

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

SHANNON PEREZ, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	CIVIL ACTION NO.
)	SA-11-CA-360-OLG-JES-XR
v.)	[Lead case]
)	
STATE OF TEXAS, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
)	

QUESADA PLAINTIFFS' BENCH BRIEF SUMMARIZING ARGUMENTS

As requested by the Court, the Quesada Plaintiffs respectfully submit this summary of the arguments we intend to make regarding the 2011 congressional redistricting plan. We have limited this document to identifying those facts that underlie our theory of the case.

ARGUMENT

The 2011 congressional redistricting process carried out by Texas legislative leaders was racially exclusionary and purposely drawn to prevent meaningful participation of, or input from, members of the Legislature who represent minority opportunity districts, organizations that advocate for minority citizens and minority citizens generally. Even minority legislators appointed to the House and Senate redistricting committees were ignored and excluded from decision-making and ultimately the configuration of the enacted map, Plan C185, reflected this exclusion and lack of meaningful input. As a result of this discriminatory process, Plan C185 fails to reflect the racial and ethnic makeup of Texas, and fails to respect the growth of minority population in the state during the last decade.

1. The Racially Exclusionary and Discriminatory Redistricting Process

From the outset of the redistricting process, State leaders failed in their responsibility to seek and consider meaningful public comment and suggestions on redistricting. They did not conduct any field hearings for public comment or receive input following the release of the 2010 U.S. Census. Instead, State leaders claim that field hearings held in 2010 – before the new census had even been released – fulfilled their responsibility to inform and receive input from the public. These pre-census field hearings were, at best, general discussions of projected population increases. State leaders did not propose, review, or discuss any specific congressional maps at the 2010 field hearings because no census data were yet available.

The selection of members to chair the House and Senate redistricting committees telegraphed an indifference to conducting a thorough, transparent, and competent redistricting process. Rather than assign informed and experienced members likely to be knowledgeable and sensitive to African-American and Latino Texans or their elected representatives, leaders of the Texas Legislature chose Anglo members Senator Kel Seliger and Representative Burt Solomons to be chairs of the two redistricting committees in 2011. Prior to this, neither had ever before served on a redistricting committee and both represented safe Anglo-controlled districts.¹

When the Legislature met in regular session in 2011, the process planned and pursued by State leaders and those in charge of redistricting excluded meaningful participation by members of the Legislature who represent minority opportunity districts. Rather than a collaborative effort that included and engaged minority members of the legislature, or seeking input directly from Members of Congress who represent minority opportunity districts, a behind the scenes effort was conducted. Though the Texas Senate redistricting staff initially undertook congressional

¹ See 8/14/14 trial transcript, p. 1325 (lines 14-20) (Solomons recognizing he has no prior experience; See also 8/11/14 trial transcript, p. 262 (lines 22-25) (Seliger recognizing he has no prior experience).

redistricting, eventually an agreement was made that the House would take the lead in drawing the congressional map. At the direction of a few Anglo members of the Legislature and redistricting committee, legislative staff members Ryan Downton, Gerardo Interiano and Doug Davis (all of whom worked for the redistricting committees) were empowered to configure a congressional plan, in consultation with the Attorney General's office, attorneys in the Texas Legislative Council, and in close consultation with and guidance from Republican congressional delegation attorney Eric Opiela.²

In early April 2011, African-American House Redistricting Committee member Rep. Marc Veasey asked Committee Chair Burt Solomons on the floor of the House if he had received a proposed congressional plan from Congressman Lamar Smith on behalf of the Republican congressional delegation.³ Solomons denied seeing or receiving such a map.⁴ Even after existence of the map was reported in the press, Solomons (in an exchange with Veasey on the House floor) denied having seen the map, which was untrue⁵ However, Solomons staffer Ryan Downton testified at trial that, prior to Solomons' floor exchange with Rep. Veasey, Downton had shown the Republican proposed congressional delegation map to Chairman Solomons.⁶

Hispanic Representative Mike Villareal was Vice Chair of the House Redistricting Committee, and he too was not shown the map given to Solomons by Downton on behalf of Congressman Smith.⁷ Representative Solomons himself similarly testified.⁸

² By design and in practice, the redistricting process excluded meaningful and effective participation by members representing minority opportunity districts. Even redistricting committee members who represented minority opportunity districts were excluded and, in at least one instance explained below, deliberately misled.

³ See Texas Exhibit 190 at 833. See also trial transcript 8/14/14 at p. 1277.

⁴ See 8/14/14 trial transcript, pp. 1312 (line 22) -1313 (line 9).

⁵ See 8/14/14 trial transcript, pp. 1308 (line 24)-1313 (line 9). See also Texas Exhibit 190 at 833.

⁶ See 8/15/14 trial transcript, pp. 1787 (line 6) - 1788 (line 9).

⁷ See 8/15/14 trial transcript, p. 1787 (lines 19-22).

⁸ See 8/14/14 trial transcript, p. 1357 (lines 20-22).

Downton testified that, rather than consult with, or take direction from, and of the minority members of the Redistricting Committee, principal direction came from Solomons and three other Anglo members of the House who were not even on the redistricting committee – Representatives Charlie Geren, Todd Hunter and Dan Branch.⁹

Senior minority members of the Congressional delegation were blocked from active and meaningful participation in the redistricting process and misled as well. Congresswoman Eddie Bernice Johnson testified that she was instructed to communicate to the Legislature through Republican Congressman Lamar Smith.¹⁰ Congresswoman Johnson followed this direction, yet it is apparent from her trial testimony that her wishes and concerns were not reflected in the final map. In fact, her home was left outside the boundaries of the district. Testimony by the Director of the Texas Legislative Council stated that Rep. Johnson's home was excluded due to her home census block being misidentified in the TLC database.¹¹ The testimony at trial, however, showed that a simple address search on the TLC District Viewer by Texas redistricting committee staff members would have plainly shown her home outside the boundaries of her district as drawn under Plan C185 before it was enacted.¹² Many of the Plaintiffs drew alternative maps (including NAACP, Quesada, LULAC and Texas Latino Redistricting Task Force) which accurately included Congresswoman Johnson's home in her district. *See, e.g.*, Quesada Exhibit 70.

The treatment of Congresswoman Johnson reflects a point of view predominating within the Legislative and Redistricting leadership that, contrary to practice and precedent, members

⁹ *See* 8/15/14 trial transcript, pp 1784 (line 20)-1785 (line 1) (directive given to Downton by Chairman Solomons), 1785 (lines 15-21) (directives also given to Downton by Representatives Geren, Hunter, and Branch). Mr. Downton also testified that he received input from Governor Rick Perry's office, who submitted a proposed congressional map. 8/15/14 trial transcript p. 1785 (lines 3-7).

¹⁰ *See* 8/12/15 trial transcript, p. 705 (lines 4-6, 15-18).

¹¹ *See e.g.* 8/13/14 trial transcript, p. 774 (lines 12-14) (testimony by Clare Dyer, Texas Legislative Council, recognizing TLC had correct address but had shaded the wrong block).

¹² *See* 8/13/2014 trial transcript, p. 789 (lines 8-12).

representing minority opportunity districts must somehow correctly guess who is making decisions and how they are being made, rather than State leaders reaching out constructively to engage and receive input on the views of those representing Hispanic and African-American Texans. For example, referring to Representative Veasey, House staffer Ryan Downton (who was the person principally responsible in the House for drafting the Congressional plan) explained that Veasey never came to see him.¹³ Chairman Solomons said he has never met Congresswoman Johnson,¹⁴ even though she has served in the Legislature and/or in Congress for more than three decades, and his legislative district was in an adjacent county from Congresswoman Johnson's district. While testifying about conversations with African-American Congresswoman Sheila Jackson Lee, House Redistricting Committee Chairman Solomons said that he met with Congresswoman Jackson Lee but he did not ask her about her district at all.¹⁵

The racially exclusionary process that locked out the voices of Hispanic and African-American Texans led to the passage of C185 with virtually no support from African-American or Hispanic members. African-American and Hispanic members of the Legislature spoke out against the plan and offered alternative redistricting plans that more accurately reflected the size and growth of the Hispanic and African-American populations. State leaders blocked all alternative plans and allowed no significant amendments during the process leading to the passage of C185.

Legislative leaders also attempted to justify their failure to adequately inform the public or include African American and Hispanic leaders in configuring a congressional redistricting plan by stating that the 30-day special session simply didn't provide enough time. However, testimony from Ryan Downton makes clear that he and Anglo legislative leaders were

¹³ See 8/16/14 trial transcript, pp. 1805 (lines 16 - 24).

¹⁴ See 8/14/14 trial transcript, p. 1315 (lines 11- 14).

¹⁵ See *e.g.* 8/14/14 trial transcript, pp. 1372 (line 6) - 1374 (line 4).

configuring the congressional map throughout the regular session of the Legislature, yet did not do sufficient outreach or attempt to include minority representatives - even those serving on the redistricting committee.¹⁶ Moreover, while special sessions only last for 30 days, the Governor can call multiple special sessions to assure that a thorough process is conducted.¹⁷ In 2003, when State leaders engaged in mid-decade redistricting, the Governor called three special sessions to conclude work on congressional redistricting.¹⁸

The decision by Texas Legislative leaders to pursue the redistricting process as a “member-driven”¹⁹ effort virtually assured that any resulting map - like Plan C185 - would not reflect the voting strength or the concerns of African-American or Hispanic voters. Members representing Anglo-controlled districts held dominant majorities in both the House and the Senate, and made the protection of their own interests the priority. Discrimination against African-American and Hispanic voters, along with their representatives in the Legislature, was thus inevitable.²⁰

2. Despite Hispanic and African American Population Growth, Plan C185 Added 5 New Anglo-Voter-Controlled Seats

Benchmark Plan C100, which was adopted during the Tom DeLay-driven mid-decade redistricting in 2003 that was found, in part, violative of the Voting Rights Act by the U.S. Supreme Court in 2006, already provided Anglo voters with control of 21 out of 32 districts. Approximately 90 percent of the population growth reflected in the 2010 census was made up of

¹⁶ See 8/15/14 trial transcript, pp. 1591 (line 6) - 1592 (line 9).

¹⁷ See 8/14/14 trial transcript, p. 1357 (lines 7-11) (Chairman Solomons testifying that Governor has the power to call numerous special sessions if a Congressional redistricting map does not pass in the previous 30-day special session).

¹⁸ See 8/14/14 trial transcript, p. 1357 (lines 12-16).

¹⁹ See 8/11/14 trial transcript, p. 63 (lines 14-17) (testimony of Interiano describing the process as “member driven”).

²⁰ Put another way, intentionally drawing lines in redistricting to ensure that two thirds of the districts would be controlled by Anglo Republicans necessarily resulted in a plan that would under-represent minority voters and dilute minority voting strength in the state as whole.

Hispanics and African-Americans, and the two groups combined to make up approximately half the Texas population by the time of the 2010 census. Meanwhile, during the decade, Anglos dropped from over 52 percent of the State's population to just over 45 percent of the population. Quesada Exhibit 297.²¹

Not only were all four of the new seats allocated to Texas as a result of the state's extraordinary Hispanic and African American population growth configured as Anglo-controlled districts, but state map drawers also eliminated an existing district where minority voters had demonstrated the ability to elect their candidate of choice and replaced it with an Anglo-controlled district. Under C185, the number of seats controlled by Anglo voters increased from 21 to 26, and the number of seats where African Americans and/or Hispanics had demonstrated the ability to elect their candidates of choice fell from 11 to only 10. The attached chart compares the number of districts in Benchmark Plan C100 to Plan C185, indicating which districts are controlled by Anglo voters, and which are controlled by minority voters.

State leaders failed to conduct any electoral or performance analysis on alternative plans proposed by minority legislators, minority advocacy organizations, or even the Republican Congressional delegation's plan, to see if newly proposed minority opportunity districts provided minority voters with an effective opportunity to elect their candidate of choice.²² Instead, they merely looked at the HCVAP percentage in any newly proposed minority opportunity districts offered on behalf of minority voters and if the proposed district did not exceed 50% HCVAP, it

²¹ The Hispanic population in Texas increased by over 2.79 million persons, more than 10 times the rate of Anglos. The Texas African-American population also grew significantly, at 5 times the rate of Anglos, and increasing by over 500,000 persons. Quesada Exhibit 297. Had the entire Texas population grown at only the rate of Anglos, Texas would not have gained any new seats, and would likely have lost a seat in Congress. Murray Trial Testimony.

²² Downton Trial Testimony 11/15/14 at 1790.

was summarily rejected without any performance analysis, such as turnout or reconstituted election results.²³

Configuring districts in Plan C185 to provide a net increase of five Anglo-controlled districts required a deliberate effort to pack Hispanic and African American Texans into as few districts as possible and then to dramatically crack remaining neighborhoods into Anglo controlled districts, thus intentionally suppressing the voting strength of Hispanic and African American Texans.

An examination of the racial makeup of the districts under Plan C185 shows packing and cracking of minority populations significantly greater than under Benchmark Plan C100. Quesada Exhibit 73. When approved by the Legislature in 2003, Benchmark Plan 100 left 37.9 percent of the State's Hispanic population and 57.3 percent of the State's African American population stranded in districts controlled by Anglo voters. Quesada Exhibit 409A. Plan C185 strands 52.5 percent of the Hispanic population and 63.1 percent of the African-American population in Anglo districts. Quesada Exhibit 409B. The incumbent members of Congress in these Anglo-controlled districts have consistently voted contrary to the interests of Hispanic and African Texans. Both NAACP and Latino legislative ratings give representatives of these Anglo-controlled districts failing grades, further diminishing minority voting strength and harming the representational interests of minority voters. Quesada Exhibits 8 and 9.

3. Four Key Areas of the State Where Plan C 185 Reflects Discriminatory Treatment of Minority Voters

²³ Downton Trial Testimony, 8/15/14 pp. 1797-98. The discounting of Hispanic and African-American voting strength by rejecting newly proposed districts that would have provided minority voters with effective opportunities to elect their preferred candidate goes hand in hand with the State's racially exclusionary redistricting process. It indicates the degree to which State leaders simply made assumptions and judgments about minority voters based on their race rather than undertaking any analysis of their voting behavior.

The discriminatory treatment of minorities in the redistricting process was reflected in the configuration of the boundaries of districts within Plan C185. We highlight four areas of the State in which the district lines reflect discriminatory treatment of minority voters: the Dallas-Tarrant County region; Nueces County; CD 23; and Travis County. In these four regions, the configuration of districts within C185 can be characterized as punitive in its treatment of Hispanic and African-American communities of interest.

A. The Dallas-Tarrant County Region

Dallas and Tarrant counties in North Texas are adjacent to one another and, when combined, contain approximately the same land area as Harris County.²⁴ The combined African-American and Hispanic populations in Dallas plus Tarrant counties are also nearly the same as Harris County. Under Benchmark Plan C100, there were three districts in Harris County where minority Texans could elect their candidate of choice –District 9 (Rep. Al Green), District 18 (Rep. Jackson Lee) and District 29 (Rep. Green). However, in Dallas/Tarrant counties, only one minority opportunity district was configured –District 30 (Rep. Johnson) – while seven districts controlled by Anglo voters in that north Texas region were wholly within, or had significant population within, those two counties.

The 2010 U.S. Census reported that the Hispanic and African-American populations in Dallas and Tarrant grew significantly while the Anglo population decreased in raw numbers. The African American population in these two counties grew from 655,198 to 834,517 for a net increase of 179,319. The Hispanic population grew from 948,019 to 1,388,917 for a net increase of 440,898. Combined there are 1,592,155 Black plus Hispanic residents in Dallas/Tarrant, an

²⁴ Alford Trial Testimony, 11/16/14 at 1920.

increase of 605,644 over the 2000 Census. The Anglo population in Dallas/Tarrant dropped from 1,878,570 to 1,721,828 during the decade for a net decrease of 156,742.²⁵

State redistricting and legislative leaders have contended that their principal motivation when drawing C185 was to protect and expand their partisan advantage. However, the Republican congressional delegation, along with Governor Perry, proposed maps that created a new Dallas/Tarrant minority district. An email from Eric Opiela on behalf of Congressman Lamar Smith made the point that creating a second minority opportunity district in Dallas/Tarrant would, in fact, make it easier to protect the future re-election prospects of Republican congressmen Pete Sessions (CD32) and Kenny Marchant (CD24), whose districts included rapidly growing Hispanic and African-American neighborhoods.²⁶ Despite the view within their own party that creation of at least one additional minority opportunity district in Dallas/Tarrant was consistent with Republican political goals, legislative leaders rejected this option and instead further fractured Hispanic and African American neighborhoods across the two counties.

In Districts 24 and 32, for example, legislative leaders carefully carved out the neighborhoods with the most minority growth and attached them to Anglo-controlled District 6. In Dallas County, heavily Hispanic North Oak Cliff and parts of South Irving were removed from Rep. Sessions' CD32 and moved into Anglo-controlled CD6. Also, heavily Hispanic and

²⁵ The population shifts and the Hispanic and African American growth in Dallas/Tarrant were acknowledged by local minority leaders, minority advocacy groups and Anglo Republican officials, including the Rep. Lamar Smith-led Republican congressional delegation, and Governor Rick Perry—all of whom proposed the creation of at least one, and often two, minority ability to elect districts in the Dallas/Tarrant region.

²⁶ Ryan Downton also testified at trial that creating a new minority opportunity district in the Dallas-Tarrant region would have made it easier to protect Republican members of Congress, demonstrating that achieving partisan advantage was not the reason the Texas Legislature failed to create a new minority opportunity district in that area. Downton Trial Testimony, 8/15/14 at 1703.

African-American neighborhoods in Grand Prairie and South Irving were removed from Rep. Marchant's CD24 and put in CD6. Thus, all these minority communities of interest have been stranded in districts controlled by Anglo voters. Ryan Downton acknowledged in his testimony that he split precincts along racial/ethnic lines in this region.²⁷

In Tarrant County, legislative leaders separated the Hispanic neighborhoods in Fort Worth from nearby African-American neighborhoods by drawing the bizarrely shaped "Lightning Bolt" protrusion into Tarrant County from Anglo-controlled, Denton County-based District 26. Using racial shading at both the block and precinct level, (Downton Trial Testimony, 8/15/14 at page 1710) Congressional map drawer Ryan Downton shifted and narrowed the existing Tarrant County portion of District 26 from east to west to carefully pick up the most Hispanic portions of CD12 including the north side and then down in a winding, twisting fashion to pick up the south side of Fort Worth and other growing Hispanic neighborhoods. District 12 was then looped underneath and around the Lightning Bolt to add African-American neighborhoods in southeast Fort Worth into CD12. Both Hispanic and African-American neighborhoods were also fractured in the Tarrant County region. Quesada Exhibit 73.

At first, Defendants explained this bizarre configuration by stating the need to retain the Trinity Vision development project in CD12. Opening Statement by Defendants, 8/11/14 at page 212. However, plaintiffs offered proof that the Trinity Vision project was already squarely within CD12 and the need for the jagged twists and turns with respect to Districts 12 and 26 could have been avoided by simply not shifting CD26 westward. See Quesada Exhibits 114 and 115. Defendants then offered as an explanation for the lightning bolt and argued that the need to wrap around it with CD12 by stating the desire to include the city of North Richland Hills in

²⁷ Downton Trial Testimony, 8/15/14 at pp. 1715-16.

CD12. Downton Trial Testimony, 8/15/14. But that city could have been added to CD 12 without creating the lightning bolt.

Downton also testified that he used Hispanic shading when drawing the Lightning Bolt, which explains why Hispanic population in the County has been deliberately separated. He also testified that he intentionally assigned African-American neighborhoods to District 12 on the basis of race (and the only way he would have known these areas were African-American is by resorting to racial shading when drawing the boundaries).²⁸

In sum, legislative leaders packed minority voters into existing District 30 and then dissected and shifted remaining Dallas/Tarrant Hispanic and African-American neighborhoods. As a result, minorities in the DFW region are stranded within Anglo-voter-controlled districts, preventing them from effective participation in the political process and electing their candidates of choice.

B. Discrimination Against Hispanic Voters in Nueces County

Legislative leaders reconfigured CD27 from a Hispanic ability to elect district in Plan C100 to an Anglo-controlled district by plucking predominantly Hispanic Nueces County and attaching it to counties northward to the Houston metropolitan area and westward to the Travis County border. They then replaced CD27 with Hispanic opportunity District 34 based in Cameron County. However, the shift of over 200,000 Hispanic residents in Nueces to an Anglo-controlled district creates a ripple effect across south Texas along the border northward to San

²⁸ In his trial testimony, Downton stated that widening the Lightning Bolt because would have required taking in African-American population. Downton Trial Testimony, 8/15/14 at p. 1789 - 1790 (line 19). Tarrant County African-American and Hispanic neighborhoods were further fractured by new CD33 under Plan C185. Under the plan, CD33 is an Anglo-controlled district anchored in Parker County west of Tarrant. The district protrudes eastward into Tarrant County and absorbs the growing African-American neighborhoods in southwest Fort Worth and then extends narrowly eastward across the county to absorb growing African-American and Hispanic neighborhoods in Arlington.

Antonio and westward to El Paso. Removing over 200,000 Hispanics makes the creation of additional Latino districts more difficult in South Texas and makes it harder to maintain Hispanic voting strength in other Hispanic Districts, particularly CD23.²⁹

C. Discrimination Against Hispanic Voters Within CD23

Under Benchmark Plan C100, District 23 was an Hispanic opportunity District. Hispanic voters had elected their candidate of choice in 2006 and 2008. However, in 2010, the Anglo candidate of choice, Francisco Canseco, was elected. Rather than retain the voting strength of Hispanic voters within District 23, legislative leaders engaged in a cynical exercise wherein they attempted to hold the SSVR and Hispanic CVAP at benchmark levels, yet reduced the voting strength of Hispanics within the district by, among other ways, replacing high turnout Hispanic precincts with low turnout Hispanic precincts. This approach was suggested by Republican congressional delegation staffer Eric Opiela in the so-called “nudge memo” he sent to Legislative map drawers as a method to enhance the re-election prospects of Canseco. Quesada Exhibit 253.

Through a series of population shifts, including removing Hispanic residents in parts of Maverick County while adding less likely to vote Hispanic residents in rural counties to the north and through similar population shifts in El Paso County and Bexar County, map drawers did in fact “nudge” CD23 to lower performance for the Latino candidate of choice while maintaining Hispanic population levels, just as Opiela had urged.

One of the state's map drawers, Geraldo Interiano, denied configuring CD23 district boundaries at the block level using racial shading, contending that he did not know how to turn

²⁹ Trial testimony adduced by Defendants attempted to explain detaching Nueces County from south Texas Hispanic districts by claiming it was a response to Rep. Oliveira. However, Rep. Oliveira proposed his own map (Plan C188) which keeps Hispanic residents in Nueces within a south Texas Latino district which extends southward to Cameron County. See Plan C188.

on the shading function in RedAppl at the block level.³⁰ However, Texas Legislative Council staff member Claire Dyer testified that instruction on using the racial shading function at the block level was part of the instruction given when individuals are trained on using the RedAppl system.^{31 32} Additionally, Ryan Downton, the principal map drawer acknowledged he used racial and ethnic shading.³³

D. Discrimination Within Travis County

The decision by legislative leaders to carve Travis County into five separate congressional districts is nothing short of punitive to thousands of Travis County residents, particularly African-American residents. Again, the removal of 200,000 Hispanic residents in Nueces County from south-Texas based districts rippled across the region. Had those Hispanics remained in a south Texas configuration, there would have been less need, or no need at all, to draw new Hispanic District 35 to include more than 200,000 Travis County residents, making it easier to retain Benchmark District 25 as a crossover district where Hispanic and African-American voters had elected their candidate of choice.³⁴

Beyond the creation of new CD35, however, State map drawers dramatically sheared apart minority neighborhoods in Travis County and attached them to Anglo-controlled districts. This is dramatically illustrated in the treatment of the historic Travis County African-American neighborhoods in east Austin, where the community was literally plucked from the county and

³⁰ See 8/11/14 trial transcript, pp. 72 (lines 2-25) and 335 (lines 9-11) (Interiano testifying that although he had over one thousand hours of use on RedAppl, and was trained by TLC, he did not know how to use racial shading at the time of the redistricting cycle).

³¹ See 8/13/14 trial transcript, p. 763 (line 11) - 764 (line 22).

³² The “nudge” approach in CD23 combined with the removal of 200,000 Hispanic residents in Nueces County did far more than protect Republican incumbents and enhance Republican political prospects. The State’s actions reduced existing Hispanic voting strength across south Texas and inhibited the ability of Hispanic voters to realize the potential of their growing population in the region and across the state.

³³ Downton Trial Testimony, 8/15/14.

³⁴ Ansolabehere Trial Testimony, 8/13/14 at 961.

attached to a new Anglo-controlled District 25 that winds westward through Anglo regions of Travis County and extends far northward all the way into Tarrant County. The African-American community of interest in Travis County, which had been an essential part of the effective Travis County tri-ethnic political coalition, was isolated and silenced under Plan C185. Rep. Dawnna Dukes Trial Testimony, 8/13/14 at 881-888.

Explanations that the carving of Travis County was an effort to divide Democrats rather than minority neighborhoods is not credible given that in Travis County there is Democratic political strength in Anglo as well as African-American and Hispanic communities. The district configurations under C185 in Travis County show divisions based on race, not politics.

Conclusion

Population growth in the State's Hispanic and African-American populations resulted in Texas receiving four new congressional seats. In key regions of the state, like Dallas and Tarrant counties, Anglo population actually fell in raw numbers. Yet, State leaders configured and adopted congressional district Plan C185 to *increase* the number of Anglo-controlled districts by a net five seats. In doing so, Legislative leaders excluded the voices of the elected representatives of minority leaders and painstakingly manipulated district boundaries to pack and/or fracture minority neighborhoods to limit and weaken their current and potential voting strength. They also "nudged" a district (CD 23) to thwart Hispanic voters' ability to elect their preferred candidate. Their actions artificially *restricted* minority representation during a time when minority population growth warranted *expanding* minority representation. These actions were a deliberate and purposeful effort to discriminate against Hispanic and African-American voters in Texas.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2014, a true and correct copy of the foregoing Quesada Plaintiffs' Bench Brief Summarizing Arguments (and attachments) were served on counsel via the Court's electronic notification system and via first class mail to those who are not registered with the ECF system.

/s/ J. Gerald Hebert
J. Gerald Hebert

PlanC100

Plan C185

District	Anglo	Hisp	Black	Xover	District	Anglo	Hisp	Black	Xover
1	X				1	X			
2	X				2	X			
3	X				3	X			
4	X				4	X			
5	X				5	X			
6	X				6	X			
7	X				7	X			
8	X				8	X			
9			X		9			X	
10	X				10	X			
11	X				11	X			
12	X				12	X			
13	X				13	X			
14	X				14	X			
15		X			15		X		
16		X			16		X		
17	X				17	X			
18			X		18			X	
19	X				19	X			
20		X			20		X		
21	X				21	X			
22	X				22	X			
23		X			23	X			
24	X				24	X			
25				X	25	X			
26	X				26	X			
27		X			27	X			
28		X			28		X		
29		X			29		X		
30			X		30			X	
31	X				31	X			
32	X				32	X			
NA					33	X			
NA					34		X		
NA					35		X		
NA					36	X			
Total	21	7	3	1	Total	26	7	3	0