UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHANNON PEREZ, *et al.*, *Plaintiffs*, v. STATE OF TEXAS, *et al.*, *Defendants*.	CIVIL ACTION NO. SA-11-CA-360-OLG-JES-XR [Lead case]
MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF REPRESENTATIVES (MALC), *Plaintiffs,* v. STATE OF TEXAS, *et al.*, *Defendants.*	CIVIL ACTION NO. SA-11-CA-361-OLG-JES-XR [Consolidated case]
TEXAS LATINO REDISTRICTING TASK FORCE, et al., *Plaintiffs*, v. RICK PERRY , *Defendant.*	CIVIL ACTION NO. SA-11-CV-490-OLG-JES-XR [Consolidated case]
MARAGARITA V. QUESADA, et al., *Plaintiffs*, v. RICK PERRY, *et al.,*	CIVIL ACTION NO. SA-11-CA-592-OLG-JES-XR [Consolidated case]

Defendants.	)	
_____	)	
	)	
JOHN T. MORRIS,	)	CIVL ACTION NO.
	)	SA-11-CA-615-OLG-JES-XR
Plaintiff,	)	[Consolidated case]
	)	
v.	)	
	)	
STATE OF TEXAS, et al.,	)	
	)	
Defendants.	)	
_____	)	
	)	
EDDIE RODRIGUEZ, et al.	)	CIVIL ACTION NO.
	)	SA-11-CA-635-OLG-JES-XR
Plaintiffs,	)	[Consolidated case]
	)	
v.	)	
	)	
RICK PERRY, et al.,	)	
	)	
Defendants.	)	

SUMMARY OF CLOSING ARGUMENTS

The Texas State Conference of NAACP Branches, Juanita Wallace, Rev. Bill Lawson, and Howard Jefferson (hereinafter, "NAACP Plaintiffs") respectfully submit the following summary of closing arguments with respect to the 2011 Texas House plan, in advance of oral arguments to be presented on July 29, 2014.

I. INTRODUCTION

The NAACP Plaintiffs assert in their 3rd Amended Complaint that the 2011 House plans violate both the Fourteenth Amendment and Section 2 of the Voting Rights—that is, the NAACP Plaintiffs have both intent and effect claims. The NAACP Plaintiffs incorporate by reference the facts relevant to their claims in their post-trial brief from 2011 (hereinafter, "NAACP 2011Post-

Trial Brief," ECF No. 407, October 7, 2011), and further highlight for the Court the following law and facts.

II. INTENT CLAIMS

In the 2011 and most recent trial on this issue, NAACP Plaintiffs and other plaintiffs have documented the consistent abuse of minority voting rights by Anglos in power, which is intentional discrimination in violation of the Fourteenth Amendment and Section 2 of the Voting Rights Act. In both segments of the trial on the 2011 House plans, this Court has heard significant evidence demonstrating that Texas, in the 2011 redistricting process, sought to minimize minority voting power, despite the disparately mammoth population growth amongst voters of color.

Claims of intentional discrimination under the Fourteenth Amendment are adjudicated under the standard announced in *Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 165-66 (1977). Plaintiffs are not required to produce a "smoking gun" or to prove that racial considerations predominated over all other considerations. *Id*. Instead, in *Arlington Heights*, the Supreme Court identified the kinds of indirect evidence that establish a prima facie case of intentional discrimination, including evidence of discriminatory effect, the history and events surrounding the government's actions, any departure from usual procedures, and discriminatory statements in the legislative history. *Id.* at 266-68. While evidence of discriminatory effect is usually not sufficient to succeed on a Fourteenth Amendment intentional discrimination claim, the Court has acknowledged that sometimes the impact of a challenged law may be so clearly discriminatory as to allow no other explanation than it was adopted for a discriminatory purpose. *Id*. at 266.

All such relevant evidence is present in the instant case. First and foremost, the refusal of the state to increase the number of minority seats, despite the fact that 90% of the state's population growth was due to minority population growth, beyond just being fundamentally unfair, can only be reasonably interpreted to be reflective of the racial animus motivating the legislature. Tr., July 17, 2014, 1364:15-1365:10 (Korbel). Additionally, despite concentrated growth patterns, the failure of the state to draw compact, naturally-occurring house districts that would recognize that growth, and instead to draw irregularly-shaped districts that fragmented minority populations, is further evidence of the deliberate actions taken to dilute minority voting strength. Tr., July 14, 2014, 139:11-18, 147:2-10 (Arrington).

Racial tensions were markedly exacerbated during the 2011 session, as the legislature considered a voter ID bill, a bill that would limit voter assistance, and the "Sanctuary Cities" bill. Each of these 2011 measures were opposed by Latino and African-American members of the legislature because of the racially discriminatory effect that these bills would have, among other reasons, and they sparked emotional and charged debate. Tr., Sept. 8, 2011, 811:24-812:23.

The mere façade of an open and transparent redistricting process, that was actually anything but, also leads to the reasonable conclusion that impermissible motivations were at play. The legislature conducted "public hearings" before there was any census data available, well before any redistricting maps had been developed, and no substantive content from those hearings was collected or disseminated. Tr., July 17, 2014, 1230: 15-1231: 19 (Thompson). Rep. Senfronia Thompson, a 42-year veteran of the state legislature, testified that the way that the redistricting process was conducted in the 2011 session was a departure from prior practices, and from best practices long established. *Id*. Legislative leadership consistently left minority legislators out in the cold, not revealing to them as they did to other Anglo representatives how

the plans were developing. See NAACP 2011 Post-Trial Brief, at 43-49. For example, the authority to make decisions for Harris County was given to the all-Anglo delegation from the county, which proceeded to maintain all of the white seats and eliminate one seat held by a minority representative. Tr., July 17, 2014, 1238:14-1239:12 (Thompson).

The credibility of Gerardo Interiano, the primary State House linedrawer, is so suspect as to also warrant the conclusion that racial animus was a motivating factor. Despite his assertions that he was not using racial shading on a census block level, it is simply implausible that a mapdrawer with approximately 1,000 hours of training on RedAppl, drawing protected minority districts, would not be using that basic feature of the software. Tr., July 18, 2014, 1599:22-24. He also asserted, implausibly, that he did not know at the time that election data was not reliable below the precinct level. *Id.* at 1590: 14-25. Again, this is simply implausible given the hours he spent training on the software. Instead, in example after example after example, district lines carefully split precincts, below which accurate political data was not available, in a way that was clearly designed to split apart naturally-occurring minority communities and minimize their political power. Members of the Legislative Black Caucus felt like Interiano was just humoring them, and not substantively incorporating any of the suggestions for their districts. Tr., July 17, 2014, 1251:6-19 (Thompson). These, and all the factors cited in the NAACP's 2011 Post-Trial Brief, support a conclusion that the 2011 legislature acted with unconstitutional racial animus.

III. SECTION 2 CLAIMS

Section 2 of the Voting Rights Act of 1965 prohibits what is known as "vote dilution" in redistricting plans. A plaintiff may prove a Section 2 claim by first establishing the three *Gingles* preconditions: (1) that the minority group in question is "sufficiently large and geographically compact to constitute a majority in a single-member district; (2) that the minority

group is "politically cohesive"; and (3) that the "majority votes sufficiently as a bloc to enable it…usually to defeat the minority's preferred candidate." *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986). If the three *Gingles* preconditions are proven, a reviewing court must then determine whether the "totality of circumstances" indicates that minority voters have been denied equal opportunity to participate in the political process. *Johnson v. DeGrandy*, 512 U.S. 997, 1009-12 (1994).

As a preliminary matter, in trial, the state raised relevance objections to post-2011 population and election data presented by the NAACP Plaintiffs and by the Mexican American Legislative Caucus Plaintiff. Such post-enactment evidence is relevant to the Section 2 inquiry because "given the long term nature and extreme costs necessarily associated with voting rights cases, it is appropriate to take into account elections occurring subsequent to trial." *Westwego Citizens for Better Gov't*, 906 F.2d 1042, 1045 (5th Cir. 1990) (per curiam); *see also Collins v. City of Norfolk*, 883 F.2d 1232, 1243 (4th Cir. 1989) (elections subsequent to 1984 trial considered by trial and appellate court).[1] Moreover, the Supreme Court and a broad array of lower courts have recognized that an "effects" analysis under Section 2 requires a "searching practical evaluation of the past *and present* reality" of the challenged electoral system in operation. *Gingles*, 478 U.S. at 45 (emphasis added). Understanding that "present reality" requires an assessment of the actual current conditions in which a redistricting plan operates, which in turn requires the most recent evidence available. Thus, courts evaluating voting laws under Section 2 and Section 5 (when it was in effect), routinely looked to post-enactment evidence. *See, e.g., Brown v. Detzner*, 895 F. Sup. 2d 1236 (M.D. Fla. 2012); *Texas v. Holder*, No. 12-218, slip op. at 10 (D.D.C. June 5, 2013) (order granting motion to compel production of

[1] As counsel for the NAACP argued in Court, the failure to take into account very obvious and easily determined population growth trends is also evidence of intent to discriminate against minority voters. Texas could have easily done simple extrapolations to determine the minority population growth.

post-enactment documents and communication); *Favors v. Cuomo*, 11-CV-5632 (DLI)(RR)(GEL), slip op. at 9-15 (E.D.N.Y. Aug. 27, 2013) (memorandum and order granting motion to compel production of responsive post-enactment documents); *Baldus v. Members of Wis. Gov't Accountability Bd.*, No. 11-CV0562, 2013 WL 690496, at *2 (E.D. Wis. Feb. 25, 2013) (ordering that the scope of discovery include post-enactment evidence). There is simply no requirement, in *Gingles* or in any other Section 2 case, that plaintiffs pleading a Section 2 case are limited to evidence in front of the legislature at the time of redistricting.

Part of the post-enactment evidence relied upon by NAACP Plaintiffs and others relates to election data relevant to the second and third prongs of *Gingles*. Additionally, the NAACP Plaintiffs called expert witness Anthony Fairfax to testify about the current (2014) population of proposed districts, relevant to the first prong of *Gingles*. In order to conduct this analysis, Mr. Fairfax utilized the 2008-2012 5-year American Community Survey citizen voting age population data. Tr., July 16, 2014, 889: 13-15 (Fairfax). This data set was obviously not available to the legislature during 2011, but it is highly relevant and can be used to establish the first prong of *Gingles*. Indeed, the Fifth Circuit and others have explicitly recognized that in regards to a Section 2 claim, updated population data (that is, something other than decennial census data), can be considered as part of the first *Gingles* precondition analysis if that non-decennial census data is convincing and reliable. *Valdespino v. Alamo Heights Indep. Sch. Dist*, 168 F.3d 848, 853 (5th Cir. 1999) (affirming district court's reliance on post-decennial census changes in housing stock in analysis of first prong of *Gingles*); *Johnson v. DeSoto Co. Bd. of Commr's*, 204 F.3d 1335, 1341-42 (11th Cir. 2000) (affirming district court's reliance on post-decennial census voter registration data in analysis of first *Gingles* prong).

Furthermore, the methodology that Mr. Fairfax employed in making his population projections is clear, cogent and convincing, and has a high degree of accuracy. It thus satisfies the legal requirements necessary for its use to establish the first prong of *Gingles*. Unlike in other cases where population projections were found to be too unreliable to supplant decennial census data, *Perez v. Pasadena I.S.D.*, 958 F. Supp. 1196, 1211 (S.D. Tex. 1997), *aff'd*, 165 F.3d 368 (5th Cir. 1999), and *McNeil v. Springfield Park District*, 851 F.2d 937, 946 (7th Cir. 1988), Mr. Fairfax's analyses employed several distinguishing (and validating) elements. First, Mr. Fairfax relied on very recent county-level growth trends, specific to the district in question, for his projections, unlike the statewide decades-old growth trends used in *Perez*. More specifically, in *Perez*, plaintiffs' expert applied simple and fixed annualized growth rates for Latinos, African-Americans and Anglos. *Perez*, 958 F. Supp. at 1206. As Mr. Fairfax testified, the county-level growth rates he calculated and then applied were much narrower temporally and geographically. He also conducted both linear and geometric extrapolations, both of which confirmed his conclusions and produced substantially similar results. Tr., July 16, 2014, 913: 5-8 (Fairfax). Second, Mr. Fairfax was able to test the accuracy of his projections, which is something that experts in *Perez* and *McNeill* were not able to do. Id. at 898:14-25; *see also*, *McNeill*, 851 F.2d at 946; *Perez*, 958 F. Supp. at 1211.

Additionally with regard to the first prong of *Gingles*, it is likely that this Court will have to address with finality the issue of coalition districts. The Fifth Circuit has held that plaintiffs must show that minority voters in a proposed district will comprise a majority of the citizen voting age population in the district. *See Vadelspino*, 168 F.3d at 852. In the cases establishing this rule, plaintiffs were seeking to create, and prove effective, new single-member districts where the challenged system was an at-large one. That 50% CVAP rule does not and should not

apply where plaintiffs seek to protect under Section 2 an already existing and performing minority district.

Moreover, at least five cases from the Fifth Circuit have found that minority groups can be aggregated for the purpose of asserting a Section 2 claim. *See League of United Latin Am. Citizens Council No. 4434 v. Clements*, 999 F.2d 831, 864 (5th Cir. 1993) (*rehearing en banc*) ("If blacks and Hispanics vote cohesively, they are legally a single minority group . . . ."), *cert. denied*, 510 U.S. 1071 (1994); *Overton v. City of Austin*, 871 F.2d 529, 538 (5th Cir. 1989) (concluding that Section 2 permitted the court to order as remedy a district in which Mexican-Americans, although not a majority, could be aggregated with blacks to achieve such a result, if the two groups could be shown to be politically cohesive and that Anglos voted in bloc); *Brewer v. Ham*, 876 F.2d 448, 453 (5th Cir. 1989) ("[M]inority groups may be aggregated for purposes of claiming a Section 2 violation."); *Campos v. City of Baytown*, 840 F.2d 1240, 1244-45 (5th Cir. 1988) ("[A] [coalition] minority group is politically cohesive if it votes together."), *reh'g denied*, 849 F.2d 943, *cert denied*, 492 U.S. 905 (1989); *League of United Latin Am. Citizens Council No. 4386 v. Midland ISD*, 812 F.2d 1494, 1501-02 (5th Cir. 1987), *vacated on other grounds*, 829 F.2d 546 (5th Cir. 1987) (en banc). This makes good sense from a fairness perspective, too. In many of the more urban parts of the state, racial minority groups live in close proximity to each other. It simply is not possible to carve them apart from each other in order to draw single-race majority-minority districts, nor should that kind of precise racial parsing be encouraged.

Finally, as demonstrated in the NAACP Plaintiffs' 2011 Post-Trial Brief, an analysis of the Senate Factors reveals ample evidence of the need to create new minority opportunity districts in many areas across the state. *See* NAACP 2011 Post-Trial Brief, at 35-43.

A. House District 54

Plan 202 introduced by the Texas Legislative Black Caucus during the legislative process created a new minority opportunity district in Bell County. While this district was a majority minority district in 2011 (28.7% BCVAP, 17.7% HCVAP, 3.2% Asian CVAP, 0.8% Indian American and 46.4% Anglo—Ex. 2011 Joint Maps J-25, Red-100, Red-106), Mr. Fairfax's analysis, presented in the 2014 trial, indicates that the district's minority population has grown in the ensuing years. According to Mr. Fairfax's testimony, House District 54 in H202 would, as of 2014, be 30.9% BCVAP and 22.3% HCVAP, for a combined black and Latino CVAP of 53.29%. Tr., July 16, 2014, 912:6-15 (Fairfax).

Moreover, the city of Killeen is an exceptionally diverse city, unlike any other in the state of Texas, in part because of its unique relationship with Ft. Hood. Tr., July 18, 2014, 1706:6-12, 1707:4-9 (Jones). These are regions of the county that, because of their unique interests, benefit greatly from being kept whole and together. Tr., July 18, 2014, 1706:6-12 (Jones). Additionally, the city of Killeen experienced tremendous population growth over the last decade. Tr., July 18, 2014, 1706:19-25 (Jones). Indeed, District 54 in the benchmark plan was overpopulated largely because of the population growth in Killeen. Tr., July 17, 2014, 1401: 25-1402:4 (Korbel). Once Burnet County was removed from HD 54, the district was short 13,000 voters. Instead of adding those voters to the existing core of HD 54 in Bell County, which already contained virtually the entire city of Killeen, the enacted plan took out 32,000 voters from Killeen, almost two thirds of whom were minority voters. Anglo voters were then added in to make up for the removal of minority voters. Tr., July 17, 2014, 1402:5-1405:7 (Korbel).

Minority voters in Killeen face persistent disparate treatment on election day. From lack of translators for Latino voters, to more rigorous questioning about identification documents,

voters of color have a different experience when trying to participate in the political process than do Anglo voters. Tr., July 18, 2014, 1699:9-1703:6 (Jones).

In addition to the bonds created by sharing commonalities related to the adjacent military base, minority voters in Killeen have a demonstrated ability to work in coalition to elect their candidates of choice. Over the years, minority voters in the majority-minority city of Killeen have had substantial success in electing their candidates of choice to city offices. Latino and black voters supported a black candidate who successfully ran for mayor of Killeen—Timothy Hancock. Tr., July 18, 2014, 1695:8-23 (Jones). Both groups also supported Juan Rivera, a Latino candidate elected to Killeen City Council. The multi-racial coalition also supported African American candidates Steve Harris and Dr. Claudia Brown in city council races. Tr., July 18, 2014, 1696:17-1697:24, 1705:3-22 (Jones). In comparison, Bell County, which is majority white, currently has no members of color on the county commission or serving as a judge. Tr., July 18, 2014, 1708:20-25 (Jones). And when voters of color united behind City Councilwoman Dr. Claudia Brown in a challenge to the current representative from HD 54, Rep. Jimmie Don Aycock, those efforts were defeated by the Anglo majority. Tr., July 18, 2014, 1705:3-1706:1, 1718:5-8 (Jones). Rep. Aycock is not the candidate of choice of voters of color because he has not been responsive to their interests. Tr., July 18, 2014, 1703:12-1704:12 (Jones). He acknowledged voting for many issues opposed by the NAACP and by voters of color in his district. Tr., July 18, 2014, 1751:1-1752: 12 (Aycock).

Testimony offered in 2014 from the state's witnesses revealed suspicious inconsistencies with regard to the process for drawing the enacted HD 54. Rep. Jimmie Don Aycock testified that he met with Ryan Downton with regards to the construction of HD 54, but that he, Rep. Aycock, did not himself move around the lines of the district. Tr., July 18, 2014, 1755: 1-9

(Aycock). Indeed, he averred that he was not good with RedAppl. *Id*. at 1730:5-6. Yet Ryan Downton testified that he did not draw the district, but instead was given a district version by Rep. Aycock. Tr., July 19, 2014, 2132:25-2133:6 (Downton). This is a district that fragmented a significant chunk of a concentrated minority population of Killeen, and no one wants to take credit for that or provide a plausible, non-race-based reason for that. No such plausible reason has been provided to this Court.

B. McLennan County

McLennan County was the subject of redistricting litigation back in the early 1970's. Tr., July 17, 2014, 1441:15-1442:22 (Korbel). As a result of that litigation the State was ordered to create a district that would fairly reflect the voting strength of the minority communities of McLennan County and surrounding areas. *Id*.; *see also, Graves v. Barnes*, 378 F. Supp. 640 (W.D. Tex. 1974). That historic district was formerly numbered HD57 and included McLennan, Falls, Robertson and Brazos counties. Perez Plaintiffs' Exhibit 172, Tab 6 (Korbel). The resulting district elected Lane Denton, his wife Betty Denton and later Jim Dunnam. Tr., July 18, 2014, 1828:5-1829:14 (Gibson). The Dentons and Dunnam were the candidates of choice of the African-American and Latino communities and were generally responsive to their concerns. *Id*. There has generally been a coalition between African-American and Latino voters in McLennan County. *Id*. at 1830:1-10. Commissioner Lester Gibson, a McLennan County Commissioner for nearly three decades, testified that he, an African-American, was the candidate of choice of the African-American and Latino communities. *Id*. at 1830:11-22. Whites are polarized in voting against minorities and Gibson specifically indicated that such polarization has occurred in regards to issues. *Id*. at 1843:1-11. And although Dunnam was the choice of the minority community, he lost the election in 2010. *Id*. at 1843: 12-18.

In the enacted plan, the Legislature changed the number of the district from HD57 to HD12. Tr., July 17, 2014, 1444:1-5 (Korbel). It also changed the district to take out minority precincts in McLennan and Brazos counties and it added Limestone County to the district. *Id*. at 1443:16-23. Major voting boxes such as 12 and 14 were taken out of the district. Tr., July 18, 2014, 1841: 12-20 (Gibson). The enacted plan removed more than 23,000 persons from the district who were over 70 percent minority and replaced them with approximately 20,000 persons who were more than 80% Anglo or white. Perez Plaintiffs' Ex. 172, Tab 6 (Korbel). An old district can be drawn that makes it more likely that the minority candidate of choice can prevail by reconfiguring the old district which was nearly majority minority at the time it was deleted. Tr., July 17, 2014, 1445:19-24 (Korbel).

C. House District 107

The Legislative Black Caucus' H202 also created an additional black opportunity district in Dallas County. Even though this district was majority minority in 2011 (26.5% BCVAP and 23.9% HCVAP, 2011 Ex. Joint Maps J-25, Red-100, Red-106), Mr. Fairfax's unrebutted testimony once again demonstrates that the population gains seen from 2000 to 2010 have continued until 2014. As of 2014, House District 107 is now 27.18% BCVAP, 31.57% HCVAP, and a combined black and Latino CVAP of 58.76%. Tr., July 16, 2014, 913: 1-4 (Fairfax).

From 2000 to 2010, the minority population of Dallas grew by 350,000, and the Anglo population decreased by almost 200,000. Tr., July 17, 2014, 1423:2-9 (Korbel). Despite this fact, no new additional minority seats were drawn in Dallas County—and indeed, there is some evidence that a minority opportunity seat in the county was lost. *Id*. at 1423:12-19. Areas in the county where the greatest minority population growth occurred were divided amongst several

districts, with heavy minority populations being carved out and added to already existing minority districts. *Id*. at 1424: 9-23.

In addition to the lay testimony presented in the 2011 trial (*see* NAACP 2011 Post-Trial Brief at 21-29, 32-33, Testimony of Congressperson Eddie Bernice Johnson, Charlie Chen), Dr. Juanita Wallace and Raul Magdaleno both testified to the incredible record of political cohesion between black and Latino voters in Dallas County. African American and Latino voters worked together to elect Elba Garcia to the Dallas County Commission. Tr., July 15, 2014, 568:1-569:10. Dr. Wallace, an African-American, and Bea Martinez, a Latina, coordinated their campaigns for the Dallas school board so that they could maximize support for both candidates from the African American and Latino community, and they held many joint events together. *Id*. at 566:1-567:14.

African-American and Latino voters in Dallas County face many of the same hurdles in day to day life. These communities suffer from lack of access to health care, lack of fair educational opportunities and persistent economic disparities. Tr., July 17, 2014, 1134:1-1135:5 (Magdaleno). Schools in Dallas County are still highly segregated, with black and Latinos being concentrated in some schools, and Anglos in others. Tr., July 15, 2014, 572:2-9 (Wallace). Indeed, the testimony before the court includes evidence of a consistent lack of political responsiveness from Anglo elected officials to minority requests for assistance such that minority constituents of the Anglo elected officials had to seek the assistance of the minority elected officials in Dallas County. Dr. Wallace also testified to the consistent opposition of the Anglo voters to candidates of choice of the minority community in Dallas County. All of these factors, and others cited in the NAACP's 2011 Post-Trial Brief, demonstrate that black and Latino voters are cohesive and that the totality of circumstances warrants a Section 2 remedy in Dallas County.

D. House District 149

Defendants admit to dissolving House District 149 in Harris County, despite knowing that it was a district in which a diverse group of minority voters elected the candidate of their choice, Hubert Vo, because they did not think the Voting Rights Act compelled them to maintain it. Tr., September 12, 2011, 1482: 13-22 (Interiano). This callous disregard for proven voting rights gains from an extent cohesive minority population is certainly evidence of an intent to discriminate, but even if motivated by mistake rather than by animus, this reasoning cannot save Defendants from liability under the effects prohibition of Section 2.

Prior to the enactment of H283, HD 149 was a compact, naturally-occurring multi-ethnic coalition district whose voters had a proven track record of being politically cohesive and electing their candidate of choice, Rep. Vo. Tr., Sept. 7, 2011, 420:10-17 (Calvert). In 2011, Rogene Calvert supplied this Court with specific evidence of how this multi-ethnic coalition in this region of Harris County faces many of the same issues, is a community of interest, and worked together to ensure the election of Representative Vo. Tr., Sept. 7, 2011, 421:7-10 (Calvert). In 2014, the testimony of Hubert Vo, Scott Hochberg and Senfronia Thompson corroborated that prior testimony, and further fleshed out the deep coalition between these minority groups that has proven its effectiveness over the years. Tr., July 17, 2014, 1246:4-22 (Thompson); *id*. at 1346:10-21 (Vo); July 18, 2014, 1648:1-17 (Hochberg).

H202, like many other demonstrative plans offered in this litigation, restores HD 149, drawing it as a district that was, as of 2011, 34.7% BCVAP, 22.3% HCVP and 18.5% Asian CVAP. Ex. 2011 Joint Maps J-25, Red-100, Red-106. It does so without diminishing the adjacent H137, which is a majority Hispanic district. *Id.* It also does so deferring to the state's policy decision to reduce the size of the Harris County delegation from 25 to 24. Tr., Sept. 7,

2011, 1419:22-1420:9. The destruction of this district deprived minority voters of an equal opportunity to participate in the political process in Harris County, and must be remedied.

E. House District 26

In H202, an additional minority coalition district was created in House District 26 in Fort Bend County. Fort Bend County is adjacent to Harris County, and HD 26 in both the enacted and H202 plans is adjacent to HD 149 in the enacted plan. This is an area in the region that is experiencing substantial population growth amongst a diverse group of voters, mostly minority. Tr., July 17, 2014, 1411: 12-21 (Korbel). The evidence in the 2011 trial indicated that H202 had 23.8% Asian CVAP, 14.5% BCVAP, and 12.9% HCVAP, for a combined CVAP of 51.2%. Ex. 2011 Joint Maps J-25, Red-100, Red-106. Mr. Fairfax's analysis demonstrated that in 2014, the proposed HD 26 was 15.77% HCVAP, 14.10 BCVAP, and 27.18 Asian CVAP, for a combined 57.05% of black, Latino and Asian citizen voting age population. Tr., July 16, 2014, 902: 14-18 (Fairfax).

Instead of drawing compact districts that would recognize the naturally occurring minority district in Fort Bend—that is, the 150,000 more minority voters than Anglo added over the decade—the enacted plan drew HD 26 as an incredibly non-compact district, intended to be one that could be maintained as an Anglo district over the decade. Tr., July 17, 2014, 1412:3-1414:3 (Korbel); *see also* Tr., July 18, 2014, 1607: 8-11 (Interiano). The voters in this region are very similar to the voters who act in tri-ethnic coalition to elect Hubert Vo in HD 149, just across the county line in Harris County. Tr., July 17, 2014, 1422:1-6 (Korbel).

Rep. Senfronia Thompson testified to the political work she has done in Fort Bend County, and the coalition she has witnessed there. The Asian American population in Sugarland, First Colony and West Bend is growing and is politically active. Asian American voters have

supported African American candidates such as Ron Mills. Based on her decades of experience in the area, she averred that HD 26 drawn as a tri-ethnic coalition district would elect an Asian American and the candidate of choice of minority voters. Tr., July 17, 2014, 1245:9-1246:22.

IV. CONCLUSION

For all of the foregoing reasons, and those enumerated in the NAACP's 2011 Post-Trial Brief, the NAACP Plaintiffs respectfully submit to the Court that the 2011 State House redistricting plan violates both the Fourteenth Amendment and Section 2 of the Voting Rights Act.

Dated this, the 25th of July.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via the Court's electronic notification system or email to the following on July 25, 2014:

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