Q. As counsel for the Speaker what responsibilities did you
11 have for drawing a map?

12 A. I was there to advise him through the redistricting process,
13 serve as a resource for the committee on redistricting and was
14 the lead staffer in charge of the House redistricting plan.

15 Q. And as the lead staffer for drawing the House redistricting
16 plan what was your involvement with the congressional map?

17 A. I was there to assist Ryan Downton as necessary, but Ryan
18 was the lead on it.

19 Q. So would it be fair to say that for purposes of the lead on
20 the congressional map that would be Ryan Downton and for purposes
21 of the lead on the House map that would be you?

22 A. That's correct.

23 Q. In looking at H 283, which is the final House map, can you
24 please tell the Court how many county cuts there are?

25 A. There's only one.

1 Q. Before we bring that map up and discuss what that cut is,
2 could we look at the constitutional provision that we'll be
3 dealing with today. And this is section 26. Texas Constitution,
4 Article 3, Section 26.

5 While that's being brought up let's ask some other
6 questions and then we'll get back to that.

7 A. Sure.

8 Q. As a general proposition -- okay. Here we have it. If we
9 can blow that up. There's some -- it's difficult to see, but do
10 you see that first highlight, if you will, or bold area that says
11 as nearly as may be?

12 A. Yes, sir.

13 Q. Could you explain the significance of that?

14 A. My understanding of that is that that language specifies the
15 way that the districts need to be apportioned to each county in
16 the state. So basically that each county needs to get as nearly
17 as may be the number of districts.

18 Q. So, for example, if I had a county that was entitled to more
19 than one district--say, for example, if you did the math and it
20 was entitled to more than four--are you saying that you have to
21 get as near to four?

22 A. Correct. So, for example -- let's use Harris County as an
23 example.

24 Q. That would be the one we're talking about.

25 A. Harris County we took -- the way that it was determined that

1 Harris County had 24 seats is we took the population of Harris
2 County as it was given to us by the U.S. census, divided the
3 ideal district size into that population and we got 24.41.

4 And to me 24.41 is -- when you look at the language of
5 the constitution, as nearly as may be, is closer to 24 than it is
6 to 25.

7 Q. So at least in your opinion if 25 districts had been drawn
8 that would be violative of this constitutional provision?

9 A. Yes, sir.

10 Q. Let's now move on to the second part of that. I think it's
11 at the very bottom. It says, "For any surplus of population it
12 may be joined in a representative district." Explain to the
13 Court what that phrase is intended to accomplish.

14 A. For example, if a county has, you know, two whole districts
15 within it, to me what that -- and then there's a remainder in
16 population that cannot be redistributed among those two
17 districts, for me that language says that that surplus has to be
18 kept whole and has to be adjoined to a district of other whole
19 counties or another whole surplus. I think that there's some
20 leeway there, but what's clear to me is that it has to be kept
21 whole.

22 Q. So you can't take a surplus and split it amongst different
23 counties just because you feel like it?

24 A. No, sir.

25 Q. Let's pull up -- first of all, I'm going to have to go back

1 and forth, but I want to pull up map, C -- excuse me, H 100.

2 MR. MATTAX: For clarity on that could you get it a
3 little better or -- okay.

4 Q. (BY MR. MATTAX) Could you identify -- H 100, is this the
5 baseline map or the map that was in effect before the legislative
6 redistricting process?

7 A. Yes, sir, I believe it is.

8 Q. And how many county cuts for H 100?

9 A. One.

10 Q. And where was that cut?

11 A. Orange County in southeast Texas.

12 Q. I don't know if we can blow up that area to find that cut
13 and then you could explain to the Court why that is a county cut
14 at H 100. Is that sufficient?

15 A. Yes.

16 Q. You have that pointer there you can use to help if it
17 reaches that far. Just push on the red button. If not maybe you
18 can just stand up and point if it doesn't.

19 A. So Orange County is the county that's right there between
20 22, that county that you're zooming in. Orange County is not
21 large enough to have its own district. In other words, at the
22 time that this map was drawn it was a county that had
23 enough -- that did not have enough population to deserve at least
24 one district. So what the legislature did at the time is they
25 split Orange County, and half of Orange County goes in District

1 19 and another portion of it goes in District 22. That was a
2 necessary cut in order to abide by one person/one vote.

3 Q. And so based upon your explanation of the county line rule,
4 that was the only county cut and that was simply required because
5 of the way the population was patterned in Texas?

6 A. Correct.

7 Q. Now, did that cut stay in H 283?

8 A. It did not. We looked at maintaining that cut in H 283
9 but -- and after reviewing the law we felt that it was likely not
10 necessary to maintain that cut and that 22 could be redrawn
11 entirely within 21. And taking that into -- and entirely within
12 Jefferson County. I'm sorry.

13 And taking that into consideration we visited on
14 several occasions with Representative Deshotel, asked him what
15 his preference was, whether he wanted to try to continue to keep
16 that split or not. And he agreed with us that his preference was
17 to keep it entirely within Jefferson County, which is what the
18 map reflects today.

19 Q. So based on the change in population in that area it was
20 your belief that if you kept that county cut that would be a
21 violation of the constitution because it wasn't necessary?

22 A. Yes, sir.

23 Q. Let's go ahead and put up the U.S. census 2010 county
24 population chart. And this is just a visual graphic of all the
25 population growth. So I'm not going to focus in on Orange

1 County, but my point would be you could look at that population
2 in those counties and then tell what we're likely to have to have
3 whole counties, where we're likely to have potentially county
4 cuts; is that correct?

5 A. Yes, sir, that's correct.

6 Q. And so by looking at this map that would help inform you as
7 to whether or not Orange County could continue to be cut?

8 A. Yes. But furthermore what this map helped us to do, if
9 you'll zoom in around Ellis County, right south of Dallas --
10 Ellis County is the one region where there is a county split in
11 H 283. And the split is Henderson County which is immediately
12 east of Ellis County.

13 The population in Ellis County was too big to be able
14 to partner it with any other county around Ellis. Currently that
15 district is Ellis and Hill, but if you kept Ellis and Hill
16 together you were outside of the deviation.

17 So we looked around Ellis and every other county that
18 is contiguous to Ellis County is too big. And so we recognized
19 early on in the process, once the census numbers came up, that we
20 were not going to have a choice but to split one of the counties
21 around Ellis or Ellis itself. And the determination was made to
22 split Henderson between two districts.

23 Q. And so once that determination was made was it then the
24 intent to try to draw the rest of the map so that it would not
25 split any more counties to be in compliance with the Texas

1 constitution?

2 A. Basically we went through the entire map and tried to figure
3 out if there were any other regions or if it was possible to draw
4 a map with any less county splits. And in the end we recognized
5 that the only way -- the only split that was going to be
6 mandatory was Henderson County. And other than that there were
7 no other county splits anywhere on the map.

8 Q. And is it a fact that when H 283 was finally enacted then
9 there was only one county cut?

10 A. There was. It's only Henderson County.

11 Q. Let's pull up H 283. And if you could focus in on Henderson
12 County, please. And then could you just identify on this map
13 either with that pointer or -- where that cut actually is?

14 A. If you look at Henderson County it's the population that is
15 blue and orange, and that county is split. Henderson County
16 otherwise would have been too small to have its own district so
17 in theory it should have been kept whole. But as a result of
18 Ellis not being able to be paired with another whole county, we
19 realized that we were going to have to make a split somewhere and
20 the decision was made to split Henderson between District 4 and
21 District 10.

22 Q. Now, you can go ahead and zoom back out.

23 To a casual observer there are other, if you will,
24 counties that are in multiple districts?

25 A. Correct.

1 Q. Those would not be county cuts so please explain what those
2 are.

3 A. That's where the constitution comes into play. The
4 constitution refers to the surplus. You have many areas across
5 the state and in most cases it tends to be some of the suburbs.
6 For example, Williamson County had enough population to have two
7 districts entirely within it, but there was a surplus that could
8 not be redistributed amongst those two districts.

9 That surplus was taken essentially as a separate county
10 and attached to other whole counties to create a third district.
11 The same situation happened in Montgomery County outside of
12 Houston and then Collin County outside of Dallas. You'll find
13 that throughout the map.

14 Q. This goes to your point of when you have that surplus that
15 you can't keep in the county because that would be higher than
16 the 10 percent deviation?

17 A. Correct. You can't redistribute that 10 percent and still
18 be within that deviation.

19 Q. So because you have more than the 10 percent you have to
20 apportion that to another county?

21 A. Exactly.

22 Q. It's your understanding that based on the constitution that
23 spillover has to go to a county?

24 A. I think that spillover has to go to a district.

25 Q. A district.

1 A. It can go with multiple counties but my reading of the
2 constitution is that it was very clear in the fact that that
3 surplus has to go to a representative district, not multiple.

4 Q. Now let's focus on a few specific counties. There's been
5 much talk in this case about Cameron County, Hidalgo County, so
6 let's move in on that area of the state.

7 My first question is looking at -- focusing on Cameron
8 County.

9 A. Okay.

10 Q. You mentioned that you were responsible for sort of drafting
11 or drawing as a whole the House map. Were you responsible for
12 drawing Cameron County?

13 A. Yes and no. Cameron County was actually brought to us by
14 Representative Oliveira and Representative Lucio as a draft, but
15 they actually wanted smaller districts. And in order to make the
16 rest of the map work we simply added a few precincts for it in
17 order to get 43 within that deviation, but for the most part 38
18 and 37 are the actual districts that were given to us by
19 Representative Lucio and Representative Oliveira.

20 Q. And did you draw the districts in Hidalgo County?

21 A. I did.

22 Q. Can you explain how you drew these districts?

23 A. Sure. We started with drafting, I believe it's District 41,
24 Representative Pena's district. Part of what I was told as far
25 as the instructions went for the entire state map was that we

1 needed to give as many members as possible the opportunity to be
2 reelected. In fact, we believe that all members on the map have
3 the opportunity to be reelected.

4 Q. Let me ask you, when you say "all members" are you saying
5 that the instructions were to try to make sure that all incumbent
6 Democrats as well as Republicans have the opportunity to be
7 elected?

8 A. Yes, sir. In fact, the Chairman and the Speaker made sure
9 that there was not a single Democrat that was in a Republican
10 district or vice versa in the State House map. The idea -- even
11 in regards to the pairings we made sure that a Democrat was
12 paired with a Democrat and a Republican was paired with a
13 Republican to make sure that in the end everybody had an
14 opportunity to be reelected even in the pairings.

15 Q. And the only exception to that last statement was in Harris
16 County where you had to go from 25 to 24 districts?

17 A. Well, but even in going from 25 to 24 the two that are
18 paired are both Democrats, so both of them have the opportunity
19 to be reelected depending on who wins the primary.

20 Q. And is that the only pairing of Democrat to Democrat?

21 A. That is the -- there was a total of seven pairings in the
22 final map. There was only one pairing of Democrat to Democrat
23 and six pairings of Republican to Republican.

24 Q. Let's go back then to House District 41 and you indicated
25 that as far as what the concept of this whole map was to give

1 each member the opportunity to be reelected. How was that
2 accomplished with respect to District 41 and Representative Pena?

3 A. In District 41 we tried to increase the Republican
4 performance of District 41 to give Representative Pena the best
5 chance to be reelected.

6 Q. And how does one increase the Republican performance of the
7 district?

8 A. We searched for precincts that had a higher Republican
9 performance than what he had previously.

10 Q. So it would be fair to say that District 41, based upon
11 election data, was drawn in an effort to give Representative Pena
12 the opportunity to be reelected?

13 A. Yes, sir, that's correct.

14 Q. Now, if you zoom out a little bit from those two counties
15 there's been some discussion that there would be excess
16 population in Cameron and Hidalgo County that could have been
17 placed together into an additional district within
18 Hidalgo/Cameron County. In your view would that have been
19 constitutional in the Texas Constitution?

20 A. That alone, yes. I think that you can take the two
21 surpluses and combine them together. And it's something that I
22 spent a great deal of time attempting to do. We tried to take
23 the surplus of Cameron and the surplus of Hidalgo and put them
24 together, but the problem that we faced is that when you went
25 further up north on the map you were forced to split a county.

1 At no point did anybody bring me any proposal even
2 though, you know, we requested it from MALDEF, we requested it
3 from MALC. We visited with different organizations and asked
4 them to show us how to do that without causing a county split and
5 no one was able to give us a proposal that did that. Inevitably
6 when you take the population of Cameron and Hidalgo out of the
7 rest of the districts going north you're forced to have a county
8 cut almost always around Nueces County.

9 Q. And in your view would that be an unnecessary cut in
10 violation of the Texas constitution?

11 A. Yes, sir.

12 Q. Let's move up slightly north to Nueces County. How is
13 Nueces County, the districts there, drawn?

14 A. Nueces County was given to us by the Nueces County
15 delegation.

16 Q. And how many districts was Nueces County entitled to?

17 A. It was entitled to two. Similar to Harris County, we took
18 the population of Nueces County, divided the ideal district size
19 into it and we got 2.02, which to me means they get two
20 districts. And that .02 can easily be redistributed amongst
21 those two districts.

22 Q. So would that be -- we've heard testimony or
23 characterization of the drop-in districts. Would that be one of
24 the drop-in districts where the members of the House created it
25 and it was just dropped into a map?

1 A. Yes, sir, that's correct.

2 Q. And who are the members of that delegation that created that
3 map?

4 A. It was Representative Todd Hunter and Representative Raul
5 Torres and Representative Tommy Scott.

6 Q. For purposes of the Court, who may not know their party
7 affiliation when you mention a representative's name, could you
8 specify whether they are a Republican or Democrat?

9 A. Sure. In this case all three are Republicans.

10 Q. Let's move up north to Houston. We've already discussed the
11 explanation for why there are 24 districts in Houston and the
12 pairing of Mr. Hochberg and Mr. Vo. What I want to talk to you
13 about is what role, if any, did you have in drawing those
14 Democratic districts within that.

15 A. I was not a part of -- again, being a drop-in district, this
16 was something that was just dropped in when the Republican
17 delegation gave us a map. But on the day that the House bill was
18 on the floor, I spent two to three hours with many members of the
19 Harris County delegation drafting an amendment which was passed
20 and adopted on the House floor that made many changes to this
21 map.

22 There was both Republican and Democrat members that
23 were involved. It was based on a misunderstanding regarding
24 Representative Senfronia Thompson's district. And every attempt
25 was made to try to accommodate all the members in drafting that

1 amendment. And again they came with a compromise and it passed
2 on the House floor.

3 Q. And as a result of these were some districts made for
4 Republican districts in Houston and as well as Democratic
5 districts?

6 A. Absolutely.

7 Q. With respect to Representative Farrar's district, which I
8 believe is 148, I believe that the SSVR was increased in that
9 district?

10 A. Yes. For her district the SSVR was below 50 percent in the
11 current and H 100. During the hearings both MALDEF and
12 Vice Chairman Villarreal requested that 148 as well as District
13 90 in Tarrant County be taken above 50 percent SSVR. And so an
14 effort was done to do that.

15 Q. And again for the record what are the party affiliations?

16 A. I'm sorry. Representative Villarreal was the vice chairman
17 who is a Democrat.

18 Q. So it would be fair to say that that district was increased
19 in SSVR at the request of the Democrats?

20 A. At the request of the Democrats as well as MALDEF.

21 Q. Thank you.

22 Let's move up to Dallas briefly. I don't think we have
23 to zoom in on that. Let me just ask you a question first. What
24 role did you have in drawing the ultimate lines in the
25 Dallas/Fort Worth area?

1 A. I did not. Ryan Downton was more of a lead in Dallas.

2 Q. What role did you have in drawing the lines in El Paso?

3 A. I did not. That was another drop-in district and we took in
4 exactly what Representative Joe Pickett, also a Democrat, gave to
5 us.

6 Q. What role did you have in drawing the lines in the
7 San Antonio area?

8 A. A very big role. Speaker Straus is a member of the
9 San Antonio delegation. As a result I worked with all 10 members
10 of the delegation very closely. We must have spent 10 to
11 15 hours on the map that was ultimately dropped into the map for
12 Bexar County.

13 The only -- I believe that nine of the 10 members of
14 the Bexar County delegation agreed with the map or with the
15 districts the way that they were.

16 There was only one member who was not happy about it
17 and it was because there was a conflict between two or three
18 precincts between two members. And ultimately, you know, one
19 member didn't sign off on it.

20 Q. But your testimony is that nine out of 10 members of the
21 San Antonio delegation signed off on the map that was ultimately
22 dropped into H 283?

23 A. Yes, sir.

24 Q. What I'd like to do now is go over briefly several of the
25 alternate plans that have been proposed to this Court. Have you

1 identified how many county cuts there are in each of these maps
2 according to the constitutional provision?

3 A. Sure.

4 Q. Would you pull up H 201, please? Can you tell from this map
5 how many county cuts there are or does it need to be enlarged?

6 A. I think it needs to be enlarged, but to the best of my
7 recollection I think there's three.

8 Q. Okay.

9 A. There's one in Nueces County. There's one in Galveston
10 County and I believe there's one right around Ellis County.

11 Q. Let's blow up southeast Texas and we'll look at those first
12 two. So can you point with that pointer or do you need to get up
13 and point to show where that county cut is?

14 A. I don't think that the pointer is working. I can go up
15 there.

16 Q. That might be easiest.

17 JUDGE GARCIA: Sure, of course.

18 TECHNICIAN: There's another up there.

19 JUDGE GARCIA: Well, whatever is more convenient to
20 you.

21 THE WITNESS: If you don't mind, I'll go up there.

22 JUDGE GARCIA: Of course.

23 MR. MATTAX: I think that will be easiest.

24 A. So Nueces County, if you follow this line right here, it has
25 these two districts, 33 and 34, entirely within it, but they

1 split the remainder of Nueces County, which is the barrier
2 islands right here and took these islands to create a third
3 district.

4 This third split right here was unnecessary. It was --
5 Nueces County was clearly supposed to have two districts and in
6 this they have two plus. They have a third one that comes into
7 it.

8 Q. And you say Galveston as well?

9 A. Galveston was the other one.

10 One of the other things that we realized early on in
11 the process because of Galveston and Brazoria's location on the
12 map, it has water on one side and Harris County is on the other
13 side so there's no a lot of leeway on which direction to go. We
14 realized quickly that the only way to not cause a split in this
15 region of the map was for Brazoria to go south to Matagorda and
16 the remainder of Galveston to go north to Chambers.

17 If you look right here what this map does is it takes
18 Brazoria and combines it with this little portion of Galveston
19 also causing a split.

20 Q. And I believe you thought there was one other split?

21 A. In Ellis and Henderson County. Right here. That's the same
22 county. That's the same split that's on the current map so it
23 would be a total of three.

24 Q. So there are two additional splits in the map in 201 that
25 were not necessary?

1 A. Correct.

2 Q. And in your view would that make that map unconstitutional
3 in the Texas constitution?

4 JUDGE GARCIA: May I ask, or rather I will ask, who
5 submitted H 201?

6 MR. MATTAX: I believe this was a map submitted by
7 MALC.

8 JUDGE GARCIA: Okay.

9 MR. MATTAX: I believe this was their -- again, I
10 believe it was your map.

11 Let's come to map 202 now, please. You may just want
12 to stay there. It might be easiest.

13 JUDGE GARCIA: And who submitted 202?

14 MR. MATTAX: 202 was the NAACP.

15 JUDGE GARCIA: Okay.

16 MR. MATTAX: I'll mention that from here on out.

17 JUDGE GARCIA: Okay. Please do. Thank you.

18 Q. (BY MR. MATTAX) Can you identify how many county cuts there
19 are in 202?

20 A. 202 maintains the Henderson County split. If you'll zoom
21 into this region right here I believe San Patricio County is
22 another split right here and they've also done the same thing
23 with Nueces County where they split another one. Victoria County
24 is also split. Goliad County is also split. Bee County is
25 split. And we could probably keep on going if you want to move

1 further up the map.

2 Q. Well, at least with respect to that area around Nueces
3 County you count, I believe, four or five different unnecessary
4 splits?

5 A. Yes, sir. In fact, here's another one. Austin County is
6 split as well. This is the result of exactly what I had talked
7 about earlier is when you take that population from Cameron and
8 Hidalgo out of the mix, the ripple effect is very big and it
9 causes -- it forces you to split counties further up the map.

10 Q. So based upon those -- in your view those are unnecessary
11 splits?

12 A. Yes.

13 Q. And those would be a violation of the Texas constitution?

14 A. Yes, sir.

15 Q. Let's pull up Plan H 205 very quickly. This is another MALC
16 map. I believe -- I'm not going to believe anything. Could you
17 tell me how many county cuts you believe are in or are -- strike
18 that. No one believes anything.

19 How many cuts are there in H 205?

20 A. To the best of my recollection it's between 25 and 35 county
21 cuts. If you want to zoom in on West Texas that's one of the
22 areas where there were several. So every single one of these
23 cuts with the exception of Lubbock, which was a spillover, is an
24 unnecessary cut. So Lamb, Lynn, Dawson, Howard, all of them.
25 You can go across the map and there are several cuts that would

1 be unnecessary cuts.

2 Q. We're not going to take the Court's time to count all the
3 county cuts, but based upon your testimony and your review of
4 H 205 is it your understanding that these county cuts were
5 unnecessary and therefore violative of the Texas constitution?

6 A. Yes, sir.

7 Q. Let's go to map H 232 which is the Perez plan map. How many
8 county -- unnecessary county cuts are there in H 232?

9 A. I believe this is the one that only had one
10 additional -- one cut similar to the State House plan.

11 Q. So this, at least based on the county line rule, would not
12 be violative of the constitution?

13 A. Correct. And that cut is Hill County. So instead of
14 splitting Henderson County like the House map did, they chose to
15 split Hill which is perfectly fine.

16 JUDGE GARCIA: How many splits did you say are involved
17 in H 232?

18 MR. MATTAX: This is H 232, Perez.

19 JUDGE GARCIA: How many?

20 THE WITNESS: Only one.

21 JUDGE GARCIA: Only one?

22 THE WITNESS: Yes, sir.

23 JUDGE GARCIA: Okay.

24 MR. MATTAX: Could you pull up Red 109 for Plan H 232?

25 Is that possible? That's fine. May I approach the witness?

1 JUDGE GARCIA: Yes, of course.

2 MR. MATTAX: I pulled out of the data the report called
3 H -- excuse me, Red 109 which lists the Spanish citizen voting
4 age population, Spanish surname voter registration for all of the
5 districts in that plan.

6 JUDGE GARCIA: Okay. And what's the ideal district
7 size?

8 THE WITNESS: 167,600 persons.

9 JUDGE GARCIA: And what was the highest deviation that
10 you had or -- within what?

11 THE WITNESS: Range?

12 JUDGE GARCIA: Yes.

13 THE WITNESS: I think it was between 159,000 and
14 175,000.

15 JUDGE GARCIA: And the percentage would be what?

16 THE WITNESS: I believe it was 9.8.

17 JUDGE GARCIA: Okay. No greater than 9.8?

18 THE WITNESS: Well, it was the range. The average of
19 the deviation in the entire map, I believe, was 2.4.

20 JUDGE GARCIA: Okay. And were these proposals--201,
21 202, 205, 232--were they presented on the floor of the House as
22 amendments?

23 THE WITNESS: I believe some were presented in
24 committees.

25 JUDGE GARCIA: Okay.

1 THE WITNESS: And some were presented on the floor.

2 JUDGE GARCIA: All right.

3 Q. (BY MR. MATTAX) Now I have handed you Red 109 -- or is it
4 Red 106? I can't even read the top corner. The top left-hand
5 corner.

6 A. 109.

7 Q. Okay. Let me find -- Red 109 would be, for the Court's
8 information in, joint remaps 1 behind the tab for H 232. And
9 when I look at Red 109, in the middle of the tabulation it has
10 the percentage of Hispanic citizen voting age population and then
11 on the far right-hand columns it has total voter registration for
12 Spanish surname voter registration and non-suspense voter
13 registration.

14 What I'd like for you to do is to identify how many
15 districts in proposal H 232 have a majority Hispanic citizen
16 voting age population and if you could just briefly identify the
17 district.

18 A. Sure. On the first page it would be District 31, 33, 35,
19 36, 37, 38, 39, 40, 41, 42, 43. Then 74, 75, 76, 77, 78, 79, 80,
20 116, 117, 118, 119, 123, 124, 125, 140, 143 and 145.

21 Q. And when you add those up what's the total number of
22 districts in Plan H 232 with a majority Hispanic citizen voting
23 age population?

24 A. 28.

25 Q. And in Plan 283, the plan adopted by the Texas legislature,

1 how many majority Hispanic citizen voting age population
2 districts were there?

3 A. 30.

4 Q. So this plan, H 232, had two less Hispanic citizen voting
5 age population districts?

6 A. Yes, sir.

7 Q. Let's turn to Plan 292. I believe this was the plan
8 presented by the Latino redistricting task force. Tell me how
9 many -- tell me how many county cuts there are in Plan 292.

10 A. I believe Nueces is another one. San Patricio is split,
11 Victoria, Brazos, Henderson and Smith. So I believe it's six.

12 JUDGE GARCIA: You said Smith County?

13 THE WITNESS: Yes, sir.

14 JUDGE GARCIA: All right.

15 Q. (BY MR. MATTAX) And based on your understanding of the
16 county line rule would this map be constitutional?

17 A. No, sir.

18 Q. In conclusion for the record and I find it difficult to ask
19 these questions but that's what we're all about here, and we need
20 to put it on to the record, what is your ethnic background?

21 A. Hispanic. My family is originally from El Salvador.

22 Q. And are you a Republican?

23 A. Yes, sir.

24 Q. And based on your experience do you believe Hispanics have
25 an equal opportunity to participate in the political process in

1 Texas?

2 A. Yes, sir, more than ever.

3 MR. MATTAX: I pass the witness.

4 JUDGE GARCIA: All right.

5 MS. PERALES: Your Honor, we need a moment to set up
6 our computer.

7 JUDGE GARCIA: Okay. Let's take a brief recess then.

8 (Recess.)

9 CROSS EXAMINATION

10 BY MS. PERALES:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. And because it's a tradition between you and I, may I say
14 you have an absolutely fabulous tie on today.

15 A. Thank you.

16 Q. In your role as --

17 JUDGE GARCIA: I'm glad we got that straightened out.

18 Q. (BY MS. PERALES) In your role as the lawyer for Speaker
19 Straus you offered advice -- in addition to what you already
20 described you also offered advice on compliance with the Voting
21 Rights Act; isn't that correct?

22 A. Yes, ma'am.

23 Q. And moving now to the House plan, you described the creation
24 of the State House map as a member-driven process; isn't that
25 right?

1 A. Yes, ma'am.

2 Q. And if members from a county could not come to an agreement
3 the Chairman and the Speaker in consultation with a member from
4 the county would make the final decision on how the lines would
5 be drawn, correct?

6 A. Yes, ma'am.

7 Q. And during the House debate on the House plan you were
8 there, sometimes at the dais and sometimes outside the rail to
9 answer questions that Chairman Solomons had; is that correct?

10 A. Yes, ma'am.

11 Q. And you did answer questions during the debate from Speaker
12 Straus and Chairman Solomons, didn't you?

13 A. Yes, ma'am.

14 Q. Now, you made an effort during the House redistricting
15 process to get members of the county delegations -- these are
16 counties that contained multiple districts inside of them. You
17 made -- you made an effort to get the members of the county
18 delegations to work together on a map for their county; isn't
19 that right?

20 A. As much as possible. Yes, ma'am.

21 Q. And the process, given the county line rule, was that you
22 could drop a multi-district county into the map without affecting
23 the surrounding districts; is that right?

24 A. That's correct.

25 Q. Now, you talked in your deposition that there was a racial

1 block voting analysis done as the maps were being drawn, correct?

2 A. Yes, ma'am.

3 Q. And you saw summaries of that analysis, didn't you?

4 A. Yes, ma'am.

5 Q. And Chairman Solomons saw summaries of that analysis, didn't
6 he?

7 A. I believe he did.

8 Q. Now, at the outset of the House redistricting process you
9 made an effort to identify the number of Latino opportunity
10 districts in the benchmark plan so you would either meet or
11 surpass that number in the final plan, correct?

12 A. That's correct.

13 Q. And now moving beyond to the retrogression question under
14 section five with respect to the question whether section two was
15 going to require the creation of additional Latino majority
16 districts, you testified in your deposition that in the end you
17 believe that there was no reason or anyplace on the map to draw
18 additional districts, correct?

19 A. In order to comply with the state constitution, no, ma'am.

20 Q. So you testified there was no reason or anyplace on the map
21 to draw up additional districts, correct?

22 A. That's correct.

23 Q. And when you sat down -- because I know you mentioned
24 earlier you sat down and tried to work on some of this. When you
25 sat down and tried to figure out if any additional Latino

1 opportunity districts could be created in the House map, you
2 looked at both districts comprised of multiple counties and you
3 also looked at districts that sat whole inside a county; isn't
4 that correct?

5 A. That's correct, but let me clarify one thing. Being that it
6 was a member-driven process, in many ways -- you know, for
7 example, in El Paso we took the map that was given to us by
8 Representative Pickett and that was it.

9 Q. You're reading my mind. I was just about to talk about
10 El Paso.

11 MS. PERALES: Could you put up the side-by-side and,
12 Sara, also the side-by-side?

13 Q. (BY MS. PERALES) Now, in Plan H 283 you testified in your
14 deposition that you do not consider District 78 in the adopted
15 plan to be a Latino opportunity district. Do you remember that?

16 A. Yes, ma'am, I believe I did.

17 Q. But you do consider in the adopted plan District 75 to be an
18 opportunity district, yes?

19 A. Yes, ma'am.

20 Q. And District 76 to be an opportunity district?

21 A. Yes, ma'am.

22 Q. And District 77 to be an opportunity district?

23 A. Yes, ma'am.

24 Q. And District 79 to be an opportunity district?

25 A. Yes, ma'am.

1 Q. Now, when I asked you in deposition why House District 78 is
2 not a Latino opportunity district, you said, "The answer to that
3 is Representative Pickett submitted the map to the committee and
4 he drew the map for El Paso County." Is that correct?

5 A. That's correct.

6 Q. And you further testified that you did not draw the lines
7 for El Paso County, right?

8 A. That's correct.

9 Q. And because it was a member-driven process, if there was an
10 agreement among the members of a county delegation you dropped a
11 county whole into the map, correct?

12 A. Where possible. Yes, ma'am.

13 Q. And with respect to making an assessment whether to draw an
14 additional Latino opportunity district in a particular county,
15 you testified that you dropped the county into the map. And if
16 it was a district that was included in there it was left in
17 there, and if there wasn't that was it?

18 A. In most cases that was the case. Yes, ma'am.

19 Q. And you never undertook to draw an additional Latino
20 opportunity district in El Paso County because Representative
21 Pickett was working on it; is that right?

22 A. Yes, ma'am. Representative Pickett was a member of the
23 committee and it was my understanding that he was working with
24 the delegation on a map to submit for the full State House map.

25 Q. And so the bottom line is that you never tried to draw a

1 fifth opportunity district in El Paso County because as you
2 testified this was a member-driven process and Representative
3 Pickett submitted a map for El Paso County and that was the map
4 that was in there?

5 A. Yes, ma'am.

6 Q. Can we go to Cameron and Hidalgo County now?

7 MS. PERALES: Also for you, Sara.

8 Q. (BY MS. PERALES) Now, you understood that Hidalgo County
9 and Cameron County grew at a substantial rate over the past
10 decade, didn't you?

11 A. I believe I did. Yes, ma'am.

12 Q. And Cameron and Hidalgo Counties are overwhelmingly
13 Hispanic, right?

14 A. Yes, ma'am.

15 Q. And you attempted to draw an additional Latino majority
16 district in Cameron and Hidalgo Counties, correct?

17 A. By taking the surplus of both counties and joining them.
18 Yes, ma'am.

19 Q. We're getting there. You're getting ahead of me. In fact,
20 you drew a demonstration district to show how that might have
21 been done, yes?

22 A. Yes, ma'am.

23 Q. And when you looked at Cameron County, under the new census
24 numbers there was enough population for two districts with
25 leftover population, yes?

1 A. Yes, ma'am.

2 Q. And you couldn't take that remainder and create a new
3 district by itself and you couldn't redistribute it among the two
4 districts that were already there and still comply with one
5 person/one vote, so this remainder had to be combined into some
6 other district; is that correct?

7 A. That's correct.

8 Q. And this is the same situation for Hidalgo County though.
9 The overpopulation, the remainder after you drew the four
10 districts in there had to be combined into another district,
11 right?

12 A. Yes, ma'am.

13 Q. All right. And you testified you looked at everything
14 within the constraints of the county line rule, meaning that if a
15 Latino majority district could not be drawn in the constraints of
16 the county line rule you concluded it could not be drawn,
17 correct?

18 A. If a Latino district could not be drawn within the state
19 constraints of the state constitution as a whole it was not done.
20 That's correct.

21 Q. But specifically in this case the county line rule, yes?

22 A. Yes, ma'am.

23 Q. You did look at taking the remainder of Hidalgo County and
24 Cameron County and linking them together to make an additional
25 district, yes?

1 A. Yes, ma'am.

2 Q. And you were looking at creating a district that was
3 essentially wholly inside Cameron and Hidalgo Counties by
4 essentially spilling their overages towards each other to make
5 one district wholly contained, yes?

6 A. That's correct. Yes, ma'am.

7 Q. And then you've testified at least earlier that when you did
8 that in Cameron and Hidalgo Counties, as you continued to draw
9 other districts to the north it was impossible to avoid splitting
10 another county somewhere else?

11 A. Yes, ma'am. That's correct.

12 Q. Now, while you were doing this exploration you did conclude
13 that it was possible to draw an additional district between the
14 two counties and keep the other districts all within the correct
15 deviation, yes?

16 A. The other districts in the state or the others in those two
17 counties?

18 Q. The other districts in Cameron and Hidalgo.

19 A. Yes, ma'am, that's correct.

20 Q. And so just to be clear, putting together the overpopulation
21 from Cameron and Hidalgo and making one new district that sat
22 between them did not in and of itself violate the county line
23 rule, but it was the ripple effect of that action somewhere else
24 in the state that would have violated the county line rule in
25 your opinion, yes?

1 A. Yes, ma'am. That ripple was a direct result of creating
2 that district.

3 Q. And you agree that it's likely that if you had created such
4 a district in Cameron and Hidalgo County that it would have been
5 a Latino opportunity district, correct?

6 A. To the best of my recollection, yes, ma'am.

7 Q. And it was possible to draw a district that way and for it
8 to become packed, correct?

9 A. Yes, ma'am, from what I recall.

10 Q. You mentioned earlier that you looked at a regression
11 analysis during your mapping process and you testified that you
12 found that analysis to be helpful in the House map redistricting
13 process?

14 A. Yes. That was that summary of that analysis.

15 Q. Now, you also testified in your deposition that besides the
16 Cameron/Hidalgo possible district, you did not explore any other
17 possibilities in the map to draw an additional Latino opportunity
18 district, correct?

19 A. I may have stated that. I will clarify that I think Nueces
20 County was one of the areas where we actually did look at
21 creating two entirely within Nueces County and we concluded that
22 you couldn't do it because the SSVR was 49.5 percent, I believe,
23 for the county as a whole.

24 Q. So you either would have made two that took up the entire
25 county and you were convinced you could do two opportunity

1 districts like that or you would have had to draw them smaller
2 and break the county line rule?

3 A. That's correct.

4 MS. PERALES: Sara, would you mind passing the
5 connector over to Claire? I'm not ready yet for the next map but
6 I just wanted to ask you to do that.

7 Q. (BY MS. PERALES) Now, just speaking about the process in
8 general, you testified in deposition that in many of the areas
9 that we were discussing, the Latino advocacy groups' maps had new
10 minority opportunity districts that were within counties where
11 the delegation had submitted a map, correct?

12 A. That's correct.

13 Q. And you further testified that for the most part the
14 delegation-submitted maps were maintained in those ways that they
15 were submitted aside from maybe amendments that were drafted on
16 the House floor, yes?

17 A. To the best of my recollection. Yes, ma'am.

18 Q. And you further testified that you did not spend time, for
19 example, in Harris County working to see what else was possible
20 because you knew the Harris County delegation was working on that
21 map, yes?

22 A. Yes, ma'am. Again, part of the goal in the instructions
23 that I was given is to try to pair the least number of members
24 and, again, to give every member that opportunity to be
25 reelected.

1 Q. And so in most cases with respect to the situation where a
2 delegation agreed and submitted a county House map, the end
3 result was to use the member's preferred version, correct?

4 A. Yes, ma'am, that's correct.

5 Q. And statewide there are no new additional Latino districts
6 in Plan H 283, are there?

7 A. I think it depends on your definition.

8 Q. Of new.

9 A. Well, I think that in the current map there are 29 districts
10 that are above 50 percent SSVR and in the map that passed the
11 House there are 30.

12 Q. Yes. So we're going to get right there.

13 A. Okay.

14 Q. You testified in your deposition that in your definition of
15 a Latino opportunity district you believe there are several
16 factors to be taken into consideration including Hispanic
17 citizenship voting age, Spanish surname voter registration,
18 Hispanic voting age, as well as any election analysis that might
19 have been done, correct?

20 A. Yes, ma'am.

21 Q. But you didn't look at the election performance of districts
22 in the benchmark plan or the election performance of new draft
23 districts until close to the end of the process; isn't that
24 correct?

25 A. Are you talking about the analysis that was done for us?

1 Q. Yes.

2 A. Yes, ma'am, that's correct.

3 Q. And as you mentioned just a moment ago, you believe that the
4 House map that was adopted by the legislature increases by one
5 district the number of Spanish surname voting age
6 majority -- sorry, the number of Spanish surname voter
7 registration majority districts over the current maps. So it's a
8 plus one from the benchmark to the adopted map, right?

9 A. I believe that's correct. Yes, ma'am.

10 Q. And that's because the plan also eliminates one Latino
11 opportunity district in Nueces County; isn't that correct?

12 A. We did our best to draw two districts in Nueces County and,
13 like I said, we did not believe that it was possible to draw two
14 within that.

15 Q. And thus where there were two before, the new plan subtracts
16 by one the number of Latino opportunity districts in Nueces
17 County; isn't that correct?

18 A. If you look at it that way then we increased it by two
19 because we changed 148 and District 90 in Tarrant County.

20 Q. Yes. So it's minus one plus two for a net gain of one,
21 right?

22 A. Correct.

23 Q. And you mentioned House District 90 and House District 148
24 which were both raised above 50 percent Spanish surname voter
25 registration, correct?

1 A. That's correct. That was done at the request of
2 Vice Chairman Villarreal, a Democrat, in MALDEF's testimony.

3 Q. Well, I'll take up the rest of that with Chairman Solomons
4 with respect to the letter that we sent him.

5 A. Okay. Okay.

6 Q. Now, with respect to House District 90 and House District
7 148, both of those districts did have a majority of Hispanic
8 voting age population in the benchmark, didn't they?

9 A. I believe that they did. Yes, ma'am.

10 Q. So -- and when you raised the Spanish surname voter
11 registration above 50 percent you stated in your deposition that
12 you included 90 and 148 as the, quote/unquote, two new ones, one
13 of which was to offset the one in Nueces County. Do you
14 remember?

15 A. Correct. And that's because I believe that throughout the
16 state map there are issues between the voting age populations and
17 the citizenship issues, which is why the CVAP and the SSVR is
18 such an important number. There are other districts in the map
19 that may be above 50 percent HVAP but may not actually be
20 performing.

21 Q. And so on that question isn't it correct to say that with
22 respect to the benchmark districts 90 and 148 you did not examine
23 election performance before you started mapping to determine if
24 they were Latino opportunity districts?

25 A. No, ma'am. The way the process worked for us is as soon as

1 we had a map or a proposed district ready we submitted that map
2 to the attorney general's office for them to do their analysis.
3 It was not possible for us -- at least not that I'm aware of, for
4 us to do an analysis on something other than something we
5 submitted to them, which is why it was important for us to draft
6 the maps first.

7 Q. So you didn't know in the benchmark when you first started
8 drawing whether or not 90 and 148 were, in fact, electing Latino
9 candidates of choice for quite a while, did you?

10 A. That's correct.

11 Q. You did agree with me in your deposition, didn't you, that
12 if Districts 90 and 148 were considered Latino opportunity
13 districts in the benchmark plan, plan H 283 retrogresses Latino
14 opportunity districts by one; isn't that correct?

15 A. I think if I recall correctly I believe what I said is there
16 would be one less majority SSVR district.

17 Q. In the new plan compared to the benchmark, yes?

18 A. Yes, ma'am.

19 MS. PERALES: Claire, would you mind showing C 100?

20 Q. (BY MS. PERALES) We're going to move now to a quick
21 discussion of the congressional districts.

22 A. Okay.

23 Q. Now, it's your understanding that there were two concurrent
24 goals for Congressional District 23, Big West Texas 23: Make
25 sure the Hispanic percentages were above the benchmark in the new

1 plan and give Representative Consecro a chance to be reelected;
2 isn't that correct?

3 A. That's correct.

4 Q. And you communicated with Eric Opiela to get the views of
5 most of the congressional delegation, yes?

6 A. As much as possible, yes, ma'am. And by that both
7 Republicans and Democrats.

8 Q. Okay. Yes. And I understand that you testified Mr. Opiela
9 would from time to time pass along information that he said that
10 he had from Democratic members of Congress; is that right?

11 A. Yes, ma'am, that's correct.

12 Q. But his job was to work for the Republican delegation, yes?

13 A. Yes, ma'am.

14 Q. Now, here in the congressional you did examine the
15 congressional benchmark plan to determine how many Latino
16 opportunity districts were in the benchmark, correct?

17 A. I believe that we did, but again Ryan was the lead on it so
18 he would know a lot more about it than I would.

19 Q. I'm just going to go off of what you testified in your
20 deposition.

21 A. Okay.

22 Q. You said that you identified the following districts as
23 Latino opportunity districts: Starting in El Paso, 16, Big West
24 Texas, 23, in San Antonio, number 20. Coming up out of the
25 border, the purple district there, 28. Also coming out of the

1 border, District 15. District 27 on the coast and District 29 in
2 Houston. Do you recall that?

3 A. I think so. Yes, ma'am.

4 Q. And you testified in your deposition that you relied on the
5 racially polarized voting analysis that you saw during the
6 congressional mapping process at one point to give advice to
7 Chairman Solomons that they take particular care with respect to
8 the Latino percentages in Congressional District 20 and 23. Do
9 you recall that?

10 A. Yes, ma'am.

11 Q. But you never conducted an analysis, did you, to confirm
12 whether Representative Conesco was the Latino preferred
13 candidate, did you?

14 A. I did not personally do that. No, ma'am.

15 Q. And the same with respect to Representative Blake
16 Farenthold; is that correct?

17 A. That's correct. I don't know if Ryan did but I did not do
18 it.

19 Q. But you did use reagggregated elections to look at your new
20 congressional plan to see whether the Latino preferred candidate
21 was doing better or worse compared to the benchmark, didn't you?

22 A. Yes, ma'am.

23 MS. PERALES: Claire, can you move to C 185, please?

24 Q. (BY MS. PERALES) Now, you believe that C 185 creates one
25 additional Latino opportunity district when compared to the

1 benchmark, correct?

2 A. That's correct.

3 Q. And your position is that Congressional District 23 in the
4 new plan is an opportunity district, yes?

5 A. Yes, ma'am.

6 Q. Now, the Latino percentages--Hispanic citizen voting age
7 population, Spanish surname voter registration--are not your sole
8 criteria for determining whether the new CD 23 is an opportunity
9 district for Latinos, right?

10 A. Could you repeat that again, the numbers you used?

11 Q. The Latino percentages, Hispanic CVAP and Spanish surname
12 voter registration, you testified in your deposition were not
13 your sole criteria for determining whether the new CD 23 is an
14 opportunity district for Latinos?

15 A. That's correct. We also looked at the election analysis.

16 Q. And you also looked at the -- you must be having some kind
17 of mirror and you can see the next question that I'm going to
18 ask. You looked at reaggregated statewide elections to determine
19 whether Congressional 23 was an opportunity district?

20 A. Yes, ma'am.

21 Q. And when you looked at these reaggregated elections it
22 showed that Congressional District 23 elected the Latino
23 preferred candidate in one out of 10 racially contested
24 elections, correct?

25 A. Correct, compared to three out of 10 in the benchmark.

1 Q. According to the elections that you were looking at, yes?

2 A. Yes, ma'am, that's correct.

3 Q. And you didn't look at any primary elections, did you?

4 A. I don't believe that we did.

5 Q. And you don't remember examining particularly any Republican
6 primaries in Congressional District 23 after you drew it,
7 correct?

8 A. Correct. I don't think we looked at any primaries.

9 Q. Now, you testified in your deposition that you wouldn't in
10 every circumstance consider a district to be a Latino opportunity
11 district if it had a majority of Spanish surname voter
12 registration and Hispanic CVAP, but that in the case of
13 Congressional District 23 you did conclude that it was a Latino
14 opportunity district even though it elected a Latino preferred
15 candidate in only one out of 10 elections, correct?

16 A. That's correct.

17 Q. And you testified in your deposition that Ryan Downton did
18 the specific mapping to get District 23's Spanish surname voter
19 registration above the benchmark, correct?

20 A. That's correct.

21 Q. And that also in order to give Representative Consecro an
22 opportunity to be reelected, you collectively did your best to
23 make sure that the partisan numbers were there, correct?

24 A. Yes, ma'am.

25 Q. And you testified that you and Mr. Downton had broad

1 conversations about what you wanted to accomplish in
2 Congressional District 23, but you did not direct Mr. Downton in
3 making the specific boundary changes to accomplish those goals,
4 correct?

5 A. That's correct.

6 Q. And you testified in your deposition that you can't provide
7 the specific reason that particular counties were added into or
8 taken out of Congressional 23 in Plan C 185, correct?

9 A. That's correct. Ryan and I had very broad conversations
10 about it and while -- I was in the room sometimes, but I don't
11 have a specific understanding as to why he made the decision that
12 he did.

13 Q. We're going to move over to the ELMO now and look at one
14 exhibit.

15 A. Okay.

16 Q. This is Exhibit 3-9 from the interminable series of
17 depositions that you gave.

18 A. Okay.

19 Q. And this is from your third deposition regarding
20 congressional e-mails.

21 A. Okay.

22 Q. This document -- it's very fuzzy. Is this -- this is a Task
23 Force exhibit. It is Exhibit Number 329 but it is not in Volume
24 8. So it is not in the binder Volume 8 but it is being filed
25 electronically as Exhibit 329. I may need you to step out of the

1 box. After telling you I wasn't going to have you step out of
2 the box I may need you to come down and just read the e-mail,
3 please.

4 A. Sure.

5 MS. PERALES: Oh, Sara, come back.

6 JUDGE GARCIA: Go ahead and turn them back on, please.

7 Thank you.

8 Q. (BY MS. PERALES) I may need you to get a little bit closer
9 to it so you can see it. Under the Ryan Downton and the e-mail,
10 could you just read that one paragraph?

11 A. Sure. "I don't think we messed with Quico's district for
12 your sake and his. He is barely performing or not depending on
13 your measure right now." Add LTS? Oh, "add Rs."

14 Q. "Add Rs."

15 A. "Which will be Anglos and you put a neon sign on it telling
16 the court to redraw it. Bring down your numbers and you'll have
17 a Dem opponent every time and they won't be Lainey Melnick."

18 Q. Now, first of all, just to clear this up, is Quico the
19 nickname for Francisco Conseco?

20 A. Yes, ma'am.

21 Q. Okay. That was the easy question.

22 Now, you testified in deposition that you believe that
23 Mr. Opiela is describing adding Republicans into the
24 congressional district for Representative Conseco and trying to
25 figure out whether that would still allow the district to perform

1 or not, correct?

2 A. That's correct.

3 Q. And when you say "perform" you meant to perform as a Latino
4 opportunity district, correct?

5 A. That's correct. That's fair.

6 Q. Thank you. You may return to your seat. My remaining
7 questions don't involve your having to get up.

8 MS. PERALES: Can you turn off the ELMO?

9 Q. (BY MS. PERALES) Now, with respect to Congressional
10 District 27 you agree with me that the changes from the benchmark
11 plan, C 100, to the adopted plan, C 185, include placing Nueces
12 County in a district that stretches farther to the north, yes?

13 A. Yes, ma'am.

14 Q. And you agree that Nueces County is no longer joined with
15 the southern Gulf Coast counties such as Cameron, Willacy and
16 Kenedy, yes?

17 A. Yes, ma'am.

18 Q. And you agree with me that Nueces County is not sufficiently
19 numerous to comprise a congressional district by itself, correct?

20 A. That's correct.

21 Q. And you didn't analyze whether severing Nueces County from
22 the southern counties that it was connected to and joining it
23 with these new northern counties reduced Nueces County's
24 proportion of registered voters in the new CD 27, did you?

25 A. I did not. Nueces County was put in that district based on

1 specific testimony that was given at the Nueces County
2 redistricting hearing where they requested to be in a district
3 going north.

4 Q. Or did they request to be in the base of the district?

5 A. To be the anchor of a district, but I think -- if I recall
6 correctly, I think they did request being separated from the
7 southern portions.

8 Q. For at least Cameron County?

9 A. That I don't recall.

10 Q. Well, now, with respect to being the base of a district,
11 here's where my question is going. You did not know what
12 proportion of Nueces County's voters there were in the old 27
13 versus the new 27, correct?

14 A. No, ma'am.

15 Q. And you did no election analysis to see whether Nueces
16 County could control the election in the new CD 27 or in the
17 benchmark?

18 A. No, ma'am.

19 Q. Now, improving the electoral chances of Mr. Farenthold was a
20 consideration in the changes to Congressional District 27, wasn't
21 it?

22 A. Yes, ma'am.

23 Q. And it was your opinion that Blake Farenthold would have had
24 a difficult time being reelected in the benchmark Congressional
25 District 27, correct?

1 A. Yes, ma'am.

2 Q. And you know that Nueces County contains a majority of
3 Hispanic citizen voting age population, correct?

4 A. Yes, ma'am.

5 Q. We talked a moment ago about a district electing three out
6 of 10 Latino preferred candidates. You testified in your
7 deposition, didn't you, that in your opinion if a district elects
8 even three out of 10 Latino preferred candidates you would not
9 consider it a Latino opportunity district, would you?

10 A. Not necessarily. No, ma'am.

11 Q. And you agreed with me in your deposition, simple math, that
12 if a redistricting plan adds a Latino opportunity district but
13 also takes away a Latino opportunity district that there is no
14 net gain in the number of opportunity districts?

15 A. That's correct.

16 Q. Just a couple of remaining questions about the process.
17 It's fair to say that the House redistricting committee held
18 hearings on congressional redistricting when the committee itself
19 had no proposed congressional maps. Isn't that right?

20 A. That's correct. Yes, ma'am.

21 Q. And the House Redistricting Committee never held hearings on
22 congressional redistricting during the regular session when there
23 was a map to be discussed that was either offered by the
24 committee or the chairman, correct?

25 A. I believe that's correct. That was at the end of session.

1 Q. But during the regular session there was not a hearing in
2 which the chairman had a congressional map for people to testify
3 on?

4 A. Correct. The chairman did not introduce a map I think -- I
5 believe it was until the last week of the session.

6 Q. And then finally with respect to Texas House map you recall,
7 don't you, that the redistricting plan for the Texas House was
8 considered in a formal meeting and passed on April 19 in a
9 hearing room without any video broadcast, correct?

10 A. I believe that's correct. That day, if I recall, was the
11 day that the House floor was taking into consideration a very
12 important public education bill, funding, and so the decision was
13 made to have the room be as close as possible to the floor for
14 members to be able to go back and forth between the floor and the
15 hearing.

16 MS. PERALES: Thank you. I pass the witness.

17 THE WITNESS: Thank you.

18 CROSS EXAMINATION

19 BY MR. GARZA:

20 Q. Good afternoon, sir.

21 A. Good afternoon.

22 Q. I just have a few questions for you.

23 MR. GARZA: If we could have plan 201 of the Nueces
24 portion of the districts stretching up to Harris County.

25 TECHNICIAN: Is that the congressional plan?

1 MR. GARZA: House 201. H 201.

2 Q. (BY MR. GARZA) Mr. Interiano, you mentioned in your direct
3 examination that you reviewed Plan H 201 submitted by the
4 Mexican American legislative caucus; is that correct?

5 A. Yes, sir.

6 Q. And you compared that to Plan 283, the plan that was adopted
7 by the Texas legislature?

8 A. Yes, sir.

9 Q. Okay. And you indicated that you believe that 283 had one
10 county cut?

11 A. That's correct, in Henderson County.

12 Q. And that Plan H 201 had three county cuts?

13 A. I believe that I did. Yes, sir.

14 Q. Okay. And your interpretation of article three, section 26,
15 that's your interpretation; is that correct?

16 A. Yes, sir, but I believe that the Texas Supreme Court has
17 also given several interpretations of it.

18 Q. Well, isn't it, in fact, true that in Valles versus Clements
19 the Texas Supreme Court evaluated legislative redistricting cuts
20 by look -- legislative redistricting plans by looking at the
21 number of counties that were, in fact, opened up in terms of
22 counting compliance with article 3, section 26?

23 A. That I don't recall. Those questions were questions that I
24 raised for our attorneys.

25 Q. So if that's the case then the Texas Supreme's Court

1 interpretation would vary from your interpretation of article 3,
2 section 26; is that correct?

3 A. If what you said is true. Yes, sir.

4 Q. All right. So one of the cuts that you found in Plan 201
5 that was different -- well, let's begin with the one that's
6 similar.

7 A. Okay.

8 Q. Or the one that's the same. So we have in H 201 the same
9 cut that H 283 has in Ellis County.

10 A. In Henderson County.

11 Q. I'm sorry. Henderson County.

12 A. Yes, sir, that's correct.

13 Q. And the difference is the cut in Nueces County and the cut
14 in Galveston County; is that correct?

15 A. That's correct.

16 Q. All right. So in your -- in H 283 --

17 MR. GARZA: Could we zoom in on Nueces County?

18 Q. (BY MR. GARZA) And as a preface in H 100, District 33 and
19 District 34 both are majority Latino in population?

20 A. Yes, sir, that's correct.

21 Q. And they're both majority HCVAP?

22 A. To the best of my recollection they are.

23 Q. And they're both majority SSVR districts?

24 A. I believe they are. Yes.

25 Q. So in the MALC plan in the H 201, those two districts are

1 maintained but in order to do that Nueces County is opened up?

2 A. Nueces County is split. Yes, sir.

3 Q. Okay. And it moves -- it sends District 33 north? I'm
4 sorry, District 32 north?

5 A. Yes, sir.

6 MR. GARZA: Okay. Could we -- could we pan up to
7 the -- approaching Harris County, please? Just a little further
8 south, I think. Right there.

9 Q. (BY MR. GARZA) So the county to the southwest of District
10 25 is Matagorda County?

11 A. That's correct.

12 Q. And in H 283 Matagorda County is combined with District 25?

13 A. With the remainder -- with Brazoria County, that's correct.

14 Q. That's right. That was Brazoria County. And so in order to
15 accomplish what 201 did, that is reinstate District 33 in Nueces
16 County, there was a ripple effect. And to keep District 32 in
17 compliance with one person/one vote, one of the options
18 available--obviously because we did it--is that Matagorda County
19 is moved into that district?

20 A. Correct, causing another county split.

21 Q. Exactly. So the impact of creating a new majority Latino
22 district or keeping the old Latino majority district in Nueces
23 County had the impact. That decision had the impact of creating
24 two county cuts under your interpretation, Nueces County and
25 Galveston County?

1 A. Correct. But aside from the county line rule I also believe
2 that Nueces County should only have two districts --

3 Q. I understand.

4 A. -- in order to abide by the language in the constitution of
5 as nearly as may be.

6 Q. I understand. I understand that that's your interpretation
7 of the -- of that rule. And that rule then trumped, for all
8 intents and purposes, the requirements of section 5 which say
9 that you shouldn't eliminate majority -- existing majority
10 opportunity -- majority minority opportunity districts, correct?

11 A. No, sir. I wouldn't say that it trumps it. I think we
12 looked at both the state constitution and the federal law in
13 order to abide by it. My understanding is that under the federal
14 law we needed to look at the state as a whole for section five,
15 not just at Nueces County in a vacuum.

16 Q. All right. So again we have a difference of opinion about
17 the impact of section five, the obligation of the state defined
18 in section five?

19 A. Yes, sir.

20 Q. Okay. So that was then -- the result of those two cuts was,
21 we agree, you and I, that that was resulting -- a result of
22 putting District 33 back in Nueces County the way we did it?

23 A. Yes, sir.

24 Q. Okay.

25 A. But I also believe that the result of those cuts is actually

1 also a result of combining Cameron County and Hidalgo County
2 together. I think that the ripple there is all together.

3 Q. Well, tell me how -- explain that to me then, how -- we just
4 followed through in terms of looking through the effect of
5 putting District 33 in Nueces County and we found that we
6 had -- that the way we did it we put Matagorda County in District
7 32 thereby requiring additional population in District 25 which
8 we secured by cutting off of a piece of Galveston, correct?

9 A. Correct. But I think that's because you were able to create
10 a new district there in the first place. If we would have tried
11 to do that in the State House map by combining Cameron County and
12 Hidalgo County you would have essentially had leftover counties.
13 And part of what we have to do is make sure that every county has
14 a district to go in.

15 You were able to go around that by creating that
16 district between Cameron and Hidalgo and linking that new
17 district to the District 32 that you have going north.

18 Q. So you would agree then with me that if we did -- if we took
19 out District 33 from Nueces County all of those -- all of those
20 ripples we could take back?

21 A. And still have the district between -- between Hidalgo and
22 Cameron?

23 Q. We haven't -- we haven't even approached Hidalgo and
24 Cameron, right? So if we did -- if we only did what 283 did and
25 leave Nueces County whole, put those districts exactly the way

1 the State had drawn them, all those effects we're talking about
2 here, we could undo those?

3 A. So long as you did not have that district between Hidalgo
4 and Cameron.

5 Q. So in doing this -- this was caused by Hidalgo and Cameron,
6 everything that we just described?

7 A. It's a ripple. It's caused by a variety of factors. There
8 was no way to draw a district between Hidalgo and Cameron without
9 causing a split. What you essentially did is you created a split
10 in Nueces and a split in Galveston, thereby allowing you to
11 create a district between Hidalgo and Cameron and Nueces. That
12 ripple effect impacts that entire region. It's not just directly
13 as a result of Nueces.

14 Q. All right. But we were able to trace every one of those
15 ripples to the insertion of District 33 back in Nueces County;
16 isn't that correct?

17 A. No, no, that's not correct. It's not just Nueces County.
18 It's also as a result of your ability to create a district
19 between Cameron and Hidalgo. Those are all interrelated.

20 Q. And you would agree with me then that in -- in the Hidalgo
21 and Cameron County portion of 201 the outer boundaries of Hidalgo
22 and Cameron county are kept whole?

23 A. I believe -- I mean, I guess it depends on what -- what
24 you're defining. The fact you're saying we crossed -- 201
25 crossed the line that touches Hidalgo and Cameron rather than

1 going north, yes.

2 Q. The outer boundary of Hidalgo and Cameron County is kept
3 whole. Only the line between Cameron and Hidalgo is cut; isn't
4 that correct?

5 A. I believe that's correct.

6 Q. Okay. And all seven of the districts that are created
7 between Hidalgo and Cameron County are over 50 percent Hispanic
8 voting age population?

9 A. I believe that's correct. Yes, sir.

10 Q. And over 50 percent Hispanic citizen voting age population?

11 A. I believe that's correct.

12 Q. And over 50 percent Spanish surname registration?

13 A. Yes, sir.

14 Q. And there are seven districts in that -- in that two-county
15 mix?

16 A. Yes, sir.

17 Q. So if you could look at binder number five which is on the
18 floor, the black binder.

19 TECHNICALIAN: It's right here.

20 THE WITNESS: It says six on one side and five on the
21 other.

22 MR. GARZA: Is it Volume Number 1?

23 THE WITNESS: It says Volume 2 on one side and Volume 1
24 on the other.

25 MR. GARZA: Does it have Exhibit 19 in it?

1 THE WITNESS: No.

2 MR. GARZA: So it's the other volume, the white
3 notebook.

4 May I approach the witness, Your Honor?

5 JUDGE GARCIA: Yes, you may, of course.

6 MR. GARZA: There you go.

7 Q. (BY MR. GARZA) So if you could turn to page 79 of
8 Exhibit 19, Mr. Interiano. This is an exhibit that's been
9 entered into evidence. It's part of Dr. Kousser's report and
10 he -- he counted up the number of HCVAP districts between a
11 number of plans that were offered to the legislature and are
12 exhibits before this court. And you don't have any reason to
13 doubt his total number of HCVAP districts as between defined
14 passage Plan 283 and MALC 201. We have 31. You have 30.

15 A. That appears that is correct. I have not reviewed that.

16 Q. And there are a number of other districts that
17 didn't -- that also increased the number of HCVAP districts over
18 what 283 has in that analysis; is that correct?

19 A. Yes, sir, but I have not reviewed each of those plans or I
20 guess I don't know off the top of my head to know how many
21 counties are split.

22 Q. All right. And if you look at page 82 and 83 -- and if I
23 represent to you that Dr. Kousser analyzed the number of county
24 cuts pursuant to Valles versus Clements and found that there were
25 16 in the plan that was adopted by the legislature, and that

1 there were also 16 in 201 and in H 130 and in H 100, you haven't
2 done an analysis of that sort to contradict what Dr. Kousser
3 found?

4 A. No, sir.

5 MR. GARZA: All right. Pass the witness.

6 JUDGE GARCIA: Anyone else over here?

7 MR. GRAY: Very briefly, Your Honor.

8 JUDGE GARCIA: Of course.

9 CROSS EXAMINATION

10 BY MR. GRAY:

11 Q. Good afternoon, sir.

12 A. Good afternoon.

13 Q. I'm Rick Gray. We met briefly this afternoon, didn't we?

14 A. Yes, sir.

15 Q. First I want to ask you some very simple one person/one vote
16 questions.

17 A. Sure.

18 Q. As I understand it in drawing the House map, Plan 283, you
19 were operating -- you were operating under the assumption that as
20 long as you were within a 10 percent deviation you were okay; is
21 that correct?

22 A. Yes.

23 Q. And by 10 percent deviation we mean five percent below the
24 ideal district of 167,000 and some odd people or five percent
25 above or 5.5 below and 4.5 above. But as long as the combined

1 total was 10 percent or less you were okay?

2 A. Yes, sir, that's correct.

3 Q. And there was no effort made to minimize the deviations
4 within the counties that had whole districts wholly contained
5 within the county?

6 A. I think that was up to the delegations in doing that. The
7 members asked and we told them they were free to do so, but
8 depending on who submitted the map it was ultimately their
9 decision.

10 Q. So from the overall map drawer's point of view there was no
11 effort to -- for example, the Dallas deviation is 8.88 percent, I
12 believe.

13 A. Uh-huh.

14 Q. Houston is over nine percent, I believe. The statewide map
15 itself is right at 9.92 percent I believe. There was no effort
16 to get those deviations any lower. As long as you were below 10
17 percent everybody thought they were okay?

18 A. Yes, sir, that's correct.

19 Q. Now, the -- did I understand you correctly to say that in
20 Harris County the map was drawn by the Republican delegation?

21 A. That's correct.

22 Q. And there was a discussion a day or two ago when Mr. Downton
23 was on the stand and Judge Rodriguez asked him a question, but
24 there was an issue in which the House kind of came to a halt for
25 a while because the Democratic members of the delegation that had

1 been kind of left out of the drawing process wanted to have time
2 to figure out what was going on.

3 A. Yes, sir.

4 Q. And they were given certain parameters in which they could
5 draw their districts?

6 A. Yes, sir.

7 Q. Were you part of the team that gave them the parameters or
8 was that Speaker Straus or was that Chairman Solomons? Who told
9 them the parameters that the Democrats could operate under?

10 A. I was working with those members.

11 Q. Now, Mr. Downton told Judge Rodriguez that the Democrats
12 were free to draw their districts pretty much however they wanted
13 to as long as they didn't impinge upon any Republican districts
14 without the Republican members' agreement or words to that
15 effect; is that correct?

16 A. To a certain degree. What happened that night is we were
17 there between two to three hours. Mrs. Thompson did not realize
18 that her district had changed from the time that the map had been
19 introduced to when the map got to the floor. As a result when
20 she realized that there was a change she approached our office
21 and said she wanted to try to make some changes. The Speaker
22 asked me to go to the back and work with her and every member
23 that would be impacted.

24 That included Republican members. I mean, the
25 Republican members were in the room there and it wasn't just

1 Republican members who were -- who were -- had veto power, but it
2 was anybody. I mean, we just worked with the delegation as a
3 whole and everybody in that region to come up with an amendment
4 that all those members agreed upon.

5 Q. Were there any changes made to the plan that the House
6 Republicans submitted in Harris County that was not agreed upon
7 by the Republican member impacted?

8 A. I don't believe that there was. But I also don't believe
9 that there were any changes made to those members on that
10 amendment that anybody could agree upon. Not just Republicans.

11 Q. Now, I forgot to ask you this and I apologize. You -- I
12 think you've already established you have worked primarily or
13 exclusively for Republican office holders?

14 A. I believe I've worked only for Republican office holders.
15 Yes, sir.

16 Q. You worked for Representative Tom Delay, correct?

17 A. I was an intern in law school.

18 Q. You worked for Governor Perry's office, correct?

19 A. Yes, sir.

20 Q. You worked for Representative Lamar Smith?

21 A. Yes, sir.

22 Q. And you're now working for Speaker Straus?

23 A. Yes, sir.

24 Q. If you will, did I understand correctly that you are the one
25 who drew the Hidalgo County maps?

1 A. Yes, sir.

2 Q. And did I understand you correctly to say you started with
3 District 41?

4 A. Yes, sir.

5 Q. And that district, if I'm correct in understanding, you drew
6 it with the goal of helping or hoping to help Representative
7 Aaron Pena be reelected?

8 A. Yes, sir.

9 MR. GRAY: Now, Claire can you pull up District 41 for
10 me? Or Richard, if you can pull it up on Exhibit 116? Either
11 way.

12 Q. (BY MR. GRAY) Now, the District 41, the testimony has
13 already been before this court that it picks up virtually every
14 Anglo -- significant Anglo neighborhood in Hidalgo County. Is
15 that your understanding?

16 A. My understanding is it picks up every Republican precinct
17 that we could get into that district.

18 Q. And are you drawing -- and are you saying that there are
19 significant Hispanic Republicans in Hidalgo County, large numbers
20 of Hispanic Republicans?

21 A. They may be, but the overlay that I used in drawing that
22 district was looking at the Republican performance of that
23 district, not a racial performance.

24 Q. Okay. Now I'm going to quote you some numbers on one
25 person/one vote issues.

1 A. Sure.

2 Q. District 36 in Hidalgo County is over 4,000 overpopulated.

3 District 39 in Hidalgo County is over 7,700 overpopulated.

4 District 40 in Hidalgo County is over 5,800 overpopulated. And
5 the district that you drew for Mr. Pena, District 41, is 7,399
6 underpopulated. Was that intentional?

7 A. Yes, sir.

8 Q. And why was it intentional?

9 A. Again, the goal of drawing District 41 was to give
10 Representative Pena the best opportunity to be reelected and we
11 were looking at the Republican performance of that district.

12 Q. And by that I assume that if you had drawn District 41 to be
13 ideal, added the 7,399 people that were not in it, that would
14 have adversely impacted the Republican performance of
15 District 41?

16 A. I wouldn't know. I guess it would depend on what you put in
17 there, but I think it's possible.

18 Q. In other words, it was an intentional act--it's not
19 coincidental--that that is the one district in Hidalgo County
20 that is underpopulated with everything surrounding it is
21 overpopulated?

22 A. The intentional act was not to underpopulate the district.
23 The intentional act was to give Representative Pena the best
24 chance to be reelected.

25 Q. Do you know the number of split precincts within

1 District 41? Were you actually going through and dividing
2 precincts? Did you get down to that fine a level?

3 A. Yes, sir.

4 Q. And when you're down at that fine a level you have the
5 ethnicity screen up, do you not?

6 A. I don't believe that I do.

7 Q. The Republican-Democratic shading just shades the entire
8 precinct because you don't know where those votes came from?

9 A. Correct.

10 Q. So when you get down to actually dividing precincts, cutting
11 through in order to know that you're getting the more Anglo part
12 or the more Democratic part of a precinct, you have to have the
13 race shade on because you're doing it by race at that level
14 because there is no political data at that level, correct?

15 A. I did not have that shading available. No, sir.

16 Q. Lastly --

17 JUDGE RODRIGUEZ: How would you draw those precinct
18 levels?

19 THE WITNESS: Members of the legislature were there
20 with me and they were the ones telling me which precincts and
21 which areas they'd like to have.

22 JUDGE RODRIGUEZ: So during those discussions was
23 ethnicity or race brought up at all?

24 THE WITNESS: No, sir.

25 JUDGE RODRIGUEZ: No one mentioned that this is a white

1 neighborhood?

2 THE WITNESS: No, sir.

3 Q. (BY MR. GRAY) The last round of questions. You were asked
4 a series of questions about the various plans in your
5 interpretation of the state constitutional provision on
6 countywide cuts. And first is it fair to say that the plan,
7 House Plan 232 that was sponsored by Representative Garnet
8 Coleman on the floor of the House, had the exact same number of
9 county line cuts as you define it as House Plan 283?

10 A. That's correct.

11 Q. And did I understand you to say, though, at the end of
12 Mr. Mattax's questions that Plan 283 had two more Latino
13 districts or Hispanic districts under a definition that you had
14 adopted? I don't know if it was CVAP or --

15 A. It was a majority CVAP.

16 Q. Okay. A majority CVAP. Then 232?

17 A. Yes, sir, that's correct.

18 Q. By saying that are you meaning to imply to this Court that
19 House Plan 283 is more favorable and is a better plan for
20 minority voter strength and participation in the process than
21 283?

22 A. All that I'm saying is that that map has more majority CVAP
23 districts than the one that was presented by Representative
24 Coleman.

25 Q. You were there when that vote was taken, were you not?

1 A. Probably I was there all day.

2 Q. And you know, do you not, that over 80 percent of the
3 minority members of the Texas legislature voted in favor of House
4 Plan 232 and against House Plan 283?

5 A. I don't recall the specific vote and that could be possible.

6 Q. You know that the overwhelming number of the minority
7 members sitting -- currently sitting in the Texas House were
8 against Plan 283 and were in favor of Plan 232?

9 A. Yes, but I don't necessarily -- well, here's my issue with
10 it. It is my understanding that member -- that some of the
11 members who were very happy with their districts that we worked
12 with were also told that they needed to vote against the map to
13 build a legal case.

14 Q. Well, the bottom line is the record vote speaks for itself
15 and you know that the overwhelming majority minority -- majority
16 of the minority members were against 283?

17 A. Because I believed that they were told that they needed to
18 be against it and they needed to vote against it because any vote
19 in favor of the map would have hurt their legal case.

20 Q. Now, one last question and I'll sit down. There was a
21 conscious decision made by somebody in Harris County to pair
22 an -- an existing member of the Texas legislature that is
23 minority with an Anglo, correct?

24 A. I think it was a conscious decision to pair two Democrats.
25 Yes, sir.

1 Q. Well, one of the two Democrats that was paired was
2 Representative Hubert Vo, the first Vietnamese member ever
3 elected to the Texas legislature, correct?

4 A. Correct.

5 Q. Who made that decision to pair Representative Vo and put him
6 or take the district in which he has been elected to for the last
7 eight or so years and eliminate it? Who made that decision?

8 A. I believe that was a decision that was ultimately made by
9 the Republican delegation of Harris County. But like I said,
10 there were pairings all across the map and there were some very
11 senior members that were paired throughout the map. That is the
12 only pairing of two Democratic members in the entire map.

13 Q. And was it your counsel to -- or did you give counsel that
14 it was okay to wipe out the district in which Representative
15 Hubert Vo had been elected from?

16 A. I did not believe that either Representative Vo's district
17 or Representative Hochberg's district were protected and it was
18 okay to pair those two districts.

19 Q. So you, in fact, said it was okay to pair those two
20 districts?

21 A. When I was asked. Yes, sir.

22 MR. GRAY: Thank you, sir. I've got no further
23 questions.

24 CROSS EXAMINATION

25 BY MS. RIGGS:

1 Q. Good afternoon, Mr. Interiano. My name is Allison Riggs. I
2 don't believe we've met before.

3 A. I don't think so. It's nice to meet you.

4 Q. Nice to meet you.

5 You testified earlier that you did not look at primary
6 races when evaluating election performance for --

7 A. I don't believe we did. No, ma'am.

8 Q. Why did you not look at primary elections?

9 A. That information wasn't available to us in Red Appl. And
10 when we requested the election analysis from the attorney
11 general's office they didn't include them in there. I think
12 you'd have to ask them why those were not included in that
13 analysis.

14 Q. So you didn't receive any directives from anyone above you
15 to look at general elections versus primary elections?

16 A. No, ma'am.

17 Q. Mr. Interiano, what is your definition of a coalition
18 district?

19 A. I don't necessarily believe coalition districts exist.

20 JUDGE GARCIA: But the question is what do you -- you
21 don't believe in it?

22 THE WITNESS: No, sir.

23 JUDGE GARCIA: Okay. I misunderstood you. Go ahead.

24 Q. (BY MS. RIGGS) But if you're so certain they don't exist
25 don't you have some notion of what it is in order to be certain

1 that it doesn't exist?

2 A. I just don't believe that there are coalition districts. I
3 think that there are Democrats that vote together and Republicans
4 that vote together, but I don't believe that coalition districts
5 exist.

6 Q. So what sort of terminology would you use to refer to
7 Congressional Districts 9, 18 and 30?

8 A. You're going to have to tell me who 9, 18 and 30 are.

9 Q. It's Representative -- Congressman Green, Congresswoman
10 Jackson-Lee and Congresswoman Eddie Bernice Johnson.

11 A. If I recall correctly, Congressman Green's district is above
12 50 percent Hispanic. I don't recall the numbers on those other
13 districts. Again, I was not the lead on the congressional map.

14 Q. Well, maybe -- can I have you look at C 185 then and check
15 the numbers on those?

16 A. Is that available here?

17 MR. MATTAX: It would be number one. May I approach,
18 Your Honor?

19 JUDGE GARCIA: (Indicating.)

20 MR. MATTAX: Here are the maps right here. Just look
21 at those.

22 THE WITNESS: Okay.

23 Q. (BY MS. RIGGS) Just to clarify, I was referring to
24 Congressman Alexander Green, an African American representative,
25 and not Gene Green.

1 A. Sorry about that. What number was it?

2 Q. I'm looking at C 185, the enacted plan.

3 A. Okay.

4 Q. Congressional Districts 9, 18 and 30.

5 A. I would consider all three of those African American
6 districts.

7 Q. Opportunity districts?

8 A. I guess -- how are you distinguishing an African American
9 district versus an African American opportunity district?

10 Q. Let me go back to your deposition. Do you remember
11 testifying there are either majority minority districts or
12 nothing else?

13 A. Yes, but I think that was in terms of the Hispanic or Latino
14 districts. I think that Hispanic and Latino districts perform
15 very differently from African American districts.

16 Q. Okay. So you have different sets of terminology for African
17 American districts than you do Latino districts?

18 A. Yes, due to the citizenship issue.

19 Q. Okay. So what is a -- so are there coalition districts when
20 African American numbers are involved?

21 A. No, because I believe -- I believe that an African American
22 district can perform at a lower threshold than a Latino
23 opportunity -- than a Latino district.

24 Q. Okay. So if there is an African American opportunity
25 district it's not necessarily an African American majority

1 minority district?

2 A. That's correct.

3 Q. Okay. And so the districts that I listed, those are not
4 African American majority minority districts?

5 A. They are below 50 percent black voting age population, but I
6 still believe that they are African American districts.

7 Q. African American opportunity districts?

8 A. Sure.

9 Q. And do you believe that voters in that -- African American
10 voters need the coalition of any other racial groups in that
11 district?

12 A. I wouldn't know. I think you'd have to ask Ryan that
13 question.

14 Q. You never looked -- you never had any discussion about
15 whether Latino voters would be voting with African American
16 voters in that district to enable the election of African
17 American candidates?

18 A. Again, Ryan Downton was the lead on the congressional map.
19 My role in that was to assist Ryan as necessary, but he was the
20 lead on that map.

21 Q. Do you believe when it comes to African American numbers
22 that influence districts exist?

23 A. I don't believe so. I think that it's either you have an
24 African American district or you have a Hispanic district.

25 Q. So where is the cutoff between what would be a nonexistent

1 influence district and where there would be an African American
2 opportunity district?

3 A. Well, I think that it varies. I mean, I think you have to
4 look at a variety of factors. One of the numbers that we looked
5 at throughout the legislative session was districts that were
6 above 40 percent feedback. Those districts tended to perform as
7 African American districts.

8 Q. So would you say that any district that you could
9 draw -- when you were looking about what section two compelled
10 the drawing of, it wasn't the 50 percent plus one black voting
11 age population?

12 A. No, not in that case. But again I think Ryan is the more
13 appropriate person to ask.

14 Q. I'm just trying to ascertain your understanding of the law.

15 A. Sure.

16 Q. So when it came to an African American district the magic
17 number wasn't 50 percent plus one?

18 A. No, ma'am.

19 Q. And there is no set number it was?

20 A. No. I think, like I said, we looked at 40 percent quite a
21 bit, but there wasn't a set number.

22 Q. Did you have any legal basis from which you derived that
23 number?

24 A. I don't believe we did.

25 MS. RIGGS: I pass the witness.

1 THE WITNESS: Thanks.

2 CROSS EXAMINATION

3 BY MR. HICKS:

4 Q. Mr. Interiano, Renea Hicks for the Rodriguez plaintiffs.

5 A. Yes, sir.

6 Q. One narrow set of questions. In doing your work in
7 determining the citizenship, especially CVAP, for the districts
8 you drew, Congress or House, it doesn't matter, is it correct to
9 say that you used the ACS 2005/2009 survey data that was provided
10 by the Texas Legislative Council to make those determinations?

11 A. Yes, sir. That is what the legislative council provided to
12 us and that's it.

13 Q. Did you ever evaluate it to see if it was accurate?

14 A. No, sir.

15 Q. Did you ever evaluate it to see if it was up to date,
16 current?

17 A. No, sir. I believe the legislative council did that. Not
18 our office.

19 Q. Did they tell you they evaluated it to see that it was up to
20 date and in sync with the 2010 census enumeration data?

21 A. I do not -- I don't understand it. I am not sure what they
22 did. I know that there was a large debate and a large question
23 as to what the legislative council did with the ACS data in order
24 to give us the CVAP, so much so that we didn't get the CVAP
25 information until several weeks after the census information was

1 uploaded. What the legislative council did I don't understand,
2 so...

3 Q. Okay. Who told you to use it?

4 A. That was just one of the numbers that was available and I
5 believe -- I don't recall who, but I believe that there was some
6 testimony given at one of the hearings that we should be using
7 it.

8 Q. But who directed you? Who of your bosses directed you to
9 use it?

10 A. No one. We just looked at SSVR, HVAP and CVAP. Those were
11 the only numbers available to us.

12 Q. I'm only asking about CVAP. Who directed you to use the
13 survey?

14 A. Nobody.

15 Q. You just did it?

16 A. Yes.

17 Q. You didn't look to see if it was accurate, you didn't look
18 to see if it was up to date, correct?

19 A. No, sir, because I believe that was the role of the
20 legislative council.

21 MR. HICKS: Thank you. No further questions.

22 JUDGE GARCIA: No one else?

23 MR. HEBERT: No questions from the Quesada plaintiffs.

24 JUDGE GARCIA: I want to know if anyone else has
25 questions. Not who doesn't have. You have some? Okay. Go

1 ahead.

2

CROSS EXAMINATION

3 BY MR. BLEDSOE:

4 Q. See if you have an exhibit here. Look at 614 of 10-1.

5 Let's see if there's a copy of that here. Exhibit 614 in 10-1.

6 Remember talking about a conference that you attended?

7 A. Yes, sir.

8 Q. And I think it's an actual conference of state legislators?

9 A. Yes, sir. NCSL.

10 Q. And they were authorities on redistricting; is that correct?

11 A. They had several presentations on redistricting. Yes, sir.

12 Q. And did you-all go in order to get information to learn to,
13 you know, get better, more efficient at drawing of district
14 lines?

15 A. Yes, sir.

16 Q. And if you look at the first thing on that -- the first
17 segment where it talks about majority minority districts, and it
18 says you look at voting age population to determine if there is a
19 working majority; do you see that?

20 A. Yes, sir.

21 Q. Okay. By the term "working majority" -- what is meant by
22 the term "working majority"?

23 A. I'm not sure. This is actually a presentation I was not
24 able to go to and these are just notes that were sent to me by
25 Eric of that presentation, so I don't know the context that that

1 presentation was given in, but those are just his notes to me.

2 Q. So you never had a discussion or what have you to determine
3 what was meant to determine if there was a working majority?

4 A. No, sir.

5 Q. And I think it's important to note there he mentioned voting
6 age population and not citizen voting age population?

7 A. Yes, sir, I believe that's correct.

8 Q. Okay. But later on in the e-mail he mentions in a separate
9 category citizen voting age population; is that correct?

10 A. I don't see where he mentions citizenship.

11 Q. It is later in the e-mail, but I won't quibble with you
12 about that. The document speaks for itself.

13 A. Okay.

14 Q. And in that -- in that second paragraph where it talks about
15 influence districts --

16 A. Yes, sir.

17 Q. -- does it say that section five would not allow the
18 creation of an influence district if you could create an
19 opportunity district?

20 MR. MATTAX: Objection. Section five is not relevant
21 to this case.

22 MR. BLEDSOE: I think it is, Your Honor, in terms of in
23 particular --

24 JUDGE GARCIA: What's your question again? What was
25 your question?

1 MR. BLEDSOE: In the second segment of that particular
2 e-mail, the e-mail says that if you are creating an influence
3 district that you can't create one under section five if you
4 can create a section two district.

5 JUDGE GARCIA: I'll permit it. Go ahead.

6 MR. BLEDSOE: Okay.

7 THE WITNESS: Do you want me to read that paragraph?

8 Q. (BY MR. BLEDSOE) Is that what it says? Is that your
9 understanding of what it says?

10 A. It says, influence districts permitted but not required by
11 section two, comma, not permitted by section five if stronger
12 districts are possible. Minority group could influence the
13 outcome of the election even if the preferred candidate cannot be
14 reelected -- cannot be elected. I'm sorry.

15 Q. Okay. So is that accurate to say that what that is saying
16 you don't create an influence district if you can create a
17 section two district?

18 A. I believe that's correct, but again I was not there for the
19 presentation and I honestly never had any discussions with Eric
20 about this e-mail.

21 Q. All right. And you understand what an influence district
22 is, do you not?

23 A. Well, I think I understand what they're trying to refer to.
24 Yes, sir.

25 Q. Would you consider Congressman Doggett's district to be an

1 influence district?

2 A. Again, sir, I did not review the congressional districts,
3 and I believe those are questions that Ryan would be better able
4 to answer for you.

5 Q. So you don't have an opinion as to whether or not
6 Congressman Doggett's district is an influence district?

7 A. No, sir, I do not.

8 Q. When Judge Rodriguez asked you earlier about when you sat
9 down in a room and you-all sat down to draw up districts and you
10 went down to the block level and you were talking about what area
11 to add and what area not to add, if you didn't use the term
12 "race" for some reason, what terminology did you use to
13 differentiate between voters to adopt and not adopt if you're
14 looking within the block vote?

15 A. They didn't tell me race. They just told me areas. They
16 said add the area between this street and this street.

17 JUDGE RODRIGUEZ: So you can't tell us -- in their
18 minds they could have had race in mind when they were telling you
19 to carve out areas; you just don't know?

20 THE WITNESS: Yes, sir, I don't know what they were
21 referring to.

22 Q. (BY MR. BLEDSOE) Okay. Now, how were you selected for the
23 position that you held during this session?

24 A. Congress -- I was working for Congressman Smith in
25 Washington DC at the time and I have known Speaker Straus for

1 several years. And Denise Davis, the chief of staff, approached
2 me about moving back to Texas and working for the Speaker.

3 Q. So you didn't have to apply for the position?

4 A. No, sir. She approached me.

5 Q. Okay. So they recruited you for the position?

6 A. Yes, sir.

7 Q. Okay. And would it be fair to say that there are people of
8 influence who are concerned about your performance during the
9 session?

10 A. I would hope so.

11 Q. Okay. And you wanted to make sure you didn't disappoint
12 them, didn't you?

13 A. Absolutely.

14 MR. BLEDSOE: Thank you. Pass the witness.

15 JUDGE GARCIA: Anyone else?

16 MS. PERALES: Your Honor, I spoke briefly to the State
17 and have their agreement to ask one question simply to clarify
18 the fact record --

19 JUDGE GARCIA: Okay.

20 MS. PERALES: -- regarding something that Mr. Interiano
21 said about the capabilities of Red Appl.

22 JUDGE GARCIA: Go ahead and asked your question.

23 MS. PERALES: Claire, can you turn on --

24 RECROSS EXAMINATION

25 BY MS. PERALES:

1 Q. Mr. Interiano, you said briefly in response to another
2 question that you didn't think that primary election results were
3 available to be displayed in the Red Appl redistricting program;
4 is that right?

5 A. That's correct.

6 Q. Okay. And can you see here -- do you recognize this as
7 Red Appl?

8 A. I do. I believe that -- I guess I'll clarify that. I don't
9 believe that they're available in the statistics. Maybe shading
10 was available, but I don't believe statistics was available for
11 primary elections.

12 Q. You mean for how the district overall would perform for one
13 candidate or another?

14 A. Correct.

15 Q. Is that also possible? I also understand we can see that
16 shading, areas of greater amounts of votes for a particular
17 Republican primary candidate versus less? Perhaps we can just
18 leave that question open and if there's a way to produce a report
19 or something we'll simply ask to introduce it as an exhibit.

20 JUDGE GARCIA: All right.

21 MS. PERALES: Thank you, Your Honor.

22 THE WITNESS: To the best of my knowledge that was not.

23 JUDGE GARCIA: Okay. Okay. We'll be in recess just
24 for two or three minutes.

25 (Recess.)

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(Change of reporter.)

1 (Change of court reporters.)

2 JUDGE GARCIA: Okay, Mr. Mattax.

3 MR. MATTAX: Brief redirect.

4 *-*-*-*-*-*-*-*

5 REDIRECT EXAMINATION

6 BY MR. MATTAX:

7 Q. We pulled up H-100, which is the benchmark plan for the
8 house maps, and I am directing your attention to Nueces
9 County.

10 A. Yes, sir.

11 Q. Are there three districts coming from Nueces County in the
12 benchmark plan?

13 A. There are two districts entirely within Nueces, and a
14 third district that comes into, which is District 32.

15 Q. And looking at red 109, if you will turn to it, and I will
16 cite these numbers briefly. The HCVAP of 32 is 35 percent.
17 The HCVAP of 33 is 60 percent. And the HCVAP in 34 is
18 58 percent.

19 Those three districts, do they currently have
20 Republicans?

21 A. Yes, sir.

22 Q. And those two Republicans designed the map that was put
23 for Nueces County?

24 A. Yes, sir.

25 Q. And Nueces County, did the population of Nueces County

1 grow?

2 A. The population of Nueces County may have increased, but
3 Nueces County grew at a slower rate than the rest of the state
4 grew, which is the reason why it lost that extra portion of
5 that district.

6 Q. So based on the population, you had to include two
7 districts wholly within Nueces County?

8 A. That is correct.

9 Q. Now, the choice of the legislature was to create one
10 district with a higher Hispanic citizen voting age population
11 than the other?

12 A. Yes, sir. That is correct.

13 Q. Why did the legislature do that?

14 A. It was a concern that -- Nueces County, as a whole, the
15 Spanish surname voter registration of the county is below
16 50 percent. Our concern was that if we tried to draw two
17 districts that were at, you know, 49.5 each, we would be
18 dropping two of them below a majority.

19 Q. So is it the intent and is it your understanding of the
20 legislature in drawing Nueces County to ensure one of those
21 districts was a citizen -- Hispanic citizen voting age
22 majority district?

23 A. Yes, sir.

24 Q. Very briefly, you testified that you did not draw an
25 additional Hispanic citizen voting age population district in

1 Cameron, Hidalgo County.

2 Did you believe that under the Voting Rights Act you
3 had to?

4 A. No, sir.

5 Q. Why not?

6 A. Because I do not believe that we needed to maximize the
7 number of districts.

8 Q. So your discussion of the interplay between the
9 constitutional provision with respect to not -- the county
10 line rule, you had in mind also complying with the Voting
11 Rights Act?

12 A. Yes, sir.

13 Q. Now, in addition to that, were there other fundamental
14 redistricting principles at play in drawing H-283?

15 A. Yes, sir. I mean, the main goal was to make sure that it
16 was a member-driven process and that we paired the least
17 number of members, while abiding with both state and federal
18 law.

19 Q. So one of those issues, then, would be looking at
20 incumbents?

21 A. Yes, sir.

22 Q. And compactness?

23 A. Yes, sir.

24 Q. Continuity between districts?

25 A. Yes, sir.

1 Q. We have already talked about the counties and keeping
2 counties intact and communities of interest?

3 A. Yes, sir.

4 MR. MATTAX: Thank you. No further questions.

5 JUDGE GARCIA: Anyone over here? Ms. Perales, Mr.
6 Garza?

7 MR. GARZA: No more questions. Actually, I have one
8 brief question.

9 JUDGE GARCIA: Go ahead.

10 *-*-*-*-*-*-*

11 RE-CROSS EXAMINATION

12 BY MR. GARZA:

13 Q. Just so I am clear, in terms of Nueces County, we agree
14 that it is about, just within Nueces County, about 49-percent
15 SSVR, and it is over 50 percent Hispanic CVAP?

16 A. I don't recall the Hispanic CVAP, but if that is what it
17 is, I will take your word for it.

18 MR. GARZA: Thank you.

19 JUDGE GARCIA: Ms. Perales.

20 MS. PERALES: No, Your Honor.

21 JUDGE GARCIA: Mr. Bledsoe, anything else?

22 MR. BLEDSOE: No, Your Honor.

23 JUDGE GARCIA: Okay. Anyone else? Mr. Gray?
24 Nobody over here?

25 Okay. Thank you. You are excused.

1 THE WITNESS: Thank you.

2 JUDGE GARCIA: Have a good day. Yes.

3 MR. BLEDSOE: Your Honor, if I might, the
4 congresswoman is en route from the airport.

5 JUDGE GARCIA: Okay. All right. Does the State
6 have another witness here?

7 MR. MATTAX: No, Your Honor. I believe we explained
8 on Saturday we would have our witnesses. We are speeding them
9 up to be here tomorrow morning.

10 JUDGE GARCIA: That's right, Mr. Mattax. Okay.
11 Mr. Bledsoe, is she at this airport?

12 (Laughter.)

13 JUDGE GARCIA: Well, when you say en route, is it
14 from Houston or D.C.?

15 MR. BLEDSOE: Your Honor, it is my understanding
16 that she is in San Antonio.

17 JUDGE GARCIA: Okay. We will give her a reasonable
18 amount of time.

19 Okay. Thank you.

20 (Brief recess.)

21 COURTROOM DEPUTY: Will you please raise your right
22 hand.

23 (Oath administered to the witness.)

24 COURTROOM DEPUTY: Thank you.

25 *-*-*-*-*-*-*-*

1 DIRECT EXAMINATION

2 BY MR. BLEDSOE:

3 Q. Will you please state your full name for this Court,
4 please?5 A. Good afternoon. Sheila Jackson Lee. I represent the 18th
6 Congressional District in Houston, Texas.7 Q. And, Congresswoman Lee, you just had a bit of a rough
8 flight; is that correct?9 A. That, I did, but I hope -- I want to offer my appreciation
10 to the Court and the Court's indulgence for the time. Thank
11 you for your courtesies.12 Q. Could you tell this Court about your political background
13 and how long you have been a member of the United States
14 Congress?15 A. Well, I had the privilege of securing the support of the
16 people of the 18th Congressional District in 1994. I had the
17 additional privilege of being supported by the Honorable
18 Barbara Jordan, who was then alive, and to have known all of
19 the previous members of the seat.20 That has been held by only four members, the
21 Honorable Barbara Jordan, Mickey Leland, Honorable Mickey
22 Leland and Honorable Craig Washington. Preceding that, I
23 served as a member of the Houston City Council. I was one of
24 two African-American women.

25 And preceding that, I served as an associate judge

1 on the City Council. And prior to that, I practiced law and
2 worked in civic issues, including the State Bar of Texas, the
3 Texas Young Lawyers, Houston Lawyers Association, the Black
4 Lawyers Association, and a number of civic organizations in
5 Houston.

6 Q. And is it true that you had a special connection with the
7 Legendary Henry B. Gonzalez, as well as Barbara Jordan?

8 A. Well, I had -- I guess I have just been privileged and
9 blessed. When I got to Congress in 1994, it was an experience
10 where we had a turn in the political fortunes. Then, the
11 Democratic majority, that had been in for a very long time,
12 Chairman Henry B. Gonzalez, who I had met as a younger lawyer.
13 I worked on the Select Committee on Assassinations. Chairman
14 Gonzalez was chairman at that time.

15 I came back some years later as a member of Congress
16 and had the privilege to be chosen by Chairman Gonzalez, who
17 was going to be ranking member to be nominated or to be one of
18 his nominees -- nominators, excuse me, in the Democratic
19 caucus, when the position he was looking for was contested,
20 and it was a privilege to be one of the few that would have
21 the privilege of doing so, and we won that battle. And so we
22 continued to work together until he left the United States
23 Congress.

24 Q. Could you describe for this Court the various type
25 functions that your congressional office engages in and the

1 types of services you provide to your constituents?

2 A. I call it full-service, comprehensive and don't say no for
3 an answer. The motto in my office is, unless it is illegal,
4 unless it is inappropriate, we try to help the constituents.
5 Because I tend to reach out to groups far and wide, they see
6 and know me and they will call for many things.

7 We get calls about scholarships. We get calls
8 about -- obviously, we work with veterans, but we get many,
9 many calls from families trying to help their young soldiers
10 that are 17, 18, 19 years old. We help bring soldiers home,
11 whose families are not only have passed away, unfortunately,
12 but are sick.

13 We sponsor litter league football. Just this past
14 summer, we had a partnership with the NFL for a program of 80
15 Latino and African-American boys in middle school to give them
16 incentives for education and sports.

17 When the city pools were going to close down, I
18 fought -- not congressionally, but what would it be like to be
19 an inner-city kid this coming summer, not knowing what the
20 weather was going to be like and not have city pools. And
21 through reachout and efforts, managed to help secure the
22 moneys to keep those pools, 15, 16 pools and community centers
23 open.

24 At the same time legislatively, I am the former
25 chair, now ranking member; I have been that for a number of

1 years on the Transportation Security Committee. Yesterday was
2 9/11, a very emotional time for me.

3 I was in the United States Congress on that day. I
4 was actually in the Capitol and had the -- I guess not an
5 honor, but the place to be chosen to be on the Select
6 Committee on Homeland Security and, therefore, helped craft
7 the new Homeland Security Department, and now serve as the
8 ranking member on transportation security. In doing that,
9 legislatively, I think that across America, I have helped to
10 enhance and develop what we call TSO officers and write
11 legislation to secure our airports.

12 The Judiciary Committee has given me the privilege
13 of working on immigration issues, which my constituents are
14 concerned about, intellectual property issues, which my
15 business community, that I work so hard with in downtown
16 Houston, are concerned about.

17 And I believe just a couple of days ago, there was
18 an article in The Chronicle that noted the money that I had
19 brought into the Houston International Airport, Bush Airport,
20 some \$429 million, about \$400 million.

21 So I try to work with the people issues, work with
22 the schools. When schools are closed down or being targeted
23 to be closed -- when I say that, our public schools have had a
24 very rough time, and a couple of historic schools in my
25 congressional district were targeted.

1 One was a Hispanic school, and two were
2 African-American high schools, which were on the list to say
3 they were not recognized and they would be closed. And we
4 organized together, not to promote poor schools, but to get
5 the parents involved, to get the school district involved and
6 say, these schools will not be closed.

7 I am very glad to say that these schools are coming
8 along; changes were made, in particular with the Sam Houston
9 High School, they've got a ninth grade, coming along. Yates
10 High School is a historic high school that is coming along,
11 and Cashmere High School, all trying to make sure that we
12 educate children, but they are not closed.

13 And we are in another fight right now. I am not a
14 school board trustee, but the North Forest Independent School
15 District is a diverse school district, increasing numbers of
16 African Americans and Latinos, increasing numbers of Latinos,
17 is being targeted for closing, and we are trying to work with
18 that school to ensure that we educate the children, but that
19 the community wants to keep the school district open, and I
20 engage in that, because I believe that if I can be of help and
21 be a problem solver, that is what I think a congressional
22 member can do, along with his or her legislative work.

23 Q. Congresswoman Lee, when you speak out on issues relating
24 to minorities, is it true that there is sometimes a
25 consequence and there are threats, et cetera, that you had to

1 take seriously?

2 A. Well, I am very passionate about this country. I think
3 this is a great nation. I am a product of many opportunities
4 that have come about, but I am also emotionally moved by the
5 Civil Rights Movement.

6 I had the privilege of going to Yale University and
7 then having the opportunity to work with the Southern
8 Christian Leadership Conference. The time that I was working,
9 there were still plantations and -- Your Honor, that wasn't
10 the 1800s, but it was just in the last part of the last
11 century, there were African Americans living on plantations.

12 And so I am very emotionally charged about people
13 having the right to vote and Dr. King's words and the
14 privilege to work with the Southern Christian Leadership
15 Conference, which I consider -- with that in mind, I always
16 think it is important to be vocal in the right manner about
17 how this nation can be better, and I thought it was important
18 to recognize just recently on the floor of the House in what I
19 thought was a tempered speech on the questions about why
20 President Obama was being treated as he was being treated.
21 And I used the term "differently." Why is he being treated
22 differently?

23 And many of my community agree with that. And
24 shortly after that, whether it was a combination of my, if you
25 will, willingness to speak up on issues or whether it was that

1 particular evening, a threat was sent to both the President
2 and myself with our names on a hanging noose with Sheila
3 Jackson Lee, a noose, and President Barack Obama with a
4 hanging noose and our names on it.

5 Q. And you took that seriously?

6 A. The appropriate authorities thought it was serious enough
7 and proceeded to investigate. Of course, they utilized one of
8 the terms, negative terms that they use, as well, about --
9 other than colored, Negro, African-American, they used one of
10 those other derogatory terms.

11 Q. Now, could you tell me about the current configuration of
12 CD-18 and the communities of interest that are within -- or
13 some of the community of interests in CD-18?

14 A. This district, its core was established after the Voting
15 Rights Act of 1965. I think, just a little bit of history, we
16 know Barbara Jordan, but I don't know how many people know how
17 many times she ran and did not win.

18 She did not win when she had to run countywide or
19 citywide at that time, maybe, and she ran for a state
20 representative position; she ran over and over again and, of
21 course, there was a sizable conservative -- and I consider
22 conservatives that oppose minority interests can be in either
23 party.

24 At that time, we had our own that wanted to oppose
25 someone like a young Barbara Jordan, so she never won, and the

1 only time that she won is when President Johnson and the
2 movement brought about the final signing of the 1965 Voting
3 Rights Act, and her Senate seat was drawn after that, and she
4 became a member. It was a district, and she became a member
5 of the State Senate.

6 So she had run and lost, run and lost, run and lost.
7 But at that time, her Senate seat then ultimately became, in
8 1970, the core of this now 18th Congressional District. Which
9 I realize everything grows, but the core neighborhoods that
10 have been together are the Third Ward, MacGregor, South Park,
11 Acres Home, the downtown, Fifth Ward, northeast Houston, a
12 little bit, some parts of the Heights area. Those are areas
13 that have been together.

14 And the way the district has grown is they have
15 grown along those lines, because those people have been used
16 to being in the area and familiar with the 18th Congressional
17 District.

18 In fact, if you go out north toward the airport, we
19 have had the airport, because it is communities of interest
20 going toward the airport. All those people know the people in
21 the Fifth Ward.

22 If you lived in the Fifth Ward, if you moved to get
23 a house or get a little bit more space, you would move
24 northeast, and that is how the district was designed. There
25 was a part of what we call the East End, a portion of that.

1 Latino neighbors were there. That was a little outside of the
2 Fifth Ward, and which was the core, the beginning of the
3 coalitions as Mickey started with a number of Hispanic
4 legislators and activists when he first went to the State
5 legislature.

6 Q. And by "Mickey," you are referring to former Congressman
7 Mickey Leland?

8 A. Former Congressman Mickey Leland. So the district has
9 been always framed, from Congresswoman Barbara Jordan,
10 Congressman Mickey Leland and then Congressman Craig
11 Washington and myself, taking into account redistricting over
12 that period of time. But the core neighborhoods, people who
13 have grown up together, who know each other, who have these
14 values and these emotions -- there is a -- two high schools.
15 I imagine it is in San Antonio and Austin and all around.

16 Wheatley and Yates, the legacies of the grandparents
17 and the parents still talk about those rivalries, and they
18 still have it, sort of -- those high schools are still open
19 and they still represent anchors of the community, one, Third
20 Ward, one in Fifth Ward.

21 Texas Southern University, another anchor. It is a
22 national university, but all of the professors used to live
23 around. So people know each other and care about some of the
24 issues. If Houston was to be considered the place where there
25 was a movement or a challenge to discrimination, it started

1 with the students of Texas Southern University.

2 So there is -- this is the anchor district. This
3 was the first district created under the 1965 Voting Rights
4 Act and others were created afterwards.

5 Q. Could you please focus in on CD-185 and District 18 in the
6 Houston area.

7 Congresswoman, this is the proposed map that has
8 passed, and I want to ask if you have particular concerns with
9 the proposed CD-18 in C-185.

10 A. I do. I do have concerns. Should I speak from here?

11 Q. Could you elaborate on what they are?

12 A. Yes.

13 Q. And if you would like, there is a pointer that you have
14 there --

15 A. Oh.

16 Q. -- if you care to point. There was another. Right there.

17 A. So I don't move. I just -- okay. Well, this district --
18 and I think it is important that members put on the record
19 that we enjoy representing all people, and I have made every
20 effort to do so, but I also want the people in the district to
21 have the opportunity to choose a person of their choosing.

22 And so this district, which it appears that there
23 was no interest in listening to any of the thoughts that were
24 brought to bear on the drafters of this district by me and
25 even some constituents.

1 Right here is the lost downtown, the economic engine
2 of the 18th Congressional District. It's almost like someone
3 went to the beach and just took a shovel and dug, dug, dug as
4 far as they could.

5 In addition, right in here, you lose Third Ward and
6 MacGregor, almost to the extent that my house is in question.
7 Right in here. That is how far down.

8 For all of the years that the 18th existed, even in
9 what might seem to be a more conservative time and more
10 questioning time, when the Honorable Barbara Jordan took her
11 seat, when this seat was drawn in the '70 census -- after the
12 1970 census, they had the downtown business in the 18th
13 Congressional District.

14 It was the economic engine or the economic
15 connection, and that is one of the elements of drafting. As I
16 understand, the economic engines were taken out of the 30th.
17 The economic engines were taken out of the 9th.

18 As you go to this area, you can see how it moves
19 into the 9th. All of that are areas that are not communities
20 of interest or have not been traditionally communities of
21 interest, which have been added to the 18th.

22 All of these other areas have been communities of
23 interest, and there are growth places and other formats that
24 would keep the communities of interest. You chop them off by
25 adding this and then chopping off the Third Ward, the

1 MacGregor area, chopping off the business area, and there is
2 some other refinement that goes on here.

3 So this, in essence, puts you in the middle of an
4 area that does not reflect the communities of interest,
5 longstanding, in the 18th Congressional District.

6 Q. Okay. If you would, take a look at pages 29 and 30.

7 MR. BLEDSOE: And, Your Honor, it is in 10-1,
8 Exhibit No. 1, the expert reports of Dr. Richard Murray. And
9 look particularly at pages 29 and 30, relating to the 18th
10 Congressional District.

11 BY MR. BLEDSOE:

12 Q. And one of the things that Dr. Murray talks about here is
13 a corridor that now -- it talks about a -- southwest district,
14 is that correct, that has been added?

15 A. Yes.

16 Q. That area?

17 A. Yes.

18 Q. And does that area have anything in common with the -- or
19 I shouldn't put it that way. But will that be something that
20 will have to be established, relationships with the current
21 communities of interest within the district?

22 A. Well, absolutely. First of all, as I indicated, all of
23 us, as members of Congress, want to represent everyone. My
24 joy is to be a problem solver, so I recognize our
25 responsibility. But it is very clear that the part of the

1 district that I just mentioned to you, that goes deep into the
2 9th, heretofore has never been part of the 18th Congressional
3 District.

4 Sometimes it is a growth area, and there are
5 communities of interest there. That is not the case. In
6 addition, the MacGregor area, which I mentioned to you, which
7 is right down in there, have been in the 18th Congressional
8 District since 1972, as this report indicates. And the
9 business district, which includes the detention center that I
10 worked on, to improve its relationship to the downtown
11 business; we have a federal detention center there.

12 As a member of the House Judiciary Committee, I have
13 worked to work with our federal courthouse and our judges. As
14 a senior member of Homeland Security, I have worked on a very,
15 very sticky issue that had to do with assisting them.

16 Then, of course, I have worked with the Federal
17 Transit Administration, DOT, on a very long, long project, 25
18 years, which we may be seeing the light, and that is a light
19 rail mobility project that was announced by the President two
20 days ago in his speech.

21 We have been working to develop relationships
22 between the downtown business community and the constituents
23 of the 18th Congressional District. That is a positive. That
24 makes it a community of interest.

25 And one of the great friends that helped us keep the

1 pools open was one of these corporate representatives here
2 that answered the call of their particular member of Congress.
3 That is going to be breached.

4 And what baffles me is that this was done to the
5 9th, this was done to the 30th, and now it is done to the
6 18th. Those communities of interest are extremely important.
7 It is -- you can -- as big as Houston is, you can go into the
8 18th and find neighbors who have lived there or have had their
9 relatives live there and have a historic understanding of this
10 area.

11 In the 18th is what we call Freedmen's Town. That
12 goes all the way back to the 1900s, when they had a military
13 army base right in that area there.

14 Q. So when you say that this was done to the 9th, the 18th
15 and the 30th, are you saying that the economic engine of each
16 was removed?

17 A. To my understanding, yes. Certainly, the business
18 district in the 18th was gone. If you -- all of our offices,
19 by the way, were taken out. I happened to be, very proudly,
20 without arrogance, in the Mickey Leland Federal Building.
21 Mickey Leland, of course, tragically lost his life as a
22 humanitarian in Ethiopia. We named the Federal Building after
23 him.

24 The building had -- I had Barbara Jordan's
25 furniture. That is now out of the 18th Congressional

1 District. Mr. Green's congressional office is out of his
2 district, and Ms. Johnson's office is out of her district, and
3 almost her house.

4 And as we were commiserating, we know that economic
5 engines are gone from the 30th. We welcome the incarcerated
6 persons. I work with incarcerated persons. I have to have a
7 file on incarcerated persons, because those are my
8 constituents, in terms of their family members, so that is not
9 a point, but all of the jails are in the 30th District.

10 Certainly, I have got my share of that in the 18th,
11 but -- and then, of course, in Mr. Green's district, as I
12 indicated, all of his -- parts of what was an economic engine
13 for the 9th, I am told, is out as well.

14 Q. Now, I think Mr. Vera mentioned to me earlier that there
15 was at least one Latino rep that this occurred to, but do you
16 know of any nonminority congresspersons who lost their office
17 with the configuration of C-185?

18 A. Since we all have some conversations on the floor of the
19 House, I haven't heard anyone in any major way, of my friends,
20 other friends that indicated that. That is the point. We try
21 to work together.

22 We had an initial meeting. And I think it should be
23 made clear that we do more work together than people know as
24 Republicans and Democrats. We come from a state and we find
25 ways to work together. The wild fires is a particular

1 example, which, again, I worked on the fires that took place
2 in the spring.

3 But those meetings were not carried through.
4 Actions started turning toward Austin, and the input that we
5 tried to give didn't seem to be accepted, and we had no input
6 into what ultimately -- and that is very unusual -- what
7 ultimately was the final result.

8 Q. Now, in terms of input, you brought up this idea of input
9 with the -- to the legislature.

10 Could you tell the Court what efforts you took to
11 try to make sure that your district was properly constructed?

12 A. Yes. You are always sensitive to being in a jurisdiction
13 that is not your own. I go with all due respect, and I did.
14 I went to the chairpersons of the Senate Committee, I went to
15 the chairpersons of the House Committee and gave a general
16 idea of this very rich-in-history district that had
17 communities of interest.

18 As a member of the Judiciary Committee, that saw and
19 participated intimately and helped write the reauthorization
20 of the Voting Rights Act in 2007, I knew that retrogression
21 was a great concern, and I spoke to those chairpersons. And I
22 even -- when I heard that this map had come out, my
23 understanding is that this map came out in the special
24 session.

25 We kept trying to keep up with all of the

1 information. We didn't hear it in the regular session. It
2 kept suggesting that it may or may not happen. We are doing
3 our legislative work in Washington. We don't want to be
4 overbearing, and all of sudden this pops up the night before.
5 And I made every effort to find a way to get a simple
6 statement down of my disapproval of the 185. I actually, you
7 know, by the skin of my teeth, if I might say that to the
8 Court, got something there.

9 I am in the middle of the legislative process and
10 somebody says, "We have got a map and they are going to vote
11 on it, and this is the map." I had never seen it before, so I
12 did send a statement, which I think has been submitted to the
13 Court.

14 Q. Could you turn to Exhibit 608?

15 A. I have it.

16 Q. And could you tell the Court if that is the statement that
17 you tendered to the legislature after you found out about this
18 new plan that was ultimately adopted?

19 A. My understanding is that this submission was actually
20 submitted to the hearing that was held, I would say a little
21 hastily, on this very map. You heard about it the night
22 before, like 11:00 o'clock at night, that it came to our
23 attention in Washington. I was in Washington.

24 Q. Did anyone give you a courtesy view of the map, since it
25 involved your district?

1 A. I had never seen it.

2 Q. Okay. So before it was presented, were you ever asked for
3 any input to comment about the proposed map, or was it
4 proposed without your vision?

5 A. This map I have never seen. No input was asked. I will
6 say that rumors kept coming down saying this is going to be
7 taken out of the 18th and that is going to be taken out of the
8 18th.

9 I thought I had handled it in an appropriate manner,
10 where I spoke to the persons necessary to speak to, give them
11 the respect they deserved, and was really waiting for someone
12 to engage or send a map or -- when I say "send a map," make it
13 available, where one could see what it was.

14 Q. Now, you told the Court earlier that there was a proposal
15 for a meeting that would take place that would relate to the
16 actual crafting of the individual districts in Texas; is that
17 right?

18 A. We were trying to be constructive in Washington. We are
19 not the drafters of maps. Yes, you are correct. We were
20 trying to -- there was a meeting suggested, that it occur
21 between Democrats and Republicans.

22 Q. Okay. And who suggested that that meeting would take
23 place?

24 A. The two delegations, Mr. Smith and -- along with our
25 delegation.

1 Q. Okay. And so were you continuing to wait for that meeting
2 to take place, so that you could visit about how these
3 districts are being constructed?

4 A. We were looking forward to that engagement, yes.

5 Q. But even besides that, you actually took a trip to Texas
6 and went to visit with members of the legislature to talk
7 about your district?

8 A. That is correct.

9 Q. And what came out in that C-185, does it look anything
10 like what you were proposing to the legislature that your
11 district look like?

12 A. Well, it in no way respects the communities of interest
13 and the historic elements of the 18th Congressional District,
14 the business area, the economic engine that has been in the
15 district, the Third Ward and the MacGregor area that has been
16 in the district. So, no, it does not in any way reflect any
17 interests and any input that I may have given and could have
18 given.

19 Q. And you gave us a great example earlier of how, with the
20 economic core within the district, you were able to do things
21 to benefit the district, and is that going to be compromised
22 by C-185?

23 A. As I indicated, on the backdrop of 9/11, one's patriotism
24 continues to -- is reasserted. There is a great deal of
25 emotion about what happened on the 11th. I still think this

1 country is a nation of great potential, great promise, and
2 greatness.

3 One of the things that we were able to accomplish in
4 the 18th Congressional District, I think, over the years is a
5 strong bond between the business community, which would be
6 generally considered the corporate business community, and
7 some of the poorest constituents maybe in the nation.

8 So there was a factor that made it important for
9 that business district to continue to be in the 18th
10 Congressional District. It enhanced the help that some of the
11 schools got. Some of the -- the university would be able to
12 access with their member of Congress, working to bring CEOs
13 together with academic needs.

14 So we worked together, and it all works, because you
15 are all in what is called one district. That means something.
16 There is a bonding there. That is lost now.

17 Q. Now, is there a coalition, an elected coalition and a
18 political coalition between African-Americans and Latinos and
19 Asians in the Houston area?

20 A. Clearly, there is. We have developed strong alliances and
21 friendships, and we have worked together on a number of issues
22 from -- I guess immigration would be one of the most known,
23 but we also work together on educational issues, on business
24 issues, on opportunities for small businesses.

25 Most of our communities are in small businesses,

1 women-owned businesses, and they look to their elected
2 officials to fairly give them information about the Small
3 Business Administration or federal funding that is coming into
4 the community.

5 So we formed allegiances and, of course, all of our
6 communities face civil rights issues, even today. I remember
7 one of the most striking ones was the Torres case of the
8 individual Campos that was thrown into the bayou, one of the
9 striking cases that brought all of us together, as we have
10 been brought together around the -- case, frankly, that wasn't
11 that far away from Houston. We have worked together on a
12 number of issues.

13 Q. And that was Joe Campos Torres that you mentioned?

14 A. Yes. That is correct. Yes, it was.

15 Q. And in reference to the coalition, is it your belief that
16 in creating a new majority-minority district under the Voting
17 Rights Act that one should be able to, in circumstances like
18 Houston, where the minorities operate in partnership with each
19 other, that they can be joined together to create a group for
20 purposes of creating a new district?

21 A. Could you restate the question?

22 Q. In terms of creating a new Section 2 district, is it
23 appropriate in your mind to join different minority groups who
24 work together together in order to reach the majority number
25 of 50 percent plus one?

1 A. Certainly, we have had that experience in Houston. It has
2 been successful in Houston, but even as we were reviewing the
3 Voting Rights Act of 2007, that was certainly considered
4 appropriate.

5 Q. Okay. And let me ask you to explain to the Court: Did
6 you have a particular, special role during the reauthorization
7 matters relating to the Voting Rights Act when that took
8 place?

9 A. Yes. I serve as a member of the House Judiciary
10 Committee. It was our task to write the reauthorization, and
11 so in addition to the number of hearings, I was engaged in
12 writing, I was engaged in adding amendments to a number of the
13 points of reauthorization.

14 Q. And you are a lawyer, too, are you not, and a graduate of
15 Yale also?

16 A. I am a graduate of Yale undergrad and the University of
17 Virginia School of Law.

18 Q. Okay. In reference to, you know, the proposed plan C-185
19 changes the number of districts that minorities have influence
20 over from eleven to ten. Currently, under the current plan of
21 32, minorities can donate, to use Dr. Murray's word, ten
22 districts, and they have influence in electing a person of
23 choice in one district out of 32, so eleven out of 32. The
24 new plan reduces that to ten out of 36.

25 Does that cause you concern as a member of Congress

1 that such a plan would be adopted today?

2 A. It clearly causes me concern. Retrogression is still a
3 very live concept and concern. We want to go forward. We
4 don't want to go backwards. The Voting Rights Act still looks
5 very seriously at retrogression. And if you look, you will
6 see that we moved now from eleven to 32, down to ten to 36.
7 That is retrogression, with the new districts, and I think
8 that is of concern to me, and we hope it would be of concern.

9 Q. Now, I think one of the things you have always been very
10 supportive and energetic in is supporting the Latino
11 community; would that be correct?

12 A. I think it is a tradition of this district, frankly, and
13 we take it as a badge of friendship and a badge of honor. I
14 think everyone realizes that Barbara Jordan was also a member
15 of the House Judiciary Committee because of her work with the
16 impeachment proceeding, but she is also -- should be known for
17 her amendment of the Voting Rights Act that added Texas to the
18 Voting Rights Act by adding language minorities. That was a
19 historic partnership that we have continued through the
20 existence of the 18th Congressional District.

21 Q. In fact, you do support today the creation of a new Latino
22 district to add to the 29th in the Houston area, do you not?

23 A. Absolutely. And I think there is certainly a great
24 opportunity for that.

25 Q. And if you look at page 27 of Dr. Murray's report there in

1 Exhibit 1, does he indicate that this is something that is
2 possible?

3 A. 27?

4 Q. Yes, ma'am.

5 A. Yes, he does. He talks about the growth and the ability
6 to have opportunities for black and Hispanic voters, and for
7 there to be the opportunity for another Hispanic district, and
8 effectively keeping the African-American opportunity
9 districts.

10 Q. Now, you are familiar, are you not, of course, with NAACP
11 congressional intervenor's plan that is in C-193?

12 A. Yes.

13 Q. And in that plan, there are districts proposed for 9, 18,
14 and 30, as well as two additional districts, one for -- there
15 would be a Latino opportunity district, and one would be an
16 African-American opportunity district in the Dallas-Fort Worth
17 area?

18 A. I think that map, 193, clearly shows what could have been
19 done and what can be done to reflect the growth of population
20 among African Americans and Latinos. The growth of this state
21 was a combination of African Americans and Latinos, as a major
22 growth factor that made us have the opportunity for four
23 districts.

24 Q. And in looking at CD-18, and the proposed plan of NAACP
25 and the congressional intervenors, C-193, do you think it

1 follows the contours of your current district more closely
2 than the proposed plan C-185?

3 A. Absolutely. It maintains communities of interest. It
4 restores the Third Ward, MacGregor area, that has never been
5 anywhere else. That is the interesting thing about the Third
6 Ward, MacGregor. Some areas, tips of areas may have been in
7 and out.

8 This has never been anywhere else. The business
9 district has never been anywhere else, and I am talking about
10 since the Voting Rights Act, since Barbara Jordan first held
11 this seat, and it restores those communities of interest. I
12 think it more closely focuses on the communities of interest.

13 Q. Now, in reference to C-193, would you say that each one of
14 the districts provided in 9, 18, 30, 34 and 35 would be
15 effective districts where minorities could be elected --

16 A. I need to hear that question.

17 Q. The candidate of choice. In the NAACP congressional
18 intervenor's plan, do you think that the five proposed
19 districts in there are effective districts?

20 A. I do.

21 Q. And are they more effective than the plan, than the
22 districts provided for in 9, 18 and 30 in C-185?

23 A. Absolutely, because there is something to this idea of
24 communities of interest. There is something to the idea of
25 one vote, one person, giving minorities a chance to vote for a

1 person of their choosing.

2 There is something to the idea of retrogression, and
3 there is something to the idea of the population that created
4 the growth having the opportunity in this redistricting for
5 districts to be drawn, and that is what 193 does. It allowed
6 the opportunities for African-American opportunity districts
7 and Latino opportunity districts.

8 Q. Okay. Now, one of the things that Dr. Murray talked about
9 was the gentrifying areas into your district, as well as
10 no-growth African-American districts. And if that happens, is
11 that problematic down the road for a district?

12 A. It is enormously problematic. What it does is it dilutes
13 the potential of the opportunity for large pockets of African
14 Americans, in this instance, and Latinos to be able to select
15 someone of their choosing, because this map reflects on an
16 area that was considered regentrifying ten years ago. It was
17 moved out. And so, yes, this district has potential, the way
18 it is drawn, of diluting the minority vote.

19 Q. Now, do you think the adoption of C-185, in your mind,
20 from what you know about it and being involved in the process,
21 do you think -- do you have a belief that intentional
22 discrimination was involved in this adoption?

23 A. Well, you would wonder, because there is pushback on that,
24 about intentional discrimination, but let me be very clear why
25 it baffles me on this district, and you have to associate the

1 18th, the 30th, and the 9th.

2 And the way you associate them is what elements were
3 used to draw them. I think it should be very clear. It is
4 just -- I don't know how you make a curve all the way down and
5 you lose the central business district. I don't know how you
6 come close to my home and you almost lose that. You lose my
7 office.

8 You lose the same principles -- or you use the same
9 principles on the 9th, where the office of the member is gone.
10 The economic engine of the district is gone. A lot of open
11 land is put in place. That is the 9th. That is an African-
12 American -- or a seat that is being held by an African
13 American.

14 The 18th is being held by an African American. The
15 30th is being held by an African American. And the person's
16 business district is eliminated and then any number of prison
17 institutions, of which we don't reject, are now part of the
18 count of the census; where they are, they don't vote. Where
19 they are as being counted, they don't vote.

20 I assume they are counting a facility like that for
21 me, but that is -- was in the downtown business area. So I do
22 see intentional acts, because they did the same thing to all
23 three districts held by African Americans, and all three
24 African Americans, I believe, made some effort to engage and
25 to say what might be a possibility. None of that was taken

1 into consideration.

2 Q. Now, if you look at Exhibit 1, 601, 10-1 and page 10 of
3 Dr. Murray's report, you alluded to population changes
4 earlier, and I wanted to direct your attention to the
5 population chambers that are there. And you can see that
6 blacks in real numbers, actually, outgrew whites at about
7 589,000 to 547,000.

8 Do you see that?

9 A. What page is that?

10 Q. Page 10. Do you see that?

11 A. Yes, I do.

12 Q. Okay. Does that indicate to you, what I am saying there,
13 that there are more real numbers and change for African
14 Americans than for whites during the past ten years?

15 A. I think it is evidenced by the numbers during the past ten
16 years, and what was touted nationally is that the growth in
17 the state of Texas were among African Americans and were among
18 Hispanics. And, of course, there was growth equally in the
19 Asian population.

20 Q. Okay. And in that regard, looking at that number, do you
21 think it is fair that whites get four new seats out of the
22 new -- out of the seats that Congress is to have from Texas,
23 where African Americans and Latinos get none?

24 A. I think it is very disappointing to me, because are you
25 suggesting that we cannot represent a diverse group, if there

1 happens to be Anglos in our congressional district? That
2 seems to be what you are saying, because the whole nation was
3 celebrating when Texas got four extra seats. Everybody looks
4 at us with very great envy.

5 And the national analysis is that the growth came
6 through African Americans and Latinos. I didn't expect for
7 the seats to be given away, but I thought they were going to
8 be fair, and there seemed to be some suggestion that we have
9 to be narrowed out of some opportunity because we can't
10 represent the state, where the others can represent the state,
11 and I take issue with that, and I think there is some pointed
12 determination to do that.

13 If you recall, if I might say to the Court, I made
14 the point that conservative thought that is anti-minority is
15 not -- is not hosted by any party, because what happened to
16 the Honorable Barbara Jordan, she couldn't win because she had
17 forces that were against her, and there was only one dominant
18 party at that time.

19 She couldn't win an at-large seat. She never won an
20 at-large seat. She ran a number of times. She ran when the
21 Voting Rights Act -- 18 -- excuse me. I'm sorry. The
22 senatorial district, and opened the eyes of many people about
23 how this one African American's state senator since
24 Reconstruction could represent people of different
25 backgrounds.

1 I think since that time, this seat, being held by a
2 number of members, have tried to make that point. And I can't
3 understand, were we punished or was it the thought that we
4 couldn't do the job, as to why we didn't get the number of
5 seats.

6 And, again, it is the people's seat, one-person,
7 one-vote. But since I take up calls from a lot of places, I
8 know that a lot of people call from all over to get help, and
9 we help them.

10 Q. Now, did you all elicit and obtain evidence from around
11 the country relating to racially polarized voting when you
12 were deliberating and deciding whether or not to extend the
13 Voting Rights Act?

14 A. Well, that was -- well, absolutely, because it had a
15 sunset provision. And I must say that the effort to
16 reauthorize it was bipartisan, and it had to be to get out of
17 the Judiciary Committee.

18 We had hearings upon hearings upon hearings that
19 documented the need for the Voting Rights Act. That was the
20 only way they could get it reauthorized, not to only get it
21 passed in the House, passed in the Senate and signed by the
22 President of the United States.

23 And at that time, I have a glaring picture on my
24 wall of the ceremony that President Bush held when we
25 reauthorized the Voting Rights Act. This was a recognition

1 that this country still needed this particular legislation.

2 Q. And was there evidence even presented in reference to
3 Texas, as to polarized voting that continues to happen here?

4 A. I believe we secured information from all, but I am aware
5 of polarized voting that occurs. It is evidenced in
6 primaries, Republican primaries, Democratic primaries, where
7 you can see the polarized voting against minorities.

8 Sometimes with a surname of a certain type, you don't get it.

9 I know that African Americans hesitate to put their picture on
10 posters or billboards, because there is still that feeling
11 about running and winning as a minority in this area.

12 Q. Okay. And do you have any examples that you can cite to
13 the Court that you have observed over the past decade of
14 racially polarized voting that continues to cause you concern?

15 A. Well, as I indicated, a number of primary cases, where
16 voters in Harris County, in 2008, where there was an absolute
17 remarkable vote of judges, happened to be in one party, but
18 there were four with particularly ethnic names, foreign names,
19 that were -- should have been part of, in quotes, what we call
20 the sweep, that sometimes people complain about. They did not
21 win.

22 As soon as their names could be targeted, they
23 sounded kind of strange and funny, they did not win. And I
24 have seen it happen on city council races, and it also plays
25 into what happens in these elections, with voter intimidation,

1 which happens even in a large city like Harris County --
2 excuse me -- a county like Harris County.

3 It happened in the 2008 election. In the beginning
4 of the King Street Patriots, or whatever they were called,
5 came into the congressional district that I represent. It was
6 an amazing experience to see elderly, frail citizens being
7 blocked and accosted by individuals trying to intimidate.

8 It wasn't a voting situation, but it was during the
9 early vote, and what happens is, you don't have your regular
10 precinct during the early vote. There are people that come in
11 from other places that are running your polls, and all of the
12 people would be coming in and saying: You are not qualified.
13 You are not qualified. You don't have your ID. You don't
14 have this. You don't have that.

15 And so things, unfortunately, go awry when it seems
16 to be an area where minorities are. They go awry when there
17 is an election and there are minorities who are running and
18 people can pinpoint that they are minorities.

19 Q. So were those acts of voter discrimination you were just
20 describing from the 2010 election?

21 A. 2008 and 2010.

22 MR. BLEDSOE: Thank you. I will pass the witness,
23 Your Honor.

24 JUDGE GARCIA: Mr. McKenzie.

25 *-*-*-*-*-*-*-*

1 CROSS EXAMINATION

2 BY MR. FREDERICK:

3 Q. Good afternoon, Congresswoman.

4 A. Good afternoon. How are you today?

5 Q. Fine, thank you. My name is Matt Frederick, and I
6 represent the State of Texas in this lawsuit.

7 A. Thank you.

8 Q. Congresswoman, you testified that you believe that it is
9 appropriate under the Voting Rights Act to draw districts in
10 which more than one minority group combines to form a majority
11 of the voters in a district; is that correct?

12 A. Could you repeat yourself? I can't hear you.

13 Q. Sure. You testified that it is appropriate under the
14 Voting Rights Act to draw an electoral district in which more
15 than one minority group combines to form a majority of the
16 voters in that district; is that accurate?

17 A. Yes.

18 Q. Would you characterize such a district as a coalition
19 district?20 A. Sometimes and sometimes not. When you have communities of
21 interest, those communities of interest, as I pointed out that
22 don't exist in 185, then you don't have a coalition district.
23 Maybe if you have communities of interest and you have
24 minorities of -- different minorities, then as we have formed
25 in the present 18, and in the 193 that was offered by the

1 NAACP, they collect the communities of interest and those
2 minorities have been working together, and that forms a
3 coalition.

4 Q. I think I understand. So what you are saying is the mere
5 fact that you might have more than one minority group that
6 constitutes a majority of voters, that doesn't necessarily
7 make what you would consider a coalition?

8 A. Well, I think that, obviously, individuals of one minority
9 vote and have common interests, and the way you build
10 coalitions with another minority is if they are with common
11 interests, common neighborhoods, common history. I think that
12 is important.

13 Q. Okay. Do you believe, Congresswoman, assuming that a
14 potential coalition district can be identified, do you believe
15 that the Voting Rights Act would require a state legislature
16 to draw a coalition district?

17 A. I think that the Voting Rights Act protects us against
18 intentional discrimination. I believe that the Voting Rights
19 Act is -- I think retrogression is an issue. And I think that
20 in the instance of the voting rights, it is to protect the
21 opportunity for minorities to vote one person, one vote, but
22 also to vote for a person they are choosing.

23 If that happens to be a coalition, then I think
24 there is a duty; a coalition district, I think there is a
25 duty, but there are elements that should be considered, and,

1 again, communities of interest are a big one.

2 Q. Are there any other specific elements that you can think
3 of, as you sit here right now, that would be important to
4 consider?

5 A. Well, if you -- generally, issues of packing are frowned
6 upon. And I don't think we can say anything about shape and
7 size, because we have seen what districts have looked like,
8 but once you start distorting, grossly distorting, you then,
9 in essence, dilute, water down the opportunities for not only
10 a coalition, but, again, the opportunity.

11 It is very important to note that we are not far
12 away from voter intimidation. As I indicated in my earlier
13 testimony, it was the 1970s when I was in the deep south as an
14 employee of SCLC trying to get blacks to even register to
15 vote.

16 We are not far away from that. It was 2008 and
17 2010. 2008 may be one of the greatest historic times for
18 minorities with President Obama on the ballot, and black
19 voters in our area were being intimidated by individuals
20 coming in to intimidate them.

21 They came back again and did the same thing in 2010.
22 So we are not far away from the issues, and I believe it
23 happened in Hispanic communities as well. We were told that.
24 Those polling places are in my area, and we are not far away
25 from that.

1 So we need to have the opportunity protected to vote
2 for a person of their choosing.

3 Q. I understand. Thank you. Congresswoman, are you suing in
4 your individual capacity or are you suing in this lawsuit on
5 behalf of your constituents?

6 A. Well, I am a voter, and I represent the 18th Congressional
7 District, so I am both.

8 Q. Congresswoman, do you believe that under plan C-185, the
9 congressional plan enacted by the State, do you believe that
10 Congressional District 18 provides African American voters
11 with the opportunity to elect a candidate of their choice?

12 A. Well, I will say that there are areas -- I think Dr.
13 Murray has made it very clear in his analysis, there are areas
14 that potentially may not. Again, this was a district that no
15 one had seen, heard of.

16 And the way it is configured, it has areas that may
17 ultimately align themselves elsewhere. It lost the downtown
18 area, which it has taken out the community interests of Third
19 Ward and MacGregor, and so it is certainly questionable, and I
20 am concerned that it does not.

21 Q. You mention in your deposition, Congresswoman, that when
22 you first looked at plan C-185, Congressional District 18, and
23 I am paraphrasing here, immediately popped up as a tension
24 district.

25 Do you recall that testimony?

1 A. (Nods head.)

2 Q. Can you just explain briefly for the Court what you meant
3 by that, "a tension district"?

4 A. It all plays into communities of interest as well, because
5 if you have been working together as a coalition, then --
6 which the core of the 18th Congressional District has done,
7 and it would do under 193, it has nothing like that under 185.

8 But there is a point where there is a coalition and
9 there is a point where both of the minorities, rightly so,
10 believe that they each have a district. That is a tension
11 district.

12 And the support for 193, which the NAACP has
13 submitted, confirms our values of opportunity for these
14 historic districts to exist, that exist now, protected by the
15 Voting Rights Act, 18, 9 and 30, but also an opportunity for a
16 Latino district.

17 I don't think that the map that shows 185 and has
18 the 18th does that in any way. It is a tension district by
19 the fact that the growth that it is going to allow is going to
20 suggest that, you know, sort of an implosion of sorts, and the
21 whole idea will be that minorities will not be protected.

22 MR. FREDERICK: Okay. No further questions. Thank
23 you very much.

24 JUDGE GARCIA: Mr. Bledsoe?

25 MR. BLEDSOE: Nothing, Your Honor. Thank you.

1 JUDGE GARCIA: Okay. Thank you, Congresswoman, for
2 being here today. Have a safe trip back home.

3 THE WITNESS: Thank you so very much, Judge. Thank
4 you.

5 JUDGE GARCIA: Okay. Mr. Bledsoe, anyone else on
6 your behalf?

7 MR. BLEDSOE: No, Your Honor. We will just have the
8 offers of proof and maybe something on rebuttal.

9 JUDGE GARCIA: Okay. All right. So have all of the
10 plaintiffs now presented all of their witnesses?

11 MS. PERALES: Yes, Your Honor.

12 MR. GRAY: Yes, Your Honor.

13 MR. GARZA: All of the live testimony has been
14 presented.

15 JUDGE GARCIA: Right. Okay. And what remaining
16 witnesses do we have from the State of Texas? I should say,
17 which remaining, or whom?

18 MR. MATTAX: Excuse me. Tomorrow, I understand we
19 will have Representative Solomons, Chairman Solomons, Senator
20 Gonzalez. We have Professor Alford later. I believe that is
21 Wednesday. We have two -- Mr. Rives, who is an expert, and
22 there has been an agreement to limit his testimony, so the
23 Court doesn't have to address that motion. And then we have
24 two fact witnesses.

25 So I think we are looking at about five or six

1 witnesses. I think, given the time frame and the level of
2 cross, it looks like Wednesday.

3 JUDGE GARCIA: That you will conclude?

4 MR. MATTAX: I think we will conclude Wednesday.

5 JUDGE GARCIA: Okay. And tomorrow, with respect to
6 these two legislators, do we anticipate or do you anticipate
7 any legislative privilege issues?

8 MR. MATTAX: No, sir.

9 JUDGE GARCIA: Okay. Good. All right. Okay.

10 JUDGE SMITH: So there will be a full day of
11 witnesses tomorrow, then? I mean, are things scheduled such
12 that we will be able to fill up the day?

13 MR. GARZA: Your Honor, I mean, I certainly don't
14 want to impose my thinking on the State. It is the State's
15 witnesses now. But it seems to me, that based on the
16 description of the testimony and the conversations we have had
17 about cross of those witnesses, that Dr. Alford should be
18 available tomorrow evening to finish up, unless the Court is
19 willing to take a lag of some time and not start with him
20 until Wednesday morning.

21 There will be, I think, an open period at the end of
22 the day tomorrow, if Dr. Alford is not available to present --

23 JUDGE GARCIA: Why do we need or want or going to
24 have an open period? Can't we --

25 MR. GARZA: Well, what I am suggesting --

1 JUDGE GARCIA: The State said you will retire
2 Wednesday, right?

3 MR. MATTAX: Correct, Your Honor. The idea was to
4 start Dr. Alford on Wednesday.

5 JUDGE GARCIA: Correct.

6 MR. MATTAX: And complete it up on Wednesday. He
7 had been creating a supplemental report. We were trying to
8 get everyone a day in advance.

9 JUDGE GARCIA: So --

10 MR. MATTAX: Get that today, start him on Wednesday.
11 That was the thought process.

12 JUDGE GARCIA: So, again, you have four or five
13 witnesses tomorrow?

14 MR. MATTAX: Correct.

15 JUDGE GARCIA: Okay. And with cross, when do you
16 think you might finish tomorrow, then?

17 MR. MATTAX: Probably in mid afternoon.

18 MR. GARZA: Mid afternoon, 3:00 or 4:00.

19 MR. MATTAX: Probably 4:00, 3:00 and a half,
20 something like that.

21 MR. GARZA: That's why I am suggesting there will be
22 some time in there.

23 JUDGE GARCIA: All right. And you think, then, you
24 will finish Wednesday?

25 MR. MATTAX: Correct. I think if we offer Professor

1 Alford --

2 JUDGE GARCIA: And assuming that is the case, then I
3 supposed we could have arguments on Thursday?

4 MR. GARZA: Well, we may be able to start argument
5 on Thursday. We anticipate that, from the MALC side of this,
6 at least one lay witness -- I'm sorry -- one --

7 JUDGE GARCIA: Rebuttal.

8 MR. GARZA: -- rebuttal witness. That would take
9 ten or fifteen minutes --

10 JUDGE GARCIA: Okay.

11 MR. GARZA: -- on direct.

12 JUDGE GARCIA: All right.

13 MR. GARZA: I don't know about any other potential
14 rebuttal witnesses.

15 JUDGE GARCIA: Okay.

16 MR. HICKS: Your Honor, Renea Hicks for the
17 Rodriguez plaintiffs. I guess what makes it difficult to
18 predict about rebuttal witnesses is --

19 JUDGE GARCIA: Well --

20 MR. HICKS: -- that we haven't heard --

21 JUDGE GARCIA: Right.

22 MR. HICKS: -- so that makes it difficult.

23 JUDGE GARCIA: Of course. Okay. And when the time
24 comes for argument, have the plaintiffs agreed upon a set time
25 or amount of time?

1 MR. GARZA: We have not.

2 JUDGE GARCIA: Maybe perhaps tomorrow afternoon,
3 when we have some lag time, you can meet about those matters,
4 so that we can be prepared to move into it on Thursday, so
5 keep that in mind, Mr. Garza.

6 MR. GARZA: Sure.

7 JUDGE GARCIA: I will make you in charge of
8 corralling everybody.

9 MR. GARZA: They are cats, Your Honor.

10 JUDGE GARCIA: Well, do whatever is necessary to
11 tame the cats.

12 Okay. Anything else? We have had a very good day
13 today. I failed to thank the Legislative Council on Saturday
14 and everyone here associated. You have done such a
15 magnificent job. I don't know if it is easier to work for
16 three federal judges or 181 legislators. But in any event, we
17 are very grateful that you are here and helping us out.

18 TECHNICIAN: Thank you.

19 JUDGE GARCIA: Anything else?

20 MR. MATTAX: No, Your Honor.

21 JUDGE GARCIA: Okay. If not, we will reconvene at
22 8:00 o'clock in the morning.

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UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.
I further certify that the transcript fees and format comply
with those prescribed by the Court and the Judicial Conference
of the United States.

Date signed: September 12, 2011.

/s/ Karl H. Myers

KARL H. MYERS
United States Court Reporter
655 East Durango Blvd., Suite 315
San Antonio, Texas 78206
(210) 212-8114

/s/ Chris Poage

CHRIS POAGE
United States Court Reporter
655 East Durango Blvd., Suite 314
San Antonio, Texas 78206
(210) 244-5036

/s/ Jerry Anderson

JERRY ANDERSON, CSR, RMR, CRR
Freelance Court Reporter
8705 Mystic Trail
Fort Worth, Texas 76118
(817) 891-6249