

Page 1

1 IN THE UNITED STATES DISTRICT COURT FOR  
2 THE NORTHERN DISTRICT OF ALABAMA  
3  
4 CASE NUMBER  
5 2:21-CV-01531-AMM  
6  
7  
8 KHADIDAH STONE, et al.,  
9 Plaintiff(s),  
10 vs.  
11 WES ALLEN, et al.,  
12 Defendant(s).  
13  
14  
15 VIDEO DEPOSITION TESTIMONY OF:  
16 DR. M.V. HOOD, III  
17  
18 May 10, 2024  
19 9:01 A.M.  
20  
21  
22 COURT REPORTER:  
23 MADISON BORDEN, CCR  
24 The reading and signing of this deposition  
25 has not been waived.

Page 2

1 S T I P U L A T I O N  
2 IT IS STIPULATED AND AGREED  
3 by and between the parties through their  
4 respective counsel that the deposition of  
5 DR. M.V. HOOD, III, may be taken before  
6 Madison Borden, Certified Shorthand  
7 Reporter and Notary Public, State at  
8 Large, at the offices of Balch & Bingham,  
9 455 Dexter Avenue, Montgomery, Alabama, on  
10 May 10, 2024, commencing at approximately  
11 9:01 a.m.  
12 IT IS FURTHER STIPULATED AND  
13 AGREED that the signature to and the  
14 reading of the deposition by the witness  
15 is not waived, the deposition to have the  
16 same force and effect as if full  
17 compliance had been had with all laws and  
18 rules of Court relating to the taking of  
19 depositions.  
20 IT IS FURTHER STIPULATED AND  
21 AGREED that it shall not be necessary for  
22 any objections to be made by counsel to  
23 any questions, except as to form or  
24 leading questions, and that counsel for  
25 the parties may make objections and assign

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1 grounds at the time of trial or at the  
2 time said deposition is offered in  
3 evidence, or prior thereto.  
4 In accordance with Rule 5(d)  
5 of the Alabama Rules of Civil Procedure,  
6 as amended, effective May 15, 1988, I,  
7 Madison Borden, am hereby delivering  
8 Amanda Allen the original transcript of  
9 the oral testimony taken May 10, 2024,  
10 along with the Exhibits.  
11 Please be advised that this  
12 is the same and not retained by the Court  
13 Reporter, nor filed with the Court.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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1 A P P E A R A N C E S  
2  
3 FOR THE PLAINTIFF(S):  
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10 Amanda Allen  
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16 FOR REPRESENTATIVE PRINGLE:  
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18 Balch & Bingham  
19 455 Dexter Avenue  
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22  
23  
24  
25

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1 FOR SECRETARY ALLEN:  
2 Brenton Smith  
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5 P.O. Box 300152  
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7  
8 ALSO PRESENT:  
9 Paige Byrd- videographer  
10  
11  
12  
13  
14  
15  
16  
17  
18  
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1	I N D E X	
2	WITNESS:	
3	Dr. M.V. Hood, III	
4	EXAMINATION BY	PAGE
5	Ms. Allen.....	8
6	Mr. Smith.....	140
7	PLAINTIFFS' EXHIBITS	
8	NO.	DESCRIPTION PAGE
9	Exhibit 1	Notice of Deposition 20
10	Exhibit 2	Third Amended Complaint 22
11	Exhibit 3	Expert Report 24
12	Exhibit 4	Pew Document 38
13	Exhibit 5	Dr. Liu's Rebuttal Report 43
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15	Exhibit 7	Journal Article 63
16	Exhibit 8	True Colors Article 80
17	Exhibit 9	Milligan Transcript 86
18	Exhibit 10	Legal Theory article 106
19	Exhibit 11	Dr. Liu's Report 107
20	Exhibit 12	Expert Report 115
21	Exhibit 13	Functionality Examination 122
22	DEFENDANTS' EXHIBITS	
23	There were no Defendant's Exhibits marked	
24	to this deposition.	
25		

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1 THE VIDEOGRAPHER: We now  
2 commence the videotaped deposition in the  
3 United States District Court for the  
4 Northern District of Alabama in the matter  
5 of Khadidah Stone versus Wes Allen, Case  
6 Number 2:21-CV-0153-AMM. Our witness today  
7 is Dr. M.V. Hood, III. Today's date is May  
8 the 10th, 2024. The time is 9:01 a.m.  
9 Central time. We are located at Balch and  
10 Bingham in Montgomery, Alabama.  
11 Will all attorneys present please  
12 state their names and whom they represent?  
13 MR. SMITH: Brenton Smith for  
14 Secretary Wes Allen.  
15 MR. TAUNTON: Michael Taunton for  
16 Representative Chris Pringle.  
17 MS. ALLEN: Amanda Allen here on  
18 behalf of plaintiffs.  
19 MS. STEWART: Shelita Stewart  
20 here on behalf of plaintiffs.  
21 DR. M.V. HOOD, III,  
22 having been first duly sworn, was examined  
23 and testified as follows:  
24 THE COURT REPORTER: Usual  
25 stipulations?

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1 MR. SMITH: Yes.  
2 MS. ALLEN: That's fine.  
3 MR. TAUNTON: We'd ask to reserve  
4 read and sign.  
5 EXAMINATION  
6 BY MS. ALLEN:  
7 Q. Good morning, Dr. Hood. How are  
8 you?  
9 A. Good morning. Fine.  
10 Q. Thank you for your time today.  
11 Will you please state and spell your full  
12 name for the record?  
13 A. M.V. Hood, III, H-O-O-D.  
14 Q. Have you ever been known by any  
15 other name?  
16 A. Trey.  
17 Q. Dr. Hood, have you ever been  
18 deposed before?  
19 A. Yes.  
20 Q. How many times?  
21 A. I don't know.  
22 Q. Has it been more than ten times?  
23 A. Yes.  
24 Q. Less than 25?  
25 A. Well, I'm going to just state

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1 that I don't know, but I would say between  
2 40 and 50. It's not something that I've  
3 kept track of so...

4 Q. Understood. Do you remember when  
5 some of these depositions happened over  
6 time? I know you've done a lot.

7 A. Well, I mean, I can recall being  
8 deposed. I can't give you specific dates  
9 necessarily.

10 Q. What has been the general nature  
11 of the matters that you have been deposed  
12 in?

13 A. Voting rights and election law.

14 Q. When you have been deposed, were  
15 you an expert witness?

16 A. Yes.

17 Q. Have you ever been a party in any  
18 of these depositions that you've been  
19 deposed in?

20 A. Have I been a party to the case  
21 itself?

22 Q. Correct.

23 A. No.

24 Q. Have you ever testified at trial  
25 or any other proceeding?

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1 A. Yes.

2 Q. Okay. So I'm going to go over  
3 some ground rules so that we're both on the  
4 same page. I'm sure as many times as  
5 you've been deposed, you've heard these.  
6 But just so we, for purposes of today, are  
7 kind of agreed on how this will go, I'm  
8 just going to walk through them with you.  
9 So bear with me. Today I'll be asking you  
10 a series of questions and your obligation  
11 is to answer them to the best of your  
12 ability.

13 Do you understand that?

14 A. Yes.

15 Q. You understand that we're  
16 gathered here for the purpose of taking  
17 your deposition testimony, correct?

18 A. Correct.

19 Q. You understand that the court  
20 reporter will transcribe my questions and  
21 your answers to them, yes?

22 A. Yes.

23 Q. And you understand that you  
24 should give the same seriousness and  
25 truthfulness in answering my questions here

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1 today as you would if you were testifying  
2 in court before a judge or a jury, correct?

3 A. Correct.

4 Q. If you don't understand a  
5 question, please tell me. Do you  
6 understand that?

7 A. Yes.

8 Q. If you didn't hear a question,  
9 please tell me, and I will repeat it. Do  
10 you understand that?

11 A. Yes.

12 Q. If you answer a question, I'm  
13 going to assume that you understood the  
14 question and are giving me a complete and  
15 truthful answer; is that fair?

16 A. Yes.

17 Q. We will take breaks over the  
18 course of today's deposition. If you need  
19 to take a break before I suggest one,  
20 please let me know, though I'll ask that we  
21 don't take a break when there is a question  
22 pending; is that fair?

23 A. Yes.

24 Q. Do you have any questions about  
25 that?

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1 A. No.

2 Q. Another thing, many witnesses nod  
3 their head, shake their head or say, uh-huh  
4 in response to a question, but the court  
5 reporter cannot capture those responses in  
6 the transcript, so please give verbal  
7 answers using complete words, no nodding or  
8 shaking your head or uh-huhs -- much like  
9 you've been doing so far.

10 Do you understand?

11 A. Yes.

12 Q. Relatively, we should strive not  
13 to talk over one another. These are -- but  
14 I'll ask that you listen to my question and  
15 then I will listen to your answer, and  
16 we'll try not to speak over one another,  
17 okay?

18 A. Okay.

19 Q. Finally, counsel may object to  
20 some of my questions. That is part of the  
21 process to create a record for the judge  
22 later on in the case, and it will not  
23 prevent you from answering my question.

24 Do you understand all these  
25 instructions that we just discussed?

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1 A. Yes.  
2 Q. Is there any reason that you are  
3 unable to answer questions fully and  
4 truthfully today?  
5 A. No.  
6 Q. Are you on any medications that  
7 might cause you to suffer from memory loss  
8 in any way?  
9 A. No.  
10 Q. With that out of the way, do you  
11 understand, Dr. Hood, that you are here  
12 today testifying as a designated expert in  
13 the case of Stone V. Allen?  
14 A. Yes.  
15 Q. Dr. Hood, when were you retained  
16 in this case?  
17 A. Last fall from what I can recall.  
18 I don't know the exact date.  
19 Q. So fall of 2023?  
20 A. I believe that's correct.  
21 Q. Who contacted you?  
22 A. Mr. Davis.  
23 Q. I'm sorry. Can you say that --  
24 A. Mr. Davis.  
25 Q. You're referring to Jim Davis?

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1 A. Yes.  
2 Q. What is the scope of your  
3 retention for this matter?  
4 A. To produce an expert report, to  
5 testify in deposition if necessary -- I  
6 mean, we're here today -- and to testify in  
7 court if necessary.  
8 Q. To testify or produce a report  
9 about what?  
10 A. I was asked to answer a number of  
11 questions by counsel, and that's what I did  
12 in my report.  
13 Q. And what questions are you  
14 referring to?  
15 A. The ones I answered in my report.  
16 Q. Okay. Do you anticipate  
17 testifying at trial?  
18 A. Most likely.  
19 Q. How did you come to be retained  
20 in this case?  
21 A. Could you be -- I don't  
22 understand. I mean, I was contacted by  
23 counsel for the State of Alabama.  
24 Q. Okay. Do you know why you were  
25 contacted?

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1 MR. SMITH: I object. That goes  
2 to his conversations with counsel about why  
3 he was contacted. I'd instruct him not to  
4 answer to the extent it divulges in  
5 conversations with counsel.  
6 Q. To be clear, without going into  
7 any discussion you've had with counsel, do  
8 you know why you were retained?  
9 A. To serve as an expert in this  
10 case.  
11 Q. In your report, you indicate that  
12 you are compensated for your work on this  
13 case at a rate of \$400 per hour; is that  
14 accurate?  
15 A. Yes.  
16 Q. Has that been the same rate  
17 throughout your entire engagement?  
18 A. Yes.  
19 Q. And does that rate apply to any  
20 testimony that you give including  
21 deposition testimony?  
22 A. Yes.  
23 Q. Does that rate apply to testimony  
24 at trial?  
25 A. Yes.

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1 Q. Is your compensation tied in any  
2 way to whether defendants win, lose, or  
3 settle this lawsuit?  
4 A. No.  
5 Q. How many total hours have you  
6 worked on this engagement?  
7 A. I don't know. I haven't prepared  
8 an invoice in this matter.  
9 Q. Is it more than 100 hours?  
10 A. No.  
11 Q. So less --  
12 A. But I just honestly don't know.  
13 I mean, I haven't prepared an invoice.  
14 Q. Could you estimate whether it's  
15 more than 50 hours?  
16 A. I don't think so.  
17 Q. So possibly you spent less than  
18 50 hours on this engagement?  
19 A. Well, that's just an estimate.  
20 Again, I don't -- I haven't prepared an  
21 invoice. I know it's not 100 hours so...  
22 Q. What are your total billings so  
23 far?  
24 A. Zero so far.  
25 Q. So you haven't been paid?



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1 A. Correct.  
2 Q. Who is paying your bills for this  
3 case?  
4 A. The Alabama Attorney General's  
5 Office.  
6 Q. What additional time do you  
7 anticipate spending on this matter?  
8 A. Well, here today at deposition.  
9 I haven't been asked to do anything  
10 additional. But if there's a trial and I'm  
11 asked to testify at the trial, I'll have to  
12 do some preparation for that, and obviously  
13 appear in court at trial so...  
14 Q. Was anyone else involved or  
15 assisted you with regard to work on this  
16 matter?  
17 A. No.  
18 Q. Have you had any in-person  
19 meetings with the defense counsel?  
20 A. Yes.  
21 Q. How many in-person meetings?  
22 A. One.  
23 Q. With who?  
24 A. Mr. Davis and Mr. Smith.  
25 Q. Can you say that last name again?

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1 MR. SMITH: Mr. Smith.  
2 A. Mr. Smith.  
3 Q. When did this meeting occur?  
4 A. Yesterday.  
5 Q. Where did it occur?  
6 A. At the Alabama Attorney General's  
7 Office.  
8 Q. What was it about?  
9 A. This case.  
10 Q. Have you had any telephone calls  
11 with defense counsel?  
12 A. Yes.  
13 Q. How many?  
14 A. I don't know. Several.  
15 Q. More than ten?  
16 A. No.  
17 Q. So less than ten calls?  
18 A. Well, I would say, yes. Yes.  
19 Q. Who were these telephone  
20 conversations with?  
21 A. From my memory, again, Mr. Davis  
22 and Mr. Smith.  
23 Q. When did these telephone calls  
24 occur?  
25 A. Earlier this spring.

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1 Q. Spring of 2024?  
2 A. Yes, ma'am.  
3 Q. Where did -- or excuse me. Did  
4 you have any meetings with defense counsel  
5 over Zoom or some other patrolled platform?  
6 A. Not that I recall.  
7 Q. What were your telephone  
8 conversations about?  
9 MR. SMITH: I object. It's going  
10 to get into conversations with counsel.  
11 Q. Without discussing your  
12 conversations with counsel, what topics  
13 generally were these telephone  
14 conversations for?  
15 A. Well, the matter before us, this  
16 case.  
17 Q. How did you learn about this  
18 deposition?  
19 A. I was informed that I was going  
20 to be deposed and asked to show up.  
21 Q. Who were you informed by?  
22 A. Mr. Davis.  
23 MS. ALLEN: I'm going to mark and  
24 publish Exhibit 1 which is your deposition  
25 notice.

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1 (Plaintiffs' Exhibit Number 1 was  
2 marked for identification.)  
3 Q. Take a moment to review it,  
4 Dr. Hood, and as much time as you need.  
5 A. This is the same? It's just  
6 another copy, okay.  
7 Q. Whoever needs a copy.  
8 A. Oh. Okay.  
9 Q. Have you seen this document  
10 before?  
11 A. I don't recall.  
12 Q. Okay. You can set that to the  
13 side. What did you do to prepare for this  
14 deposition today?  
15 A. Well, as we discussed, I had a  
16 brief meeting with counsel. I looked over  
17 my report again, and that was it.  
18 Q. Did you do anything else?  
19 A. No.  
20 Q. Did you review any documents  
21 other than your report in advance of this  
22 deposition?  
23 A. No.  
24 Q. Did you review any of your past  
25 testimony from other cases?

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1 A. No.  
2 Q. Did you meet with anyone other  
3 than counsel in preparation for the  
4 deposition?  
5 A. No.  
6 Q. Have you ever seen a transcript  
7 from any other deposition in this case?  
8 A. No.  
9 Q. Have you reviewed any filings or  
10 court orders in this matter?  
11 A. I don't believe so, no.  
12 Q. What is your understanding of the  
13 facts of this case?  
14 A. It's a Section Two vote dilution  
15 claim against two state senate districts in  
16 the state of Alabama.  
17 Q. What state senate districts?  
18 A. I don't have the numbers  
19 memorized.  
20 Q. What is the basis of your  
21 understanding of the facts of the case?  
22 A. I don't quite understand what  
23 you're asking me.  
24 Q. The facts that you just described  
25 to me, how do you know them?

Page 22

1 A. Well, at some point, I probably  
2 looked at the complaint.  
3 Q. I'm going to mark and publish  
4 Exhibit 2 which is the -- actually, before  
5 I do that, which complaint are you  
6 referring to, Dr. Hood?  
7 A. I guess the complaint that was  
8 filed by the plaintiffs in this matter.  
9 Q. Do you know which complaint that  
10 you reviewed?  
11 A. Are there -- is there more than  
12 one?  
13 Q. Yes.  
14 A. No, I don't know which is which.  
15 MS. ALLEN: I'm going to mark and  
16 publish as Exhibit 2 the third amended  
17 complaint, which is tab four.  
18 (Plaintiffs' Exhibit Number 2 were  
19 marked for identification.)  
20 Q. Can you take a moment to review  
21 Exhibit 2, the third amended complaint,  
22 Dr. Hood?  
23 A. Okay.  
24 Q. Do you recognize Exhibit 2, the  
25 third amended complaint?

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1 A. Well, I did look at one of the  
2 complaints. Again, I couldn't tell you if  
3 it was this exact one or another one, but I  
4 definitely looked at a complaint at some  
5 point, yes.  
6 Q. Do you see at the top of the  
7 complaint a filing date?  
8 A. Yes.  
9 Q. Can you read that date, please?  
10 A. 7/10/2023.  
11 Q. Is it possible that would've been  
12 the complaint considering the timing of  
13 when you were retaining?  
14 A. It's quite possible, yes.  
15 Q. Did anyone tell you -- you can  
16 set that to the side. Did anyone tell you  
17 the facts of the case?  
18 MR. SMITH: I object and instruct  
19 him not to answer to the extent that gets  
20 into conversations with counsel.  
21 Q. Without getting into any  
22 conversations you had with counsel, did  
23 your knowledge of the case come from  
24 someone else?  
25 A. Well, initially, the, I guess,

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1 sort of, overall knowledge of the case or  
2 what the case was about, yes, probably so  
3 just in general terms that it's a Section  
4 Two vote dilution case challenging some  
5 state senate districts.  
6 Q. Okay. You wrote an expert report  
7 for this case, right?  
8 A. Correct.  
9 MS. ALLEN: I'm going to mark and  
10 publish as Exhibit 3 your expert report.  
11 (Plaintiffs' Exhibit Number 3 was  
12 marked for identification.)  
13 Q. You signed Exhibit 3, your expert  
14 report, on page 24, correct?  
15 A. Correct.  
16 Q. Does this report contain a  
17 complete statement of all opinions that you  
18 will express in this case?  
19 A. Yes.  
20 Q. Do you have any other opinions  
21 relevant to this case that are not  
22 disclosed in this report that you intend to  
23 provide in this case?  
24 A. No.  
25 Q. Does this report contain a

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1 complete statement of the basis and reasons  
2 for your opinions?  
3 A. Yes.  
4 Q. Does this report also include all  
5 facts or data considered by you informing  
6 the opinion which you will express in this  
7 case?  
8 A. Yes.  
9 Q. What materials did you review in  
10 preparing your report?  
11 A. Well, quite a few things. Again,  
12 I read the complaint for one. And then all  
13 the data and other written articles that  
14 are cited in the report, I read. I didn't  
15 read the data, obviously, but I used data  
16 in the report.  
17 Q. Anything else?  
18 A. No.  
19 Q. Are all the materials you  
20 reviewed listed in your report?  
21 A. Yes.  
22 Q. Are all of the materials you  
23 relied on listed in your report?  
24 A. Yes.  
25 Q. Are all the materials that you

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1 looked at in any way listed in your report?  
2 A. Yes.  
3 Q. Did anyone assist you in the  
4 analysis contained in the report?  
5 A. No.  
6 Q. How did you go about in obtaining  
7 the materials to review for your report?  
8 A. The materials I used to write the  
9 report; is that fair?  
10 Q. Yes.  
11 A. Well, it's all publicly  
12 available.  
13 Q. So is it fair to say you went to  
14 whatever publicly available website or  
15 resource to obtain what you needed for your  
16 report?  
17 A. Most of these things, yes, I  
18 obtained online somewhere. Yes.  
19 Q. Is there anything that you didn't  
20 obtain online?  
21 A. Not that I can recall.  
22 Q. Did you ask -- ever ask for  
23 certain documents for your report?  
24 A. No.  
25 Q. Did you ask for any documents

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1 from defense counsel?  
2 A. No. But there may have been some  
3 written sources that weren't online so...  
4 Q. Written -- what do you mean by  
5 that?  
6 A. Published. Published. Hard copy  
7 sources.  
8 Q. So there were published hard copy  
9 resources that you obtained for the  
10 purposes of your report?  
11 A. That's fair, yes.  
12 Q. Okay. Did defense counsel give  
13 you selected documents to review without  
14 you asking?  
15 A. No.  
16 Q. How many total hours have you  
17 spent reviewing documents or resources for  
18 this engagement?  
19 A. Well, again, I haven't created an  
20 invoice for this case, so that's difficult  
21 to answer.  
22 Q. Is it fair to say as we discussed  
23 before, less than 50 hours?  
24 A. Yes, I think so. I mean, that --  
25 the question you just asked is sort of

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1 wrapped up into the expert report itself  
2 so...  
3 Q. How long did you spend drafting  
4 the report?  
5 A. Well, again, I'm just going to  
6 have to default and say, you know, the  
7 whole matter; reviewing documents,  
8 analyzing data, writing the report, you  
9 know, it was less than 50 hours. So it's  
10 very difficult to, sort of, partition that  
11 into different buckets if you will so...  
12 Q. How many drafts of the report  
13 were made before the final version?  
14 A. One I believe.  
15 Q. Do you feel that you had  
16 sufficient time to prepare your report so  
17 that the analysis contained in it is  
18 accurate?  
19 A. I think my analyses are accurate.  
20 I mean, I guess one would always ask for  
21 more time for anything. But I think what  
22 I've done in the report itself's accurate,  
23 yes.  
24 Q. Do you feel that you had  
25 sufficient time to do that report?

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1 A. I had time to do the report that  
2 was presented here today, yes.  
3 Q. Did you do any additional  
4 analysis after you submitted your report?  
5 A. No.  
6 Q. Do you intend to supplement the  
7 report?  
8 A. Only if I'm asked to do so.  
9 Q. Who drafted your report in this  
10 case?  
11 A. Who drafted the report? I did.  
12 Q. Did defense counsel have any role  
13 in drafting the report?  
14 MR. SMITH: Object to the form.  
15 Instruct him not to answer.  
16 MS. ALLEN: The grounds of your  
17 objection? Privilege?  
18 MR. SMITH: Yes.  
19 Q. Without discussing any  
20 conversation you had, did defense counsel  
21 draft anything or play a role?  
22 MR. SMITH: Same objection, and  
23 that's intertwined unnecessarily.  
24 MS. ALLEN: I'm not asking about  
25 the substance of what defense counsel

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1 drafted, if anything at all, just whether  
2 defense counsel drafted the report.  
3 MR. SMITH: It's asked and  
4 answered as well. He already said he  
5 drafted his report.  
6 THE WITNESS: I wrote the report.  
7 Q. Did any other person contribute  
8 to drafting your report?  
9 A. No.  
10 Q. Earlier, we talked about meetings  
11 and telephone calls that you had with  
12 defense counsel. Did you have any meetings  
13 with counsel before drafting your report?  
14 A. Well, there was a telephone call  
15 I'm sure.  
16 Q. Is that the only meeting you had  
17 with counsel before drafting your report?  
18 A. That I can recall, yes. I mean,  
19 I was engaged in the matter, so I mean,  
20 there was obviously a telephone call before  
21 I got started on things.  
22 Q. Did you discuss your report with  
23 defense counsel?  
24 MR. SMITH: Object to the form.  
25 Instruct him not to answer.

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1 Q. Without getting into the  
2 substance of what you discussed, did any  
3 conversation happen with counsel about the  
4 report?  
5 A. Well, yes. I mean, about the  
6 mechanics of the report.  
7 Q. Did you make any changes at  
8 defense counsel's request or suggestion?  
9 MR. SMITH: Object to the form.  
10 Instruct him not to answer because that  
11 gets into conversation with counsel. You  
12 can't get drafts of the report. You can't  
13 get drafts of the report. That's  
14 privileged.  
15 MS. ALLEN: I'm not asking for  
16 drafts of the report. What I'm -- I'm also  
17 not asking about the substance, just  
18 whether Dr. Hood made any changes at the  
19 request of defense counsel or suggestions.  
20 It's simply a yes or no question. I'm not  
21 asking about the substance.  
22 MR. SMITH: Same objection.  
23 MS. ALLEN: So you're instructing  
24 the witness not to answer?  
25 MR. SMITH: Yes.

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1 Q. In your report, are you relying  
2 on any meetings with counsel?  
3 A. No.  
4 Q. Unless defense counsel asked you  
5 to do any further work on this case, have  
6 you done all of the work that you think is  
7 necessary to render the opinions that you  
8 included in your report?  
9 MR. SMITH: Object to the form.  
10 A. Yes.  
11 Q. Your report addresses five  
12 questions. Who asked you to address those  
13 questions?  
14 MR. SMITH: Object to the form.  
15 A. Counsel for the defendants.  
16 Q. Did you select any of the  
17 questions?  
18 A. No.  
19 Q. You list the questions you were  
20 asked by counsel for the defense on page  
21 two of your report; is that correct?  
22 A. Correct.  
23 Q. The first question is: How do  
24 black voting patterns in Alabama compare to  
25 other states, right?



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1 A. Correct.  
2 Q. The second question is: Are  
3 racial disparities on various  
4 sociodemographic factors present outside of  
5 Alabama, right?  
6 A. Correct.  
7 Q. The third question is: How does  
8 2016 Republican presidential primary  
9 candidate Ben Carson's vote share compare  
10 across states; is that right?  
11 A. Correct.  
12 Q. And the fourth question is: Do  
13 white voters support minority Republican  
14 candidates, right?  
15 A. Correct.  
16 Q. And the fifth question is: How  
17 have black political metrics changed over  
18 time in Alabama; is that right?  
19 A. Correct.  
20 Q. Did you consider addressing any  
21 other issues in your report?  
22 MR. SMITH: Object to the form.  
23 A. No.  
24 Q. Are there any issues or questions  
25 that you examined but did not include in

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1 your report?  
2 MR. SMITH: Object to the form.  
3 A. No.  
4 Q. Dr. Hood, I want to talk about  
5 section three of your expert report that  
6 starts on page three concerning black  
7 voting patterns. What was your conclusion  
8 about black voting patterns in Alabama as  
9 compared to other states?  
10 A. Well, black voting patterns in  
11 general are fairly -- are almost a constant  
12 to cross any of these states I analyzed.  
13 Q. A constant in what way?  
14 A. Heavily Democratic. One might  
15 say a lot of times, overwhelmingly  
16 Democratic.  
17 Q. Why did you address this topic in  
18 your report?  
19 MR. SMITH: Object to the form.  
20 A. I was asked by counsel to analyze  
21 this question.  
22 Q. What is your understanding of why  
23 you were asked to determine black voting  
24 patterns in Alabama as compared to other  
25 states?

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1 MR. SMITH: I object to the form  
2 and instruct him not to answer because that  
3 gets into conversations with counsel.  
4 Q. Do you know why you were asked to  
5 address this question of black voting  
6 patterns?  
7 MR. SMITH: Object to the form.  
8 A. No.  
9 Q. Do you have an understanding of  
10 what the relevance to this case is of black  
11 voting patterns in Alabama as compared to  
12 other states?  
13 MR. SMITH: Object to the form.  
14 Calls for a legal conclusion.  
15 A. Could you repeat that, please?  
16 Q. Do you have an understanding --  
17 do you know what the relevance is of black  
18 voting patterns in Alabama as compared to  
19 other states to this case?  
20 MR. SMITH: Same objection.  
21 A. Well, I'm assuming that it  
22 relates to the totality of the  
23 circumstances.  
24 Q. What do you mean by that?  
25 A. A set of factors developed by the

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1 U.S. Senate that are oftentimes examined or  
2 analyzed after the initial Gingles test is  
3 run in a vote dilution matter.  
4 Q. Turning to your conclusion  
5 regarding section three of your report  
6 about black voting patterns, how did you  
7 arrive at your conclusion?  
8 A. By analyzing a lot of data on  
9 black voting patterns.  
10 Q. What data?  
11 A. Two primary sources for this  
12 section were the Cooperative Election Study  
13 and National Exit Poll data.  
14 Q. You compare black voting patterns  
15 in Alabama to a number of different states,  
16 correct?  
17 A. Correct.  
18 Q. You selected these states because  
19 they have a black population of ten percent  
20 or greater; is that right?  
21 A. Correct.  
22 Q. Why did you select ten percent as  
23 the threshold?  
24 A. I thought that was a large enough  
25 threshold where when you're conducting a

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1 survey inside of a particular state, that  
2 there would be enough critical mass to have  
3 some statistical leverage on this question.  
4 Q. Related to that, why not limit  
5 the threshold to states with a similar  
6 percentage of black populations?  
7 A. Well, the threshold could be  
8 moved up or down. In this case, if you  
9 move the threshold up, the pattern is still  
10 going to be there.  
11 Q. What is the percentage of black  
12 population of the state of Alabama?  
13 A. Well, from memory -- again, I  
14 don't know the exact -- about 25 percent.  
15 Q. Did you consider black voting  
16 patterns in specific locales at all?  
17 A. Only states.  
18 Q. Why is that?  
19 A. Well, that's what I was asked to  
20 do. And second, you can't use the survey  
21 data to make those kinds of investigations.  
22 I mean, there's just not enough data there  
23 to go below the state level anyway.  
24 Q. Can you explain why that is?  
25 A. Well, you just don't have enough

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1 cases to analyze. If you start to, you  
2 know, divide a state up into various  
3 geographic areas or even counties, there's  
4 just not enough cases.  
5 Q. Did you consider white voting  
6 patterns in Alabama as compared to the 20  
7 states that you selected?  
8 A. I didn't analyze white voting  
9 patterns.  
10 Q. Why not?  
11 A. I wasn't asked to do so.  
12 Q. And because you looked at a state  
13 level, it's fair to say that you didn't  
14 consider white voting patterns in  
15 Huntsville or Montgomery, the geographical  
16 regions either?  
17 A. Well, I didn't look at white  
18 voting patterns period.  
19 MS. ALLEN: I'm going to mark and  
20 publish as Exhibit 4 a document from the  
21 Pew Research Center.  
22 (Plaintiffs' Exhibit Number 4 was  
23 marked for identification.)  
24 Q. Take a moment to review it, and  
25 let me know when you're ready, Dr. Hood.

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1 A. There's not much to review. I  
2 mean, there's no written words really.  
3 Q. Can you describe the document for  
4 the record?  
5 A. Well, it's titled Party  
6 Affiliation Among Whites by State, and  
7 there is some -- there's basically a bar  
8 chart. Okay. I mean, whenever you're  
9 ready to --  
10 Q. It's -- so would you agree this  
11 document shows party affiliation among  
12 white people by state? In other words, it  
13 shows the percentage of white people who  
14 identify as Republican or leans Republican  
15 and on the other end of the spectrum who  
16 identify as Democrat or leans Democrat?  
17 A. That's what it says, yes.  
18 Q. Is this a reliable source of  
19 data?  
20 A. Well, I would say Pew generally  
21 does good work, but, I mean, I don't --  
22 there's just not a lot of -- I mean, this  
23 is basically a graphic. There's not a lot  
24 of information for me to look at concerning  
25 where this information's coming from or

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1 even a date that I see.  
2 Q. I will represent to you for the  
3 record that this was printed yesterday from  
4 the Pew Research Center website.  
5 A. Oh, I believe you, but I don't  
6 know when these surveys were conducted is  
7 what I'm saying.  
8 Q. I understand, yeah. Not  
9 withstanding -- or let me rephrase.  
10 Considering the information on the --  
11 within the graphics on this chart, what  
12 does it reflect to you about white party  
13 affiliation across the states based on the  
14 document as it's presented to you?  
15 A. Well, there's variance across  
16 states. I mean, I can see that with my  
17 eyes.  
18 Q. By variance, does that mean white  
19 party affiliations, like, differs across  
20 the states?  
21 A. Yes.  
22 Q. Which state has the highest  
23 percentage of white people who identify as  
24 Republican?  
25 A. It looks like it might be

<p style="text-align: right;">Page 41</p> <p>1 Alabama.</p> <p>2 Q. What percentage is Alabama?</p> <p>3 A. 68 percent Republican, 13 percent</p> <p>4 independent, and 20 percent Democratic.</p> <p>5 Q. Which state has the lowest</p> <p>6 percentage of white people who identify as</p> <p>7 Republican?</p> <p>8 A. Well, looks like Massachusetts</p> <p>9 and Vermont may be tied at 30 percent.</p> <p>10 Q. And what about the District of</p> <p>11 Columbia?</p> <p>12 A. Well, it's not a state.</p> <p>13 Q. Correct. But what is -- what is</p> <p>14 that percentage?</p> <p>15 A. 15 percent Republican.</p> <p>16 Q. Okay. You can set that to the</p> <p>17 side. Turning to page six of your expert</p> <p>18 report, Exhibit 3, you conclude that black</p> <p>19 support for Democratic candidates across</p> <p>20 these jurisdictions, referring to the</p> <p>21 states that you listed earlier in your</p> <p>22 report, could be characterized as being</p> <p>23 close to monolithic; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Did you analyze the voting</p>	<p style="text-align: right;">Page 43</p> <p>1 on to me by defense counsel.</p> <p>2 Q. And I know you said that you</p> <p>3 received a copy but didn't -- in my</p> <p>4 understanding, didn't really read it?</p> <p>5 A. I really haven't read it in</p> <p>6 detail, no.</p> <p>7 Q. Okay. So did you consider it at</p> <p>8 all in your opinions?</p> <p>9 A. Well --</p> <p>10 MR. SMITH: Object to the form.</p> <p>11 Q. Since the report has -- since the</p> <p>12 rebuttal report. I know it came after your</p> <p>13 expert report, but have you considered it</p> <p>14 at all?</p> <p>15 A. No.</p> <p>16 MS. ALLEN: I'm going to mark and</p> <p>17 publish as Exhibit 5 Dr. Liu's rebuttal</p> <p>18 report.</p> <p>19 (Plaintiffs' Exhibit Number 5 was</p> <p>20 marked for identification.)</p> <p>21 Q. Do you recognize this document,</p> <p>22 Exhibit 5?</p> <p>23 A. As I said, I received a copy of</p> <p>24 this at some point.</p> <p>25 Q. I want you to turn to page six of</p>
<p style="text-align: right;">Page 42</p> <p>1 choices of black voters in the Alabama</p> <p>2 State Senate elections?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. I wasn't asked to do so.</p> <p>6 Q. Did you analyze the voting</p> <p>7 choices of white voters in any Alabama</p> <p>8 State Senate elections?</p> <p>9 A. No.</p> <p>10 Q. Why not?</p> <p>11 A. I wasn't asked to do so.</p> <p>12 Q. Have you seen Dr. Liu's rebuttal</p> <p>13 report in this case?</p> <p>14 A. I got a copy of it. I really</p> <p>15 have not read it in detail, no.</p> <p>16 Q. When did you receive a copy of</p> <p>17 it?</p> <p>18 A. I don't know. I guess several</p> <p>19 weeks ago possibly.</p> <p>20 Q. By several weeks, would that have</p> <p>21 been, I guess, sometime between this month</p> <p>22 and last -- in April?</p> <p>23 A. Well, I would assume whenever the</p> <p>24 rebuttal report was issued that, you know,</p> <p>25 probably within a few days, it was passed</p>	<p style="text-align: right;">Page 44</p> <p>1 Dr. Liu's report, Exhibit 5, that starts at</p> <p>2 section titled, Race or Party as the Cause</p> <p>3 for RPV.</p> <p>4 Do you see that?</p> <p>5 A. Yes, yes.</p> <p>6 Q. Turning to page eight, which is</p> <p>7 still a part of that section, after</p> <p>8 examining nonpartisan mayoral runoff</p> <p>9 elections in Montgomery and the Huntsville</p> <p>10 regions, Dr. Liu concludes, when the party</p> <p>11 cue is taken away and only racial cue</p> <p>12 remains, the elections are racially</p> <p>13 polarized.</p> <p>14 Do you see that? It is in the</p> <p>15 third paragraph at the bottom of the page.</p> <p>16 A. That's what's stated. Yes, I see</p> <p>17 that.</p> <p>18 Q. Do you have any reason to</p> <p>19 disagree with that statement?</p> <p>20 A. Well, not just sitting here</p> <p>21 today, but I have not reviewed this</p> <p>22 document nor analyzed any of the data that</p> <p>23 Dr. Liu analyzed to reach those</p> <p>24 conclusions.</p> <p>25 Q. Does anything in your report</p>

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1 conflict with this statement?  
2 A. Well, my report's not really  
3 dealing with this particular topic, so I  
4 guess from one respect there's no conflict.  
5 But, again, I'm a little hesitant to  
6 comment specifically on this because I  
7 haven't done any of this analysis or  
8 reanalyzed the data that Dr. Liu analyzed  
9 to reach his conclusions.  
10 Q. Do nonpartisan mayoral races  
11 indicate that race has at least some  
12 independent influence on voting choices  
13 separate and apart from party based on what  
14 you do know?  
15 MR. SMITH: I object to the form.  
16 A. Well, it might -- sometimes  
17 nonpartisan races are used to try to answer  
18 this particular question. Of course, in  
19 this case, the mayoral races are not state  
20 senate elections which are partisan so...  
21 Q. Have you done any of the analyses  
22 that Dr. Liu performed -- Dr. Liu's report?  
23 MR. SMITH: Object to the form.  
24 Q. A better way to say that: Did  
25 you do any racially polarized voting

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1 analyses in your report?  
2 A. No, I did not.  
3 Q. If the analysis showed  
4 differences in racial popularized between  
5 biracial and uniraical elections, would  
6 that show race affecting voter choices  
7 beyond party?  
8 MR. SMITH: Object to the form.  
9 A. If what analysis? What are we  
10 talking about specifically?  
11 Q. For example, if Dr. Liu's  
12 analysis?  
13 A. Okay. Which part of his  
14 analysis?  
15 Q. RPV analysis.  
16 A. The RPV analysis he did for the  
17 state senate districts; is that fair?  
18 Q. I guess I'm just more asking  
19 as -- like, as a general principle if there  
20 is a differences in racial popularization  
21 between biracial and uniraical elections,  
22 would that show race affecting voter  
23 choices beyond just partying?  
24 MR. SMITH: Object to the form.  
25 A. It could, although, you know,

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1 what I've noted as of late -- not related  
2 to this matter specifically. I'm just  
3 speaking as a political scientist here, and  
4 the research I've conducted is that today,  
5 the race of candidate matters far less than  
6 it did, say, 40 or 50 years ago.  
7 Polarization is present a lot of times, but  
8 it's really based on the party and  
9 candidate being considered as opposed to  
10 the race specifically.  
11 Q. When you say polarization's  
12 present a lot of the times, what type of  
13 polarization are you talking about?  
14 A. Polarized voting between, say,  
15 whites and other racial groups.  
16 Q. So racially polarized voting?  
17 A. Yes, yes.  
18 MR. SMITH: Counsel, I don't want  
19 to break your flow, but we're coming up on  
20 an hour. Just whenever you get, kind of,  
21 to a stopping point, it might be a good  
22 time for a break.  
23 MS. ALLEN: I think, like, two  
24 questions to wrap this up, and then we take  
25 a break. Is that good?

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1 MR. SMITH: Yep, of course.  
2 Q. Is it possible to analyze  
3 racially polarization voting -- or what  
4 I'll refer throughout as RPV -- looking at  
5 both black and white voting patterns?  
6 A. Well, I mean, RPV itself is  
7 designed to be able to disentangle how  
8 various racial groups are voting for which  
9 candidates.  
10 Q. Let me ask it in another way. Do  
11 you agree that analyzing RPV is impossible  
12 without looking at both black and white  
13 voting patterns?  
14 A. Well, you need voting patterns  
15 from at least two racial groups. I mean,  
16 theoretically, it could be blacks and  
17 Hispanics. But, you know, it could be  
18 whites and black, whites and Hispanics.  
19 Q. What about --  
20 A. Might be -- there might be more  
21 than three racial groups -- or two racial  
22 groups you're looking at so...  
23 Q. What about for the purposes of  
24 this matter?  
25 A. Well, I mean, the two primary

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1 racial groups in Alabama are whites and  
2 blacks. I mean, you could have a third  
3 category if you wanted to in your analysis  
4 that would probably be other minority --  
5 which would include, for instance,  
6 Hispanics, Asians, and others. That's  
7 certainly quite possible.  
8 Q. How are black voting patterns in  
9 Alabama as compared to other states, like  
10 what you did in your report here, related,  
11 if at all, to a RPV analysis?  
12 MR. SMITH: Object to the form.  
13 A. Well, an RPV analysis is just a  
14 statistical tool that we can use, again, to  
15 try to partition how various racial groups  
16 are voting for which candidates. I mean,  
17 so it's just a statistical tool. We might  
18 use RPV analysis because we don't have  
19 survey data, for instance, and what we're  
20 doing is using aggregate-level -- say,  
21 precinct-level data -- to try to get at  
22 that question. Maybe we have survey data,  
23 and we don't have to do an RPV analysis.  
24 So it just -- again, RPV is just a tool to  
25 get at the answer to that questions.

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1 Q. Turning to your report and, like,  
2 looking at black voting patterns as  
3 compared to other states, is that related  
4 to conducting an RPV analysis?  
5 MR. SMITH: Object to the form.  
6 A. Well, it's not related to  
7 conducting an RPV analysis, say, for  
8 purposes of, say, the Gingles test. That's  
9 not part of that. Again, an RPV analysis  
10 is designed to tell us and say how whites  
11 and blacks are voting for which candidates.  
12 You might use survey data if that's  
13 available. Again, so, I mean, usually it's  
14 not available, say, at the state senate  
15 level -- state senate district level so...  
16 Q. To do an RPV analysis in Alabama,  
17 that requires knowing black and white  
18 voting patterns, right?  
19 MR. SMITH: Object to the form.  
20 A. Well, what you're trying to do is  
21 to use the RPV analysis to figure out what  
22 black and white voting patterns are I guess  
23 is what I would say. So, again, it's a  
24 tool to get to the answer to that question.  
25 Q. How would you get to the answer

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1 of that question for purposes of looking at  
2 RPV in Alabama for example?  
3 MR. SMITH: Object to the form.  
4 A. Well, I think we're speaking past  
5 each other a little bit here at this point.  
6 Again, if we wanted to know how blacks and  
7 whites were voting in a particular state  
8 senate district in Alabama, for which who's  
9 voting for which candidate, I would gather  
10 precinct-level data that had vote returns,  
11 and I would gather precinct-level data that  
12 had racial data, and I would use a  
13 statistical tool like ecological inference  
14 to conduct an RPV analysis. And through  
15 that analysis, we can figure out, you know,  
16 this percentage of blacks is voting for the  
17 Democratic candidate. This percentage of  
18 blacks has voted for the Republican  
19 candidate. This percentage of whites has  
20 voted for the Republican candidate. This  
21 percentage of whites has voted for the  
22 Democratic candidate.  
23 Q. And when you said that you didn't  
24 do RPV in your report here, the steps that  
25 you just described to me, those are things

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1 you did not do in your report?  
2 A. I did not use ecological  
3 inference to conduct an RPV analysis in my  
4 report, that's correct.  
5 MS. ALLEN: We can take -- go off  
6 the record and take a break.  
7 THE VIDEOGRAPHER: The time is  
8 10:05 a.m. We are off the record.  
9 (Whereupon, a recess was taken.)  
10 THE VIDEOGRAPHER: The time is  
11 10:17 a.m. We are back on the record.  
12 MS. ALLEN: Before we begin,  
13 because there's been a number of privileged  
14 objections. Plaintiffs do want to state on  
15 the record that the 11th Circuit in Middle  
16 District of Alabama, although  
17 communications between a party attorney and  
18 expert witnesses are protected by Rule  
19 26(b)(3)(A), there are exceptions to that  
20 rule; two of them being identifying facts  
21 or data that the party's attorney provided  
22 and that the expert consider in forming  
23 opinions to be expressed; and the second  
24 one being identifying assumptions that the  
25 party's attorney provided and that the



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1 expert relied on in forming opinions to be  
2 expressed. To the extent that any of the  
3 privilege exemptions relate to those two  
4 exceptions, we are just noting on the  
5 record that plaintiffs do not agree with  
6 that objection on those bases; particularly  
7 citing -- excuse me -- *Watson V. Swift*  
8 *Transportation of Arizona, LLC*, 2021  
9 *Westlaw 6973871*; and also, *Republic of*  
10 *Ecuador V. Hinchee, H-I-N-C-H-E-E*, 741 F.3d  
11 1185, and that's the 11th Circuit in 2013.  
12 MR. SMITH: That's fine. And I'd  
13 just state on the record I don't think any  
14 of my objections implicated those  
15 exceptions.  
16 Q. Dr. Hood, earlier you testified  
17 that there was a first draft of your expert  
18 report before the final one was issued.  
19 What were the differences between the first  
20 draft and the final draft?  
21 MR. SMITH: Object to the form.  
22 And instruct him not to answer. You can't  
23 ask about drafts of the report. Those are  
24 privileged. Those aren't implicated by the  
25 exceptions.

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1 MS. ALLEN: Are you representing  
2 that the changes were at the direction of  
3 counsel?  
4 MR. SMITH: They're privileged  
5 regardless of if they're at the direction  
6 of counsel. You can't get drafts of  
7 previous reports. I don't have the rules  
8 in front of me, but I think it's the  
9 proceeding rule.  
10 MS. ALLEN: Okay. Understand.  
11 Q. Did any changes -- if there were  
12 any identifying facts or data that counsel  
13 -- defense counsel provided and that you  
14 considered in forming your opinion?  
15 A. Okay. Can you state that again?  
16 Q. Did any changes between your  
17 first and second draft identify facts or  
18 data that defense counsel provided and that  
19 you considered in forming your opinion?  
20 A. No.  
21 MR. SMITH: I object to the form.  
22 A. No.  
23 Q. Did any differences between the  
24 first draft and the final draft identify  
25 any assumptions that defense counsel

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1 provided and that you relied on in forming  
2 your opinions?  
3 MR. SMITH: I object to the form.  
4 A. No.  
5 Q. Have you written about the role  
6 of racial attitudes in partisanship before?  
7 A. Certainly.  
8 MS. ALLEN: I'm going to mark and  
9 publish Exhibit Number 6, which are  
10 excerpts from the book, the *Rational*  
11 *Southerner, Black Mobilization, Republican*  
12 *Growth, and Partisan Transformation of the*  
13 *American South*.  
14 (Plaintiffs' Exhibit Number 6 was  
15 marked for identification.)  
16 Q. Do you recognize the excerpts in  
17 this document?  
18 A. They seem to be from a book I  
19 wrote.  
20 Q. Was the book based on sound  
21 scholarship?  
22 A. Yes.  
23 Q. Would you recant or withdraw  
24 anything you said in the book?  
25 A. No.

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1 Q. What was the book about?  
2 A. It was, I guess, really big  
3 picture about political change in the South  
4 post Voting Rights Acts.  
5 Q. What did you conclude about the  
6 role of racial attitudes and partisanship  
7 in your book?  
8 A. Well, the book was designed to  
9 explicate two major political changes that  
10 occurred in the South -- again, post Voting  
11 Rights Act; one, the mobilization of black  
12 voters; and two, the growth in Republican  
13 party strength over time. So that's what  
14 the aim to the book were directed at,  
15 trying to explain those two factors and how  
16 they interrelated with one another.  
17 Q. I'm going to ask you about some  
18 statements that you made in the book. For  
19 purposes of context, feel free to take some  
20 time to read when I refer to page number  
21 that we are discussing. But the first  
22 thing I want to ask you about is you say on  
23 page 181, at the midpoint of the last  
24 century, according to Key, Southern  
25 politics revolved around the issue of race.

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1 Southern politics in the early twenty-first  
2 century still revolves around the issue of  
3 race.  
4 Do you see that?  
5 A. Yes, I see that.  
6 Q. Okay. Perfect. Do you still  
7 stand by that statement?  
8 A. Yes.  
9 Q. On the same page, you say, stated  
10 succinctly, the partisan and political  
11 transformation of the South over the past  
12 half-century has, most centrally, revolved  
13 around the issue of race.  
14 Do you see that?  
15 A. No. Tell me where you're at.  
16 Q. Let me -- so on page 181, the  
17 second full paragraph, the last sentence.  
18 A. Okay. Yes, I see that.  
19 Q. Do you still agree with that  
20 statement?  
21 A. Yes, to a large extent.  
22 Although, you know, again, it's not --  
23 that's not the only issue that was at play.  
24 Q. What do you mean by that?  
25 A. Well, economic issues, social

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1 issues. There are other things that came  
2 into play to explain the transformation of  
3 the Southern politics over this time  
4 period.  
5 Q. Do you --  
6 A. Again, our theory is somewhat  
7 muted on, you know, imputing motives. You  
8 know, we're explaining these two factors  
9 that occurred about the same time and why  
10 they occurred and what the relationship  
11 between those two factors are. Those  
12 factors being, again, black mobilization to  
13 the electorate and the growth to the  
14 Republican party in the region.  
15 Q. So I understand that you're  
16 saying that there are additional factors at  
17 play here. But is race still most --  
18 excuse me. Is partisan and political  
19 transformation still most centrally  
20 revolved around race as you said in your  
21 book?  
22 MR. TAUNTON: Objection to form.  
23 MR. SMITH: Object to the form.  
24 A. Well, things have continued to  
25 change right to the present day. I've

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1 written another book since this that looks  
2 at the realignment to my rule of white  
3 voters in the South, which is, you know, by  
4 all intents continuing to play out, and  
5 that's most related to, I would say, social  
6 issues and connected to religiosity. So, I  
7 mean, there are other factors. It's very  
8 difficult to take such a dramatic change  
9 over time like that and condense it to one  
10 particular factor so...  
11 Q. So I want you to help me, I  
12 guess, understand something so I make sure  
13 I'm on the same page with what you're  
14 saying. Is the issue of race no longer --  
15 do you no longer stand by that statement or  
16 are you saying it's just changed over time?  
17 MR. SMITH: Object to the form.  
18 A. Well, I stand by what we wrote in  
19 that book, certainly. Again, you know,  
20 what we're looking at is what happens when  
21 blacks are re-enfranchised, you know, right  
22 after the Voting Rights Act. They move  
23 into the electorate fairly quickly. They  
24 moved towards the Democratic party. So  
25 that's what we would call a critical or a

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1 step change realignment that's going on  
2 there amongst the black population in the  
3 South. Blacks outside of the South had  
4 realigned prior to that was the 1932 New  
5 Deal reelection. But, again, most or many  
6 blacks in the South obviously were  
7 disenfranchised during that time.  
8 Now, the concurrent realignment --  
9 or concomitant realignment that occurred  
10 among whites and conservatives and later to  
11 some moderates took literally decades to  
12 play out, and is still playing out today I  
13 would argue that fact. So that's what we  
14 would call a secular realignment, secular  
15 not meaning nonreligious or a-religious,  
16 but a very slow change over time. And  
17 again, you know, the theory of relative  
18 advantage that we call it in the books  
19 stipulates that it was this initial  
20 movement of blacks once they're mobilized,  
21 and have voting rights again into the  
22 Democratic party, all the sudden you have a  
23 very ideologically crowded party.  
24 I mean, there was really no viable  
25 Republican party at the state level prior

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1 to the mid 1960s anywhere really. You  
2 know, there were pockets of Republicans in  
3 North Carolina, Virginia, Tennessee,  
4 especially in the mountain areas, but there  
5 was no viable Republican party in the  
6 region. And so what you see is all the  
7 sudden everyone is in the Democratic party,  
8 and so especially at the local level, white  
9 conservatives lose the ability at that  
10 point to control party nominations, and so  
11 the Democratic party becomes a less  
12 efficient vehicle for the implementation of  
13 conservative policy positions and -- as  
14 compared to the Republican party. I mean,  
15 I could -- we could keep going on this.

16 Q. Let me ask you --

17 A. You probably don't want me to,  
18 but we could keep going just like we were  
19 in class. But, I mean, this is a huge, you  
20 know, massive change that's going on, you  
21 know, and it's complicated.

22 Q. Let me ask you about one more  
23 thing that you said in your book on page  
24 188. The first full paragraph, the second  
25 sentence which says, what we can say is

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1 that the Southern party system over the  
2 past half-century revolved around the  
3 issues of race, not class. Much of the  
4 recent work on the American party system  
5 has clearly then underemphasized the  
6 crucial and distinctive role that race and  
7 racial dynamics have played.

8 Did I read that correctly?

9 A. Yes.

10 Q. Do you still agree with that  
11 statement?

12 A. Yes. And now, this isn't  
13 necessarily completely talking about just  
14 racial issues or race-related issues. This  
15 is talking about the, again, the  
16 composition of these electorates in the  
17 South that are changing rapidly, again,  
18 post Voting Rights Act so...

19 Q. How does party affiliation relate  
20 to racial polarization?

21 A. Well, party affiliation in  
22 general relates to the best single  
23 predictor of how someone's going to cast a  
24 ballot, right. And so to the extent to  
25 which blacks are overwhelmingly -- as I

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1 show in the report -- Democratic, and  
2 therefore vote Democratic, and whites, you  
3 know -- again, there's a lot of variance  
4 with whites across states. But, you know,  
5 if we want to talk about the South --  
6 whites in the South tend to be majority  
7 Republican, so they would be voting in the  
8 opposite direction, right. And so that  
9 would produce racially polarized voting.

10 MS. ALLEN: I'm going to mark and  
11 publish as Exhibit 7 your article, the  
12 Election of African American State  
13 Legislators in the Modern South.  
14 (Plaintiffs' Exhibit Number 7 was  
15 marked for identification.)

16 Q. Do you recognize this document,  
17 Dr. Hood?

18 A. Yes.

19 Q. What is it?

20 A. It's a journal article that we  
21 wrote.

22 Q. And what is it about?

23 A. It's about black legislators in  
24 the South and elections.

25 Q. Can you turn to page 587 for me,

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1 please? And there's context a little bit  
2 before this page, so take the time to  
3 review what you need. But I want to ask  
4 you about your statement, Republican gains  
5 from majority-black districts require  
6 racial polarization and party affiliation  
7 and voting.

8 Do you see that sentence?

9 A. Well, I'm on page 587.

10 Q. It would be the first block of  
11 text at the top of the page.

12 A. Okay.

13 Q. Do you still agree with that  
14 statement?

15 A. Well, what this is saying is that  
16 if a majority-black district's created,  
17 you're essentially encapsulating a reliable  
18 group of Democratic voters within that  
19 district which is typically leaving the  
20 district surrounding that district more  
21 Republican. So, yes, I don't have any  
22 quibble with that.

23 Q. With that, are you referring to  
24 the statement I read earlier about  
25 Republican gains from majority-black

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1 districts require racial polarization and  
2 party affiliation and voting?  
3 A. Well, yes.  
4 Q. Let's talk about Alabama. How  
5 important is race to partisan alignment in  
6 Alabama?  
7 A. Well, if we're just talking about  
8 racial composition of the parties, you  
9 know, one of the major underlying groups or  
10 probably the key underlying group for the  
11 Democratic party in the state are African  
12 Americans.  
13 Q. So race is important to partisan  
14 alignment in Alabama?  
15 A. Well, the racial composition of  
16 the parties, yes. I mean, sometimes when  
17 people say race, you know, they're talking  
18 about issues or, you know, certain things.  
19 I'm just talking about the group  
20 compositions of the party coalitions.  
21 Q. And you can set that article to  
22 the side. Turning back to your report, I  
23 want to turn to section four -- and by  
24 report, I'm referring to Exhibit 3. What  
25 was your conclusion regarding whether the

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1 racial disparities that are present in  
2 Alabama also exist in other states?  
3 A. Well, in general, the answer to  
4 that is yes. I found racial disparities  
5 exist in Alabama and also exist in the  
6 comparison states that I studied.  
7 Q. Why did you address this in your  
8 report?  
9 A. I was asked to do so.  
10 Q. What is the relevance to this  
11 case of determining whether racial  
12 disparities in Alabama also exist in other  
13 states?  
14 MR. SMITH: Object to the form.  
15 Calls for a legal conclusion.  
16 A. Well, again, this would, again,  
17 be related to the totality of the  
18 circumstances test.  
19 Q. How did you arrive at your  
20 conclusion?  
21 A. I collected and analyzed data on  
22 a number of sociodemographic factors.  
23 Q. I want to talk about each of the  
24 those sociodemographic factors. So you  
25 examined racial disparity race between

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1 white and black residents in Alabama across  
2 various sociodemographic factors in  
3 different states; is that right?  
4 A. Correct.  
5 Q. One of those was education,  
6 right?  
7 A. Correct.  
8 Q. Why did you select education?  
9 A. Well, it's a very common  
10 comparison metric.  
11 Q. Common in what context?  
12 A. Well, in social science research.  
13 Q. Why did you select recipients of  
14 the SNAP program as a measure?  
15 A. Again -- well, I had to pick  
16 things I could actually get data on, and  
17 that's readily available from the census  
18 bureau. So, again, it's another measure  
19 that can look at disparities between racial  
20 groups.  
21 Q. Why did you select median  
22 household income?  
23 A. Well, like education, it's a very  
24 common comparison factor. You can measure,  
25 you know, income different ways. I've got

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1 median household income, per capita income  
2 so...  
3 Q. Why did you select per capita  
4 income in addition to median household  
5 income?  
6 A. Just to show or to see if the  
7 same pattern that I found with one factor  
8 manifests with another factor, you know,  
9 that's similar.  
10 Q. Why did you look at poverty rate?  
11 A. Well, again, it's a measure of  
12 income disparity or resource disparity.  
13 Q. Why did you select home ownership  
14 as one of the factors?  
15 A. Again, it's, you know, a commonly  
16 employed comparison factor.  
17 Q. What about unemployment rates?  
18 A. Well, again, all of these factors  
19 are, you know, utilized by a lot of  
20 different people in making comparisons  
21 between different groups so -- so it gives  
22 -- you know, gives light. Unemployment --  
23 the unemployment rate gives light to, you  
24 know, economic standing for a different  
25 racial group in this case.

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1 Q. What about infant mortality  
2 rates?  
3 MR. SMITH: Object to the form.  
4 A. A lot of people look at different  
5 medical criteria when comparing different  
6 groups.  
7 Q. What about vehicle ownership?  
8 MR. SMITH: Object to the form.  
9 A. Again, it's data that's readily  
10 available and, sort of, gets at the  
11 question of, you know, economic resources  
12 that might be possessed.  
13 Q. What about health insurance?  
14 MR. SMITH: Object to the form.  
15 A. Again, it's primarily related to,  
16 you know, economic resources or the ability  
17 to marshal those economic resources.  
18 Q. Is it the same for Internet  
19 access or similar?  
20 A. Yes.  
21 Q. What about incarceration rates?  
22 A. A lot of people have used  
23 incarceration rates or other criminal  
24 justice measures to make comparisons  
25 between racial groups.

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1 Q. Can segregated schools impact the  
2 quality of education that citizens of a  
3 jurisdiction receive?  
4 MR. SMITH: Object to the form.  
5 A. You know, I think generally  
6 speaking from a theoretical point of view,  
7 yes, it could.  
8 Q. Can segregated schools create  
9 racial disparities?  
10 MR. SMITH: Object to the form.  
11 A. That's a much more complicated  
12 question. I think it's difficult to tell  
13 whether racial disparities might come  
14 before that or after that. So that's a  
15 pretty complicated issue.  
16 Q. And am I understanding you that  
17 you're saying it's a complicated issue  
18 because it's a matter of, like, timing when  
19 -- of other factors that could be related?  
20 MR. SMITH: Object to the form.  
21 A. Well, I mean, does -- do racial  
22 disparities lead to segregated schools? Do  
23 segregated schools lead to racial  
24 disparities? Is there a reciprocal  
25 relationship? I mean, it's somewhat

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1 complicated or could be.  
2 Q. Okay. If a state has a more  
3 extreme degree of racial segregation in  
4 schools, do you agree this can affect  
5 educational outcomes and, in turn,  
6 political participation?  
7 MR. SMITH: Object to the form.  
8 A. Well, I think theoretically  
9 speaking, it's possible. Now, whether  
10 that's the case or not would require some  
11 analyses.  
12 Q. What other racial disparities in  
13 the Huntsville region under the metrics  
14 that you considered for the purpose of  
15 section four of your report?  
16 MR. SMITH: Object to the form.  
17 A. I didn't do an analysis or  
18 analyses specifically to the Huntsville  
19 area. These are state-by-state  
20 comparisons.  
21 Q. And you also didn't do that  
22 analysis for the Montgomery region either?  
23 MR. SMITH: Object to the form.  
24 A. Correct.  
25 Q. Why not?

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1 MR. SMITH: Object to the form.  
2 A. I wasn't asked to do so.  
3 Q. In section four of your report --  
4 actually, let me take a step back. The  
5 metrics that we just discussed that you  
6 considered in section four of your report,  
7 for example, education recipients of the  
8 SNAP program, et cetera, is that data  
9 available for the Huntsville region or  
10 Montgomery region?  
11 A. Well, some of this would  
12 certainly be available at the county level.  
13 I'd have to check to see if it was  
14 available at the municipal level. I'm not  
15 100 percent sure of that just sitting here.  
16 Q. So turning to section four of  
17 your report, again, on page 20, you  
18 conclude that there is evidence of a racial  
19 disparity in Alabama between white people  
20 and black people as you discussed earlier  
21 as well. What is the relevance of that  
22 conclusion and specifically to this case?  
23 MR. SMITH: Object to the form.  
24 That's a legal conclusion.  
25 A. Well, again, I was asked to make



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1 this analysis or to perform this analysis.  
2 My assumption is that it's related to the  
3 totality of the circumstances test.  
4 Q. Do racial disparities exist in  
5 Huntsville between white people and black  
6 people?  
7 MR. SMITH: Object to the form.  
8 A. I didn't perform that analysis.  
9 Q. So is it fair to say you didn't  
10 perform analyses on whether racial  
11 disparities exist between white people and  
12 black people in the Montgomery region  
13 either?  
14 MR. SMITH: Object to the form.  
15 A. Correct.  
16 Q. Turning back to RPV, which you  
17 might remember, we discussed earlier, how  
18 do these various disparity metrics that we  
19 talked about in your report relate to an  
20 assessment of RPV?  
21 MR. SMITH: Object to the form.  
22 A. Well, they don't directly relate  
23 to that in my opinion.  
24 Q. Dr. Hood, is a single electoral  
25 race sufficient evidence to draw conclusion

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1 of voting patterns generally?  
2 A. A single election?  
3 Q. A single electoral race, correct.  
4 A. No.  
5 Q. Let's talk about section five of  
6 your report.  
7 A. Okay.  
8 Q. What was your conclusion as to  
9 how the 2016 Republican primary candidate  
10 Ben Carson's vote share compare across  
11 states?  
12 A. Well, for the primary and caucus  
13 events that he did participate in before he  
14 dropped out of the race, his vote share in  
15 Alabama was second to that of Alaska. So  
16 that was the second highest vote total he  
17 received.  
18 Q. Ben Carson is a black Republican;  
19 is that right?  
20 A. Yes.  
21 Q. Why did you address his vote  
22 share in your report?  
23 A. I was asked to do so.  
24 Q. What do you understand to be the  
25 relevance to this case as to how the 2016

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1 Republican primary candidate Ben Carson's  
2 vote share compare across the state?  
3 MR. SMITH: Object to the form.  
4 A. Again, my assumption is this  
5 relates to the totality of circumstances  
6 test.  
7 Q. How did you arrive at your  
8 conclusion?  
9 A. By collecting and analyzing data.  
10 Q. What data?  
11 A. Election returns for the 2016  
12 Republican presidential primary race.  
13 Q. You find that Carson received  
14 10.24 percent of the votes -- vote share in  
15 Alabama; is that right?  
16 A. Correct.  
17 Q. What were the racial demographics  
18 of who voted for that primary?  
19 A. Well, that's not analyzed in this  
20 table.  
21 Q. Do you know that information?  
22 A. Well, I know it generally  
23 speaking.  
24 Q. What do you know generally  
25 speaking?

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1 A. Well, at least in Alabama, the  
2 last time I looked, you know, voting in the  
3 Republican primary is about 95 percent  
4 white -- 96 percent white I think the last  
5 time I looked so...  
6 Q. Do you remember the last time you  
7 looked?  
8 A. Well, it was pretty recently. I  
9 mean, not related to this court case, just  
10 academic work. The spring sometime.  
11 Q. Spring of 2024?  
12 A. Yes.  
13 Q. For the purposes of your report  
14 for this case, did you consider the racial  
15 demographics of who voted in that primary  
16 at all?  
17 A. Well, no. The table is just a  
18 record of vote percentages received by Ben  
19 Carson.  
20 Q. What was Carson's vote share in  
21 the 2016 Republican presidential primary in  
22 the Huntsville or Montgomery regions?  
23 A. I don't know the answer to that.  
24 Q. Did you consider Carson's vote  
25 share in the 2016 Republican presidential

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1 primary in either Huntsville or Montgomery?  
2 MR. SMITH: Object to the form.  
3 A. No.  
4 Q. Why not?  
5 A. I wasn't asked to do so.  
6 Q. Did you perform any RPV analysis  
7 for Carson in any of the state-level  
8 primary contests?  
9 A. No.  
10 Q. Why not?  
11 A. I wasn't asked to do so. I mean,  
12 you know, there'd be very little variance  
13 anyway because as I stated -- again, not  
14 related to this case, but just for academic  
15 work -- the voters in the Republican  
16 primary in Alabama are overwhelmingly  
17 white, so there's very little ecological  
18 fallacy that would be produced. I mean,  
19 there are a small percentage of minorities  
20 that vote in the Republican primary in  
21 Alabama, but it's so small that, you know,  
22 what we're looking at in this table is  
23 essentially the white vote in the  
24 Republican primary with -- you know, minus  
25 a few percentage points.

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1 Q. Does that mean to conduct an RPV  
2 analysis, you would need to also look at  
3 the black vote in the primaries?  
4 A. Well, you probably -- I mean,  
5 yes. To answer your question, yes, that's  
6 what you'd have to do mechanically. But  
7 again, it's so overwhelmingly from one  
8 racial group, I don't know that you could  
9 even derive reliable statistical estimates  
10 for minorities in this case because there's  
11 such a small part of the Republican primary  
12 electorate on the ballot. But  
13 mechanically, yes, that's what you would  
14 do.  
15 Q. Let's turn to section six of your  
16 expert report for this case. That starts  
17 on page 21.  
18 A. Okay.  
19 Q. What was your conclusion  
20 concerning whether white voters vote for  
21 minority Republican candidates?  
22 A. Well, white conservatives are  
23 certainly likely to support minority  
24 Republican candidates.  
25 Q. Why did you address this in your

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1 report?  
2 A. I was asked to do so.  
3 Q. What do you understand to be the  
4 relevance to this case as to whether white  
5 voters vote for minority Republican  
6 candidates?  
7 MR. SMITH: Object to the form.  
8 A. Again, I'm assuming this is  
9 related to the totality of the  
10 circumstances test.  
11 Q. How did you arrive at your  
12 conclusion?  
13 A. Well, most of this particular  
14 section was based on academic work I had  
15 performed or an analysis of academic work  
16 that others had performed.  
17 Q. Is --  
18 A. That's really a summation of  
19 that.  
20 Q. By that work, are you talking  
21 about your article True Colors: White  
22 Conservative Support for Minority  
23 Republican candidates?  
24 A. Yes.  
25 MS. ALLEN: I'm going to mark and

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1 publish as Exhibit 8 your True Colors  
2 article.  
3 (Plaintiffs' Exhibit Number 8 was  
4 marked for identification.)  
5 A. Okay.  
6 Q. Do you recognize this document?  
7 A. Yes.  
8 Q. What is it?  
9 A. It's an academic article I wrote.  
10 Q. And what is the article about?  
11 A. Whether or not white  
12 conservatives will support minority  
13 Republican candidates at the same level as  
14 white Republican candidates.  
15 Q. Where was this article published?  
16 A. Public Opinion Quarterly.  
17 Q. And when was it published?  
18 A. Looks like 2015.  
19 Q. The True Colors article analyzes  
20 the success of nonwhite candidates as a  
21 group; is that right?  
22 A. Correct.  
23 Q. The True Colors article does not  
24 specifically analyze the success of black  
25 candidates, right?

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1 A. Well, some of the candidates are  
2 black.  
3 Q. But the article's not  
4 specifically about black candidates?  
5 A. Well, it's about minority  
6 candidates --  
7 Q. Minority candidates in general?  
8 A. -- some of whom are black.  
9 Q. I see. Does the True Colors  
10 article provide any specific discussion of  
11 white Republicans' willingness to vote for  
12 black candidates specifically?  
13 A. Yes.  
14 Q. And what does it say?  
15 A. Well, in a nutshell -- again, I  
16 haven't reviewed this in quite some time,  
17 but I can remember it. In a nutshell, what  
18 we found is that white conservatives are  
19 willing to support minority Republican  
20 candidates at the same or even higher  
21 levels than white Republican candidates.  
22 Q. I understand that the conclusion  
23 was about minority candidates in general,  
24 but does it provide specific discussions  
25 about black candidates and white

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1 Republicans' willingness to vote for black  
2 candidates --  
3 A. Well, to the --  
4 Q. -- individually as a group?  
5 A. To the extent of which blacks are  
6 part of this minority group -- which they  
7 are. There are examples -- or there's  
8 cases I should say, not examples -- but  
9 cases of black candidates in that mix. So  
10 to the extent of which your question  
11 relates to not specific support for black  
12 candidates but, again, black candidates are  
13 included in this mix of minority  
14 candidates.  
15 Q. Let me you it this way: The  
16 article doesn't only focus on black  
17 candidates specifically?  
18 A. Well, that's correct.  
19 Q. True Colors, the article, is not  
20 based on any elections conducted in the  
21 state of Alabama, is it?  
22 A. Well, there probably are some  
23 Alabama elections in there. Again, 'cause  
24 this looks at both white and minority  
25 candidates for the Republican party. So as

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1 the comparison group -- I mean, I don't  
2 know sitting here right now, you know, what  
3 Alabama elections might be included. But  
4 there were undoubtedly -- should be some  
5 Alabama elections included in this.  
6 Q. Do you know where in your article  
7 -- or can you point me to anywhere in your  
8 article where you talk about Alabama  
9 elections?  
10 A. Well, it wouldn't be -- I don't  
11 think there would be a specific example of  
12 an Alabama election. But, again, the  
13 comparison to these minority candidate  
14 contests were white candidate contests.  
15 And so I would be surprised if there  
16 weren't some contests from Alabama included  
17 in that particular grouping.  
18 Q. But as you sit here today, you  
19 can't, like, point me to anywhere, like,  
20 specifically in your article where --  
21 A. Well, on page 30, for instance,  
22 it says, our data consists of Cooperative  
23 Congressional Election Study surveys  
24 conducted in 2006, 2010 and 2012, elections  
25 that included minority Republican

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1 candidates, African American, Asian  
2 American, or Latino, vying to become  
3 governor or U.S. senator. With the CCES  
4 data, we pool across elections years and  
5 conduct multiple regressions comparing  
6 white conservative support for Anglo  
7 Republican nominees versus minority  
8 Republican candidates in order to determine  
9 whether these voters exhibit the same level  
10 of support for Republican candidates  
11 irrespective of their racial, slash, ethnic  
12 profile.  
13 So I'd have to go back and look,  
14 but any gubernatorial or senate election  
15 occurring in Alabama in those election  
16 years would be captured by this particular  
17 study.  
18 Q. And why is that?  
19 A. Because we included, you know,  
20 any senate or gubernatorial race that  
21 occurred in these election cycles.  
22 MS. ALLEN: I think now is a good  
23 time for a short break. Let's go off the  
24 record.  
25 THE VIDEOGRAPHER: The time is

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1 11:06 a.m. We are off the record.  
2 (Whereupon, a recess was taken.)  
3 THE VIDEOGRAPHER: The time is  
4 11:23 a.m. We are back on the record.  
5 Q. Dr. Hood, I want to pick up where  
6 we left off about your True Colors article,  
7 and I just wanted to make sure that I'm  
8 understanding you -- what you're saying  
9 about the article. So am I understanding  
10 correctly that earlier, you testified that  
11 the article does not -- or the article  
12 includes discussion of black candidates to  
13 the extent that they are grouped in with  
14 minority candidates study in the article;  
15 is that right?  
16 MR. SMITH: Object to the form.  
17 A. Correct.  
18 Q. And the article's not based on  
19 any -- or the -- you think that there are  
20 -- the article does contain elections that  
21 conducted -- were conducted in the state of  
22 Alabama; is that right?  
23 A. In the comparison group, yes.  
24 There should be some elections that were --  
25 that occurred in Alabama that were captured

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1 by this study, yes.  
2 MS. ALLEN: I'm going to mark as  
3 Exhibit 9 a transcript from the Milligan V.  
4 Allen preliminary injunction hearing.  
5 (Plaintiffs' Exhibit Number 9 was  
6 marked for identification.)  
7 Q. Do you recognize this document at  
8 all?  
9 A. I don't know that I've ever seen  
10 this particular document.  
11 Q. Do you recall testifying at a  
12 preliminary injunction hearing in Milligan  
13 V. Allen?  
14 A. Yes.  
15 Q. Can you turn to page 1415?  
16 A. Okay.  
17 Q. Do you -- this is the beginning  
18 of the cross-examination that you  
19 experienced at the preliminary injunction  
20 hearing in the Milligan V. Allen.  
21 MR. SMITH: I object to the form.  
22 Q. Right?  
23 A. Is that a question?  
24 Q. Yes. Right?  
25 MR. SMITH: I object to the form.

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1 A. Well, it says -- on page 12, it  
2 says direct examination.  
3 Q. Uh-huh.  
4 A. So I doubt the cross-examination  
5 would start on page 14. That would be --  
6 Q. Oh, 1415. Excuse me. Page  
7 1,415.  
8 A. Oh, oh, sorry. I was looking at  
9 the top page.  
10 MR. SMITH: I was too. I was  
11 confused.  
12 THE WITNESS: Okay. So tell --  
13 MR. SMITH: You mean transcript  
14 page number, not --  
15 MS. ALLEN: Correct.  
16 A. Tell me the page.  
17 Q. Apology. Transcript page number  
18 1,415 of the Milligan V. Allen preliminary  
19 injunction hearing. And I guess for ease  
20 of reference, that would be page 48 of the  
21 ECF number --  
22 A. Okay.  
23 Q. -- which is the number at the  
24 very top of the document.  
25 A. Okay. Yes, that's -- that would

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1 be correct. I see it.  
2 Q. This marks the beginning of the  
3 cross-examination that you partook in at  
4 the Milligan V. Allen preliminary  
5 injunction hearing; is that correct?  
6 A. Yes.  
7 Q. Can you turn to page 1430 of the  
8 transcript, which is page 63 of the ECF  
9 number at the top of the transcript. And  
10 can you read line 25 on page 1430 through  
11 line 2 on 1431? And to help to provide you  
12 some context, on line 10 of page 1430,  
13 there begins a discussion about your  
14 article called True Colors: White  
15 Conservative Support for White Republican  
16 Candidates.  
17 Do you see that?  
18 A. Yes, yes.  
19 Q. Okay.  
20 A. Well, I think what I'm referring  
21 to there is, again, there were no -- there  
22 was no one in the minority Republican  
23 category from Alabama, that's true.  
24 Q. I guess before we get there, can  
25 you read line 25 on page 1430 through line

<p style="text-align: right;">Page 89</p> <p>1 2 on page 1431?</p> <p>2 A. And the article isn't based on</p> <p>3 any elections conducted in the state of</p> <p>4 Alabama, correct? Correct.</p> <p>5 Q. Do you still stand by that</p> <p>6 statement?</p> <p>7 MR. SMITH: Object to the form.</p> <p>8 A. Well, again, I think in that</p> <p>9 context, what I'm talking about is there --</p> <p>10 it's true, as I said -- as I said here</p> <p>11 today -- that there were no examples of</p> <p>12 Republican minority candidates in our study</p> <p>13 from Alabama, that's true. All I'm saying</p> <p>14 today -- not trying to -- obviously trying</p> <p>15 to conflict with what this says. But what</p> <p>16 I'm saying today is that there was a</p> <p>17 comparison group that included white</p> <p>18 Republican candidates from those election</p> <p>19 cycles. So there were probably some</p> <p>20 Alabama elections in that comparison side</p> <p>21 of this study if that makes sense.</p> <p>22 Q. And when you say probably, is</p> <p>23 that because as you sit here today can't</p> <p>24 confirm if Alabama elections were in the</p> <p>25 comparison group?</p>	<p style="text-align: right;">Page 91</p> <p>1 A. Correct.</p> <p>2 Q. That is a Shelby County district;</p> <p>3 is that correct?</p> <p>4 A. From what I remember, yes.</p> <p>5 Q. Turning to Dr. Liu's rebuttal</p> <p>6 report, which is Exhibit 5. If you could</p> <p>7 turn to page three of Dr. Liu's rebuttal</p> <p>8 report, Exhibit 5, and in the first</p> <p>9 paragraph, the third sentence, Dr. Liu says</p> <p>10 that House District 73 is not in the</p> <p>11 Huntsville region.</p> <p>12 Do you agree with that?</p> <p>13 A. Yes. I mean, based on the fact</p> <p>14 that it's in Shelby County, yes.</p> <p>15 Q. And House District 73 is not in</p> <p>16 the Montgomery region, right?</p> <p>17 A. Correct.</p> <p>18 Q. Do you agree with Dr. Liu that</p> <p>19 State House District 73 tells us nothing</p> <p>20 about how white voters voted in Huntsville</p> <p>21 or the Montgomery region?</p> <p>22 MR. SMITH: Object to the form.</p> <p>23 A. Correct, yes.</p> <p>24 Q. Also on page three, do you agree</p> <p>25 with Dr. Liu's statement that Paschal won</p>
<p style="text-align: right;">Page 90</p> <p>1 A. Well, they should've been. I</p> <p>2 would -- you know, to be 100 percent</p> <p>3 certain, I'd have to go back on the data</p> <p>4 and look.</p> <p>5 Q. I want to turn back to your</p> <p>6 report for this case, which is Exhibit 3.</p> <p>7 And let's turn to section six. The only</p> <p>8 example of black Republican candidates'</p> <p>9 success that you specifically refer to in</p> <p>10 your expert report in Alabama is that of</p> <p>11 Republican State House member Kenneth</p> <p>12 Paschal; is that right?</p> <p>13 A. Correct.</p> <p>14 Q. Why did you select this example?</p> <p>15 A. Well, it was an example I was</p> <p>16 aware of, and so it was a valid case to</p> <p>17 include in this section.</p> <p>18 Q. Did you check for any other</p> <p>19 examples that you would conclude?</p> <p>20 A. I did.</p> <p>21 Q. Did you find any?</p> <p>22 A. No. I would've included them if</p> <p>23 I had.</p> <p>24 Q. Representative Paschal's district</p> <p>25 is House District 73, right?</p>	<p style="text-align: right;">Page 92</p> <p>1 the Republican runoff election in 2021 with</p> <p>2 51.1 percent of votes cast and defeated his</p> <p>3 white democratic opponent in the special</p> <p>4 general election at the end with</p> <p>5 74.7 percent of the vote?</p> <p>6 A. Well, I mean that's -- that's in</p> <p>7 my report.</p> <p>8 Q. So you --</p> <p>9 A. I mean, those are just facts. I</p> <p>10 mean, if he's copied my report correctly,</p> <p>11 then it should be correct. I mean, I have</p> <p>12 those exact numbers.</p> <p>13 Q. So you are in agreement on that</p> <p>14 fact?</p> <p>15 A. I guess he's in agreement with</p> <p>16 me, yes.</p> <p>17 Q. You didn't conduct an RPV</p> <p>18 analysis on Representative Paschal's</p> <p>19 election to determine the degree or racial</p> <p>20 support for Representative Paschal's</p> <p>21 candidacy, did you?</p> <p>22 MR. SMITH: Object to the form.</p> <p>23 A. I didn't. But he couldn't have,</p> <p>24 given mathematically, it's impossible to</p> <p>25 get elected from that district without</p>



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1 white support so...

2 Q. Why do you say that?

3 A. Because the district's 84 percent

4 white voting age population.

5 Q. Because you didn't conduct an RPV

6 analysis, that also means, as Dr. Liu

7 explained in his report, that because you

8 didn't do that RPV analysis, it doesn't

9 document the extent to which white voters

10 participated in this primary and voted for

11 Representative Paschal, right?

12 MR. SMITH: Object to the form.

13 A. Well, again, this is an example

14 of a black Republican being elected in

15 Alabama by a white constituency. Again,

16 it's just mathematically impossible not to

17 get elected from this district without

18 white support. I did not conduct an RPV

19 analysis specifically on this, no. Again,

20 this section in the report is concerning

21 support for minority Republican candidates

22 in general, and this is a specific case of

23 support for a black Republican candidate in

24 Alabama.

25 Q. Representative Paschal was the

Page 94

1 first black Republican elected to the

2 Alabama Legislator in 140 years; is that

3 right?

4 A. Since Reconstruction from what I

5 recall, yes.

6 Q. Representative Paschal won the

7 Republican runoff election in 2021 by a

8 very close margin, right?

9 MR. SMITH: Object to the form.

10 A. Correct.

11 Q. There were only 63 votes between

12 Representative Paschal and his opponent,

13 Leigh Hulsey.

14 A. Well, I don't have the vote

15 totals here. And I can tell you it was

16 close. I don't have the vote totals in the

17 report.

18 MS. ALLEN: And for our court

19 reporter, Leigh, L-E-I-G-H, Hulsey,

20 H-U-L-S-E-Y.

21 Q. Turnout in Representative

22 Paschal's primary race was very low; is

23 that right?

24 A. I think it was a special

25 election, so the turnout would probably be

Page 95

1 lower.

2 Q. Lower than normal?

3 A. Well, yeah. I mean, you know,

4 special elections typically have low

5 turnout, lower than a normal primary.

6 Although, I do not have those turnout

7 numbers in the report here so...

8 Q. Referring back to page three of

9 Dr. Liu's rebuttal report, Exhibit 5, do

10 you agree with Dr. Liu that more recent

11 elections in Alabama offer more evidence of

12 the white bloc voting against black

13 candidates even in Republican primaries in

14 the relevant Montgomery region?

15 A. I have no idea. I didn't conduct

16 an analysis in the Montgomery region.

17 Q. Do you have any basis to dispute

18 Dr. Liu's statement?

19 A. I can't confirm or deny it. I

20 don't know one way or the other.

21 Q. Let's turn back to your expert

22 report which is Exhibit 3. I want to go to

23 section seven. In this section, you say

24 that you were asked to compile some

25 comparison data for black Alabamians at

Page 96

1 approximately the time of the Voting Rights

2 Act was initially signed into law, 1965,

3 the reauthorization of the Voting Rights

4 Act in 1982, and present day; is that

5 right?

6 A. Correct.

7 Q. What was your conclusion as to

8 this topic?

9 A. Well, it's very difficult to get

10 over-time data across this kind of time

11 period consistently. So these -- I was

12 able to look at at least two factors that I

13 had access to data on consistently all the

14 way back to 1965. The number of black

15 state legislators in Alabama and black

16 registration rates in Alabama.

17 Q. Why do you say it's difficult to

18 get data consistently across time?

19 A. I just -- you just wouldn't

20 imagine what's lost very quickly in time or

21 that was never recorded. So you think it

22 would be easy, but it's not even in the

23 U.S. But I've long collected statistics on

24 Southern politics, and these were some data

25 points that I had available from what I

Page 97

1 thought were reputable sources.  
2 Q. The sources that you used, how  
3 did you determine that they were reputable?  
4 A. Well, I guess it was my knowledge  
5 and judgment as a social science  
6 researcher.  
7 Q. Why did you address this topic  
8 we'll call comparisons across time in your  
9 report?  
10 A. Because I was asked to do so.  
11 Q. What do you understand to be the  
12 relevance to this case as to these  
13 comparisons across time?  
14 MR. SMITH: Object to the form.  
15 A. Again, I think it's most likely  
16 related to the totality of the  
17 circumstances test.  
18 Q. How did you arrive at your  
19 conclusion?  
20 A. By --  
21 MR. SMITH: Object to the form.  
22 A. -- collecting and analyzing the  
23 data that I've included here in the report.  
24 Q. Why did you select 1965, 1982 and  
25 2020 -- or I guess 1981 and 2024 as

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1 relevant dates for comparison?  
2 A. Well, when I was asked to compile  
3 these comparisons, it was based on those  
4 three time periods. I was specifically  
5 asked to look at data from those three time  
6 periods. So it's really 1982, but, like,  
7 table 18 has 1981, which means I probably  
8 might not have access to data in 1982 for  
9 instance so...  
10 Q. Let's turn to table 18, which is  
11 on black state legislators in Alabama, and  
12 that's on page 22 of section seven of your  
13 expert report. Walk me through how you  
14 came to these numbers for the senate and  
15 for the house.  
16 A. Well, two of the years from this  
17 particular table are from a published  
18 source, the Triumph of the Voting Rights  
19 Act in the South. And the current time  
20 period, 2024, I collected myself from the  
21 state legislative -- Alabama Legislature  
22 website.  
23 Q. Let's look at the 2024 numbers.  
24 There are seven black members in the  
25 Alabama Senate, correct?

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1 A. Correct.  
2 Q. Every one of them was elected in  
3 a district where the majority of voters are  
4 black, correct?  
5 MR. SMITH: Object to the form.  
6 A. From my memory, yes. I mean, if  
7 I'm wrong, I'm glad to be corrected, but I  
8 think that's correct.  
9 Q. There are 26 black state house  
10 members; is that right?  
11 A. Yes.  
12 Q. 25 of the 26 were elected in a  
13 district where the majority of voters are  
14 black; is that right?  
15 MR. SMITH: Object to the form.  
16 A. Again, from my memory, yes,  
17 that's correct.  
18 Q. Let's turn to table 19 on page 23  
19 of your expert report, Exhibit 3. Table 19  
20 is data on black voter registration; is  
21 that right?  
22 A. Correct.  
23 Q. How did you calculate the  
24 percentages in table 19?  
25 A. Well, specifically, it's the

Page 100

1 number of blacks registered to vote in the  
2 state over the black voting age population.  
3 I mean, that's the formula I used.  
4 Q. And did these numbers come  
5 from -- excuse me. At least 2024 that the  
6 data you collected to come to the  
7 95.2 percent black registered voters came  
8 from the Alabama Secretary of State's  
9 office; is that right?  
10 A. Yes.  
11 Q. Do you know how the Alabama  
12 Secretary of State compiles this data?  
13 A. From the voter registration  
14 database.  
15 Q. When you stated in your report  
16 that obtaining consist data across a  
17 60-year timeframe limits the metrics  
18 available for analysis -- or I guess let me  
19 ask you: What was the reason for that  
20 statement? Or what did you mean -- excuse  
21 me. What did you mean by that statement?  
22 MR. SMITH: Object to the form.  
23 A. Well, okay. Where are you?  
24 Q. Page 23.  
25 A. Okay.

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1 Q. The paragraph below table 19.  
2 A. Why did I make that statement?  
3 Because --  
4 Q. Excuse me. What did you mean by  
5 it?  
6 A. What did I mean by it? I mean,  
7 again, it's very difficult to collect  
8 consist over-time data on various political  
9 metrics going back that far in time. And I  
10 would've -- I guess what I was saying is  
11 that I certainly would've liked to included  
12 more comparisons, but I was only able to  
13 come up with these two based on the data I  
14 had available to me.  
15 Q. On page 23 of your report, the  
16 same paragraph below table 19, you conclude  
17 that on at least two measures for which  
18 longitudinal data are available,  
19 representation in the legislature and voter  
20 registration, there have been significant  
21 gains for black Alabamians across the last  
22 six decades.  
23 Did I read that correctly?  
24 A. Yes.  
25 Q. Six decades consisted about 1965

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1 according to your chart in table 18 and  
2 table 19; is that right?  
3 A. Approximately, yes.  
4 Q. That would be during the year  
5 that the march from Selma, Alabama to  
6 Montgomery, Alabama occurred; is that  
7 right?  
8 MR. SMITH: Object to the form.  
9 A. '65, yes.  
10 Q. That march was related in part to  
11 the right of black people to vote; is that  
12 right?  
13 A. Yes.  
14 Q. The Voting Rights Act or VRA was  
15 passed later that year; is that right?  
16 A. In the summer I think of that  
17 year from what I recall. I mean, not  
18 recall firsthand, obviously, but from what  
19 I've read, yes.  
20 Q. Before the Supreme Court's  
21 decision in Shelby County V. Holder in  
22 2013, Alabama was under a preclearance  
23 regime under section five of the VRA; is  
24 that right?  
25 MR. SMITH: Object to the form.

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1 A. Correct.  
2 Q. Preclearance applied to those  
3 jurisdictions that had a history of  
4 discriminatory voting laws?  
5 MR. SMITH: Object to the form.  
6 A. Correct.  
7 Q. Which would include Alabama; is  
8 that right?  
9 MR. SMITH: Object to the form.  
10 A. Correct.  
11 Q. Do you agree that changes in  
12 black representation in Alabama over the  
13 last few decades are mostly a result of  
14 court orders or U.S. Department of Justice  
15 intervention with Alabama?  
16 MR. SMITH: Object to the form.  
17 A. Well, I can't say that some  
18 increases in black representation are not  
19 due to various court cases, although,  
20 again, as you point out under a  
21 preclearance regime, the State's plans had  
22 to be precleared by the U.S. Justice  
23 Department. And so it's very common, you  
24 know, later in the time series to have  
25 majority black districts in these plans

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1 that were passed by the legislature that  
2 were precleared by the U.S. DOJ. So I  
3 guess what I'm saying is they're not -- you  
4 know, all of these positive changes aren't  
5 necessarily due to litigation.  
6 Q. But at least some of them are,  
7 right?  
8 MR. SMITH: Object to the form.  
9 A. I think that's fair, yes.  
10 Q. As a political scientist, do you  
11 agree that the effects of past  
12 discrimination do not disappear as soon as  
13 the discrimination legally ceases?  
14 MR. SMITH: Object to the form.  
15 A. That's possible.  
16 Q. Do you agree that even if gaps  
17 have gotten smaller, smaller racial  
18 disparities can still meaningfully impact  
19 political participation and results?  
20 MR. SMITH: Object to the form.  
21 A. It's possible in that  
22 hypothetical. Again, I'd have to look at  
23 something specific to really comment on it.  
24 Q. What did your comparison across  
25 time that you did in section seven of your

<p style="text-align: right;">Page 105</p> <p>1 report reveal about the Huntsville or 2 Montgomery regions? 3 A. Again, these were statewide 4 comparisons. I mean, I guess to the extent 5 to which there are black legislators 6 located in those regions that are captured 7 for instance in table 18. 8 Q. Did you specifically consider 9 comparisons across time in the regions of 10 Huntsville and/or Montgomery? 11 A. I wasn't asked to do so. 12 Q. We've already discussed that you 13 didn't do RPV analysis in your report; is 14 that right? 15 MR. SMITH: Object to the form. 16 A. Correct. 17 Q. Were you asked not to include any 18 RPV analysis? 19 MR. SMITH: Object to the form -- 20 A. I didn't -- 21 MR. SMITH: -- and instruct him 22 not to answer. That gets into conversation 23 with counsel. 24 Q. Have you ever studied or written 25 about how to perform vote dilution</p>	<p style="text-align: right;">Page 107</p> <p>1 the article states, you must also consider 2 race, slash, ethnicity of the candidates 3 running for election as part of an RPV 4 analysis; is that right? 5 A. Yes. 6 Q. You did not employ this strategy 7 in your report, did you? 8 MR. SMITH: Object to the form. 9 A. Again, I didn't conduct any RPV 10 analysis for the report, period. So hence, 11 I didn't deploy this. 12 MS. ALLEN: I'm going to mark and 13 publish as Exhibit 11 Dr. Liu's expert 14 report, tab 13. 15 (Plaintiffs' Exhibit Number 11 was 16 marked for identification.) 17 Q. Do you recognize this document? 18 A. Looks like Dr. Liu's expert 19 report in this matter. 20 Q. Have you seen it before? 21 A. Yes. 22 Q. When did you see it? 23 A. I don't remember specifically. 24 Q. It would've at least been 25 sometime after February 2nd, 2024; is that</p>
<p style="text-align: right;">Page 106</p> <p>1 analysis? 2 A. Yes. 3 Q. Have you written an article 4 titled From Legal Theory to Practical 5 Application: A How-To for Performing Vote 6 Dilution Analyses? 7 A. Yes. 8 MS. ALLEN: I'm going to mark and 9 publish as Exhibit 10 the From Legal Theory 10 to Practical Application article. That 11 would be tab nine. 12 (Plaintiffs' Exhibit Number 10 was 13 marked for identification.) 14 Q. Do you recognize this document? 15 A. Yes. 16 Q. And what is it? 17 A. An article I wrote. 18 Q. When was it published? 19 A. Looks like 2018. 20 Q. What is this article about? 21 A. How to perform a Section Two vote 22 delusion analysis. 23 Q. The article -- let me refer you 24 to the page number. Turning to page 546 of 25 Exhibit 10, the second to last paragraph,</p>	<p style="text-align: right;">Page 108</p> <p>1 right? 2 A. Well, if that's when he submitted 3 it, yes. 4 Q. Did you consider this report in 5 putting together your expert report? 6 A. Not particularly. Again, I was 7 tasked with answering a specified set of 8 questions by counsel. And I may have -- 9 I'm sure I looked at this at some point to 10 familiarize myself with it, but it really 11 didn't affect what I was doing. 12 Q. Can you please turn to pages 13 three and four? On page three, looking at 14 section four that starts measurement of 15 RPV. 16 A. Okay. 17 Q. Dr. Liu describes two steps he 18 used to measure RPV. Starting on page 19 three, I used the following two operational 20 rules to measure whether a particular 21 election is racially polarized. First, I 22 estimate the black and white group support 23 for a black candidate -- for the black 24 candidate in a biracial election; and two, 25 if in this biracial election, the majority</p>

<p style="text-align: right;">Page 109</p> <p>1 of black voters cast their vote for the 2 black candidate, and only a minority of 3 white voters cast their vote for the same 4 black candidate, then this election is 5 polarized. 6 Did I read that correctly? 7 MR. SMITH: Object to the form. 8 A. Yes. 9 Q. Do you agree with that's how you 10 would conduct an RPV analysis? 11 A. Not completely. 12 Q. Why do you say that? 13 A. Well, you know, elections 14 featuring biracial candidates are certainly 15 probative, but other elections could be 16 probative as well. So it doesn't have to 17 be limited to just those elections 18 specifically. 19 Q. What type of other elections can 20 be probative? 21 A. Well, the most probative 22 elections are whatever office-holding level 23 that's being challenged. So, I mean, in 24 this case, state senate elections in 25 Montgomery and the Huntsville area. I</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. Do you agree that to conduct a 2 RPV analysis, one needs to consider the 3 degree of racial support in this case for a 4 black candidate? 5 MR. SMITH: Object to the form. 6 A. Well, that would be more 7 probative most likely, but it doesn't have 8 to be limited to that again. So, I mean, 9 the question for prong two is, is there 10 racially polarized voting or not? So we 11 can determine that by, again, analyzing in 12 this case, black and white voting patterns 13 for various office (inaudible). So any 14 time you have a majority of blacks voting 15 in one direction and a majority of whites 16 voting in another direction, there's 17 evidence of racially polarized voting. 18 Q. So regarding step two of 19 Dr. Liu's analysis on page four of 20 Dr. Liu's report, Exhibit 11, does that 21 align with your statement and your Legal 22 Theory to Practice Application article, 23 which is Exhibit 10, that one way to 24 operationalize political cohesion is to 25 determine for each contest analyzed if</p>
<p style="text-align: right;">Page 110</p> <p>1 mean, you could do all kinds of elections 2 though and include it in an RPV analysis. 3 You know, you could subset the state senate 4 districts to the presidential vote and do 5 an analysis of that. I mean, there's a lot 6 of different elections that could be looked 7 at. And those would be exogenous. I'm 8 talking about previously or endogenous 9 elections. So certainly other state senate 10 elections that don't necessarily include 11 biracial elections are also probative 12 though and could be included. 13 Q. So I want to make sure I 14 understand, I guess, the point of 15 difference here. That at the very least, 16 the biracial -- the first step in looking 17 at biracial elections, you agree that that 18 can be probative in doing an RPV analysis; 19 is that right? 20 A. Yeah. I didn't say it wasn't 21 probative. 22 Q. Okay. 23 A. I didn't say that. I just said 24 it doesn't have to be limited to that 25 specific subset necessarily.</p>	<p style="text-align: right;">Page 112</p> <p>1 there is a clear candidate of choice for 2 voters of the racial, slash, ethnic group 3 in question. Specifically, did the vote 4 share from the minority voting bloc reach a 5 simple majority for any of the candidates 6 in the race? And that's on page 547. 7 MR. SMITH: Object to the form. 8 A. Well, again, this is related to 9 the prong two of the Gingles test. So, 10 yes, the answer is in doing an analysis at 11 that stage is trying to determine -- 12 another way to put this is, is there a 13 clearly defined candidate of choice for the 14 minority group? Whatever minority group in 15 question -- say, in this case, African 16 Americans. Are the majority of African 17 Americans in the election contest being 18 analyzed clearly lining up behind the 19 specific candidate? If that's the case, 20 and there's a majority of whites on the 21 other side lining up against that candidate 22 in favor of another candidate, then there's 23 evidence of racially polarized voting, yes. 24 MS. ALLEN: Do you want to take a 25 break for lunch right now or?</p>



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1 MR. TAUNTON: Yeah. Let me  
2 verify it's here.  
3 MS. ALLEN: Okay.  
4 THE VIDEOGRAPHER: The time is  
5 12:07 p.m. We are off the record.  
6 (A lunch recess was taken.)  
7 THE VIDEOGRAPHER: The time is  
8 12:55 p.m. We are back on the record.  
9 Q. Dr. Hood, you provided an expert  
10 report in Milligan V. Allen, Case Number  
11 2:21-CV-01530-AMM, correct?  
12 A. Correct.  
13 Q. That case was in the Northern  
14 District of Alabama?  
15 A. From what I remember, yes.  
16 Q. You testified in court in  
17 Milligan?  
18 A. Yes.  
19 Q. You conducted a functionality  
20 analysis, right?  
21 A. Correct.  
22 Q. In your work in the Milligan  
23 case, did you determine whether RPV existed  
24 in Alabama?  
25 A. Well, in those elections I

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1 analyzed for that report, it did.  
2 Q. What do you mean it did? As in  
3 --  
4 A. Well, I mean, for those specific  
5 races I analyzed, I found evidence of  
6 racially polarized voting.  
7 Q. The areas in which you analyzed  
8 RPV existed, they included Montgomery for  
9 example?  
10 MR. SMITH: Object to the form.  
11 A. It's been a while. I think so.  
12 Q. To make sure I understand what  
13 you just said, you said that for the races  
14 that you did analyze, RPV existed. Are you  
15 saying that RPV did not exist in the state  
16 of Alabama as a whole?  
17 MR. SMITH: Object to the form.  
18 A. I don't think I did any statewide  
19 analysis in that report from what I  
20 remember.  
21 Q. I'm going to -- let's look at the  
22 Milligan V. Allen preliminary injunction  
23 hearing transcript, Exhibit 9. And can you  
24 turn to transcript page 1421, which is also  
25 ECF number page 54?

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1 A. Okay.  
2 Q. Will you read lines 22 through 24  
3 on page 1420 -- transcript page 1421,  
4 please?  
5 A. You and Dr. Liu both agree that  
6 RPV exists in Alabama, correct? I think we  
7 both found evidence of that, yes.  
8 Again, my answer previously  
9 though is, you know, without looking at the  
10 report again, you're asking about a  
11 statewide test. I don't know if I  
12 conducted that or not without looking at  
13 the report. I mean, this just seems to  
14 generally be talking about Alabama, sort  
15 of, in general terms.  
16 MS. ALLEN: So actually let's  
17 mark as Exhibit 12, tab 10, which is your  
18 expert report from the Milligan case.  
19 (Plaintiffs' Exhibit Number 12 was  
20 marked for identification.)  
21 Q. Do you recognize this document?  
22 A. Yes.  
23 Q. What is it?  
24 A. It's -- looks like my expert  
25 report from the Milligan case.

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1 Q. Can you turn to page 13 of your  
2 report?  
3 A. Okay.  
4 Q. And I'm looking at, I guess, the  
5 first paragraph on that page. I just want  
6 to make sure I'm understanding what you  
7 were saying. So based off of the  
8 functionality analysis that you did for the  
9 specific districts at issue, there was  
10 racially polarized voting; is that a fair  
11 statement?  
12 A. I think that's fair, yes.  
13 Q. Okay. Have you identified or  
14 reviewed any information since your  
15 testimony and report in Milligan that you  
16 believe would alter your conclusion that  
17 RPV exists in Alabama for the districts  
18 that you did a functionality analysis?  
19 MR. SMITH: Object to the form.  
20 A. Well, some of these districts  
21 were never enacted. I mean, they're  
22 hypothetical districts.  
23 Q. I guess let me rephrase. For the  
24 districts -- whether hypothetical or  
25 enacted -- based off of the analysis that

<p style="text-align: right;">Page 117</p> <p>1 you did, is there any information that you 2 identified or reviewed that would -- since 3 your testimony and report in Milligan that 4 would lead you to alter your conclusion 5 that RPV existed in Alabama? 6 MR. SMITH: Object to the form. 7 A. Well, again, existed in Alabama 8 in these congressional districts, that has 9 to be added to that statement. This wasn't 10 a statewide test is what I'm saying. 11 Q. So for the districts that you 12 looked at, has there been any new 13 information or anything new that you 14 identified that would alter your conclusion 15 about RPV existing in those districts? 16 A. Not in those districts at that 17 time. 18 Q. Has there been anything since 19 that time that would alter your conclusion? 20 A. Well, I've not -- to my memory, I 21 have not conducted any additional analyses, 22 so I can't really comment one way or the 23 other. 24 Q. Referring back to Dr. Liu's 25 report, which is Exhibit 11, do you have an</p>	<p style="text-align: right;">Page 119</p> <p>1 Alabama since your report in Milligan in 2 2021 to change the existence of RPV 3 generally in Alabama in 2024? 4 MR. SMITH: Object to the form. 5 A. Well, again, from my memory -- 6 I've not done any additional testing. And 7 the reason we do testing is to see if a 8 pattern that's been established is 9 continuing or not so -- and I haven't done 10 that. 11 Q. Turning back to Dr. Liu's report, 12 which is Exhibit 11, is today the first 13 time you've seen Dr. Liu's report? 14 MR. SMITH: Object to the form. 15 A. No, I've seen it. I testified to 16 that. 17 Q. And -- 18 A. I wasn't asked to respond to it 19 though so... 20 Q. So you didn't consider Dr. Liu's 21 report as part of your expert report? 22 MR. SMITH: Object to the form. 23 A. I was tasked with answering a 24 specific set of questions which is what I 25 did.</p>
<p style="text-align: right;">Page 118</p> <p>1 opinion one way or another about Dr. Liu's 2 conclusion in his -- any of his conclusions 3 in his report? 4 A. Well, again, as I testified, I'm 5 sure I read this. I didn't specifically 6 respond to it or conduct my own RPV 7 analysis in this case as we've talked 8 about, so I can't say one way or the other. 9 I mean, to make a definitive statement one 10 way or the other, I probably would've had 11 to have conducted my own analyses so... 12 Q. Do you have an opinion one way or 13 another about Dr. Liu's methodology in his 14 report? 15 A. Well, again, outside of what we 16 talked about in terms of what's probative 17 or what's -- you know, I mean, again, one 18 doesn't have to limit the analysis of races 19 simply to those that have co-racial 20 candidates. It's not necessary. Other 21 races can be analyzed. So the other 22 mechanical steps, you know, I think we'll 23 probably agree on. 24 Q. Has anything occurred with 25 racially -- racial voting patterns in</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. Did you read Dr. Liu's report? 2 MR. SMITH: Object to the form. 3 A. Yes, at some point. 4 Q. Turning to Dr. Liu's rebuttal 5 report, which is Exhibit 5. 6 A. Okay. 7 Q. Do you have an opinion one way or 8 another about Dr. Liu's conclusions in 9 Dr. Liu's rebuttal report? 10 MR. SMITH: Object to the form. 11 A. Well, again, I need to spend some 12 more time analyzing and reading this. It 13 doesn't necessarily mean that I would agree 14 with his criticisms of what I wrote. 15 Q. Are there any specific criticisms 16 with what you wrote that Dr. Liu states 17 that you disagree with today? 18 MR. SMITH: Object to the form. 19 A. Well, again, I'd have to spend 20 some time looking at this and thinking 21 about how to respond to this. Again, it 22 doesn't mean that I would agree with the 23 statements he's made in this report 24 concerning me. 25 Q. Is today the first time you've</p>

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1 seen Dr. Liu's rebuttal report?  
2 MR. SMITH: Object to the form.  
3 A. As I stated, I got a copy of it.  
4 I have not really looked at it.  
5 Q. So it's fair to say you didn't  
6 consider it as part of your -- you haven't  
7 considered it as part of your work --  
8 expert work on this case?  
9 MR. SMITH: Object to the form.  
10 A. Not up to this point, no.  
11 Q. Did you read the report?  
12 A. No.  
13 Q. Have you done -- ever done an RPV  
14 analysis in other states other than  
15 Alabama?  
16 A. Certainly.  
17 Q. Out of the states that you have  
18 conducted RPV analyses in, is Alabama's RPV  
19 more stark in comparison to those other  
20 states?  
21 MR. SMITH: Object to the form.  
22 A. Not necessarily.  
23 Q. Why do you say -- oh, go ahead.  
24 A. Well, because I've conducted  
25 racially polarized voting analyses in other

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1 states, especially in the deep South, and  
2 racial polarization levels are typically on  
3 par with what we see in Alabama. And  
4 that's a very general statement, again, any  
5 particular, say, legislative district, you  
6 know, we have to test to see if there is  
7 racially polarized voting and what the  
8 level is.  
9 Q. Do you agree that within a state,  
10 racial voting patterns can vary within it?  
11 A. It's certainly possible, yes.  
12 Q. Have you ever conducted  
13 functionality analyses for any Alabama  
14 senate or house districts?  
15 A. Well, yes. We just talked about  
16 some.  
17 MS. ALLEN: I'm going to mark and  
18 publish as Exhibit 13 a proposed Alabama  
19 Functionality Examination. Thank you.  
20 (Plaintiffs' Exhibit Number 13 was  
21 marked for identification.)  
22 A. Okay.  
23 Q. Do you recognize this document?  
24 A. Yes.  
25 Q. What is it?

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1 A. Some functionality test I did.  
2 Q. What was the purpose of this  
3 document?  
4 A. Well, the purpose of the document  
5 was to provide functionality analyses for  
6 various legislative districts in Alabama.  
7 Q. Do you recall when you did this  
8 functionality analysis?  
9 A. Not specifically. Probably in  
10 2021 I'm thinking.  
11 Q. Based on the functionality  
12 analysis that you did in Exhibit 13, did  
13 you find racially polarized voting in any  
14 of these elections?  
15 A. Yes.  
16 Q. Which ones?  
17 A. Well, let's see. Looks like  
18 House District 32 there's some evidence of  
19 that. It doesn't look like there is in  
20 Senate District 18.  
21 Q. And why do you say that?  
22 A. Well, based on the numbers there  
23 and based on what I wrote from the analysis  
24 run, there's no racially polarized voting  
25 present in proposed SD18.

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1 Q. Okay. But there are other  
2 districts in your analysis that do have  
3 RPV; is that right?  
4 A. Correct.  
5 Q. Did you conduct RPV analyses for  
6 State Senate District 26 in Montgomery?  
7 A. Doesn't look like it.  
8 Q. What about Senate Districts 2?  
9 A. 2?  
10 Q. Uh-huh.  
11 A. Don't see that one either.  
12 Q. What about 7?  
13 A. No.  
14 Q. What about Senate District 8?  
15 A. I think the only senate district  
16 looks like it's 18.  
17 Q. Why did you prepare Exhibit 13,  
18 this Functionality Analysis for the  
19 proposed, I guess, Alabama Senate?  
20 MR. TAUNTON: I'm going to object  
21 here. I suspect this was conducted at the  
22 behest of Mr. Dorman Walker. I'm going to  
23 object on the basis of privilege.  
24 MS. STEWART: You can answer the  
25 question.

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1 MR. TAUNTON: You cannot answer  
2 the question. I instruct the witness not  
3 to answer.  
4 MS. ALLEN: To be clear, this  
5 document was produced as part of the  
6 Milligan litigation.  
7 MR. TAUNTON: That's fine. You  
8 can ask him about the document. You can't  
9 ask him about why or his communications  
10 with Dorman Walker.  
11 MS. STEWART: We can ask him  
12 about his communications. You --  
13 MR. TAUNTON: You asked him -- he  
14 can answer to the degree that it does not  
15 divulge his communications with Dorman  
16 Walker.  
17 MS. STEWART: Can you answer the  
18 question as to why you created this  
19 document?  
20 THE WITNESS: Not beyond the fact  
21 that I was asked to create the document.  
22 MS. STEWART: And can you answer  
23 who asked you to create the document?  
24 MR. SMITH: Are we doing two  
25 lawyers taking now?

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1 MS. STEWART: Sorry. Go ahead.  
2 Q. Can you testify as to who asked  
3 you to --  
4 A. I'm not sure if I can answer that  
5 question --  
6 MS. STEWART: I mean, you  
7 objected and he jumped in for you so I'm  
8 doing the same.  
9 MR. TAUNTON: I represent a  
10 separate defendant.  
11 MS. STEWART: Okay. Go ahead.  
12 Q. Can you testify as to who asked  
13 you to create the document?  
14 THE WITNESS: Can I answer that  
15 question?  
16 MR. TAUNTON: You can answer who,  
17 yeah.  
18 A. Okay. Mr. Walker.  
19 Q. Did you review any documents or  
20 sources that we have not already talked  
21 about today for the purposes of creating  
22 your expert report?  
23 A. In this matter?  
24 Q. Correct.  
25 A. No.

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1 Q. Are you relying on any additional  
2 documents, data, literature, or other  
3 sources as the basis of your opinions that  
4 we have not talked about today for the  
5 purposes of this case?  
6 A. It's all contained in the report.  
7 Q. Have we discussed all the  
8 materials that you relied on to form your  
9 opinions?  
10 A. Yes. And they're all documented  
11 in the report.  
12 Q. Have we discussed all of the  
13 opinions that you intend to offer or expect  
14 to offer at this point at trial?  
15 A. That I expect to -- again, unless  
16 I'm asked to supplement something -- which  
17 I've not been asked to do at this point.  
18 Q. Will you be offering any other  
19 opinions that we have not talked about  
20 today?  
21 A. Again, not unless I'm asked to  
22 produce any kind of supplemental report.  
23 This is it.  
24 Q. Okay. I want to turn back to  
25 Exhibit 3, your expert report. And if you

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1 could turn to page two.  
2 A. Once I look at it again, I will  
3 --  
4 Q. Take your time.  
5 A. There it is. Okay. Okay.  
6 Q. Turning to paragraph -- the third  
7 paragraph where you talk about other cases  
8 in the past five years where you've offered  
9 expert testimony, does that mean there are  
10 other cases outside of the five-year scope  
11 that you've offered testimony that isn't  
12 listed here?  
13 A. Yes.  
14 Q. Are these cases that you discuss  
15 in your report cases where you've testified  
16 relating to voting rights or redistricting?  
17 A. Yes.  
18 Q. Are there any other cases in  
19 which you have testified or provided an  
20 expert report as an expert on other issues?  
21 A. Not outside that subject hearing,  
22 no.  
23 Q. How many times have you been  
24 hired as an expert witness to the best of  
25 your recollection?

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1 A. I don't really know.  
2 Q. More than ten times?  
3 A. Yes.  
4 Q. More than 25?  
5 A. Well, I would say at least 25. I  
6 think I've testified about 25 times or so.  
7 Q. How many times have you been  
8 hired as an expert witness for the defense  
9 counsel involved in this matter?  
10 A. Well, in this matter I guess  
11 once. I mean, do you mean other cases?  
12 Q. Correct.  
13 A. Okay.  
14 Q. Yeah.  
15 A. Several.  
16 Q. What do you mean by several?  
17 A. Several.  
18 Q. More than ten times?  
19 A. Oh, no. No.  
20 Q. Less than ten?  
21 A. I mean, there was the Milligan  
22 case, the Chestnut case, back in time,  
23 there was a voter ID case. That's what I'm  
24 remembering so...  
25 Q. To the best of your recollection,

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1 how many times have you submitted a report  
2 as an expert witness?  
3 A. Well, I guess in any case that I  
4 testified in court, there was probably an  
5 expert report submitted.  
6 Q. Would it be fair to say somewhere  
7 around 25 times?  
8 A. Well, at least, yeah.  
9 Q. Did each of the cases that you  
10 testified in or given a report in involve  
11 you being retained by the defense in a  
12 voting rights case?  
13 A. Most of them, but not all.  
14 Q. When you say most, would it be  
15 fair to say majority of them?  
16 A. Yes.  
17 Q. Have you ever been retained as an  
18 expert by a plaintiff in a civil case  
19 involving an alleged Voting Rights Act  
20 violation?  
21 A. Yes.  
22 Q. How many times to the best of  
23 your recollection?  
24 A. Well, again, most of the time I'd  
25 been hired by a governmental entity

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1 typically so that's certainly true.  
2 There's a few cases where I was hired by a  
3 plaintiff.  
4 Q. Have you ever not been accepted  
5 as an expert for any matter or has your  
6 testimony ever been found to be unreliable?  
7 MR. SMITH: Object to the form.  
8 A. Once.  
9 Q. What was the case?  
10 A. I don't remember the name of the  
11 case. It was a voter ID case out of  
12 Georgia.  
13 Q. Does Common Cause V. Billups --  
14 A. Yes, that's it.  
15 Q. And in that case, the Court found  
16 your analysis to be unreliable or not  
17 relevant?  
18 A. Well, one or the other. I can't  
19 remember which one at this point.  
20 Q. Have there ever been times where  
21 a Court has credited your opinion little  
22 weight for example?  
23 A. Courts have given my opinion  
24 varying weights, that's true.  
25 Q. And sometimes it's been little

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1 weight?  
2 A. Sometimes.  
3 Q. Do you recall about how many  
4 times?  
5 A. No.  
6 MS. ALLEN: Let's go off the  
7 record.  
8 THE VIDEOGRAPHER: The time is  
9 1:27 p.m. We are off the record.  
10 (Whereupon, a recess was taken.)  
11 THE VIDEOGRAPHER: The time is  
12 1:42 p.m. We are back on the record.  
13 Q. Dr. Hood, I want to go back to  
14 Exhibit 13, the Functionality Analysis that  
15 we were discussing earlier. When were you  
16 retained to do this analysis?  
17 A. As I said, I mean, just sitting  
18 here today, probably in 2021.  
19 Q. And you said earlier that it was  
20 Mr. Walker who asked you to do the  
21 analysis. Does that mean Dorman Walker?  
22 A. Yes.  
23 Q. What was the scope of your  
24 retention?  
25 THE WITNESS: Can I answer that?



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1 MR. TAUNTON: You can answer what  
2 you were asked to do.  
3 A. I was asked to produce these  
4 functionality analyses for these various  
5 districts, some of them legislative, and  
6 there was some state board of election  
7 districts as well.  
8 Q. Let's turn back to Exhibit 3,  
9 which is your expert report. We discussed  
10 today the five questions on page two that  
11 you were asked to opine upon by defendants;  
12 is that right?  
13 A. Correct.  
14 Q. So turning to the first question:  
15 How do black voting patterns in Alabama  
16 compare to other states? I want to make  
17 sure I understand, your understanding is  
18 that the relevance of this question to this  
19 matter is related to the totality of the  
20 circumstances element?  
21 MR. SMITH: Object to the form.  
22 A. Yes.  
23 Q. Turning to question two, on page  
24 two of your report where you were asked  
25 about are racial disparities on various

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1 sociodemographic factors present outside of  
2 Alabama, it's your understanding that the  
3 relevance of that question to this matter  
4 is also about totality of the  
5 circumstances?  
6 MR. SMITH: Object to the form.  
7 These are legal conclusions and all asked  
8 and answered.  
9 A. Yes.  
10 Q. Turning to question three: How  
11 does the -- how does 2016 Republican  
12 presidential primary candidate Ben Carson's  
13 vote share compare across states? It is  
14 your understanding that that question is  
15 relevant also to totality of the  
16 circumstances?  
17 MR. SMITH: Same objection.  
18 A. Yes.  
19 Q. Turning to question four: Do  
20 white voters support minority Republican  
21 candidates? It is your understanding that  
22 that question is relevant to this matter  
23 because of the totality of the  
24 circumstances element?  
25 A. Yes.

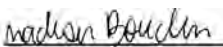
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1 MR. SMITH: Same objection.  
2 A. Yes.  
3 Q. And turning to question five:  
4 How have black political metrics changed  
5 over time in Alabama? It is your  
6 understanding that that also is relevant to  
7 this matter for the totality of the  
8 circumstances element?  
9 MR. SMITH: Same objection.  
10 A. Yes.  
11 Q. And you mentioned that totality  
12 of the circumstances is related to the nine  
13 senate factors for Voting Rights Act  
14 Section Two analysis; is that right?  
15 MR. SMITH: Object to the form.  
16 A. Correct.  
17 Q. Are you familiar with what the  
18 nine factors are?  
19 A. I couldn't just spout them off,  
20 but I'm familiar with them, yes.  
21 Q. I want to walk through each  
22 factor, and I'm going to represent to you  
23 that these are the nine senate factors;  
24 one, is the history of voting-related  
25 discrimination in the state or political

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1 subdivision. Two, the extent to which  
2 voting in the elections of state or  
3 political subdivision -- of the state or  
4 political subdivision is racially  
5 polarized. Three, the extent to which the  
6 state or political subdivision has used  
7 voting practices or procedures that tend to  
8 enhance the opportunity for discrimination  
9 against the minority group; such as,  
10 unusually large election districts,  
11 majority-vote requirements, and  
12 prohibitions against bullet voting. The  
13 fourth senate factor is the exclusion of  
14 members of the minority group from  
15 candidate slating processes. The fifth  
16 senate factor is to the extent to which  
17 minority group members bear the effects of  
18 past discrimination in areas such as  
19 education, employment, and health which  
20 hinder their ability to participate  
21 effectively in the political process.  
22 Number six, the use of overt or subtle  
23 racial appeals in political campaigns.  
24 Number seven is extent to which members of  
25 the minority group have been elected to

<p style="text-align: right;">Page 137</p> <p>1 public office in the jurisdiction. Number 2 eight is whether there is a significant 3 lack of responsiveness on the part of 4 elected officials to the particularized 5 needs of members of the minority group. 6 And number nine is whether the policy 7 underlying the state or political 8 subdivision's use of such voting 9 qualification, prerequisites voting or 10 standard practice or procedure is tenuous. 11 I know I just gave you a lot 12 there, but what specific senate factors are 13 you opining on? 14 MR. SMITH: I object to the form. 15 That calls for a legal conclusion. 16 A. Well, again, I was asked by 17 counsel to answer these questions. 18 Q. But I have a little bit of a 19 different question. Which specific senate 20 factor are you opining on in your report -- 21 MR. SMITH: I object to the 22 form -- 23 Q. -- if any at all? 24 MR. SMITH: -- that calls for a 25 legal conclusion.</p>	<p style="text-align: right;">Page 139</p> <p>1 on? 2 MR. SMITH: Object to the form. 3 A. Well, I'm not opining on any 4 particular senate factor. It was asked 5 earlier what these questions may have 6 related to. Again, that's not something I 7 was to answer. I was asked to answer these 8 -- or asked to investigate these questions, 9 and I answered them. 10 Q. Where in your report do you state 11 that your opinions are relevant to totality 12 of the circumstances? 13 MR. SMITH: Object to the form. 14 A. I don't. I just state I was 15 asked to investigate these questions by 16 counsel. 17 MS. ALLEN: Can we go off the 18 record? 19 THE VIDEOGRAPHER: The time is 20 1:51 p.m. We are off the record. 21 (Whereupon, a recess was taken.) 22 THE VIDEOGRAPHER: The time is 23 1:52 p.m. We are back on the record. 24 MS. ALLEN: I don't have any 25 further questions for you today, Dr. Hood.</p>
<p style="text-align: right;">Page 138</p> <p>1 A. Well, I think some of this just 2 related to the presence or not of racially 3 polarized voting. So this is related to 4 that to some degree. 5 Q. But you didn't do racially 6 polarized voting analyses; is that right? 7 MR. SMITH: Object to the form. 8 A. I didn't do that type of 9 analysis, no, but the senate factors are 10 more related at that point to not whether 11 racially polarized voting exists, but why 12 it might exist. 13 Q. When you conduct an RPV analysis, 14 does that analysis reveal why racially 15 polarized voting might exist in a 16 jurisdiction? 17 A. No, that test doesn't. 18 Q. So to make sure I'm 19 understanding, you had testified just now 20 that your opinions is related to the 21 presence of racially polarized analysis, 22 and senate factor two is to the extent of 23 which elections have state or political 24 subdivisions are racially polarized. Is 25 that the senate factor that you're opining</p>	<p style="text-align: right;">Page 140</p> <p>1 Thank you so much for your time. I know 2 depositions can be a long day so -- and I 3 know you've done a whole bunch, but thanks 4 for your time today. 5 THE WITNESS: Thank you. 6 MR. SMITH: I have a few quick 7 follow-ups. 8 EXAMINATION 9 BY MR. SMITH: 10 Q. Dr. Hood, do you recall earlier 11 being asked about Dr. Liu's report and 12 specifically his statement that Kenneth 13 Paschal's election doesn't tell us -- tells 14 us nothing about how white people had voted 15 in the relevant areas of Huntsville and 16 Montgomery? 17 A. Yes. 18 Q. Is there any reason to believe 19 that voters in Montgomery vote 20 substantially different from voters in 21 Shelby County? 22 A. Well, not necessarily, no. 23 Q. What about voters in Huntsville, 24 any reason to believe they vote 25 substantially different than voters in</p>

<p style="text-align: right;">Page 141</p> <p>1 Shelby County?</p> <p>2 A. No.</p> <p>3 Q. What about specifically -- is</p> <p>4 there any reason to believe that white</p> <p>5 Republican voters in Montgomery are less</p> <p>6 likely to vote for a black Republican than</p> <p>7 white voters in Shelby County?</p> <p>8 A. No, not necessarily.</p> <p>9 Q. And is there any reason to</p> <p>10 believe that white Republican voters in</p> <p>11 Huntsville are less likely to vote for a</p> <p>12 black Republican than white voters in</p> <p>13 Shelby County?</p> <p>14 A. No.</p> <p>15 Q. Do you recall also, Dr. Hood,</p> <p>16 being asked about your article, True</p> <p>17 Colors?</p> <p>18 A. Yes.</p> <p>19 Q. And there was some discussion</p> <p>20 about the data sets that were employed</p> <p>21 there?</p> <p>22 A. Correct.</p> <p>23 Q. And is it your understanding that</p> <p>24 the comparison data set there included any</p> <p>25 state with the senate or gubernatorial</p>	<p style="text-align: right;">Page 143</p> <p style="text-align: center;">C E R T I F I C A T E</p> <p>2 State of Alabama</p> <p>3 Lee County</p> <p>4 I, Madison Borden, do hereby</p> <p>5 certify that I recorded, by means of</p> <p>6 stenotype, the foregoing proceedings at the</p> <p>7 time and place stated in the caption</p> <p>8 hereof, that the foregoing represents a</p> <p>9 full, true, and correct transcript of the</p> <p>10 proceedings on said occasion.</p> <p>11 I further certify that I am</p> <p>12 neither of counsel nor of kin to any</p> <p>13 parties, nor interested in the outcome of</p> <p>14 this case.</p> <p>15 I further certify that I am a</p> <p>16 duly licensed Court Reporter, as displayed</p> <p>17 by my license number below, by the Alabama</p> <p>18 Board of Court Reporting.</p> <p>19 So certified on May 26, 2024.</p> <p>20</p> <p>21</p> <p>22 </p> <p>23</p> <p>24 MADISON BORDEN, CCR</p> <p>25 CCR#687, Expires 9/30/24</p>
<p style="text-align: right;">Page 142</p> <p>1 election in the particular election cycles</p> <p>2 that were at issue in that article?</p> <p>3 A. Well, from my quick look at the</p> <p>4 article, yes, that would be correct.</p> <p>5 Q. And so that comparison set may</p> <p>6 have included elections from Alabama?</p> <p>7 A. Yes.</p> <p>8 Q. But that doesn't mean that any of</p> <p>9 those were biracial elections?</p> <p>10 A. No, they weren't. Those were</p> <p>11 listed in the article specifically so...</p> <p>12 Q. Okay.</p> <p>13 MR. TAUNTON: Nothing from me.</p> <p>14 MR. SMITH: That's all from us.</p> <p>15 MS. ALLEN: No further questions.</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 1:54 p.m. We are off the record.</p> <p>18 (The deposition of DR. M.V. HOOD,</p> <p>19 III, was concluded at 1:54 p.m.)</p> <p>20 --oOo--</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 144</p> <p style="text-align: center;">S I G N A T U R E   O F   W I T N E S S</p> <p>2</p> <p>3 I, , do hereby certify that</p> <p>4 on this day of 2024, I</p> <p>5 have read the foregoing transcript and to</p> <p>6 the best of my knowledge it constitutes a</p> <p>7 true and accurate transcript of my</p> <p>8 testimony taken by oral deposition on May</p> <p>9 10, 2024.</p> <p>10</p> <p>11</p> <p>12</p> <p>13 WITNESS</p> <p>14</p> <p>15 Subscribed and sworn to before me</p> <p>16 this day of ,2024.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 NOTARY PUBLIC</p>

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