

WILLIAM COOPER

October 02, 2024

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<p style="text-align: right;">Page 2</p> <p>1 THE REPORTER: Did everyone put their</p> <p>2 appearance? Okay.</p> <p>3 Please raise your right hand.</p> <p>4 Do you swear or affirm to tell the truth,</p> <p>5 the whole truth, and notinr but the truth in this</p> <p>6 matter?</p> <p>7 THE DEPONENT: I do.</p> <p>8 THE REPORTER: Thank you.</p> <p>9 MS. BROYLES: I'm sorry?</p> <p>10 THE REPORTER: Appearances.</p> <p>11 MS. BROYLES: Oh, appearances. I'm</p> <p>12 sorry.</p> <p>13 Jordan Broyles on behalf of the</p> <p>14 Defendant.</p> <p>15 MR. CUSICK: John Cusick, at the law firm</p> <p>16 of NAACP Legal Defense, on -- on behalf of the</p> <p>17 Plaintiffs along with my colleague, Leah Aden.</p> <p>18 And our co-Counsel from the law firm of Melviny,</p> <p>19 Matthew Goldstein, is joining by Zoom, and his</p> <p>20 colleague Michael Pierce, might also be making an</p> <p>21 appearance as well.</p> <p>22 MS. BROYLES: I should add I think the</p> <p>23 only person, in addition to me, that's on the Zoom</p> <p>24 is Dylan Jacobs, for the Defendant. I don't --</p> <p>25 there may be others, but they're not going to</p>	<p style="text-align: right;">Page 4</p> <p>1 but beyond that, nothing.</p> <p>2 Q. I this is the first redistricting case</p> <p>3 that I have worked on. And so it is likely that I</p> <p>4 will ask a number of odd questions, or at least</p> <p>5 probably say something the wrong way. If the --</p> <p>6 if there's a term of art or something to that</p> <p>7 degree, that needs to be corrected in my question,</p> <p>8 just let me know and I'll do that. I may have you</p> <p>9 explain a couple of terms to me, but overall, I</p> <p>10 think it'll be -- we'll just be here for a while</p> <p>11 to get through all of your documents, okay?</p> <p>12 A. Okay.</p> <p>13 Q. I'm handing you what I've marked as</p> <p>14 Exhibit Number 1 to your deposition, which is your</p> <p>15 notice of deposition?</p> <p>16 A. Yes.</p> <p>17 Q. Have you seen that document before?</p> <p>18 A. I did see it about a week ago, I believe.</p> <p>19 I mean, I've not looked at -- I mean, I assume</p> <p>20 it's the same document.</p> <p>21 Q. Yeah. I think so. Should be. I've only</p> <p>22 seen one, but the -- the date on there is,</p> <p>23 actually, for when we were going to take your</p> <p>24 deposition last week, everything else being the</p> <p>25 same, just for avoiding duplicative purposes.</p>

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<p style="text-align: right;">Page 5</p> <p>1 Obviously, we're here today on 2nd of October, but 2 otherwise, everything is the same. And you stated 3 that you don't have any documents here with you 4 today?</p> <p>5 A. No. I mean, there's a cell phone in my 6 pocket, but I have no documents per se, but I'm 7 just here hands free.</p> <p>8 Q. Okay. Do you -- I did not have a chance 9 or to -- to print a second copy of your report and 10 things of that sort. I'm going to be asking a 11 bunch of questions about that. Are you going to 12 need a copy of your report in order to walk 13 through the deposition with me today?</p> <p>14 A. Well, I could access it off of my cell 15 phone. So I -- I, actually, would have a copy if 16 I could refer my cell phone.</p> <p>17 MS. BROYLES: I'm not sure how productive 18 that will be. We can keep going if someone can 19 print a copy for him as we go forward, I think 20 it'll speed things up some, but if you-all don't 21 mind doing that.</p> <p>22 THE DEPONENT: I -- I can go through my 23 cell phone pretty quickly, though, I mean, it's 24 almost faster than working off of a paper 25 document. I have a cell phone kind up to my face</p>	<p style="text-align: right;">Page 7</p> <p>1 the declaration and not -- not the exhibits 2 organized.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. And I know we're, actually, sitting by 5 each other, but you're a little soft spoken, if 6 you could speak up just a little bit for me. My 7 colleagues have been kind of laughing for whatever 8 reason. My hearing has completely been depleted. 9 It's probably my AirPods. But nonetheless, I'm 10 just -- I can't or I'm stuffed up, one of the two. 11 But in any event, it sounds like your counsel is 12 going to go ahead and have that printed, so we'll 13 have it for you to review as maybe necessary.</p> <p>14 Next, I'm handing you what is titled 15 William S. Cooper's responses and objections to 16 Defendant's notice of deposition of William S. 17 Cooper and requests for production of documents. 18 And have you seen this document before?</p> <p>19 A. My lawyers prepared this document, I 20 think.</p> <p>21 Q. Okay. And by your lawyers, who are you 22 defining as your lawyers?</p> <p>23 A. Well, the attorneys for the Plaintiffs in 24 this lawsuit.</p> <p>25 Q. You are retained by them as a expert</p>
<p style="text-align: right;">Page 6</p> <p>1 and lower my glasses so I can see it better, but 2 I -- I mean, I can find the pages real fast.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. Well, we're going to be switching 5 documents back and forth between the different 6 reports, and so if -- if they want you to use your 7 phone, that's fine or if they want to print it. I 8 just don't have another copy for you. And so if 9 it gets to a point that you want to copy, we'll 10 have to stop and just have one done.</p> <p>11 MR. CUSICK: If it's easier, we'll send 12 an e-mail right now to Matthew here. Is there are 13 there any other document and besides his rebuttal 14 in the original report, anything else that would 15 be?</p> <p>16 MS. BROYLES: I don't believe so at this 17 time. I mean, does that include the exhibits as 18 well?</p> <p>19 MR. CUSICK: Yes. I'll ask to basically 20 all the exhibits from both the original and the 21 rebuttal.</p> <p>22 MS. BROYLES: Okay.</p> <p>23 THE DEPONENT: That's the one thing I 24 don't really have in an organized fashion on my 25 cell phone -- on my cell phone, I just have the --</p>	<p style="text-align: right;">Page 8</p> <p>1 witness, correct?</p> <p>2 A. Right.</p> <p>3 Q. So did you have any other lawyer review 4 any documents or provide you any assistance in 5 your opinions, other than counsel for --</p> <p>6 A. No.</p> <p>7 Q. -- the Plaintiffs?</p> <p>8 A. No.</p> <p>9 Q. Okay. I just want to flip through this. 10 Did you review it in advance of your deposition 11 and to the extent that you, kind of, are familiar 12 with the contents of it?</p> <p>13 A. I reviewed the original request for 14 production and was aware that they were preparing 15 some sort of response. I've not actually read 16 word for word, this -- this particular document.</p> <p>17 Q. Okay.</p> <p>18 A. I'm sure. I agree with it.</p> <p>19 Q. Sure.</p> <p>20 A. I've -- I've never had to produce 21 documents for a deposition that I'm aware of ever 22 in any deposition I've ever had.</p> <p>23 Q. Wow. Okay. So just kind of starting 24 there on page 1, it states in there that you 25 reserve the right to modify and then, correct or</p>

<p style="text-align: right;">Page 9</p> <p>1 supplement or clarify your responses and 2 objections, if any additional information or 3 documents come to light. Is there anything at 4 this point that you feel that you need to complete 5 your opinions in this case? 6 A. Well, things could happen that would -- 7 as the attorneys have suggested, might require 8 some response from me. 9 Q. If that occurs, would you agree to let 10 Plaintiff's Counsel know so that we can discuss 11 that and take any steps that may be necessary? 12 A. Yes. 13 Q. Would you agree then as well that it 14 would be fair for the same reasons that Mr. Bryan 15 may need to supplement in the event that you also 16 supplement your report? 17 MR. CUSICK: Objection to form. 18 THE DEPONENT: Not necessarily. Not 19 necessarily. That's that's something that I would 20 leave up to the attorney, so I -- I have no 21 opinion on it one way or the other. 22 BY MS. BROYLES: 23 Q. Okay. I'm going to turn now to request 24 for production number 1, I asked for your complete 25 file in this case, as far as all the documents</p>	<p style="text-align: right;">Page 11</p> <p>1 A. Well -- 2 Q. Trees? 3 A. -- it's just I put down roughly the 4 amount of time I spent for a given day on a 5 particular piece of the case. 6 Q. Have you submitted any bills or invoices 7 in this case? 8 A. I have not. 9 Q. What is the -- if that your 70 hours, 10 what is your a billable rate? 11 A. \$170 per hour. I don't charge for travel 12 time. 13 Q. Okay. 14 A. So that's it. 15 Q. Are you paid on a retainer, and then your 16 hourly rate is charged against that? 17 A. No. No, I just sent a bill. 18 Q. So I'm not go at fast math, but if you've 19 spent over 70 hours, how many more than 70, do you 20 think? 21 A. I mean, it -- it could be approaching 22 100. But I just have not tallied it up and I 23 may -- I may clarify some of my entries. 24 Q. But for every hour spent, your rate will 25 be 170 --</p>
<p style="text-align: right;">Page 10</p> <p>1 that you reviewed, Why did you not provide that 2 information? 3 A. Well, I believe it's attorney expert 4 privilege. I've never had to turn over anything 5 I've produced to the other side, except in one 6 unusual case in San Juan County, Utah, back in the 7 mid 2010s. And that was not before a deposition. 8 That was some other kind of a request. It really 9 didn't have a lot to do with me anyway. It just 10 they were just asking for everything, and the 11 attorneys, for whatever reason, asked us to give 12 stuff up. 13 Q. Have you taken any or made any record or 14 notes regarding how many -- how many hours you've 15 spent in this case? 16 A. Yes. 17 Q. Okay. That was requested, and so I'm 18 wondering why that wasn't produced? 19 A. Well, it's it's kind of an -- an informal 20 accounting, but it's a well over 70 hours in this 21 case. 22 Q. How do you keep track of your hours? 23 A. On a Excel spreadsheet. 24 Q. And do you -- how do you account? I 25 mean, how do your kind of light item --</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Right. 2 Q. -- dollars? What about any notes that 3 you have taken as it relates to this case? Do you 4 have any notes handwritten or typed outside of 5 your reports that regard the issues in this case? 6 A. No. I never take notes. Unless it's 7 just something really trivial, and I might put it 8 on a piece of paper, which just subsequently 9 loose. 10 Q. With respect to any documents as it 11 relates to diagrams, data compilations, test 12 results, and reports, are there any such materials 13 that you used or relied upon in forming your 14 opinions that were not included with the reports 15 that were produced in this case? 16 A. Which item is this? 17 Q. It's still a number one. 18 A. I was still in number one. 19 MR. CUSICK: Just to the extent that -- 20 that question falls into any work product, I would 21 instruct Mr. Cooper not to answer on that front, 22 but otherwise, you can answer. 23 MS. BROYLES: What work product? Whose 24 work product? 25 THE DEPONENT: Well, could you repeat the</p>

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<p style="text-align: right;">Page 13</p> <p>1 question?</p> <p>2 BY MS. BROYLES:</p> <p>3 Q. Yes. So the request for production</p> <p>4 number 1 seeks your file, including documents,</p> <p>5 office records, notes, correspondence, e-mails,</p> <p>6 memos, bills, diagrams, data compilations, test</p> <p>7 results and reports that you have.</p> <p>8 A. What page are you on?</p> <p>9 Q. Number 3.</p> <p>10 A. You're on page 3. Okay.</p> <p>11 Q. Yeah.</p> <p>12 A. Okay. I'm sorry, I was still on two. So</p> <p>13 what -- what -- my understanding is I don't need</p> <p>14 to give those to you. In fact, I really, a lot of</p> <p>15 stuff, you know, you listed here like diagrams and</p> <p>16 test results and notes and correspondence that I</p> <p>17 just don't have. I mean, I didn't, you know,</p> <p>18 the -- the draft I worked on.</p> <p>19 Q. Would all of that information as far as</p> <p>20 diagrams, bills, data, et cetera be contained in</p> <p>21 the reports that were produced, or are there other</p> <p>22 data compilations and things of that nature that</p> <p>23 you have in your possession, not produced that you</p> <p>24 relied upon?</p> <p>25 A. Well, I think that for the most part</p>	<p style="text-align: right;">Page 15</p> <p>1 testimony as related to that document?</p> <p>2 A. Oh, no -- no. No. It's just a I mean,</p> <p>3 I -- I assume that it might even be available</p> <p>4 on -- on the website somewhere, but I didn't see</p> <p>5 it until the attorneys gave it to me.</p> <p>6 Q. But you don't have a copy of it AEC?</p> <p>7 A. No. I'm not -- I do not have a copy of</p> <p>8 it. But it's it's something that was put together</p> <p>9 for the purposes of the legislature to review as</p> <p>10 they were in the process of redistricting? Just a</p> <p>11 very simple table showing things you would want to</p> <p>12 consider like one person would vote, that sort of</p> <p>13 thing.</p> <p>14 Q. How do you know that?</p> <p>15 A. Because I saw the PowerPoint several</p> <p>16 weeks ago. I don't really remember all of the</p> <p>17 items on it, but they appeared to be just general</p> <p>18 points that one might take into consideration as</p> <p>19 you're going to a redistricting plan. It's not</p> <p>20 referenced in my report at all.</p> <p>21 Q. Right. That's why I'm asking the</p> <p>22 materials you reviewed that aren't referenced in</p> <p>23 your report.</p> <p>24 A. Yeah. Well, that would be one that I</p> <p>25 looked at, but I spent no time on it at all.</p>
<p style="text-align: right;">Page 14</p> <p>1 would cover everything. I'm not really -- again,</p> <p>2 this is all new to me. I've never -- never had to</p> <p>3 respond to requests like this. And I'm not very</p> <p>4 organized, so I don't have, like, one file. Yeah.</p> <p>5 And I need these little box somewhere that</p> <p>6 directly relates to this case.</p> <p>7 Q. Do you have any -- have you reviewed any</p> <p>8 deposition testimony in this case?</p> <p>9 A. No, I have not.</p> <p>10 Q. Were you provided any deposition</p> <p>11 transcripts for the witnesses who have been</p> <p>12 deposed in this case?</p> <p>13 A. No. I've not been provided with that.</p> <p>14 Q. What about photographs, videotapes, or</p> <p>15 slides related to this cause of action. Have you</p> <p>16 reviewed any of those types of materials?</p> <p>17 A. I did see a -- a PowerPoint slide that</p> <p>18 was given to me by the attorneys that showed the</p> <p>19 factors or considerations which the -- the</p> <p>20 legislature might take into account as they're</p> <p>21 doing the redistricting, and was prepared by</p> <p>22 the -- I don't know if I'm I'm not sure what</p> <p>23 agency, maybe by the office of the Secretary of</p> <p>24 State, perhaps.</p> <p>25 Q. But you didn't read any deposition</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Did you rely upon that in any way in</p> <p>2 forming your opinion in this case?</p> <p>3 A. No, because it was very -- very general,</p> <p>4 and basically the kind of thing that I would</p> <p>5 normally take into account as the drawing butting</p> <p>6 planes.</p> <p>7 Q. Have you ever been to Arkansas?</p> <p>8 A. I have.</p> <p>9 Q. Where have you traveled to in Arkansas?</p> <p>10 A. Well, in my youth, so to speak, I -- I</p> <p>11 made several trips through Arkansas. Always</p> <p>12 seemed to be on the interstate heading to Texas or</p> <p>13 Mexico, so I didn't get to know the state that</p> <p>14 very well. But I was also involved in a judicial</p> <p>15 lawsuit, as you may be aware, in the late 2010s</p> <p>16 and even in the 2020s. And so I -- I had a chance</p> <p>17 to get a really good look at Arkansas when I came</p> <p>18 out to the trial in the spring of 2022. So I -- I</p> <p>19 drove through the Delta and then up to Little Rock</p> <p>20 for the trial and then further west in the State.</p> <p>21 And I saw parts of the Ozarks and, you know, I</p> <p>22 visited St. Petite Jean, St. State Park, and --</p> <p>23 Q. -- Petit Jean?</p> <p>24 A. Yeah. I don't know I that's yeah, I'm</p> <p>25 not -- no habla Frances. But anyway, and then I</p>

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<p style="text-align: right;">Page 17</p> <p>1 took a couple of hikes at what is it? Radio 2 Mountain or something like that, Antenna Mountain? 3 Further -- further east -- it's a famous further 4 west towards towards the Oklahoma line. Watch -- 5 is it's a Watch dog ranch? Nice hiking there, 6 very -- very pretty. It was in the early spring. 7 So I did see a good bit of the state at that 8 point. 9 Q. Did you conduct any interviews or as you 10 drove through the state, make any assessments or 11 analysis about the state that you've incorporated 12 into your report as far as background knowledge or 13 things of that sort? 14 A. No. Not exactly, but it did make me a 15 little bit more aware of where things changed from 16 the Delta to a Crowley Ridge and then all up in to 17 the Ozarks. And I did spend one evening in 18 Mountain Home. So I saw, you know, the area there 19 right along the Missouri line. Unfortunately, I 20 had to get back to who other the redistricting 21 work because I would have liked to spend some more 22 time. It's very pretty state. I really enjoyed 23 the area west of -- of Little Rock going over 24 towards Petit Jean State Park reminds me a lot of 25 the Shenandoah Valley, Virginia. So it's it's I</p>	<p style="text-align: right;">Page 19</p> <p>1 sort, that you used to gain background knowledge 2 in this case? 3 A. Well, I mean, I -- I've looked at things 4 like the encyclopedia of Arkansas, and I've looked 5 at maybe some websites that have historical 6 information. I spent some time walking around 7 hell and I went on my trip out here, so I -- I 8 learned a few things about Phillips County. And 9 so you know, you can add that in. I have, you 10 know, that kind of background knowledge. I grew 11 up in the South, so I understand the importance 12 and certainly knew about the Little Rock nine, not 13 as a I -- not going off not while I was aware of 14 it, but I learned about it later. So I have a 15 basic knowledge of the state, as -- as one would, 16 if you grew up in the South and were cognizant in 17 the 1990s when Clinton family is in Washington, 18 DC, you always heard a lot about Arkansas. Okay. 19 Q. The next one is for all documents that 20 you've reviewed in preparation for the deposition. 21 So have you reviewed any discovery responses of 22 any party? 23 A. No. 24 Q. Have you been provided any? 25 A. No. I don't think so.</p>
<p style="text-align: right;">Page 18</p> <p>1 was very surprised at that. I didn't realize it 2 was -- I -- I was expecting kind of the more 3 rugged kind of landscape that I saw as I was going 4 up towards Mountain Home, which is more like 5 driving through East Kentucky or something. 6 Q. Did -- where the trial that you attended 7 you said there was one or two occasions that 8 you've been to Arkansas? 9 A. Well, I've been -- I've been in Arkansas. 10 Q. For expert work. 11 A. Oh, no. That's the only time I've worked 12 on a case and as an expert in Arkansas. And that 13 a judicial case. 14 Q. And that case was in excuse me, Little 15 Rock. 16 A. The trial was in Little Rock. 17 Q. And I'm not sure if I got this covered, 18 but did you look at any photos, videos, or 19 anything else other than the slides that you 20 mentioned in forming your opinions in this case? 21 A. No. I don't think so. 22 Q. And going over to Page 4. It requests 23 all documents containing facts or data considered 24 by you in forming your opinions. Any other 25 materials that you reviewed, slide, things of that</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. What about any pleadings as far as the 2 complaints filed or motion, any other legal papers 3 that you've reviewed? 4 A. Well, I did review the complaint. 5 There's a website now called the American 6 Redistricting Project set up by the Republican 7 Party, and there's also one, I think it is sort of 8 a Democratic party connections, and both of those 9 sites publish a lot of the material that is 10 generated during the course of a lawsuit. So I 11 did see the complaint and I may have seen 12 something else along the line, but I think really 13 the only thing I really recall looking at very 14 carefully would have been the complaint itself. 15 Q. Did you review the amended complaint? 16 A. I may have read the amended complaint 17 instead of the original complaint. I don't 18 recall. 19 Q. With respect to text, publications, 20 articles, reports, experimental data, other that 21 you relied upon, would all of those different 22 document types be referenced in your report as far 23 as what would have been reviewed to form your 24 opinions? 25 A. I think so. Yes. I mean, I again, the</p>

<p style="text-align: right;">Page 21</p> <p>1 fact that I looked at the encyclopedia of Arkansas 2 is not -- maybe not referenced in that. I don't 3 know, but that I was not, like, directly copying 4 something from the Encyclopedia of Arkansas, just 5 general knowledge that probably I mean, it's quite 6 good and very detailed. So some people in 7 Arkansas probably wouldn't know about some of the 8 things in the encyclopedia of Arkansas, and I 9 haven't read it all the way through. I've just 10 glanced at certain things, but I didn't rely on 11 that from my for my declarations of background 12 information.</p> <p>13 Q. We were provided, I believe, as Exhibit 14 A, a copy of your most recent CV. Is that your -- 15 is that correct?</p> <p>16 A. Yeah. I will go back and mention that I 17 did see an award winning documentary that was, I 18 think, released last year, maybe called the Barber 19 of Little Rock. I think that's the title. And I 20 saw another NPR or Arkansas Public radio. 21 Documentary on Little Rock and how it was being 22 renovated in the 2000, certain areas, certain 23 neighborhoods, as well as some historical 24 background about what it was like in the late 25 1800s and then on into the present day. So I -- I</p>	<p style="text-align: right;">Page 23</p> <p>1 recent one would have been a -- a session in Salt 2 Lake City, sponsored by a number of the indigenous 3 tribal nations in not just Utah, but also in South 4 Dakota, other parts of Rocky Mountain West. So I 5 I just gave a short presentation on census data 6 and ways you could maybe use that data by using 7 something like Dave's redistricting. In other 8 words, a free way to get to draw your own voting 9 plan. I think that's what my presentation was 10 about.</p> <p>11 Q. When was that presentation?</p> <p>12 A. It was almost exactly five years ago, 13 would have been late September of 2019. The Aspen 14 and Utah were gorgeous.</p> <p>15 Q. Have you been asked but declined to speak 16 at any events in the past ten years?</p> <p>17 A. I'm -- I'm sure I have, but I can't 18 really think of specific ones that I've declined.</p> <p>19 Q. Are you a member of any associations -- 20 Professional Association?</p> <p>21 A. No.</p> <p>22 Q. Are you a member of any professional 23 organizations or anything groups, I, you know, I'm 24 trying to kind of be broad, but any kind of group 25 that studies or kind of collectively discusses</p>
<p style="text-align: right;">Page 22</p> <p>1 s there was not it's not directly included 2 anything with my report.</p> <p>3 Q. The request for production number six 4 also asked for all publications authored in the 5 previous ten years. Their response states that 6 you have not authored any such publications; is 7 that true?</p> <p>8 A. That's true. I never I've never 9 attempted to have anything published. Have never 10 been refused.</p> <p>11 Q. Have you -- so you've never authored any 12 article book chapter, any kind of literature, so 13 to speak, on redistricting?</p> <p>14 A. No. I mean, if you go back further than 15 ten years, I had a newspaper article or two 16 published that had nothing to do with 17 redistricting it had to do with anti hunger 18 efforts. I was involved in -- in Virginia in the 19 late 80s, but beyond that, nothing.</p> <p>20 Q. What about any presentations that you've 21 given on redistricting. Do you get presentations 22 or speak on behalf of redistricting at any 23 conferences or things of that sort?</p> <p>24 A. Very rarely, I hate doing it because I'm 25 really bad public speaker. But I -- I the most</p>	<p style="text-align: right;">Page 24</p> <p>1 redistricting?</p> <p>2 A. No -- no. That'd be horrible. You have 3 to be doing this sort of as a form of employment 4 and then become also a member of some organization 5 which just for fun discusses redistricting. So 6 no.</p> <p>7 Q. Is there any literature or publication 8 that you follow regularly to keep abreast of 9 redistricting issues in the country?</p> <p>10 A. Well, I typically read to Washington Post 11 on a pretty much a daily basis. I do see like I 12 said, I follow the websites, the American 13 Redistricting project, and Democracy docket. So I 14 get news that way every day. American 15 redistricting Project puts up all the cases that 16 have had some activity for the prior day or the 17 prior week, so it's a great place to get that 18 information.</p> <p>19 Q. Is that information peer reviewed or 20 published for the purpose of establishing a 21 standard in any way?</p> <p>22 A. Oh, no, it's just it's just providing 23 details on all active voting rights cases 24 nationwide. So if you go to American 25 Redistricting project and go to their litigation</p>

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<p style="text-align: right;">Page 25</p> <p>1 page, today -- I haven't looked at it today. You 2 will see maybe a case in Washington State that's 3 had some activity or a state or a case in Texas, 4 and they'll have they'll have the document itself 5 posted to the website and/or and you go review it. 6 Great resource for someone like me. I'm not a 7 lawyer, so I just don't have the way to get access 8 to that.</p> <p>9 Q. The next one is request for production 10 Number 7 that asks for demonstrative evidence and 11 exhibits that you plan to use in this case. Is 12 all such information referenced or otherwise 13 incorporated in your report?</p> <p>14 A. Well -- well, yeah I -- I don't know what 15 the pretrial disclosure deadline date is. But 16 everything I've done is in my declaration and in 17 the exhibits. So beyond that, other than I mean, 18 that -- that's it. I just -- I just filed the 19 report and -- and their declarations there and 20 responded to Mr. Bryan's declaration.</p> <p>21 Q. Have you had any conversations with other 22 experts disclosed in this case, Liu, Birch, and 23 Smith?</p> <p>24 A. No.</p> <p>25 Q. About your opinions?</p>	<p style="text-align: right;">Page 27</p> <p>1 plaintiffs themselves individually or a firm in 2 connection --</p> <p>3 A. With the plaintiffs?</p> <p>4 Q. Yeah either the plaintiffs individually 5 or the law firm representing them?</p> <p>6 A. Well, I've signed a retainer agreement 7 with LDF. That goes back maybe. I'm not sure if 8 the law firm was involved. I mean, that was some 9 time ago, when I -- when I signed that retainer. 10 I don't remember exactly.</p> <p>11 Q. When would that have been?</p> <p>12 A. Well, I think it probably would have been 13 in -- it might have been in 2024 in early 2024. 14 Might have been in 2023. Probably was in 2023.</p> <p>15 Q. What is LDF?</p> <p>16 A. Legal defense fund.</p> <p>17 Q. And is that the firm that you frequently 18 are retained by to provide expert testimony?</p> <p>19 A. Well, yes. I mean, it's it's the firm -- 20 that the firm that both of the attorneys here 21 today are -- are associated with. It's in AACP 22 LDF. So I I've worked on a number of cases with 23 them, but not exclusively with them. I've done 24 lots of other cases.</p> <p>25 Q. And how many other cases have you worked</p>
<p style="text-align: right;">Page 26</p> <p>1 A. No. I never do that ever.</p> <p>2 Q. Have you reviewed their reports?</p> <p>3 A. I have not I don't look at their reports, 4 either. Although, in some cases, you might be 5 able to get some of those reports on the Democracy 6 Diet website or on the American Redistricting 7 Project website, but I've not looked at any 8 reports filed in Arkansas.</p> <p>9 Q. Do you know any of those individuals?</p> <p>10 A. I've met doctor Liu.</p> <p>11 Q. Do you work on I'm sorry -- did I cut you 12 off?</p> <p>13 A. Well, no, I've just gotten to know 14 Dr. Liu, over the years. We've worked on 15 different cases, so I've I've gotten to know him 16 and. But -- but we've not really talked 17 specifically about this case at all in any kind of 18 general way.</p> <p>19 Q. Do you -- has anyone communicated to you 20 that any of the testimony, any of the other 21 plaintiff experts have given in this case?</p> <p>22 A. No. I'm not aware of the testimony at 23 all.</p> <p>24 Q. Do you have any contracts that you've 25 signed or agreements between yourself and</p>	<p style="text-align: right;">Page 28</p> <p>1 with the firms representing the plaintiff and the 2 plaintiffs in this case?</p> <p>3 A. Oh. I -- I mean, I -- I didn't really 4 start working for LDF until the early 2010s. I 5 think the first case -- well, I think the first 6 case would have been involving Fayette County, 7 Georgia, around 2011. And so I've done some 8 cases, quite a number. I haven't really counted 9 them up since then with LDF.</p> <p>10 Q. When you ultimately do submit an invoice 11 in this case to be paid for your time, who does 12 that invoice go to?</p> <p>13 A. I would send it to either Leah or John, 14 probably initially. I'm not sure of the endpoint.</p> <p>15 Q. Are the checks that you typically receive 16 or payments that you received from LDF or as it 17 relates to or under the conditions of your 18 contract with them, or where does your -- where 19 does the money come from?</p> <p>20 A. I'm not sure. I mean, I have gotten 21 checks directly from LDF and I've other -- other 22 times I've gotten checks from cooperating private 23 law firm. I think that's correct. Certainly when 24 I'm working on cases for the ACLU, sometimes I get 25 the check from ACLU and sometimes from the</p>

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<p style="text-align: right;">Page 29</p> <p>1 cooperating law firm. And I know for a fact, I</p> <p>2 did get -- I have gotten cooperating law firm</p> <p>3 checks for LDF related cases.</p> <p>4 Q. Have you had ever been paid above what</p> <p>5 your billed amount was?</p> <p>6 A. No.</p> <p>7 Q. Is there any term in the agreement that</p> <p>8 if the case is not successful, that you were not</p> <p>9 compensated?</p> <p>10 A. No.</p> <p>11 Q. Are there any terms that would say that</p> <p>12 if it is successful, you'd be compensated in</p> <p>13 addition to your billed rate?</p> <p>14 A. No.</p> <p>15 Q. I believe your reports and also your CV</p> <p>16 that were -- that was incorporated, outlines the</p> <p>17 cases that you've participated in over the years,</p> <p>18 is that accurate?</p> <p>19 A. Yes. That's accurate. Those are the</p> <p>20 ones that I remember. There may be some there in</p> <p>21 the '80s and '90s that I have just, you know, was</p> <p>22 not involved with heavily, that don't show up on</p> <p>23 that listing, but it's pretty close.</p> <p>24 Q. Have you ever testified on behalf of a</p> <p>25 state in a redistricting case in the sense that, I</p>	<p style="text-align: right;">Page 31</p> <p>1 preliminary injunction trial. The the Court ruled</p> <p>2 in our favor, City of Quincy's favor. And the</p> <p>3 defendants or the plaintiffs rather chose to just</p> <p>4 dismiss the case after the ruling.</p> <p>5 Q. Have you ever been retained at the state</p> <p>6 government level on behalf of a defendant that</p> <p>7 defending an enacted plan or only on the local</p> <p>8 level?</p> <p>9 A. Well, in the late teens, I did serve as a</p> <p>10 consultant to the Governor Wolf Intervenors in a</p> <p>11 state lawsuit filed regarding the -- regarding the</p> <p>12 congressional plan in Pennsylvania. And in that</p> <p>13 case, I -- I think he would have been the</p> <p>14 Defendant, but I could be confused. I did -- I</p> <p>15 did not testify trial, but I was retained and --</p> <p>16 and worked for them and prepared maps, but --</p> <p>17 Q. Were you disclosed as an expert or were</p> <p>18 you a consulting expert kind of assisting behind</p> <p>19 the scenes?</p> <p>20 A. I'm not sure. I'm not sure about that.</p> <p>21 I don't know if I was disclosed.</p> <p>22 Q. Did you draft a report?</p> <p>23 A. I don't think I drafted a report, did a</p> <p>24 lot of plans, but I -- I believe I -- I don't</p> <p>25 recall the exact set up, but I -- I do recall that</p>
<p style="text-align: right;">Page 30</p> <p>1 mean, typically the in for the defendant or the</p> <p>2 respondent, if it termed in that way?</p> <p>3 A. Well, I -- I have testified on behalf of</p> <p>4 a -- a defendant in a case in more than one case.</p> <p>5 At let in Alabama, I worked for the City of</p> <p>6 Decatur in a redistricting issue. That would have</p> <p>7 been in the 2010s.</p> <p>8 Q. Was that in defense of a -- an adopted</p> <p>9 redistricting plan?</p> <p>10 A. Yes.</p> <p>11 Q. And you said that was 2010?</p> <p>12 A. Well, the I think I signed on of that</p> <p>13 case in 2011, and finally completed sometime in</p> <p>14 the late teens, maybe even the 2020's. Most of my</p> <p>15 work, though, was in the first half of that</p> <p>16 decade.</p> <p>17 Q. Any other cases where you have defended</p> <p>18 and enacted redistricting plan?</p> <p>19 A. Yes. In 2021, I testified in Federal</p> <p>20 Case. You know, in the Decatur case, I did not</p> <p>21 testify in Court. But the case I'm going to</p> <p>22 mention, the Quincy Florida case, with City</p> <p>23 Council, Quincy Florida Redistricting Plan. I was</p> <p>24 their expert. I didn't draw the plan, but I -- I</p> <p>25 had helped defend the plan. And that was a</p>	<p style="text-align: right;">Page 32</p> <p>1 some of my work was incorporated into the final</p> <p>2 brief of the Governor Wolf Intervenors.</p> <p>3 Q. Are you currently acting as a, I'm going</p> <p>4 to say disclosed expert witness. I do -- I will</p> <p>5 have questions about this since kind of knowing a</p> <p>6 little more after what you just said. So it</p> <p>7 sounds like sometimes you may be a consultant to a</p> <p>8 client where you are not necessarily disclosed as</p> <p>9 the expert on their behalf at trial or for</p> <p>10 deposition or whatever level of proceeding, but</p> <p>11 you are consulting. And so Is that accurate?</p> <p>12 A. Well, yeah, but that would be extremely</p> <p>13 rare. I mean, almost invariably, if I'm -- if I'm</p> <p>14 doing some sort of a participating in some sort of</p> <p>15 legal action, I've been retained as an expert. I</p> <p>16 mean, I -- I recall the Pennsylvania issue where I</p> <p>17 was not maybe disclosed as an expert because I</p> <p>18 just don't remember. But I was retained. And</p> <p>19 otherwise, I -- I'd be hard pressed to think of</p> <p>20 any situation where I was just serving as a</p> <p>21 consultant. If it was going to be a live case and</p> <p>22 was a live case, then I was hired as an expert.</p> <p>23 Q. Are you employed?</p> <p>24 A. Self-employed, yes.</p> <p>25 Q. And what is the name of your employer?</p>

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<p style="text-align: right;">Page 33</p> <p>1 A. Me.</p> <p>2 Q. Okay. I didn't know if you had a LLC.</p> <p>3 A. No -- no I'm -- I'm very informal -- very</p> <p>4 informal.</p> <p>5 Q. When was the last time that you were</p> <p>6 employed other than self-employed?</p> <p>7 A. I would have been in the mid 90s for the</p> <p>8 first ten years or so that I was working on</p> <p>9 redistricting plans. I was employed by the</p> <p>10 American Civil Liberties, Virginia, and at the</p> <p>11 same time, working on redistricting plans all over</p> <p>12 the south, by the early '90s, Virginia was pretty</p> <p>13 much done. So I was doing a lot of work for the</p> <p>14 Southern Regional Office of the ACLU. And a lot</p> <p>15 of that was not just in the south, but also in the</p> <p>16 Rocky Mountain West, with the Indigenous nations</p> <p>17 in Montana, South Dakota, Colorado, Nebraska,</p> <p>18 probably leading out of state. Well, Wyoming. So</p> <p>19 I -- I did a lot of work out there as well during</p> <p>20 that time frame.</p> <p>21 Q. When did you graduate from Davidson?</p> <p>22 A. 1975.</p> <p>23 Q. Did you go work for the ACLU upon</p> <p>24 graduating?</p> <p>25 A. No. No. I hopped in a car and went to</p>	<p style="text-align: right;">Page 35</p> <p>1 And so I eventually just resigned my position with</p> <p>2 Delmarva Rural Ministries organization I was</p> <p>3 working with and just worked for the ACLU of</p> <p>4 Virginia for the next seven years. And some of</p> <p>5 that also really, most of that work after 1992 or</p> <p>6 so was strictly involving states like Georgia,</p> <p>7 south Carolina, north Carolina. The Rocky</p> <p>8 Mountain area. The Montana case I worked on last</p> <p>9 and from like, 1991 to 2001. I was involved in a</p> <p>10 state legislative case in Tennessee with the ACLU</p> <p>11 Southern Regional Office.</p> <p>12 So most of my work really from 1992 on</p> <p>13 was through the ACLU Southern Regional Office, and</p> <p>14 I did a lot of work at that time, also for Lawyers</p> <p>15 Committee of C for Civil Rights out of Washington,</p> <p>16 DC.</p> <p>17 Q. The lawyers Committee?</p> <p>18 A. Lawyers Committee. Right.</p> <p>19 Q. Were you also employed by them or was</p> <p>20 that on a volunteer basis?</p> <p>21 A. No. I was they -- they -- essentially</p> <p>22 what they did is I -- they paid the ACLU of</p> <p>23 Virginia for my time. And the same thing for</p> <p>24 ACLU, Southern Regional Office, I believe. I was</p> <p>25 not getting checks from either one of those</p>
<p style="text-align: right;">Page 34</p> <p>1 work at ARBs roast beef on Mall Avenue in</p> <p>2 Albuquerque New Mexico. I wasn't going out there</p> <p>3 with that in mind. That's just what popped up, so</p> <p>4 I just took that job.</p> <p>5 Q. And so after ARBs, I guess, when did you</p> <p>6 start working for ACLU?</p> <p>7 A. Oh, that was -- that was in the late</p> <p>8 '80s. I was actually working in that office in</p> <p>9 1987 to maybe well, even before that, like, 1985,</p> <p>10 to, around 1990 before I was an actual employee of</p> <p>11 the ACLU. I was doing some volunteer work in '86,</p> <p>12 I think. I was I worked for another organization</p> <p>13 there on anti-hunger efforts and had shared an</p> <p>14 office with them. And they got involved, they</p> <p>15 being the ACLU of Virginia involved in examining</p> <p>16 certain counties in south Southside, Virginia,</p> <p>17 where the boards were all white and the counties</p> <p>18 had significant black populations.</p> <p>19 And I helped them just on a volunteer</p> <p>20 basis in a couple of pretty straightforward</p> <p>21 lawsuits. Beyond that, then, I started working</p> <p>22 with the ACLU, I think around 1987 or '88 as a</p> <p>23 part-time employee. And once in 1991, and just</p> <p>24 kept my part-time job on anti hunger, and but by</p> <p>25 1991, it was just it was getting all consuming.</p>	<p style="text-align: right;">Page 36</p> <p>1 organizations. I was going to the ACLU of</p> <p>2 Virginia, and I was just paying a regular salary</p> <p>3 for them.</p> <p>4 Q. Through your employment with ACLU?</p> <p>5 A. Right. Right.</p> <p>6 Q. Was the volunteer work that you</p> <p>7 originally did in the late or mid to late '80s,</p> <p>8 was that your first introduction into</p> <p>9 redistricting issues, or did you have prior</p> <p>10 experience?</p> <p>11 A. No. I was it was first introduction. I</p> <p>12 mean, I was aware of redistricting in the concept,</p> <p>13 but I had never tried to draw a voting plan until</p> <p>14 I was asked to try to draw a voting plan for the</p> <p>15 town of Warrenton, Virginia, which is just up the</p> <p>16 road from here. And So I drew the plan, and I</p> <p>17 think eventually, something like the plan I drew,</p> <p>18 using paper maps was adopted, and lawsuit was</p> <p>19 settled. The lawyer in Washington, DC was named</p> <p>20 Vic Lasberg. He may still be practicing. I never</p> <p>21 really met him. And I don't know who the lawyers</p> <p>22 were on the other side.</p> <p>23 Q. Is there any -- are there any</p> <p>24 certifications or other certificates, licenses,</p> <p>25 things of that sort that you hold in connection</p>

<p style="text-align: right;">Page 37</p> <p>1 with your redistricting work?</p> <p>2 A. No. I that no. I -- I don't know how you</p> <p>3 get a degree in redistricting exactly.</p> <p>4 Q. Do you have any -- do you attend any</p> <p>5 conferences regularly or meetings of ACLU, for</p> <p>6 instance, or any other organizations where</p> <p>7 redistricting is part of the subject matter to be</p> <p>8 discussed?</p> <p>9 A. Almost ever never. The most recent</p> <p>10 occasion that comes to mind was my participation</p> <p>11 in the Redistricting and Census Conference</p> <p>12 sponsored by the Navajo Nation, and I think the</p> <p>13 Sioux Nation also was involved in putting</p> <p>14 together. It was a big group of indigenous people</p> <p>15 mainly, and also other persons interested in civil</p> <p>16 rights work and voting rights work. It was in</p> <p>17 Salt Lake City over about a three or four day</p> <p>18 period.</p> <p>19 Q. When was your employment with ACLU? When</p> <p>20 did it end?</p> <p>21 A. It would have ended in 1997. The the</p> <p>22 direct employment with the ACLU of Virginia, after</p> <p>23 1997, I was still doing a lot of work for the ACLU</p> <p>24 of the Southern Regional office in Atlanta, as I</p> <p>25 had been doing really in the '90s.</p>	<p style="text-align: right;">Page 39</p> <p>1 back in time, one would go for me to be saying I</p> <p>2 was doing national work. And so All through the</p> <p>3 '90s, I was doing national work. While I was</p> <p>4 employed with the ACLU of Virginia, I was working</p> <p>5 on the legislative lawsuit in Montana that lasted</p> <p>6 my work on it lasted 1991-2001.</p> <p>7 And a lot of that was up front in the</p> <p>8 early '90s when I was, like, going out there and</p> <p>9 visiting the various reservations with -- with</p> <p>10 attorneys. So, you know, I was involved in</p> <p>11 nationwide stuff, really starting around 1989.</p> <p>12 Q. I didn't ask the question correctly. So</p> <p>13 I guess at that point, would you be an independent</p> <p>14 contractor to ACLU or --</p> <p>15 A. Well, yes. I mean, they just paid me</p> <p>16 directly, and there was no middleman. I -- I</p> <p>17 wasn't -- I -- only reason I left the ACLU of</p> <p>18 Virginia is there's just no reason for me to</p> <p>19 really be working in that office, a very small</p> <p>20 office, anyway, because I was just not really</p> <p>21 doing anything related to Virginia.</p> <p>22 Q. Was the -- was the ACLU just generally,</p> <p>23 I'm not so worried about the Virginia version, but</p> <p>24 just ACLU in general, were they your primary --</p> <p>25 is -- is client the right way to say at that</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. Can you kind of explain the purpose of</p> <p>2 leaving I'll call it, you know, formal employment</p> <p>3 relationship to working with them, but in a</p> <p>4 different way. I mean, I'm not sure.</p> <p>5 A. Well, I mean, the thing is that by the</p> <p>6 mid '90s, as I think I already mentioned, there's</p> <p>7 just very little rediing work that I was involved</p> <p>8 in a Fanagan, Virginia. I mean, which we won</p> <p>9 almost all the lawsuits that we filed, and there</p> <p>10 was just nothing more really for me to do that</p> <p>11 would involve Virginia. So it just made sense for</p> <p>12 me to just go off on my own and continue to work</p> <p>13 mainly for the ACLU Southern Regional Office based</p> <p>14 in Atlanta, but that organization was doing work</p> <p>15 nationwide, particularly in the Rocky Mountain</p> <p>16 West, also known as Indian Country.</p> <p>17 Q. So I get it just tell me if I'm saying</p> <p>18 this right, just kind of summarize, you left</p> <p>19 formal employment to essentially start doing</p> <p>20 consulting for ACLU on the national scale?</p> <p>21 A. Well, I was always doing it on the</p> <p>22 national scale, starting probably around even in</p> <p>23 1989. I don't recall doing doing a -- I was in a</p> <p>24 trial in Augusta Georgia, I recall in 1989 with</p> <p>25 the Southern Regional Office. So that's how far</p>	<p style="text-align: right;">Page 40</p> <p>1 point?</p> <p>2 A. Well, I mean, I was -- I -- yeah. I</p> <p>3 would say they were primary, but not -- not the</p> <p>4 only organization that I would've been working for</p> <p>5 that was involved in voting rights work.</p> <p>6 Q. How many -- what's the percentage of your</p> <p>7 work that you do today that is derivative of or</p> <p>8 kind of directed, not directed by, but associated</p> <p>9 with the ACLU?</p> <p>10 A. Well, it's probably at least half even</p> <p>11 today --</p> <p>12 Q. What --</p> <p>13 A. - and it was probably more than half in</p> <p>14 the early '90s.</p> <p>15 Q. What makes that the -- the other half?</p> <p>16 A. Well, I -- I've been involved in a lot of</p> <p>17 cases with the Legal Defense Fund, a little bit</p> <p>18 with the Lawyers Committee. I've worked with</p> <p>19 private attorneys and in other -- in other</p> <p>20 situations.</p> <p>21 So there's no -- I mean, I -- I guess you</p> <p>22 could still say that I've worked more for the</p> <p>23 ACLU, particularly if you include the affiliates,</p> <p>24 because I've done some work for the affiliates in</p> <p>25 places like --</p>

<p style="text-align: right;">Page 41</p> <p>1 -- I've done a lot of work in Maryland 2 even very recently, and also in Washington State 3 very recently. In the 2010s, I worked for the 4 ACLU of New Mexico on a state level case. All 5 this is redistricting relationship. 6 Q. Sure. Did -- I guess -- so would it be 7 fair to say that any work that you do with a 8 private attorney that is not associated with one 9 of the organizations you've listed is far and few 10 between? 11 A. Well, it's -- it's less common, but I 12 have done work strictly working with a private 13 attorney. For example, I worked with Jim Blacher 14 (phonetic), who's an attorney in Alabama, on the 15 City of Decatur case. He was representing the 16 City of Decatur -- 17 Q. With the -- 18 A. -- he contacted me. And so I was working 19 directly with him, not with the -- the local 20 officials of the City of Decatur. 21 Q. In the past five years, would you say 22 that your work with a private firm, as you just 23 described, as opposed to the situation, in this 24 case, is less than 10 percent of your work? 25 A. Overall, it's probably less than 10</p>	<p style="text-align: right;">Page 43</p> <p>1 A. Yes. Over time, that -- that's true. I 2 mean, I -- I'm just seeing back to to the San Juan 3 County Utah case. Not involved in Navajo Nation. 4 I always worked for private attorneys, in 5 that instance, also, who were representing the 6 Navajo Nation. But -- but the payment went 7 through -- went through the private attorneys. 8 Q. Do you have any other sources of income 9 separate from your expert work? 10 A. No. No, I don't -- I don't do -- I mean, 11 I -- I sometimes take on projects that I very 12 rarely charge for, for example, for, like, 25 13 years now, I've been providing technical 14 assistance to a nationwide organization called the 15 Food Research and Action Center, pinpointing areas 16 in various counties around the country. 17 Well, the whole country, really, that 18 would qualify for special stipends from the 19 government to set up some feeding programs, and 20 summer meal programs, and rural and urban areas 21 around -- around the nation. 22 So I always do that every year. I -- I 23 used to charge them, but I -- I don't charge them 24 any more. 25 Q. I meant to ask, and I think I may have,</p>
<p style="text-align: right;">Page 42</p> <p>1 percent, yes. 2 Q. Less than 5 percent? 3 A. Currently, it would be less than 5 4 percent, but there have been times when it would 5 have been more than that. I mean, I did -- I did 6 a lot of work on a case called Alabama Legislative 7 Black Caucus. 8 That was with Jim Blacher, and Judge U. 9 W. Clemon, who was in private practice. So, you 10 know, in -- in that situation, that was taking up 11 a lot of time, but that was, you know, almost ten 12 years ago now. 13 Q. Were -- in that case, was the NAACP 14 involved as a party as well? 15 A. Not that I'm aware of. Unless there was 16 some relationship between the NAACP as plaintiffs, 17 like local NAACP, I'm not -- I'm not sure who the 18 plaintiffs were exactly in that lawsuit. There 19 probably were several. There may have been 20 chapter heads of NAACP, I don't know. 21 Q. Would it be fair to say then that your 22 compensation in connection with your expert role 23 or as a consultant, that the 90 percent of it 24 would be from the organizations that we've 25 identified?</p>	<p style="text-align: right;">Page 44</p> <p>1 but you're not a member of any -- of any other 2 organizations we've talked about? 3 A. I'm a -- I'm a card carrying member of 4 the ACLU. 5 Q. Have you ever served on the board or any, 6 I'll just call it a titled capacity? 7 A. Well, in my prior existence as a advocate 8 on hunger issues in Virginia, yes, I was involved 9 in some very loosely formed coalitions and I think 10 I was like the secretary in one instance, the 11 Virginia Hunger Foundation. 12 Q. Have you ever been received any awards, 13 honors, or achievement recognitions from any 14 organizations? 15 A. None come -- none come to mind, really, 16 but maybe I've overlooked something. 17 Q. Sometimes if you do a certain, like for 18 attorneys, for example, if you do a certain 19 percentage of pro bono work, or legal aid, or 20 something, sometimes they'll, you know, give a 21 award or -- or otherwise, just, you know, 22 recognize your service, and so anything of that 23 sort? 24 A. Well, I -- I mean, I think I have gotten. 25 Like, I -- I remember I got, like, a little trophy</p>

<p style="text-align: right;">Page 45</p> <p>1 from an organization, predominantly African 2 American in Rocky Mountain, North Carolina for 3 work I did on that case, which was really just 4 directly with a community group with no lawyers 5 involved. 6 That was in like 2002. And I -- I think 7 I did get some sort of a little a little monument 8 or something. And and I -- I got something like 9 that from the ACLU of Virginia that I still have. 10 And I've got -- 11 Q. When was that? 12 A. -- that would have been sometime in the 13 '90s. And I got something from the ACLU of 14 Maryland, I think, somewhere along the line. So 15 I've got, you know, things like that. But they 16 were not like the kinds of awards that one would 17 have published in a local newspaper even, 18 probably, is just between me and them. 19 Q. How many case -- active cases, are you 20 working on as an expert witness? 21 A. I think it must be somewhere in the range 22 of 15. Just about every case I'm involved in 23 started in you know, the fall of 2021, or 24 thereafter and -- and all of them are still active 25 at some level, I think, except for -- we -- we won</p>	<p style="text-align: right;">Page 47</p> <p>1 Of course, the ACLU National -- National 2 office also is that they would be the lead 3 organization in a way, but that would include ACLU 4 of Louisiana, ACLU of Mississippi, ACLU of 5 Georgia. So all the national ACLU lawsuits also 6 involve lawyers from -- from those three states. 7 And that -- that involves congressional 8 plans in Georgia and Louisiana and state 9 legislative cases in all three of those states. 10 And so, you know, I can't think of any case except 11 for the ones I've mentioned that are fully 12 resolved. All of them are still ongoing on some 13 level or another. 14 Q. Do you just, and I may be 15 misunderstanding, but with respect to your expert 16 work, do you always submit a report like you've 17 done in this case or in the example you just gave 18 where you just drew the map, how -- how were you 19 identified in that -- were you identified in that 20 case, did you do a report, can you -- are there 21 any -- 22 A. You mean -- you mean besides the 23 Sunnyside, Washington case? That that's -- that's 24 one where I did not testify at trial that's now 25 been resolved by agreement with -- with the plan I</p>
<p style="text-align: right;">Page 46</p> <p>1 the Baltimore County case. 2 I was working for ACLU of Maryland in 3 that, so we prevailed in that case. So that's one 4 town. And we also, ACLU of Maryland, prevailed in 5 a Section 2 lawsuit against the town of -- of 6 Federalburg, in Maryland. 7 There was a trial in that one and a trial 8 in the Maryland case, so I testified in both. And 9 we just recently in -- in just like three weeks 10 ago, judge just signed off on a new plan for the 11 Sunnyside school district at Washington State. 12 I didn't have to testify at trial, but I 13 drew the plan that's now going to be in place for 14 that school district in the Yakima Valley of -- of 15 Washington, and I was working directly with the 16 ACLU of Washington on that case. 17 Q. Are all the cases that you were currently 18 active working on -- actively working on as an 19 expert witness, cases associated with the ACLU? 20 A. No. No. There are some of them with 21 LDF, some of them are with Elias Law. Some of 22 them for the ACLU of Maryland. I'm probably 23 leaving something out, but those are the three 24 that immediately come to mind, ACLU of Maryland, 25 ACLU national office.</p>	<p style="text-align: right;">Page 48</p> <p>1 drew. I -- I did file a declaration in that case, 2 yes, back in -- back in April. 3 But I -- I didn't have to testify at 4 trial, because, I mean, the idea what -- that -- 5 that's under the Washington State Voting Rights 6 Act, which is set up to resolve things before 7 going to -- to some sort of a federal lawsuit, and 8 it was resolved amicably, I believe, between the 9 school district and the ACLU of Washington. 10 Q. Do you distinguish or kind of 11 categorize -- categorize the cases that you work 12 on as either voting rights cases or racial 13 gerrymandering cases? 14 A. Well, the bulk of the cases I work on are 15 cases involving Gingles 1. 16 Q. Sorry. 17 A. Cases involving Gingles 1. In other 18 words, whether or not you can create an additional 19 majority minority district. 20 Q. Did you say Gingles 1? 21 A. Gingles 1, yes, G-I-N-G-L-E-S. The 22 Gingles lawsuit that -- that was ruled on by the 23 Supreme Court back in the late 1980s that really 24 started the ball rolling with a lot of the local 25 and state litigation to ensure that minorities</p>

<p style="text-align: right;">Page 49</p> <p>1 have a fair say in -- in the election process.</p> <p>2 But to win a Gingles related case, you do</p> <p>3 have to show that the minority population can</p> <p>4 comprise a majority, in other words, 50 percent</p> <p>5 plus one of a district. So that's where I come</p> <p>6 into play.</p> <p>7 I always do the Gingles 1 component, and</p> <p>8 there are Gingles 2 and Gingles 3, which involve</p> <p>9 looking at racially polarized voting in -- in --</p> <p>10 Q. And what category does this case fall?</p> <p>11 A. This case would be a constitutional claim</p> <p>12 that would be associated with Rachel Jerry Manor</p> <p>13 (phonetic) .</p> <p>14 Q. Nothing as it relates to the VRA.</p> <p>15 A. I'm not sure about that. I have to leave</p> <p>16 that to the attorneys. I -- I'm not sure.</p> <p>17 Q. But as far as you know at this point, you</p> <p>18 haven't given any opinions that are based on the</p> <p>19 VRA, it would be on the law as it relates to</p> <p>20 the -- relates to racial gerrymandering?</p> <p>21 A. Well, I'm not opining on the laws at all.</p> <p>22 I'm just producing information, background</p> <p>23 information about demographics and -- and possible</p> <p>24 redistricting plans. So I don't -- I don't</p> <p>25 comment on the law.</p>	<p style="text-align: right;">Page 51</p> <p>1 since I didn't want to be a planner, ultimately.</p> <p>2 But I did take some classes there in regional</p> <p>3 economics and regional development.</p> <p>4 I recall doing some work in the library</p> <p>5 going back, looking at the 1970s census because</p> <p>6 the 1980 census hadn't even been released for</p> <p>7 class projects. We'd go back and get those big</p> <p>8 old thick volumes and look for stats on some town</p> <p>9 somewhere.</p> <p>10 Q. Is there a degree independent from</p> <p>11 science or within the science field or something</p> <p>12 to that degree, math, maybe with statistics, that</p> <p>13 there is a -- some kind of formal certificate or</p> <p>14 underlying education as it would relate to the</p> <p>15 study of demographics?</p> <p>16 MR. CUSICK: Objection as to form.</p> <p>17 THE DEPONENT: Well -- well, some</p> <p>18 universities might have a demographics department.</p> <p>19 So there -- there could be a few places where one</p> <p>20 could obtain a doctorate in demographics, I'm not</p> <p>21 sure.</p> <p>22 BY MS. BROYLES:</p> <p>23 Q. I -- I don't know. I --</p> <p>24 A. I don't either.</p> <p>25 Q. -- I think I was curious. Yeah.</p>
<p style="text-align: right;">Page 50</p> <p>1 Q. Do you -- have you undertaken any study</p> <p>2 or research as it relates to -- would you call</p> <p>3 yourself an expert in demographics or what do you</p> <p>4 feel as your expert expertise?</p> <p>5 A. Well, I'm always introduced to the court</p> <p>6 when I testify at trial as an expert in</p> <p>7 demographics and redistricting, or at least I have</p> <p>8 been basically since sometime in the early '90s,</p> <p>9 so that's what I call myself.</p> <p>10 Q. And what is your -- what's the basis of</p> <p>11 your expertise?</p> <p>12 A. Background and in -- in redistricting.</p> <p>13 It's now stretching out to more than 35 years.</p> <p>14 Q. Do you have any degrees or -- well, let</p> <p>15 me say this. So your underlying degree is in</p> <p>16 economics, does that inform any part of your</p> <p>17 knowledge or the basis for any opinions?</p> <p>18 A. Well, as -- as an educational process,</p> <p>19 yes. I mean, I had a class in regional economics.</p> <p>20 I did spend about a year studying urban and</p> <p>21 regional planing at Virginia Tech around 1981. I</p> <p>22 decided that I didn't want to be a planner, I'd be</p> <p>23 too bored just working in one place, right?</p> <p>24 But I did find academically, I just</p> <p>25 didn't want to pursue the masters in that program</p>	<p style="text-align: right;">Page 52</p> <p>1 A. There are demographers out there at</p> <p>2 universities, but I don't know their actual</p> <p>3 academic background in terms of what their degree</p> <p>4 is in because it could be in something else.</p> <p>5 Q. All right. Would you consider yourself a</p> <p>6 demographer?</p> <p>7 A. I would consider myself an expert in</p> <p>8 demographics and redistricting, but my experience</p> <p>9 of demography really is directly associated with</p> <p>10 redistricting although I have a great interest in</p> <p>11 demography in a way.</p> <p>12 I mean, I'm fascinated by Latin America,</p> <p>13 for example, so I keep track of stuff down there,</p> <p>14 that normal people probably wouldn't, but, you</p> <p>15 know, beyond that, it's -- it's on the job</p> <p>16 training.</p> <p>17 Q. What is a demography?</p> <p>18 A. It's a study of populations.</p> <p>19 Q. Did you get a minor or anything like that</p> <p>20 in political science?</p> <p>21 A. No. I have had a minor, believe it or</p> <p>22 not, it would have been in English, I suppose.</p> <p>23 It's kind of sad. I'm not fully a good writer.</p> <p>24 Q. I should say that if you need to take a</p> <p>25 break at any point, just let me know. I just kind</p>

<p style="text-align: right;">Page 53</p> <p>1 of keep going until you tell me or someone else 2 tells me, so if you do need something, just let me 3 know. You said that you have kept track of your 4 time that we've already talked about that. 5 A. Yes. 6 Q. When do you expect to produce or submit 7 an invoice in -- in this case? 8 A. I don't know. Maybe later this year. 9 Q. Do you have a -- have an accounting 10 process where you, you know, quarterly submit a 11 spend your time or something of that sort. 12 A. Typically, if there's no real 13 requirement. I'm -- I'm sort of slow in following 14 up with an invoice. 15 Q. Some of these I think we've already 16 talked about. So I just want to skip. Okay. You 17 can set that aside. Move on here. You go to 18 you good to keep going? 19 A. Yes. 20 MS. BROYLES: Does anyone else need to a 21 break? 22 MR. CUSICK: If you don't mind. If 23 you're going to move on to the report, I have the 24 copies. 25 MS. BROYLES: Yeah.</p>	<p style="text-align: right;">Page 55</p> <p>1 A. I think it's in the high 300's. I not 2 exactly sure, but I think that's probably about 3 what it is. 4 Q. So when you are -- how are you generally 5 contacted about the case that you're going to 6 review or be an expert in? 7 A. Usually by e-mail or a phone call. 8 Q. What? 9 A. Not like there are many lawyers working 10 on voting rights cases wandering around the city 11 of Bristol Virginia. 12 Q. What is your kind of walk me through what 13 you do when you accept a case? 14 A. Well, it can be sometimes it's not a case 15 per se. I mean, I I do sometimes just draw plans 16 at the request of a lawyer, or, you know, 17 sometimes while -- while I don't do defense work 18 or I have done very little for jurisdictions, I've 19 drawn lots of local jurisdiction plans for various 20 governments. You know, probably a dozen or more 21 of the counties and cities in Mississippi, and I 22 was a I drew additional plans for the city of 23 Moab, Utah and for City of Wenatchee, Washington, 24 just in the past five years. So I, you know, 25 but -- but those are always phone calls or e</p>
<p style="text-align: right;">Page 54</p> <p>1 MR. CUSICK: And maybe just take a quick 2 five. 3 MS. BROYLES: Yeah. That's great. I'm 4 actually going to run to the restroom really quick 5 anyway. If that's okay. Sure. Yeah. Okay. So 6 we can go off the record. 7 (WHEREUPON, a recess was taken.) 8 MS. BROYLES: Okay. We are about ready 9 and staple these to before we get going, so I 10 don't knock over and make a big mess. 11 BY MS. BROYLES: 12 Q. Okay. So let's now turn to your report. 13 When was the last time that you had an 14 opportunity, I guess, other than just now to 15 review it? 16 A. I glanced at it at approximately 5:00 17 a.m. this morning, just prior to driving in Front 18 Royal. 19 Q. How where do you live? Are we -- where 20 do you live? 21 A. I live in Bristol, Virginia, which is a 22 city that's on the state line. So the other side 23 of the states other side of the city is in 24 Tennessee, just straight down Highway 81. 25 Q. How far is that?</p>	<p style="text-align: right;">Page 56</p> <p>1 mails. 2 Q. So okay. So let's distinguish then for a 3 second. So sometimes you aren't per se, an 4 expert, you just draw a map for at the request of 5 whoever the client is going to be? 6 A. Yes. In fact, I have a meeting on Friday 7 for another jurisdiction in the State of Maryland. 8 Q. Who are you meeting with? 9 A. I won't disclose that because it's not 10 there's nothing really official and -- and I 11 probably shouldn't. 12 Q. Okay. So what is the best way just to 13 make sure the record is clear for me to refer to 14 that type of service versus what we're doing here, 15 where it is in litigation, and you're an expert 16 things of that? 17 A. Well, just as someone who I -- I just 18 draw redistrict plans upon request from local 19 governments or local organizations. So a lot of 20 the plans I've drawn have been unrelated to 21 litigation. 22 Q. Do you draw plans for fun? 23 A. No, I do not. I was appalled to learn 24 that there is an attorney in the attorney 25 general's office, Brian Tyson, who along with</p>

<p style="text-align: right;">Page 57</p> <p>1 another expert in redistricting, even though Brian 2 Tyson is a lawyer, just for fun, somehow or 3 another, uses twitch to play games with 4 redistrict. I don't do that. I can't imagine 5 anything any worse. 6 Q. Attorney General. 7 THE DEPONENT: Do you know Brian Tyson, 8 right? From -- from Fayette County? 9 Talking to Leah. 10 BY MS. BROYLES: 11 Q. Attorney General of what state? 12 A. Georgia. 13 Q. Okay. I don't know all the names. So 14 Yes. 15 A. I don't know the name of the attorney 16 general of Georgia, either. I should probably, 17 but I don't. But I've been -- Brian Tyson has 18 been on the other side of cases that I've been 19 involved in. And I was just shocked that he had 20 the time or even the desire to play games with 21 redistricting on twitch. 22 Q. So all the maps that you draw you are 23 compensated for, essentially? 24 A. No. I do some for free. 25 Q. Is the process that you undertake to draw</p>	<p style="text-align: right;">Page 59</p> <p>1 be done on a computer. I think you said 2 previously that you did hand drawing. And then I 3 know obviously now we're doing things on 4 computers. So how has that process developed over 5 time as far as you're aware? 6 A. Well, it all -- it became computer 7 oriented almost immediately for me, because when 8 the ACLU was working on the town of Warrenton, 9 Virginia, as I mentioned earlier. 10 Q. So late '90s? 11 A. Late -- late '80s. 12 Q. Okay. 13 A. I started working with -- I still was in 14 favor of paper maps, but I was using a Lotus 1-2-3 15 spreadsheet and -- and moving blocks around using 16 macros. So it was much faster than trying to work 17 off of a -- of an old fashioned tape calculator 18 or, worse yet, I've seen people who are -- in 19 those days I saw people who were just kind of 20 counting things up on a legal pad. So I never 21 really did any plans fully by paper ever at all. 22 I mean, I might have done a Warrenton that way, 23 just because it's so small that there were 24 probably like 50 census blocks in the town at that 25 time. I think it's gotten bigger now. But other</p>
<p style="text-align: right;">Page 58</p> <p>1 a map in the -- if you're just asked to draw a map 2 versus do a formal report, is the process any 3 different for you? 4 A. Probably not. I mean, it just typically 5 wouldn't require as much work in terms of, you 6 know, preparing to write a declaration and have a 7 formal deposition and that sort of thing. So 8 there's lots of work involved, usually. 9 Q. So -- 10 A. Although, going back into the '90s, when 11 I was working for the ACLU of Virginia, I did 12 many, many plans for local -- for -- for local 13 groups in Virginia that was independent of a 14 lawsuit, and some of those were quite extensive 15 and took a lot of time. And I -- I may have set a 16 record in terms of the actual number of redistrict 17 plans I've drawn for any one jurisdiction when I 18 was serving as a consultant to the Sussex County, 19 board of supervisors in Virginia in the year 2011 20 or 2012. I think I counted up that I had drawn 45 21 different plans for that five member board of 22 supervisors. I mean, lots of times it's just 23 minor change, but yeah. 24 Q. So from your early days in the map 25 business, when did it become something that could</p>	<p style="text-align: right;">Page 60</p> <p>1 than that, I always used a -- a Lotus 1-2-3 2 spreadsheet up until 1991, and then I started 3 using the Caliper Corporation software called GIS 4 plus, which was a precursor to Maptitude for 5 redistricting. And that allowed you to look at a 6 map on screen. 7 Q. Is that software something that you have 8 to obtain a license to use? 9 A. Well, yes. You did -- you did purchase 10 the software. And then you could use it with 11 Census Bureau, create the files to look at 12 precincts and census blocks. It was not as slick 13 as modern day Maptitude for redistricting, but it 14 did the job. I mean, it was not even specifically 15 set up to do redistricting per se, but it allowed 16 you to accomplish the same thing. 17 Q. So Caliper is now Maptitude? 18 A. Well, that's the organization that -- 19 that sells and designs Maptitude for redistricting 20 and a number of other GIS products, like just 21 plain vanilla Maptitude, which is really quite 22 useful, much cheaper. It's just that it's not 23 really set up to do redistricting. 24 Q. When you say draw a map, what is -- 25 you're not hand drawing anything, right?</p>

<p style="text-align: right;">Page 61</p> <p>1 You're -- everything is on a computer?</p> <p>2 A. Yes. I don't hand draw anything.</p> <p>3 Q. And so when you are retained in a case</p> <p>4 and you sit down to start your process, walk me</p> <p>5 through, and I'll probably stop you intermittently</p> <p>6 but where do you start?</p> <p>7 A. Well, I mean.</p> <p>8 Q. Where did you start in this case?</p> <p>9 A. Well, in this case, in a way, I started</p> <p>10 with the judicial case because that's the case</p> <p>11 where I already had put together a lot of</p> <p>12 information about the -- the counties and cities</p> <p>13 in the state. And so I had a head start. I</p> <p>14 didn't have to go back and reinvent the wheel in</p> <p>15 the sense of understanding where the different</p> <p>16 regions are in the -- in the state. And I had</p> <p>17 precinct files that -- actually, I had precinct</p> <p>18 files up to 2020 because I did file a supplemental</p> <p>19 declaration in the Arkansas Judicial case in the</p> <p>20 fall of 2021 that relied on 2020 census data.</p> <p>21 Q. But that was not a congressional</p> <p>22 redistricting case.</p> <p>23 A. It was not, but I was still using 2020</p> <p>24 census data. So I had that in advance of my work</p> <p>25 on this case.</p>	<p style="text-align: right;">Page 63</p> <p>1 one year license for Maptitude redistricting?</p> <p>2 There are other ways to accomplish the same task,</p> <p>3 though, like the widely used Dave's Redistricting</p> <p>4 Application on the Internet, which is for free.</p> <p>5 And you can do a lot of what you do in Maptitude</p> <p>6 for redistricting just using that particular</p> <p>7 website.</p> <p>8 Q. Do you pay a licensing fee yearly to use</p> <p>9 Maptitude?</p> <p>10 A. Yes. There is a \$1,500 fee.</p> <p>11 Q. And do you pay that?</p> <p>12 A. I do, yes.</p> <p>13 Q. Do you -- are you extended any license</p> <p>14 for any programs or software through an</p> <p>15 organization?</p> <p>16 A. No.</p> <p>17 Q. When did Dave's Redistricting come on</p> <p>18 scene?</p> <p>19 A. I think it was probably around 2008 or</p> <p>20 2009.</p> <p>21 Q. And did you start using it at that point?</p> <p>22 A. I experimented with it a little bit.</p> <p>23 I -- I mainly work in Maptitude, but I was aware</p> <p>24 of it at that time and recall suggesting that</p> <p>25 another one of those redistricting conferences</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. So when then, I guess, the -- where did</p> <p>2 you start then in the judicial case?</p> <p>3 A. Well, that goes back to the mid 2010s</p> <p>4 and --</p> <p>5 Q. What I'm trying to -- what -- I'm just</p> <p>6 trying to get an idea of what you do. I have no</p> <p>7 idea. So do you get into a program? I mean,</p> <p>8 just --</p> <p>9 A. Well, yeah. I start with a -- a map</p> <p>10 depicting counties, cities, voting districts in a</p> <p>11 particular state or jurisdiction, and then examine</p> <p>12 how one might draw a voting plan that can vary</p> <p>13 depending upon the tasks requested.</p> <p>14 Q. So how do you do that?</p> <p>15 A. Using Maptitude -- generally, Maptitude</p> <p>16 for redistricting. And I see a map on screen of</p> <p>17 all the VTDs and census blocks in the state. And</p> <p>18 because this is a congressional plan, I was</p> <p>19 working almost exclusively at the precinct level</p> <p>20 and accounting level.</p> <p>21 Q. So what -- how do you get into Maptitude?</p> <p>22 Like could I make an account on it? Is it just --</p> <p>23 A. Well, in the case of Maptitude, you would</p> <p>24 need to contact Caliper Corporation in</p> <p>25 Massachusetts and pay them I think \$1,500 for a</p>	<p style="text-align: right;">Page 64</p> <p>1 that I don't typically attend or -- or have</p> <p>2 occasion to go to, that -- that would be a good</p> <p>3 place for people to visit if they were interested</p> <p>4 in drawing their own plan. At that time, it was</p> <p>5 not nearly as sophisticated as it is now.</p> <p>6 Q. When you purchase the yearly license, are</p> <p>7 you, I -- I guess, do you -- is it like a Cloud</p> <p>8 based program where you log in and your work is</p> <p>9 maintained and you know, under your unique</p> <p>10 identifier. I mean, kind of how -- how do you</p> <p>11 interact with Maptitude?</p> <p>12 A. Well, it's -- it's not Cloud based.</p> <p>13 It's -- it's a desktop software. It can be -- if</p> <p>14 you're a large organization, you can have multiple</p> <p>15 users and a web server, like the legislature</p> <p>16 probably has a copy of Maptitude for</p> <p>17 redistricting, and they may have several different</p> <p>18 work stations where people, and I'm just guessing</p> <p>19 because I don't really know, but some legislatures</p> <p>20 would. And -- and you could use Maptitude for</p> <p>21 redistricting not just for one person at one desk,</p> <p>22 but with a copy on the state legislature's own</p> <p>23 dedicated computer, with an additional fee, I</p> <p>24 think, have options for other people to be working</p> <p>25 simultaneously on a map of Arkansas drawing</p>

<p style="text-align: right;">Page 65</p> <p>1 various plans.</p> <p>2 Q. So you don't know what Arkansas uses?</p> <p>3 A. I do not.</p> <p>4 Q. Does that matter to you at all?</p> <p>5 A. No.</p> <p>6 Q. When you -- I guess is -- is the license</p> <p>7 like kind of like Office 365 where you get a -- a</p> <p>8 app shortcut on your desktop, and that's how you</p> <p>9 access in and out of the program?</p> <p>10 A. Yes. There is a little icon that says</p> <p>11 Maptitude for redistricting, and you just click on</p> <p>12 it and it'll pop Maptitude for redistricting up.</p> <p>13 Q. Do you get to it through Google and log</p> <p>14 in that way, or do you have to have it on your --</p> <p>15 A. You have to have -- you have to have a</p> <p>16 desktop computer with a hard drive that has the</p> <p>17 program installed.</p> <p>18 Q. So when you log in to your -- is it an</p> <p>19 account that you have? Is that the right way to</p> <p>20 say it?</p> <p>21 A. Well, I guess it would be an account, but</p> <p>22 there's no -- once you have it on your desktop,</p> <p>23 there's no communication between you and Caliper</p> <p>24 Corporation. It's just stand alone. And, you</p> <p>25 know, if -- at the end of the year, there's a</p>	<p style="text-align: right;">Page 67</p> <p>1 than what is in the vanilla Maptitude -- regular</p> <p>2 Maptitude?</p> <p>3 A. Well, yeah, I mean, yes, you get to --</p> <p>4 you're able to run reports as you see in my</p> <p>5 exhibit, that -- those kinds of reports wouldn't</p> <p>6 be available in the regular Maptitude. Yeah,</p> <p>7 and -- and it's -- you know, you -- you could do a</p> <p>8 redistricting plan with plain Maptitude, but it</p> <p>9 would be a slower process. And so I doubt for how</p> <p>10 many people who use it. But -- but -- and that's</p> <p>11 why I suggest if you're doing redistricting,</p> <p>12 it's -- it's worth having plain vanilla Maptitude</p> <p>13 for all sorts of things. But if you just want to</p> <p>14 do a quick redistricting plan for the locality,</p> <p>15 just go to Dave's Redistricting and you can do</p> <p>16 that. In fact, I think I used that a lot in</p> <p>17 the -- in the employment I had with the San Juan</p> <p>18 County Utah Commission in -- in 2021, that I have</p> <p>19 admissions again that was for a county commission,</p> <p>20 not part of a lawsuit. That was after the end of</p> <p>21 the lawsuit. And I posted some information on</p> <p>22 Dave's Redistricting, and also posted some of the</p> <p>23 plans that various folks in Utah could upload. So</p> <p>24 that -- that was on there, too.</p> <p>25 Q. So I -- again, I'm just trying to</p>
<p style="text-align: right;">Page 66</p> <p>1 little warning that pops up built into the program</p> <p>2 that says, your license will expire in 20 days,</p> <p>3 and -- and sure enough, you don't -- if you don't</p> <p>4 re -- reinst, you know, if you don't re up it, you</p> <p>5 end up not being able to use the program. I mean,</p> <p>6 the soft -- the -- the files are still there, but</p> <p>7 the -- the software won't work. But you could</p> <p>8 take those files and then open them up in plain</p> <p>9 vanilla Maptitude, which is a real bargain.</p> <p>10 Actually, it costs like \$400 -- \$400 for a one</p> <p>11 year license, I mean, for -- for a multi year</p> <p>12 license that doesn't expire.</p> <p>13 Q. What -- so did you call that vanilla?</p> <p>14 A. Oh, I call it plain vanilla map because</p> <p>15 there's no redistricting component to speak of in</p> <p>16 Maptitude. And what I'm calling plain vanilla</p> <p>17 Maptitude, most people in -- in the world who use</p> <p>18 Maptitude are not using Maptitude for Maptitude</p> <p>19 for redistricting. They're using a program called</p> <p>20 Maptitude, which allows you to do a lot of stuff</p> <p>21 with census data and all kinds of demographic</p> <p>22 analysis, but it's only very limited in terms of</p> <p>23 what you could do with redistricting.</p> <p>24 Q. So by paying for the license, are you</p> <p>25 granted access to a different set of information</p>	<p style="text-align: right;">Page 68</p> <p>1 understand. So was there information in a map</p> <p>2 that you started from to begin the process in this</p> <p>3 case, or are you just saying you were familiar</p> <p>4 with information about Arkansas in general, such</p> <p>5 that you didn't have just a zero base foundation?</p> <p>6 I mean, I, you know, what kind of -- how does it</p> <p>7 work?</p> <p>8 A. Well, the -- all of the -- there's --</p> <p>9 there's 2020 census data in there. Automatically</p> <p>10 when you get the program, you get a free state.</p> <p>11 And so I would have all of Arkansas.</p> <p>12 Unfortunately, I don't get a free state because I</p> <p>13 have other -- I have one license and I do have to</p> <p>14 pay for the -- I mean, it's like a \$5,000 fee for</p> <p>15 one state to get the entire Maptitude product file</p> <p>16 for one state, which means you're getting all of</p> <p>17 the census data, everything from census block, to</p> <p>18 county, to regional boundaries for core based</p> <p>19 statistical areas, municipal boundaries. All of</p> <p>20 that can be brought up almost instantaneously when</p> <p>21 you first open up the map and put it on screen.</p> <p>22 Q. So you don't pay for that type of access?</p> <p>23 A. Well, I do. That's what I get.</p> <p>24 Q. Oh, I thought you said you paid 1,500 a</p> <p>25 year.</p>

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<p style="text-align: right;">Page 69</p> <p>1 A. Well, there's -- there's a license, a 2 general license of \$1,500 a year to use Maptitude 3 for redistricting. But to get a state dataset 4 that works with Maptitude, you have to make a one 5 time payment of \$5,000, except for the first 6 state, which is free, I believe, but any follow up 7 states would cost \$5,000. The -- and that's why 8 I'm touting Dave's for redistricting because all 9 that's free.</p> <p>10 Q. So with the -- so when did you pay 5,000 11 to get access to all the Arkansas specific 12 information?</p> <p>13 A. Probably sometime in 2023.</p> <p>14 Q. So you did not purchase the information 15 during the judicial litigation?</p> <p>16 A. I did not.</p> <p>17 Q. Was that information provided to you in 18 some other way?</p> <p>19 A. No. I was using an older version of 20 Maptitude, which I did not require a license.</p> <p>21 Q. Do you bill for reimbursement for the 22 purchase of the state information?</p> <p>23 A. No. Because I -- I work in various 24 states and often I'm doing different projects, and 25 so I don't bill for that.</p>	<p style="text-align: right;">Page 71</p> <p>1 Maptitude -- I mean, does it have a limitation on 2 how you can -- who can submit data?</p> <p>3 A. You can -- you can get data from just 4 about any place. If it can be put into a 5 geographic format and then it can be imported at a 6 Maptitude. If like -- like say if you had a voter 7 file for the whole State of Arkansas with 8 addresses and ZIP codes in a relative -- 9 relatively precise entry, and you could just 10 import it into Maptitude and Maptitude, will then 11 geo code all registered voters in the state or the 12 vast majority, tiny percentage might not geo code.</p> <p>13 Q. So walk me through what happens I mean, 14 up to purchasing the state, I'm just going to call 15 it the state package of data. Is there anything 16 that you do as far as your methods to -- up until 17 that point?</p> <p>18 A. Well, not -- not really. I mean, I 19 just -- I have -- I have the map, and I have 20 information about the state and about a 21 potential -- a potential lawsuit or about a 22 community that I'm working with unrelated to a 23 lawsuit. And then I go through the process of 24 drawing an initial map.</p> <p>25 Q. What -- well, you said so you have the</p>
<p style="text-align: right;">Page 70</p> <p>1 Q. So what steps did you take in this case 2 up until when you made the \$5,000 purchase to get 3 access to the full census data?</p> <p>4 A. Well, sometime around when I signed the 5 retainer agreement, that meant that because it's 6 useful to have that particular module -- official 7 module that produces all these different reports.</p> <p>8 Q. So you purchase the Arkansas information. 9 And everything that you get in that data set is 10 from the Census Bureau?</p> <p>11 A. Well, it's -- it's from -- it's from the 12 PL 94171 file. It's -- it's Census Bureau data 13 that the caliber corporation then converts into 14 their format so that you can use it with their 15 program. And -- and the package also includes 16 other -- other geographic levels that may not 17 necessarily be related to the PL 94171 2020 census 18 like highways and roads and streets.</p> <p>19 Well, a lot of that is -- is in the 2020 20 census, but it's not part of the public law 94 21 dataset. And also, it may be enhanced somewhat by 22 another vendor to caliber to update from year to 23 year highways and roads going through time.</p> <p>24 Q. Do you know the sources -- I mean, are 25 there only certain sources that provide data to</p>	<p style="text-align: right;">Page 72</p> <p>1 map. When you say you have the map, what do you 2 mean?</p> <p>3 A. Well, I have all of the census data from 4 the 2020 census as part of the redistricting 5 package that I get from map -- from Caliper 6 Corporation, built into the redistricting 7 software. So I can just open up a Maptitude for 8 redistricting and go into the Arkansas folder and 9 immediately bring up a map of the old 10 congressional plan. And I can bring up different 11 layers of geography like census blocks, block 12 groups, county lines. So it's -- it's complete. 13 It has almost everything you would need, and it 14 would be consistent with whatever the state would 15 have had in the, I guess the fall of 2021 when 16 they were working with the net plan.</p> <p>17 Q. Do you know what the state had?</p> <p>18 A. Well, I know they were using 2020 census 19 data. I don't -- I don't know about all the 20 different things they had in their dataset. No, I 21 have not been informed of that.</p> <p>22 Q. Have you read any or I guess yeah, read 23 any articles, conducted any research on the 24 legislative process as it related to the 2021 map. 25 And I think your report goes back to 35 years, any</p>

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<p style="text-align: right;">Page 73</p> <p>1 kind of research you've done on those particular 2 legislative sessions?</p> <p>3 A. No. I did not research those sessions.</p> <p>4 Q. Did you watch any of the videos of any of 5 the congress -- excuse me, the legislative 6 meetings or votes?</p> <p>7 A. No, I did not. That's not uncommon for 8 me, that's a rarity when I would do that as I'm 9 drawing a plan.</p> <p>10 Q. What about newspaper articles?</p> <p>11 A. I don't think that I reviewed any 12 newspaper articles relating to the Arkansas 13 redistrict. Sometimes I do, but I don't -- I 14 don't think I did in this case.</p> <p>15 Q. So where your report references 16 statements about what went on in the legislature? 17 Where did you get that information from?</p> <p>18 A. Is there a part of my report that 19 references statements in the legislature? Beyond 20 just the general information from the PowerPoint, 21 because I did review that. But I don't -- I don't 22 recall reading anything directly from the 23 legislature, but maybe I -- but you'd have to 24 point me to it so that I refresh my memory.</p> <p>25 Q. We will get there when we go through the</p>	<p style="text-align: right;">Page 75</p> <p>1 So it's essentially the same -- same kind 2 of map that I would have gotten had I gotten it 3 directly from Caliper Corporation, but Caliper 4 Corporation doesn't compile all of possible maps 5 that one could get for the State of Arkansas.</p> <p>6 Q. Do you know why by that point, it 7 wouldn't have had that map uploaded or part of its 8 package?</p> <p>9 A. I -- I don't know. That they really 10 should, I think. They -- they do not, though. 11 They -- they released that dataset just with the 12 2021 -- just with the 2020 census, and there is 13 no -- there is no update to reflect the plan that 14 would have been enacted in 2022. It may have 15 something to do with the cost of, you know, find 16 somebody to do that on their end. I don't know. 17 I mean, all it's a very simple process. You 18 just -- also the maps are constantly changing. So 19 I mean, I'm not talking about Arkansas. You're 20 saying different states have different time 21 tables, and so it would be difficult for them to 22 keep going this current.</p> <p>23 Q. Sure. So is it correct to say that once 24 you purchased the Arkansas package and take the 25 map off of the Arkansas site and upload the shape</p>
<p style="text-align: right;">Page 74</p> <p>1 specifics, but --</p> <p>2 A. Yeah.</p> <p>3 Q. So is the first thing that you did -- 4 when you say that there's a map there, did you 5 pull up the 2021 enacted map and then, like, the 6 past maps that have been adopted in Arkansas, 7 those are already loaded into the program?</p> <p>8 A. Well, the 20 -- the 2011 plan is in 9 there. The 2021 plan is not. And I think I got 10 that from -- I know I did. I got it from the GIS 11 website that's sponsored by the State of Arkansas.</p> <p>12 Q. So explain to me what you do with that 13 map. Do you -- I'm not a -- I'm not a computer 14 person. So do you download that off of the an 15 Arkansas website and then upload coding 16 information into Maptitude for redistricting?</p> <p>17 A. Well, yes. You can take any -- any of 18 the files that are posted on the Internet by the 19 Arkansas Office of GIS. There's probably a better 20 name for it. They're -- they're released in a 21 shape file format, under which is another way to 22 package GUF information. It's another company. 23 It's S3 ESRI. And so I just download those shape 24 files and just import them back in the Maptitude. 25 It's real simple process.</p>	<p style="text-align: right;">Page 76</p> <p>1 file to Maptitude, that's the first step in your 2 process?</p> <p>3 A. It would be for working on the enacted 4 plan, yes. I got the congressional. I got the 5 enacted plan as I was beginning this project, 6 right.</p> <p>7 Q. Did you do anything else as far as your 8 process or methodology prior to that we haven't 9 talked about?</p> <p>10 A. Well, in terms of the initial plan, 11 probably not, because it's so easy just to work 12 with counties and DTDs, that there's really 13 nothing complex about drawing a plan that adheres 14 to your initial redistricting principles. Just 15 relying on the 2020 census data that's packaged 16 with -- with the match for redistricting software.</p> <p>17 Q. Do you do any coding or create your own 18 shape files?</p> <p>19 A. Well, it's easy -- it's easy to create 20 your own shape files. All you do is just export a 21 plan from Maptitudes format to a shape file. So 22 when I draw a plan, I can then export it to a 23 shape file and send it to someone else. So that's 24 easily done or you can also do it another way, 25 which is to export just the block number -- census</p>

<p style="text-align: right;">Page 77</p> <p>1 block number and the district that's assigned to</p> <p>2 rather than a shape files for sort format, and a</p> <p>3 lot of organizations or experts might prefer to</p> <p>4 get it in that fashion.</p> <p>5 Q. So once you upload the enacted map, what</p> <p>6 do you do?</p> <p>7 A. Well, then you proceed to examine it, and</p> <p>8 on examination and up on discussions with whoever</p> <p>9 I am contracted to do the plan, I begin to develop</p> <p>10 a plan and analyze different configurations.</p> <p>11 That's what I did in this case. I did alternate</p> <p>12 Plan 1, alternate Plan 2, alternate Plan 3.</p> <p>13 Q. All right. Right. But I'm talking on a</p> <p>14 more minute basis, and I don't know how this</p> <p>15 program works. And so do you -- what -- what do</p> <p>16 you -- how do you know where to start, what do you</p> <p>17 analyze about a map to test factor -- I mean, kind</p> <p>18 of what are you doing exactly?</p> <p>19 A. Well, I mean, I -- I get the data, and</p> <p>20 then I -- I mean, I also have the 2010 census data</p> <p>21 for Arkansas, so I was able to look at how</p> <p>22 malapportions of the 2011 plan was, because that's</p> <p>23 part of Calpers dataset. They send you the</p> <p>24 boundaries for the benchmark plan.</p> <p>25 And then I looked for different ways the</p>	<p style="text-align: right;">Page 79</p> <p>1 redistricting map?</p> <p>2 A. Not for each one, but I can guess, I</p> <p>3 think that the Democratic Party would have been in</p> <p>4 charge in the 1980s, probably in the 1990s, by the</p> <p>5 2000s, I'm guessing, Republicans for sure, the</p> <p>6 Republicans after 2011, but I think probably also</p> <p>7 in 2000. But I don't know that to be a fact.</p> <p>8 Q. Yeah.</p> <p>9 A. You can tell me that.</p> <p>10 Q. They're saying they're all Democrat plans</p> <p>11 until 2021.</p> <p>12 A. Oh, okay. Interesting. So there was --</p> <p>13 there was actually a majority of Democratic</p> <p>14 members of the legislature in 2011?</p> <p>15 Q. Yes.</p> <p>16 A. Okay. Interesting.</p> <p>17 Q. So you don't look into any of that</p> <p>18 historical context and looking through your -- or</p> <p>19 forming your opinions or doing research?</p> <p>20 A. Not so much when it comes to the</p> <p>21 composition of the legislature. No. I mean, I</p> <p>22 look at the plans, but I don't delve into the</p> <p>23 partisan composition of the -- of the legislature</p> <p>24 itself. I mean, I was fairly certain that 1980 or</p> <p>25 1990 were Democratic and I probably I was thinking</p>
<p style="text-align: right;">Page 78</p> <p>1 map could be changed. And in this case, the focus</p> <p>2 is on Pulaski County and this odd freeway split in</p> <p>3 the south and central part of the county. And so</p> <p>4 I was -- I was examining that seeing if we could</p> <p>5 draw a plan that adhere to traditional redistrict</p> <p>6 principles without splitting Pulaski County. And</p> <p>7 I think I demonstrated that conclusively.</p> <p>8 Q. But how do you do that?</p> <p>9 A. Well, by moving blocks in count -- moving</p> <p>10 counties and an occasional VTD from one place --</p> <p>11 from one district to another. I mean, some things</p> <p>12 had to change because the -- the states 2011 plan</p> <p>13 was malapportioned, but I think it was like a</p> <p>14 deviation of 26 percent or something like that.</p> <p>15 Last count CD 2 was overpopulated and CDs 1 and 4</p> <p>16 were underpopulated. So -- and CD three also</p> <p>17 grew.</p> <p>18 So -- so you had to and I think it had</p> <p>19 the largest difference from an idea of district</p> <p>20 size. So you -- you had to -- to draw the 2021</p> <p>21 enacted plan, counties had to be shifted around.</p> <p>22 There's no way around it or precincts, one of the</p> <p>23 other.</p> <p>24 Q. Do you know which party was the majority</p> <p>25 in Arkansas for each of the prior congressional</p>	<p style="text-align: right;">Page 80</p> <p>1 that by 2011, maybe it had shifted to Republican</p> <p>2 but might take that back.</p> <p>3 Q. So --</p> <p>4 A. Assuming you're correct, and I assume you</p> <p>5 are.</p> <p>6 Q. I am. Do you know or well, I guess so</p> <p>7 what -- again, what do you do to play with the</p> <p>8 data, move things around? I realize you've said</p> <p>9 what it is, but what are you actually doing? Are</p> <p>10 you putting in, like, for instance -- well, I</p> <p>11 don't know. What are you putting in? What are</p> <p>12 you telling the program to do?</p> <p>13 A. Well, first of all, I just color code the</p> <p>14 districts so that one might be blue, one yellow,</p> <p>15 one orange, one green, I think something like that</p> <p>16 combination I'm using. And then I proceed to move</p> <p>17 counties and precincts around to -- to arrive at a</p> <p>18 plan that would meet one person, one vote</p> <p>19 requirements. And adhere to other traditional</p> <p>20 redistricting principles. That was the first step</p> <p>21 I took in this case.</p> <p>22 Q. Okay. So what -- we'll kind of go</p> <p>23 through it more specifically, and maybe we'll be</p> <p>24 able to get into the -- the detail.</p> <p>25 Starting with -- so if you turn to Page</p>

<p style="text-align: right;">Page 81</p> <p>1 4, Paragraph 8 says, in preparing this report, I 2 relied on the materials cited throughout Exhibit 3 B, described sources and methodology. 4 I have employed in preparing the report, 5 as well as additional materials, I considered in 6 forming my opinions other than those cited. What 7 additional materials were you referencing when you 8 made the statement in the report? 9 A. Well, I had knowledge of the demographics 10 of the State as a result of my work in the 11 judicial case. As I've mentioned, I have seen 12 some historical information about Arkansas and the 13 south in general, but I -- I certainly had that in 14 the back of my mind. 15 Q. And what -- where was that from? 16 A. Just being an educated citizen of 17 America, right? I mean, we all know that things 18 happened in the south, bad things for a long time, 19 the Jim Crow Era, in short. And that was a big 20 problem in Arkansas. It was a big problem in 21 Virginia. 22 Q. So are you starting -- when you start 23 your process, you're starting from a place based 24 upon a historical background of like you're 25 talking about Jim Crow, things of that sort. I</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. Where does that the information that you 2 have as far as the one of them to address splits 3 or whatever you just said. Where does that come 4 from? 5 A. I'm -- I'm not sure. But I think that 6 was -- that it was -- I think I've somewhere along 7 the line learned that it -- that that was a goal, 8 and objective was to reduce the number of county 9 splits. 10 Q. But you don't know where that came from? 11 A. I can't cite an exact source at the 12 moment. 13 Q. But you didn't review any testimony at 14 either the legislature or any testimony in this 15 case, correct? 16 A. I've not reviewed testimony, no. 17 Q. So what I said is true, you haven't 18 reviewed anything in either of those categories? 19 A. No testimony. Somewhere along the line, 20 I understood that they -- there was a desire to 21 reduce the number of split counties. 22 Q. From who? 23 A. I don't know. I don't have an 24 encyclopedic photographic memory. So I can't tell 25 you exactly who that is. I think that it's also</p>
<p style="text-align: right;">Page 82</p> <p>1 mean, I guess the just the fact that it's a 2 Southern state? 3 A. No. I mean, I'm just saying that 4 stuff -- that kind of information was in my head. 5 But my task here was just simply to show that 6 there was absolutely no reason, according to 7 traditional redistricting principles that was 8 necessary to split Pulaski County into three 9 pieces when there were other solutions, which 10 would accomplish the same thing and have fewer 11 state wide county splits. 12 I mean, I think the issue, maybe with the 13 legislature was that they wanted to eliminate the 14 splitting of five counties, because in the 2011 15 plan, there were five county splits. And I -- as 16 I understand it, part of the reason that they 17 wanted to make the changes was to eliminate those 18 five counties that were split. And they did. 19 But -- but in so doing, they ended up in 20 the same number of -- of County splits. They 21 split three times and -- and they had three pieces 22 in -- in Pulaski County and one piece in Sebastian 23 County, and then there's another county split 24 somewhere that sched. Maybe -- maybe they cut it 25 I have to split my tape.</p>	<p style="text-align: right;">Page 84</p> <p>1 acknowledged in Mr. Bryant's report, but I knew 2 that before, Mr. Bryant. No not necessarily 3 before he knew it, but I knew it before I saw it 4 before. 5 Q. Yeah. And part of being an expert, is I 6 get to ask you about all the basis for your 7 opinions and if you don't know, then you don't 8 know. 9 A. Okay. I don't know. I mean, I know I -- 10 I know -- I knew it, and I just don't know the 11 original source of that information. 12 Q. What other or are there any other 13 additional materials that you we're referencing in 14 that past sentence that are not listed in your 15 report that we haven't talked about? 16 A. Of the top of my head, I can't think of 17 anything else. 18 Q. Okay. 19 A. At this point. 20 Q. So with respect to paragraph 1, it talks 21 about the purpose of your report, and it appears 22 that you were tasked specifically with developing 23 a plan where one, is it one person one vote, was 24 the -- you know, the primary factor or the only 25 factor. I mean.</p>

<p style="text-align: right;">Page 85</p> <p>1 A. No, I'm constantly balancing traditional 2 redistricting principle. Other words, I'm 3 striving for one person one vote, trying to 4 minimize county splits, trying to minimize VTD 5 splits, trying to minimize municipal splits, 6 trying to draw districts that are compact and 7 contiguous. So I'm always dealing with that. 8 And sometimes one or more of the 9 traditional redistricting principles is -- is not 10 quite as strong as the other in -- in one sense or 11 another. But unquestionably, the plans I've 12 developed, well, specific to this case, that 13 involves really just Pulaski County in many ways, 14 high metraditional reads and principles. 15 Looking at the state as a whole. There 16 is a very big problem with the cracking of the 17 Black population, not just in Pulaski County, but 18 throughout the Delta and Lower Arkansas? 19 And that's not being addressed in this 20 case -- in this case, but I just want to make that 21 clear up front. That's a big problem with this 22 map, and it goes back 40 years. 23 And each time, the state continues to cut 24 the Black population, as you see in my report, 25 from, I think, originally around 24, 25 percent,</p>	<p style="text-align: right;">Page 87</p> <p>1 input into the computer for it to derive a result 2 or just I mean, I'm just trying to figure out what 3 happened? 4 A. Well, basically, I'm just using a mouse. 5 And so at the outset, because I can see clearly 6 that it's highly unlikely that you really needed 7 to split Pulaski County three ways. 8 I made Pulaski County whole, and then I 9 began to work on -- a an alternative plan, that 10 achieved the same level of traditional rediscing 11 principles as embodied in the enacted plan, with 12 always in the background, the reality that even if 13 Pulaski County is fixed. 14 There is still an issue as it relates to 15 the cracking of the Black population in Jefferson 16 County and the Mississippi Delta. I mean, the 17 Mississippi River Counties or the Arkansas Delta 18 Counties and Lower Arkansas for that matter. 19 Q. So you're just driving lines around and 20 saying where it falls or? 21 A. No, no. I'm just looking -- I just take a 22 I -- I take a mouse, and I -- I start a plan. In 23 this case, I probably started with Pulaski County. 24 I had the enacted plan and the benchmark 25 plan, and I was just looking for different ways to</p>
<p style="text-align: right;">Page 86</p> <p>1 all the way down to 20 percent now. And who knows 2 what's going to happen in 20 -- 2030? 3 Q. Have you observed in your study that 4 Arkansas has a well, I think you did mention too, 5 but is a very rural state and the rural populate 6 excuse me, rural BTDS in Arkansas, the populations 7 are shrinking. 8 A. Yes, I have observed that. I have a 9 table in there showing how the population loss has 10 occurred in the Delta. And some of that is just 11 death of older generations. Some of it is out 12 migration. 13 Out migration to Pulaski County or to 14 Memphis, to be fair. That's a center of some 15 population growth as well. That's out of state 16 actually. 17 Q. So as far as this first point under 9A, 18 you are specifically tasked with developing a plan 19 with a specific focus on the composition of one of 20 the -- on Congressional District two? 21 A. Right. 22 Q. Okay. So in how do you go about moving 23 or changing the data that's there? Do you -- are 24 there like the traditional principles that you've 25 referenced? Are there things that you have to</p>	<p style="text-align: right;">Page 88</p> <p>1 configure a plan that would adhere to the 2 additional redistrict principles, would not split 3 more than one or two counties at most, one of 4 which would not be Pulaski County, and one person 5 one vote, be compact and contiguous. 6 And I would just be balancing, constantly 7 looking around. I mean, it doesn't -- this is not 8 a complex problem. That's what's so odd about 9 this case. There's nothing complex about it. 10 It's very easy just working at the county 11 level to develop a plan that adheres to additional 12 redistrict principles, that corrects the one 13 person one vote issue that is compact and 14 contiguous, that doesn't split a lot of cities and 15 towns, and simultaneously keeps Pulaski County 16 whole. 17 Q. So what do you --- you but again, I'm -- 18 I'm sorry. I'm not understanding. So do you just 19 pull lines on the map or do you like, say you -- 20 you set parameters to it, do you input, you know, 21 some data here, or you say, I want to move 10,000 22 people out of this. I mean, how does it calculate 23 the result? 24 A. Oh, what, they -- as you're clicking, you 25 can also look at a data view. So you can get --</p>

<p style="text-align: right;">Page 89</p> <p>1 in the data view you can get a running tab of the</p> <p>2 population that you have and the configuration</p> <p>3 you've clicked on.</p> <p>4 So -- so you're constantly able to see</p> <p>5 how population changes if you so desire.</p> <p>6 Oftentimes, I don't even bother to look at it</p> <p>7 initially, because I know I need more people --</p> <p>8 many more people. I mean -- I mean, between --</p> <p>9 between Pulaski County and Jefferson County. I</p> <p>10 think you've got close to 500,000 people.</p> <p>11 But Jefferson County was not linked with</p> <p>12 Pulaski County in the enacted plan or in the</p> <p>13 benchmark plan. And that is a sign to my -- to my</p> <p>14 mind that there is some cracking of the Black</p> <p>15 population alone between those two counties, but</p> <p>16 in any event, you're -- you're just clicking on</p> <p>17 counties or VTDs, which are precincts.</p> <p>18 And you're just doing it with a mouse.</p> <p>19 There's no dragging the lines, and you're working</p> <p>20 with census data. I mean, it and -- it's just</p> <p>21 and -- and you can see as you click, you can click</p> <p>22 on a precinct and immediately see, okay that added</p> <p>23 800 people to CD two or whatever.</p> <p>24 So you're -- you're able to look at it</p> <p>25 constantly, if you wish, I typically don't do</p>	<p style="text-align: right;">Page 91</p> <p>1 house members.</p> <p>2 Q. And where did you see those?</p> <p>3 A. I think the attorneys for the plaintiffs</p> <p>4 provided with this maps.</p> <p>5 Q. Did you look at any of the plans that</p> <p>6 were proposed by any of the Black legislators?</p> <p>7 A. I -- I don't know I did not know the race</p> <p>8 of the individuals who were involved in the plans</p> <p>9 that I saw. It -- it was like four senate bills</p> <p>10 and maybe four house bills, but I -- I don't know</p> <p>11 the race or the party in the people who submitted</p> <p>12 those plans.</p> <p>13 And I didn't take any kind of attempt. I</p> <p>14 did make -- did not make an attempt to reconfigure</p> <p>15 those districts or anything. I didn't use them</p> <p>16 for alternative plan one, alternative plan two or</p> <p>17 alternative plan three at all.</p> <p>18 Q. So would it be fair to say then that</p> <p>19 well, we can agree that in order to adopt a plan,</p> <p>20 someone has to propose it at the legislative</p> <p>21 level?</p> <p>22 A. Right.</p> <p>23 MR. CUSICK: Objection. As to form.</p> <p>24 THE DEPONENT: Well, yeah. Well, I -- I</p> <p>25 think someone would have to propose it, but I'm</p>
<p style="text-align: right;">Page 90</p> <p>1 that, but one could. You could always have a data</p> <p>2 view up there showing how each move you make</p> <p>3 changes the population from one district to</p> <p>4 another.</p> <p>5 Q. Your map you made, correct?</p> <p>6 A. Pardon?</p> <p>7 Q. The maps that -- that you've got in your</p> <p>8 plan, they did not derive in any way from maps</p> <p>9 that were proposed at the legislative level. In</p> <p>10 other words, you did not take like plan that was,</p> <p>11 you know, reduced to a bill and proposed at the</p> <p>12 legislature, that was not adopted and conduct any</p> <p>13 analysis of the other options that were presented.</p> <p>14 A. Okay. That -- that's true. I -- I</p> <p>15 started the tabular rasa. I had the enacted plan,</p> <p>16 I had the benchmark plan. I was aware of what</p> <p>17 plans looked like in 1980, 1990, 2000, 89 I</p> <p>18 probably wasn't aware of, but I -- I had seen the</p> <p>19 2000 map.</p> <p>20 And I that -- that's how I started the</p> <p>21 process. Now, further along, as I was reviewing</p> <p>22 my declaration, I also did see some of the plans</p> <p>23 that were submitted to the Senate in November of</p> <p>24 2021, I guess. And I also saw, although I didn't</p> <p>25 analyze some of the maps that were submitted by</p>	<p style="text-align: right;">Page 92</p> <p>1 not a legislative analyst, so maybe I don't really</p> <p>2 know the process in Arkansas.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. Are you aware of any plans in any</p> <p>5 jurisdiction across the country that don't require</p> <p>6 a vote of a legislative body?</p> <p>7 A. Well, there are court ordered plans, but</p> <p>8 other than that, usually, there needs to be at</p> <p>9 least one legislator sponsor who would then submit</p> <p>10 the bill, and then there would be a vote by the</p> <p>11 legislature presumably on -- on that particular</p> <p>12 plan.</p> <p>13 Q. So you are not offering and do not intend</p> <p>14 to offer any opinions that the legislature should</p> <p>15 have adopted a different plan than what they did</p> <p>16 among the options that were proposed?</p> <p>17 MR. CUSICK: Objection. As to form.</p> <p>18 THE DEPONENT: Well, I -- I'm not</p> <p>19 offering that opinion, and I'm not even sure. I</p> <p>20 think there may have been some plans and kept.</p> <p>21 Well, the four Senate plans, I'm -- I'm reminded</p> <p>22 that I did look at all split Pulaski County, three</p> <p>23 ways. I didn't know about the house plans. I</p> <p>24 can't recall. So I'm not, what was your question</p> <p>25 again. I'm just -- I lost -- I lost your question</p>

<p style="text-align: right;">Page 93</p> <p>1 somewhere.</p> <p>2 BY MS. BROYLES:</p> <p>3 Q. Just that you're not offering that</p> <p>4 opinion and do not plan to undertake any such</p> <p>5 analysis to offer that opinion.</p> <p>6 A. But what is the opinion?</p> <p>7 Q. That -- that the among the proposed plans</p> <p>8 that were before the legislature, another plan</p> <p>9 would have been better than the one that was</p> <p>10 ultimately adopted?</p> <p>11 MR. CUSICK: Objection. Asked to form.</p> <p>12 MS. BROYLES: What the basis of the</p> <p>13 objection.</p> <p>14 MR. CUSICK: Outside the scope.</p> <p>15 MS. BROYLES: I'm sorry.</p> <p>16 MR. CUSICK: Outside the scope?</p> <p>17 MS. BROYLES: What's outside the scope</p> <p>18 about it?</p> <p>19 MR. CUSICK: Asking him a question to</p> <p>20 evaluate plans that he isn't sure he reviewed.</p> <p>21 MS. BROYLES: Well, I'm asking him if he</p> <p>22 intends to and clarifying whether he did review it</p> <p>23 and establishing limitations to his opinion.</p> <p>24 BY MS. BROYLES:</p> <p>25 Q. So again, you are not going to be opining</p>	<p style="text-align: right;">Page 95</p> <p>1 suddenly in another congressional district. That</p> <p>2 is just completely unnecessary.</p> <p>3 Q. Well, boundaries are -- exist somewhere,</p> <p>4 right? I mean, at some point, you may live on the</p> <p>5 same -- you and I could live on the same street.</p> <p>6 And like in Arkansas, you can be in Texarkana</p> <p>7 Arkansas and Texarkana, Texas.</p> <p>8 A. That's true. You can be in Bristol,</p> <p>9 Virginia, and be in Bristol Tennessee.</p> <p>10 Q. Right. So at some point, a line is drawn</p> <p>11 somewhere such that there will be a division. It</p> <p>12 can not be divided, fair to say?</p> <p>13 A. Well, you have to divide the state into</p> <p>14 four pieces. That's right, for a congressional</p> <p>15 plan, right. So -- but it's better to the extent</p> <p>16 you can to follow county and municipal boundaries</p> <p>17 so that you're not splitting a lot of counties to</p> <p>18 draw that plan.</p> <p>19 So the fact that the legislature wanted</p> <p>20 to eliminate five county splits -- five split</p> <p>21 counties is admirable because you can stay within</p> <p>22 one person to vote, one vote and only split one</p> <p>23 county. You know what plan that is?</p> <p>24 Q. Well, let me back up.</p> <p>25 A. That's plan -- that plan is a</p>
<p style="text-align: right;">Page 94</p> <p>1 that they should have adopted a different plan</p> <p>2 that was proposed to the legislature.</p> <p>3 A. I am not going to opine on that because I</p> <p>4 don't -- I have not seen the full slate of maps,</p> <p>5 presumably that were discussed in the legislature.</p> <p>6 It went beyond just the submitted bills, but other</p> <p>7 plans that might have been drawn without actually</p> <p>8 becoming a bill itself.</p> <p>9 Q. So in -- in evaluating the plan, the</p> <p>10 enacted plan, 2021, your entire focus was around</p> <p>11 Pulaski County and not adjusting things across the</p> <p>12 state to reach whatever necessary traditional</p> <p>13 redistricting principles exist. I mean, you're</p> <p>14 just more or less play with those lines there in</p> <p>15 the center of the state?</p> <p>16 A. Well, I -- I mean, I was -- I was focused</p> <p>17 on Pulaski County, but it affected the whole</p> <p>18 state. So I was paying attention to the rest of</p> <p>19 the state as well, for sure. But I'm just saying</p> <p>20 that the focal point of this lawsuit is the</p> <p>21 splitting of South Central Pulaski County, Little</p> <p>22 Rock parts of North Little Rock also, into three</p> <p>23 separate congressional districts.</p> <p>24 So that neighborhoods are in, you know,</p> <p>25 your friend down the street is in another -- is</p>	<p style="text-align: right;">Page 96</p> <p>1 hypothetical plan that would not crack black</p> <p>2 population outside of Pulaski County. It would</p> <p>3 bring Pulaski County and Jefferson County into a</p> <p>4 congressional district that would encompass a</p> <p>5 number of the more rural counties along the</p> <p>6 Mississippi River.</p> <p>7 It would be more compact. It would just</p> <p>8 split one county. It would abide by one person,</p> <p>9 one vote, it's compact, contiguous. I mean, it</p> <p>10 meets all the metrics -- all the metrics.</p> <p>11 Q. Which one is that?</p> <p>12 A. That's the hypothetical plan that we are</p> <p>13 not proposing in this lawsuit, though, because</p> <p>14 it's focused on Pulaski County.</p> <p>15 Q. So it's not any of the things in your</p> <p>16 plan.</p> <p>17 A. Oh, yes, it's in my plan. I think it's</p> <p>18 very important to get that out because that was</p> <p>19 really show.</p> <p>20 Q. Which one is it?</p> <p>21 A. Well, it's -- it's --</p> <p>22 Q. You got three in there?</p> <p>23 A. I have a hypothetical plan based on the</p> <p>24 2020 census that not only fixes the issue with</p> <p>25 Pulaski County, but also eliminates the cracking</p>

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<p style="text-align: right;">Page 97</p> <p>1 of the Black population elsewhere in the state, 2 creating a district that would include and I'll 3 show it to you here yes. 4 Q. It's either alternative 1, 2 or 3. 5 A. No, it's not -- it's not because it's not 6 really on point in this lawsuit. This lawsuit is 7 about the unnecessary division and cracking of the 8 Black population, predominantly Black, some Latino 9 in South and Central Pulaski County. 10 And the point of the whole case is that 11 none of that is necessary. Even if you take into 12 account partisan metrics, which are not a 13 traditional redistricting principle, you can still 14 accomplish that. 15 Q. So why didn't you offer this? 16 A. Because this just shows what could be 17 done to eliminate the cracking of the Black 18 population statewide? It's a more complicated 19 case, I assume. And so I'm not going to speak on 20 that any further. 21 Q. But the only factor that you're looking 22 at then in the alternate plans that you have 23 proposed is to eliminate cracking? 24 MR. CUSICK: Objection as to form. 25 THE DEPONENT: I am trying to eliminate</p>	<p style="text-align: right;">Page 99</p> <p>1 that, and the point is it's not necessary to split 2 it three ways because you end up having five 3 county splits, which is essentially the same 4 number of county splits that you have with the 5 benchmark plan in a way. 6 Q. You have no knowledge in this case of 7 any -- any goals of the legislature whatsoever in 8 adopting the 2021 plan? 9 A. Well, my understanding is it had 10 something to do with partisanship, or at least 11 that's what I've been told or understand that that 12 was also a factor, but that's not a traditional 13 redistricting principle. 14 Q. Well, so what I said is true, you have no 15 knowledge of any intent of any legislature with 16 respect to their vote for a particular plan? 17 A. I don't know anything about how the vote 18 went for the plans. 19 Q. Do you -- have you seen anything that 20 says the Republican Party's goal is to do x with 21 respect to any particular plan? 22 A. No. 23 Q. Have you seen the opposite, that the 24 Democrats in Arkansas had a goal of proposing x as 25 it relates to to.</p>
<p style="text-align: right;">Page 98</p> <p>1 the cracking of the Black population in Pulaski 2 County, right. 3 BY MS. BROYLES: 4 Q. But how then do you prioritize other 5 traditional principles as far as, let's just we're 6 going to just scratch that. We'll get to the 7 specifics here. 8 A. Okay. 9 Q. I think -- I think I'm getting a little 10 bit ahead of myself. So with respect to the three 11 plans, your goal was to first and foremost resolve 12 the issue with cracking of the Black population of 13 Pulaski County? 14 A. While adhering to the traditional 15 redistricting principals, exactly. 16 Q. Okay. So I'm going to ask you about 17 that, but that's where you're starting from? 18 MR. CUSICK: Objection as to form. 19 MS. BROYLES: What is the basis of that? 20 MR. CUSICK: Vagueness it's one. Comic 21 to the report you're referring to. 22 BY MS. BROYLES: 23 Q. Vague -- are you -- are you confused? 24 A. Well, I mean, the focal point of the 25 lawsuit is Pulaski County. I mean, I agree on</p>	<p style="text-align: right;">Page 100</p> <p>1 A. No 2 Q. And you understand that when -- when the 3 legislature is evaluating, well, I think you -- 4 you stay in here, because of the significant 5 change in population of the state, that being 6 class goes up, but others significantly went 7 down. There was no option but to make changes. I 8 mean, they couldn't stick with the 2011 plan? 9 A. That's -- that's true. That's true. 10 They had to make changes to adhere to one person 11 one but requirements. 12 Q. Okay. And so you have no knowledge of 13 what factors went into any plan that was proposed? 14 A. I have no specific knowledge about the 15 work that went into any single plan, in terms of 16 the background discussions. 17 Q. Nor do you have any data or information 18 whatsoever about any quote goals of any particular 19 party, legislator, or the legislature in enacting 20 a plan, correct? 21 A. Well, I've seen the PowerPoint, which was 22 just very general about, you know, following one 23 person when the requirements and probably compact 24 contiguous districts. So I knew that much. But I 25 don't know the back room discussions that we have</p>

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<p style="text-align: right;">Page 101</p> <p>1 been involved in.</p> <p>2 Q. Well, I guess on that point, in reviewing</p> <p>3 the PowerPoint, did you see anything in there that</p> <p>4 was inappropriate?</p> <p>5 A. In the power --</p> <p>6 MR. CUSICK: Objection as to form.</p> <p>7 THE DEPONENT: Yeah. And PowerPoint, my</p> <p>8 recollection is I did not see anything there. But</p> <p>9 I, you know, may -- I probably should remind</p> <p>10 myself if anyone has a copy of the PowerPoint</p> <p>11 slide, I should look at it, probably. I don't</p> <p>12 want to sign a file exactly.</p> <p>13 MS. BROYLES: You also have a copy of</p> <p>14 whatever he looked at. I don't know what he</p> <p>15 looked at.</p> <p>16 MR. CUSICK: I don't want to testify on</p> <p>17 this.</p> <p>18 MS. BROYLES: Well, you-all -- I mean, I</p> <p>19 assume you provided it to him?</p> <p>20 MR. CUSICK: It was -- it was -- it was</p> <p>21 materials produced in discovery.</p> <p>22 BY MS. BROYLES:</p> <p>23 Q. Okay. And so I obviously, I mean, I can</p> <p>24 pull it up and look for myself, but if you know</p> <p>25 what you sent to him that he reviewed as it</p>	<p style="text-align: right;">Page 103</p> <p>1 turning there here shortly. Yeah. Ordering that</p> <p>2 yeah. This is next section C. What are the</p> <p>3 traditional principles that you are referring to?</p> <p>4 A. Well, one person, one vote so be like a</p> <p>5 goal. Drawing districts that are reasonably</p> <p>6 compact and -- and reasonably shaped. Drawing</p> <p>7 districts that are contiguous. In other words, if</p> <p>8 you don't add in Jonesboro, or Texarkana, or</p> <p>9 something.</p> <p>10 Districts that are observant of</p> <p>11 communities of interest, which can include lots of</p> <p>12 different things, which perhaps you could subsume</p> <p>13 under that districts that don't split counties</p> <p>14 excessively and don't split VGDS excessively, that</p> <p>15 don't split municipalities excessively.</p> <p>16 Sometimes you do have to make those kinds</p> <p>17 of splits. So those are -- those would be the key</p> <p>18 traditional redistrict principles. Oftentimes, an</p> <p>19 additional one would be the non dilution of</p> <p>20 minority voting strengths. And that's it.</p> <p>21 There's nothing in there about partisan for -- for</p> <p>22 retention. Those are not traditional redistrict</p> <p>23 principles.</p> <p>24 Q. What was the other one?</p> <p>25 A. Partisanship or core retention.</p>
<p style="text-align: right;">Page 102</p> <p>1 relates to the PowerPoint, I don't know if you</p> <p>2 sent him the whole thing, parts of it, or what</p> <p>3 have you, but would you like to review it?</p> <p>4 A. Well, I mean, I don't -- I don't know. I</p> <p>5 mean, it -- it my recollection is there was</p> <p>6 nothing there that wasn't just sort of generic to</p> <p>7 any process of drawing a new registering plan. In</p> <p>8 other words, it focused on one person, one vote.</p> <p>9 And I think there was a mention of</p> <p>10 reducing the number of county splits, but I could</p> <p>11 be wrong about that. So I mean, it -- it's</p> <p>12 neither here or there as far as I'm concerned with</p> <p>13 the report I wrote, and I think it was generally</p> <p>14 okay in terms of the objectives, but I may be</p> <p>15 overlooking something.</p> <p>16 So I -- I don't want to sign off on</p> <p>17 something which suggested something that might not</p> <p>18 mesh with traditional redistrict principles. But</p> <p>19 I don't I don't think I saw anything there that</p> <p>20 did not mesh with traditional redistrict</p> <p>21 principles.</p> <p>22 Q. And so are there any -- so we've talked</p> <p>23 about well, we kind of have it, but we have it,</p> <p>24 but we have a little bit. So when you say</p> <p>25 traditional redistricting principles and we may be</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Okay. So with respect to the first six</p> <p>2 that you've listed, one person, one boat,</p> <p>3 reasonably compact, reasonably shaped, contiguous</p> <p>4 communities of interest. And did you say boat</p> <p>5 dilution is a traditional principle?</p> <p>6 A. It is often recognized as a traditional</p> <p>7 redistrict principle, but there are those who</p> <p>8 would say it's not.</p> <p>9 Q. Okay. So where are -- so let's just</p> <p>10 start with the first five then? What are you</p> <p>11 relying upon as far as a traditional principle?</p> <p>12 Where -- where does that come from?</p> <p>13 A. Constantly balancing those factors.</p> <p>14 There's no -- no not prioritizing any single</p> <p>15 metric. I'm looking at all of them and making</p> <p>16 adjustments, and I come to something of a</p> <p>17 subjective conclusion as to whether or not all of</p> <p>18 those taken together allow for one to say that</p> <p>19 you've drawn a plan that means traditional</p> <p>20 redistricting principles.</p> <p>21 Q. So with respect -- so are these -- when</p> <p>22 you say traditional redistricting principles, is</p> <p>23 that phrase, something that is taken from the</p> <p>24 courts, or is that your categorization personally?</p> <p>25 A. I think that's generally taken from case</p>

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<p style="text-align: right;">Page 105</p> <p>1 law.</p> <p>2 Q. Okay.</p> <p>3 A. And I think most legislatures, when they</p> <p>4 set about drawing a new plan, would list those as</p> <p>5 being principles which should be followed. And I</p> <p>6 think that that power plan did -- power plan did,</p> <p>7 in fact, mention some of those.</p> <p>8 Q. Did -- so among these five, again, we're</p> <p>9 starting with the five, are any one more important</p> <p>10 than the other?</p> <p>11 A. No. Except one person one federal. I</p> <p>12 mean, that would stand out as being one that is</p> <p>13 essential.</p> <p>14 Q. Is there an authority that you rely upon</p> <p>15 for that or is that your?</p> <p>16 A. Yes. I would rely on Tenant V Jefferson</p> <p>17 County where the Supreme Court allowed deviation</p> <p>18 that amounted to 0.79 percent. There are</p> <p>19 people -- there are legislatures that insist on</p> <p>20 plus or minus one person. Or even less than that.</p> <p>21 I mean, if it -- if it adds up, right,</p> <p>22 they're going to claim that maybe you should have</p> <p>23 five districts that are zero and one that's plus</p> <p>24 one. I think that's a misreading and a</p> <p>25 misunderstanding of what one person one vote is</p>	<p style="text-align: right;">Page 107</p> <p>1 now. That's just roughly.</p> <p>2 Q. So what are the -- are there standard</p> <p>3 deviations for any of the other four traditional</p> <p>4 principles that you've applied?</p> <p>5 A. No. They're not really. A legislature</p> <p>6 often will split a number of counties.</p> <p>7 Legislature will often draw a plan that's not very</p> <p>8 compact. Almost invariably, plans are contiguous,</p> <p>9 but it's okay not to have a contiguous plan, if,</p> <p>10 in fact, there's a body of water concerned as is</p> <p>11 the case with Lake Ponchatran in Louisiana.</p> <p>12 Q. So again, so in evaluating the other four</p> <p>13 principles, there is no stated standard deviation?</p> <p>14 A. Well, yeah. And you mean, like a metric</p> <p>15 that you absolutely have to meet in order to draw</p> <p>16 a plan that would pass muster with the course?</p> <p>17 Q. Yes.</p> <p>18 A. I don't think so. I think you -- I think</p> <p>19 you could produce a plan that is pretty far</p> <p>20 removed from the ideal in terms of compactness or</p> <p>21 political subdivision splits, and that might</p> <p>22 survive court scrutiny. But it really it's really</p> <p>23 got to be done on a case by case basis.</p> <p>24 Q. So which traditional principle is</p> <p>25 connected to cracking?</p>
<p style="text-align: right;">Page 106</p> <p>1 meant to be because going over that slightly as</p> <p>2 Arkansas wisely does in their enacted plan is</p> <p>3 okay.</p> <p>4 It's just at some point, you do have to</p> <p>5 call a hat to it because you don't want a plan</p> <p>6 that's like five percent overpopulated and five</p> <p>7 percent hundred populated if the congressional</p> <p>8 plan. So something in the range of plus or -1,500</p> <p>9 plus or -2,000 should be okay.</p> <p>10 But even that may exceed 0.79 percent.</p> <p>11 So whatever the 0.79 percent parameter is is what</p> <p>12 I would have to abide by based on Tenant V</p> <p>13 Jefferson County at West Virginia case. And in</p> <p>14 fact, in Mr. Bryan's report, he indicates that the</p> <p>15 attorney he was speaking with in your office</p> <p>16 suggested that 0.7 percent should be -- 0.7</p> <p>17 percent should be the maximum deviation of any</p> <p>18 alternative plan or hypothetical plan that he was</p> <p>19 drawing, as he was working on his declaration.</p> <p>20 Q. So that's even more --</p> <p>21 A. I mean, I think what that means is you</p> <p>22 might end up with a plan that's plus or -1,500</p> <p>23 people, and still meet 0.7 percent. But once you</p> <p>24 get up to say, plus or -2,000, you probably</p> <p>25 wouldn't. I -- I but I'm not calculating that</p>	<p style="text-align: right;">Page 108</p> <p>1 A. That would be non dilution of minority</p> <p>2 voting strings.</p> <p>3 Q. Okay. And so that is one that sometimes</p> <p>4 is traditional, and sometimes not people disagree</p> <p>5 on whether it is a traditional principle?</p> <p>6 MR. CUSICK: Objection to as to the form.</p> <p>7 THE DEPONENT: There seems to be some of</p> <p>8 that out there, yes.</p> <p>9 BY MS. BROYLES:</p> <p>10 Q. So how -- and you okay. So that goes to</p> <p>11 cracking. Okay. So we'll get to that. And then</p> <p>12 the partisan aspect, are there any standard</p> <p>13 deviations for it or the core retention principle?</p> <p>14 A. No, they're not. And the court</p> <p>15 retention. Yeah. Court retention and -- to</p> <p>16 backtrack core retention and partisanship are</p> <p>17 not -- are not traditional reising principles.</p> <p>18 Now, the one thing I haven't mentioned that also</p> <p>19 is not a traditional reising principle, but</p> <p>20 something that you could take into account</p> <p>21 reasonably is avoiding incoming conflicts.</p> <p>22 Q. Oh, yeah, I saw that. That's not an</p> <p>23 issue in this case.</p> <p>24 A. Not in this case, no.</p> <p>25 Q. Would it be inappropriate to draw a plan</p>

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<p style="text-align: right;">Page 109</p> <p>1 with the intention of creating a super majority?</p> <p>2 MR. CUSICK: Objection as to form.</p> <p>3 MS. BROYLES: But what's the basis of</p> <p>4 that?</p> <p>5 MR. CUSICK: To the extent it calls for</p> <p>6 legal conclusion and vagueness to the extent</p> <p>7 you're defining majority? It was open ended.</p> <p>8 BY MS. BROYLES:</p> <p>9 Q. Did you have any questions about it?</p> <p>10 A. Well, yeah. Super majority of what?</p> <p>11 Q. Under any -- whether that's a party</p> <p>12 based, race based, if you want to create a</p> <p>13 supermajority of everyone that lives in Southeast</p> <p>14 Darkansas, I mean, I don't -- I don't know. I'm</p> <p>15 just trying to decide where --</p> <p>16 A. I -- I don't either. I have no way to</p> <p>17 answer that.</p> <p>18 Q. Okay. So you've got -- we'll get to it</p> <p>19 too, but as far as the 1981-2021 bearing, you</p> <p>20 know, historical background, I guess. Again, you</p> <p>21 don't have any knowledge other than what I've told</p> <p>22 you today, what parties controlled at the time or</p> <p>23 any of the information that went into any of those</p> <p>24 plans?</p> <p>25 A. Well, I don't have any knowledge other</p>	<p style="text-align: right;">Page 111</p> <p>1 The rest are in the teams, or of course,</p> <p>2 Northwest Arkansas is kind of in a different</p> <p>3 demographic the arena and the black population is</p> <p>4 nowhere even in the teams there?</p> <p>5 Q. You have to resort to speculation to say</p> <p>6 that if the different party, if the Democrats were</p> <p>7 the majority party in Arkansas, Pulaski County</p> <p>8 wouldn't have ult -- ultimately been split th</p> <p>9 ways?</p> <p>10 A. Well, I'm not I I have no idea. I have</p> <p>11 no idea. What I'm saying is that there was no</p> <p>12 reason for Pulaski County to be split and to</p> <p>13 divide the southern part of it, maybe extending</p> <p>14 into the central into three different</p> <p>15 congressional districts. And -- and there is a</p> <p>16 race factor there because that population is</p> <p>17 predominantly black.</p> <p>18 Q. So it is your testimony that there could</p> <p>19 not be a single reason whatsoever? To have</p> <p>20 reached the map that was proposed?</p> <p>21 A. I can't think of a good one, really. I</p> <p>22 mean, the best they could come up with was</p> <p>23 parsanship, and even that's really in question</p> <p>24 now.</p> <p>25 Q. What about the fact that that was all</p>
<p style="text-align: right;">Page 110</p> <p>1 than it was my assumption that the legislature was</p> <p>2 Democratic in the 1980s and 1990s and then flipped</p> <p>3 at some point. And you've advised me that my</p> <p>4 thinking that it probably flipped before the 2011</p> <p>5 plan that my assumption was wrong, and that the</p> <p>6 Democrats were still in -- in power in 2011.</p> <p>7 Q. So why did you --</p> <p>8 A. That's not going to change anything I've</p> <p>9 said in my declaration at all. It has no bearing</p> <p>10 at all on what I've said at any point in my</p> <p>11 declaration.</p> <p>12 Q. So I guess what was the point of going</p> <p>13 through then 35 years of plans.</p> <p>14 A. Because it's demographic reality. I'm</p> <p>15 not looking at party composition. I'm just</p> <p>16 looking at what happened. And the Democrats were</p> <p>17 doing it just as much as almost as much as</p> <p>18 Republics.</p> <p>19 They did not split Pulaski County three</p> <p>20 ways. But other than that, there was a slow</p> <p>21 progression down from -- from CD4, which is almost</p> <p>22 25 percent in 1980 -- in the 1981 plan according</p> <p>23 to 1990 census data down now to just barely over</p> <p>24 20 percent in CD2, which is the highest in the</p> <p>25 state.</p>	<p style="text-align: right;">Page 112</p> <p>1 that was that your map basically wasn't</p> <p>2 recommended to them?</p> <p>3 A. Well, I was not drawing plans for the</p> <p>4 State legislature in 2021. I was working on a</p> <p>5 number of other cases at the time. So I mean, I</p> <p>6 mean and I'm not not a citizen of Arkansas.</p> <p>7 Q. Could it be that it was the best plan of</p> <p>8 the options that were presented?</p> <p>9 MR. CUSICK: Objection as to form.</p> <p>10 BY MS. BROYLES:</p> <p>11 Q. Could that be a reason?</p> <p>12 A. You mean my plans?</p> <p>13 Q. No. The one that was enacted, you said</p> <p>14 there's no basis for the plan.</p> <p>15 A. Well, I don't --</p> <p>16 Q. Under any circumstance. I guess.</p> <p>17 A. Well, I mean, I just I -- I don't know</p> <p>18 all the plans that were presented to the</p> <p>19 legislature, so I really can't say. I can say</p> <p>20 this, they made a bad choice. But I can't say</p> <p>21 that they had any other choice before that, I</p> <p>22 don't know.</p> <p>23 I mean, they had other options. I know</p> <p>24 there are other plans out there, the four Senate</p> <p>25 bills, all of which split Pesky County three ways,</p>

<p style="text-align: right;">Page 113</p> <p>1 which is curious. And I don't know about the</p> <p>2 house plans. I've seen a couple of that I think</p> <p>3 were house bills, and I don't recall. I think</p> <p>4 they left Pesky County hole, what I could be wrong</p> <p>5 about that.</p> <p>6 Q. Would you agree that plan a redistricting</p> <p>7 map can be all drawn all kinds of ways and still</p> <p>8 satisfy all the traditional principles?</p> <p>9 A. Yes. I mean, I've got three on the table</p> <p>10 here, as long as we're isolated just at Pulaski</p> <p>11 County and the ripple effect it has around the</p> <p>12 state.</p> <p>13 Q. But you agree that you are operating from</p> <p>14 the end, not the beginning.</p> <p>15 A. Yes.</p> <p>16 Q. Like what the legislature was.</p> <p>17 A. Right. But I -- I would have started --</p> <p>18 I -- I would not have split a County three ways if</p> <p>19 I had started working on it on August the 13th,</p> <p>20 2021, when the data was released. I mean, that's</p> <p>21 just not something I would have done, even if I</p> <p>22 had been told that I needed to reduce the total</p> <p>23 number of county splits.</p> <p>24 I would have looked for ways to just</p> <p>25 maybe change a couple of counties and end up with</p>	<p style="text-align: right;">Page 115</p> <p>1 Q. And you said in doing that, you didn't</p> <p>2 look at any of the data that magnitude provided to</p> <p>3 evaluate the other I maybe tell me what you did.</p> <p>4 So when you go in and you're kind of moving things</p> <p>5 around, I realize you are balancing them in your</p> <p>6 head, but how could your methodology be repeated</p> <p>7 by someone else?</p> <p>8 A. Well, anyone could take a map a GO GIS</p> <p>9 program. And look at my map and basically</p> <p>10 recreate it. In fact, that's oddly, Mr. Bryan</p> <p>11 didn't ask for the shape files of alternative</p> <p>12 plans, 12 and three. And he just basically</p> <p>13 recreated them, perhaps with some minor</p> <p>14 inconsistencies in Sebastian County, I'm not sure,</p> <p>15 because I was mainly just working the whole</p> <p>16 county.</p> <p>17 So anybody could take my maps and</p> <p>18 recreate it with a possible exception of exactly</p> <p>19 how the line was drawn in Sebastian County. In --</p> <p>20 in several instances, I think I think maybe</p> <p>21 alternative plan one or alternative plan two. I</p> <p>22 know I think alternative plan 2 and alternative</p> <p>23 plan 3 divides Sebastian County in exactly the</p> <p>24 same way the -- the legislature divided it. So</p> <p>25 your own expert has basically been able to</p>
<p style="text-align: right;">Page 114</p> <p>1 a plan that just split two counties instead of in</p> <p>2 into four pieces, instead of a plan that split two</p> <p>3 counties into 10 pieces.</p> <p>4 Q. Are you saying that your -- you made no</p> <p>5 sac -- sacrifices to the other traditional</p> <p>6 principles in the plans that you have offered the</p> <p>7 alter -- the three alters --</p> <p>8 A. Well I'm balancing traditional redial</p> <p>9 principles. For example, you could split a lot of</p> <p>10 PTDs and split a lot of counties and probably draw</p> <p>11 more compact plans. But what would be the point</p> <p>12 of that?</p> <p>13 Q. How are you balancing any of the</p> <p>14 principles? So for instance, how are you</p> <p>15 prioritizing the various factors when you were</p> <p>16 drawing your plan? Are you just -- just simply</p> <p>17 saying, we're not going to -- we're going to get</p> <p>18 out of the cracking issue but we don't care about</p> <p>19 communities of interest or?</p> <p>20 A. No. I -- I cared I I I cared about all</p> <p>21 of that, and I was balancing those as it was</p> <p>22 drawing. So that I didn't attempt to draw a crazy</p> <p>23 looking district that might have met one person</p> <p>24 one vote. I was trying to take all of those</p> <p>25 factors into play as I was drawing the plans.</p>	<p style="text-align: right;">Page 116</p> <p>1 replicate my claims.</p> <p>2 Without a shape file, just looking at the</p> <p>3 map. Is that simple. It's extremely simple in</p> <p>4 Arkansas, unlike some states, because you just --</p> <p>5 you can work with whole counties. There's no --</p> <p>6 and there's no -- there's no need to go beyond</p> <p>7 that.</p> <p>8 Q. But how do you know -- how do we know</p> <p>9 well, okay. We -- again, we'll just go through</p> <p>10 the specifics. So plan 1, it says, where it says,</p> <p>11 from what I understood to be the relevant</p> <p>12 criteria, what are you referring to there?</p> <p>13 A. Well, what are we looking at?</p> <p>14 Q. The sorry, page 6, Section 5, I, you</p> <p>15 have -- it says that alternative plan 1 is drawn</p> <p>16 for the purpose of my report from what I</p> <p>17 understand to be the relevant criteria. What --</p> <p>18 what are -- what criteria are you operating from?</p> <p>19 A. Well, the -- the criteria would be</p> <p>20 traditional reising principles, and what I</p> <p>21 understood to be at least an objective that I</p> <p>22 picked up somewhere early on, that the Legislature</p> <p>23 wanted to reduce the number of split counties.</p> <p>24 In other words, instead of having five</p> <p>25 split counties, they wanted to cut back. And --</p>

<p style="text-align: right;">Page 117</p> <p>1 and they did that by splitting Pulaski County</p> <p>2 three ways, resulting in a total of 10 county</p> <p>3 splits.</p> <p>4 Q. Any other criteria that you took into</p> <p>5 consideration?</p> <p>6 A. Well, all the traditional reising</p> <p>7 principles, which presumably the legislature,</p> <p>8 obviously, did okay on reasonably well on</p> <p>9 compactness and reasonably well on one person one</p> <p>10 vote.</p> <p>11 Q. So we'll get to that.</p> <p>12 A. And reasonably well on contiguity. Okay.</p> <p>13 It's just this odd, inexplicable decision to</p> <p>14 divide Pulaski County three ways. Why not two?</p> <p>15 Q. Well, we're going to get that that.</p> <p>16 A. Okay.</p> <p>17 Q. So then on alternative plan 2, you say</p> <p>18 that it is drawn with the purpose of maintaining</p> <p>19 partisan advantage. So explain and then again,</p> <p>20 you say, from what I understood to be the relevant</p> <p>21 criteria, maintains the partisan tilt in the</p> <p>22 enacted plan. So if it's so obvious, why did you</p> <p>23 even need three alternatives?</p> <p>24 MR. CUSICK: Objection as to form.</p> <p>25 THE DEPONENT: Well, I think that</p>	<p style="text-align: right;">Page 119</p> <p>1 and ought to be close enough.</p> <p>2 But because it's not over the partisan</p> <p>3 tilt of the enacted plan, and based on my -- my</p> <p>4 review of -- of Mr. Bryan's report, I felt like it</p> <p>5 would be important to go ahead and submit an</p> <p>6 alternative plan 3 that proved that you could have</p> <p>7 exceeded the partisan advantage under the enacted</p> <p>8 plan with the plan like alternative plan 3, that</p> <p>9 would also been superior on traditional resting</p> <p>10 principles and included all of Pulaski County in a</p> <p>11 single district.</p> <p>12 Q. Would you agree to do that you had to</p> <p>13 sacrifice other traditional principles?</p> <p>14 A. No, I would not agree to that.</p> <p>15 Q. Okay. We'll get there then.</p> <p>16 A. Okay. We we should because I don't know</p> <p>17 where you're coming from, but I don't see that.</p> <p>18 Q. In reviewing the complaint, did you --</p> <p>19 you thought you said you probably reviewed the</p> <p>20 amended complaint. Do you know if you did?</p> <p>21 A. I reviewed a complaint. I'm not sure if</p> <p>22 it was the amended complaint or the original</p> <p>23 complaint. I think, though, I reviewed the</p> <p>24 amended complaint. I think they're very similar,</p> <p>25 but there must be some differences there.</p>
<p style="text-align: right;">Page 118</p> <p>1 alternative plans now have to be provided by the</p> <p>2 plaintiffs in a lawsuit of this nature as a result</p> <p>3 of Alexander V, South Carolina, and the 2024</p> <p>4 ruling by the Supreme Court. You have to you have</p> <p>5 to show that you could draw a plan that would</p> <p>6 match or exceed the partisan advantage that was</p> <p>7 one of the factors that the legislature was</p> <p>8 looking to enhance in their plan.</p> <p>9 BY MS. BROYLES:</p> <p>10 Q. And none of your maps match the partisan</p> <p>11 or exceed the partisan advantage that is clear</p> <p>12 from the enacted back.</p> <p>13 A. Well, that's not true. Alternative plan</p> <p>14 three clearly exceeds it when you look at the</p> <p>15 Trump Biden contest and the US Senate contest.</p> <p>16 Alternative plans 1 and 2 are slightly lower.</p> <p>17 Well, alternative plan 1 is slightly lower, like</p> <p>18 off by one percentage point.</p> <p>19 I was not looking at partis advantage in</p> <p>20 alternative plan 1. I just look at adhering to</p> <p>21 traditional reg principles. For alternative 2, I</p> <p>22 wanted to get to a level that is about the same as</p> <p>23 the enacted plan, but it's still slightly less</p> <p>24 partisan when you look at Trump V Biden than the</p> <p>25 enacted plan, but it's under a percentage point</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. I haven't gone back and taken it. I</p> <p>2 just -- I since an amended complaint, you know,</p> <p>3 takes the place of original complaint. I just,</p> <p>4 you know, for the purpose of being a most, you</p> <p>5 know, whatever the priority or whichever one is</p> <p>6 still "in effect" I just wanted to see because I</p> <p>7 was curious to know if in developing your plans,</p> <p>8 you looked to the criticisms lodged in the</p> <p>9 complaint to inform any of your balancing of the</p> <p>10 various traditional principles.</p> <p>11 A. Well, yes. I mean, the primary criticism</p> <p>12 in the complaint and -- and the amended complaint,</p> <p>13 I'm sure, is the cracking of the black population</p> <p>14 in Pulaski County, dividing the south and central</p> <p>15 portions, parts of the central portion of Pulaski</p> <p>16 County into three pieces for no known reason that</p> <p>17 I can see. But it had -- has nothing to do with</p> <p>18 reducing the number of county splits. It has</p> <p>19 nothing to do with reducing the number of</p> <p>20 municipal splits. It has nothing to do with --</p> <p>21 Get off of splits for a second --</p> <p>22 A. Yeah.</p> <p>23 BY MS. BROYLES:</p> <p>24 Q. -- because I think you -- you've already</p> <p>25 testified that your -- your reference to a goal of</p>

<p style="text-align: right;">Page 121</p> <p>1 reducing splits, you don't know where that</p> <p>2 information came from and that you're basing that</p> <p>3 off an assumption.</p> <p>4 A. What -- what I will say is just because</p> <p>5 I've drawn a plan there is a traditional</p> <p>6 redistricting principle, which states that you</p> <p>7 should reduce the number of political subdivision</p> <p>8 splits. I mean, you should try to keep counties</p> <p>9 whole, keep VTDs whole, keep regions whole, for</p> <p>10 that matter. And -- and if you understand that,</p> <p>11 then you can see that the plans I've drawn are</p> <p>12 generally superior across all traditional</p> <p>13 redistricting principles than the enacted plan.</p> <p>14 Q. So for the purpose of your report, you</p> <p>15 put boat dilution as your top priority --</p> <p>16 A. No.</p> <p>17 Q. -- that being a cracking?</p> <p>18 A. No. Well -- well, the -- the cracking of</p> <p>19 the predominantly Black Latino neighborhoods in --</p> <p>20 in South Central, Pulaski County is to my mind,</p> <p>21 pretty obvious. And so at the outset, I wanted to</p> <p>22 see if that could be avoided while also adhering</p> <p>23 to additional redistricting principles and I</p> <p>24 concluded to --</p> <p>25 Q. What is your --</p>	<p style="text-align: right;">Page 123</p> <p>1 A. Well, you look at -- you -- you just</p> <p>2 compare the compactness scores of the various</p> <p>3 states. And they have a table in there showing</p> <p>4 all states that are at least three districts that</p> <p>5 I think there are 36 of them, and the plans I've</p> <p>6 drawn and the enacted plan for that matter, are</p> <p>7 all in the upper quartile. In fact, alternative</p> <p>8 plan three ranks Number 7 in the country. So</p> <p>9 that's -- if that's not in the norm, what is?</p> <p>10 Q. So on the -- so if an enacted plan with</p> <p>11 respect to each of the traditional principles, and</p> <p>12 we can even do -- should we include cracking</p> <p>13 and/or excuse me, vote dilution, partisan, and</p> <p>14 core retention, as far as -- so what I'm trying to</p> <p>15 say is let's just say it's a pie, because at some</p> <p>16 point, you have to have -- if you're balancing,</p> <p>17 you know, you can cut eight pieces that are all</p> <p>18 the same, and it's possible or if you don't use an</p> <p>19 exact pie cutter, some may be a little less to --</p> <p>20 to prioritize one even only slightly, may have an</p> <p>21 unintended consequence to another principle.</p> <p>22 A. Wait, it -- it -- there may be something</p> <p>23 of a ripple effect across all traditional</p> <p>24 regulation principles. What I'm saying is,</p> <p>25 unquestionably, the three plans I've drawn,</p>
<p style="text-align: right;">Page 122</p> <p>1 A. -- very quickly that that certainly could</p> <p>2 have been avoided.</p> <p>3 Q. What is your threshold for adherence for</p> <p>4 each of the principles?</p> <p>5 A. Well, it is subjective. I mean, you</p> <p>6 know, if I have a plan that's reasonably compact,</p> <p>7 but not quite as good as the enacted plan, then if</p> <p>8 it's, like, a massive difference, then that's --</p> <p>9 that's an issue, but there is no massive</p> <p>10 difference here where -- where the alternative</p> <p>11 Plan 1 and alternative Plan 2 may be slightly less</p> <p>12 might not match what the enacted plan has.</p> <p>13 I'm hard pressed to think of anything</p> <p>14 except maybe overall compactness. That's okay</p> <p>15 because my plan is clearly within the norm. I</p> <p>16 mean, there's no question about that. Mr. Bryan</p> <p>17 is --</p> <p>18 Q. What's the norm?</p> <p>19 A. The -- the norm is looking at all --</p> <p>20 looking at all counties nationwide, I mean, all</p> <p>21 congressional districts nationwide and determining</p> <p>22 whether the alternative plans I've drawn and</p> <p>23 whether the enacted plan I've drawn are within the</p> <p>24 norm on compactness.</p> <p>25 Q. And how do you make that determination?</p>	<p style="text-align: right;">Page 124</p> <p>1 provided you accept the fact that we are only</p> <p>2 looking at, in this case, the issue with Pulaski</p> <p>3 County. These plans meet traditional</p> <p>4 redistricting plans -- traditional redistricting</p> <p>5 principles with flying colors. Now, I've</p> <p>6 mentioned at the outset that there is this other</p> <p>7 issue about the black population being cracked as</p> <p>8 it relates to the Mississippi River Counties and</p> <p>9 the Delta and Jefferson County and its Black</p> <p>10 population, and the Black population in Pulaski</p> <p>11 County.</p> <p>12 But that's an issue for another lawsuit,</p> <p>13 some other time in the future. There's no</p> <p>14 question in my mind, that this plan alternative</p> <p>15 Plan 1, alternative Plan 2, and alternative Plan</p> <p>16 3, as it relates to Pulaski County fully adheres</p> <p>17 to the original regions but even though the</p> <p>18 numbers are slightly different here and there</p> <p>19 across my three plans and in relation to the</p> <p>20 enacted plan.</p> <p>21 Q. So would you agree that in enacting a new</p> <p>22 plan, the legislature -- you said the benchmark</p> <p>23 is, you know, the prior plan.</p> <p>24 A. Right.</p> <p>25 Q. Based on the prior census?</p>

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<p style="text-align: right;">Page 125</p> <p>1 A. Right.</p> <p>2 Q. A state cannot go back and cure any</p> <p>3 issues with past congressional maps in one sweep.</p> <p>4 A. Oh, sure, it can. Tomorrow -- what is</p> <p>5 today? Wednesday? On Thursday, the legislature</p> <p>6 could be, and they could say, you know, we've come</p> <p>7 to the conclusion that we should draw a plan that</p> <p>8 allows for the Black population not to be split</p> <p>9 and cracked. And so we're going to adopt the</p> <p>10 hypothetical plan.</p> <p>11 Q. No matter --</p> <p>12 A. That plan would be unassailable. It is</p> <p>13 more compact and scores higher across almost every</p> <p>14 single traditional reducing principle, compared to</p> <p>15 an active plan. Nobody could challenge it, they</p> <p>16 could try and they get nowhere.</p> <p>17 Q. So you -- that is you started from</p> <p>18 scratch?</p> <p>19 A. No, I didn't start from scratch. I</p> <p>20 started with glancing at the -- at the existing in</p> <p>21 place. Supreme Appellate Court District that</p> <p>22 includes some of the Mississippi Delta --</p> <p>23 Mississippi River, Arkansas, Delta Counties in a</p> <p>24 majority Black district, and I just extended that</p> <p>25 district to pick up more of the Mississippi River</p>	<p style="text-align: right;">Page 127</p> <p>1 A. They -- they could try that. But it</p> <p>2 doesn't -- it only splits one county, Sebastian.</p> <p>3 And it's more compact than the existing plan,</p> <p>4 slightly more compact and scores a 66 on the DR,</p> <p>5 well, there's some other score.</p> <p>6 Q. But there's a plan that you're not even</p> <p>7 proposing in?</p> <p>8 A. No. I'm just saying that could be --</p> <p>9 you -- you could propose that tomorrow, and this</p> <p>10 case -- this lawsuit is over.</p> <p>11 Q. Well, then why didn't you just stick with</p> <p>12 that?</p> <p>13 A. Uh?</p> <p>14 Q. Why didn't you just --</p> <p>15 A. Oh, because the -- the courts would</p> <p>16 probably question whether that plan would fit into</p> <p>17 this partisanship parameter that's now out there</p> <p>18 as it relates to the Alexander v. South Carolina</p> <p>19 case. And also, it's not a Jingles one compliance</p> <p>20 plan. So that there would be issues raised if</p> <p>21 someone filed a lawsuit trying to get the state to</p> <p>22 create it. But if the state created it, if the</p> <p>23 state legislature said, okay, we're just going to</p> <p>24 do it, and they did it tomorrow, there's just no</p> <p>25 way in hell that anybody could prevail a lawsuit</p>
<p style="text-align: right;">Page 126</p> <p>1 Counties and also add it in --</p> <p>2 Q. How many Court of Appeals districts are</p> <p>3 here in Arkansas?</p> <p>4 A. I believe that in Arkansas, there are --</p> <p>5 there are seven. And I've drawn, as you can see,</p> <p>6 on page 15, I've shown Arkansas Appellate Court</p> <p>7 District seven adopted by the legislature in 2003,</p> <p>8 that creates a majority Black district that</p> <p>9 extends from Jefferson County and picks up</p> <p>10 Arkansas County and then --</p> <p>11 Q. Does Arkansas have four seats or seven</p> <p>12 seats.</p> <p>13 A. Well, it has seven -- it has four seats.</p> <p>14 That's why -- that's why I then went beyond that,</p> <p>15 was the hypothetical plan and added in a couple of</p> <p>16 other counties along the Mississippi River, plus</p> <p>17 Pulaski County.</p> <p>18 Q. Could some say that your plan is so that</p> <p>19 operating from the prior plan, your plan would be</p> <p>20 significant in breaking or cracking existing</p> <p>21 communities?</p> <p>22 MR. CUSICK: Objection as to the form.</p> <p>23 THE DEPONENT: Well, first of all --</p> <p>24 BY MS. BROYLES:</p> <p>25 Q. For the purpose of some other goal?</p>	<p style="text-align: right;">Page 128</p> <p>1 against that law -- against that plan.</p> <p>2 Q. You just said it violates the Jingles</p> <p>3 factors.</p> <p>4 A. It -- well, it doesn't -- it doesn't rise</p> <p>5 to that level. You cannot very easily and I can't</p> <p>6 say you cannot create a majority black district if</p> <p>7 you worked at it, but you cannot use whole</p> <p>8 counties and create a majority black district.</p> <p>9 This district would only be -- only be 38 percent</p> <p>10 Black as the way I drew it. There might be other</p> <p>11 ways to draw it. That was just an example.</p> <p>12 Q. But again, this hypothetical plan that</p> <p>13 you keep pointing to, it's not even one that</p> <p>14 you're actually proposing?</p> <p>15 A. It's totally outside the context of this</p> <p>16 lawsuit. I -- I just did it to show that -- that</p> <p>17 part of the Black population is being completely</p> <p>18 left out of the picture given the focus of this</p> <p>19 lawsuit. That being the population running from</p> <p>20 Jefferson County all the way into -- over to the</p> <p>21 Mississippi River Counties.</p> <p>22 That are basically part of Appellate</p> <p>23 Court District 7 that the legislature in 2003 drew</p> <p>24 based on another plan that I think goes back to</p> <p>25 like 1980 that needed to be changed, I think,</p>

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<p style="text-align: right;">Page 129</p> <p>1 maybe for one purpose, one vote. I'm not sure</p> <p>2 exactly. But that may have been -- there may not</p> <p>3 have been a majority Black Appellate Court</p> <p>4 district until 2003. I'm not sure. I have to go</p> <p>5 back.</p> <p>6 Q. Okay. I think that for our purpose,</p> <p>7 going forward, because you are not offering</p> <p>8 your -- the -- just that plan as an actual plan in</p> <p>9 this case, as we move through, we need to focus on</p> <p>10 the ones that you've actually proposed.</p> <p>11 A. Understood.</p> <p>12 MR. CUSICK: Objection as to form.</p> <p>13 BY MS. BROYLES:</p> <p>14 Q. Fair?</p> <p>15 A. Well, I -- I understood. But I think you</p> <p>16 brought that up, though, I didn't.</p> <p>17 Q. No, you brought it up because you've said</p> <p>18 there's another one in there, and I'm just curious</p> <p>19 if that was the case, why you didn't you just</p> <p>20 offer that as the plan. Instead of working off of</p> <p>21 a specific allegation, why did you not look at the</p> <p>22 plan as the legislature did, and in analyzing the</p> <p>23 case and look at the entire state as opposed to</p> <p>24 isolating one particular area.</p> <p>25 MR. CUSICK: One second, just objection</p>	<p style="text-align: right;">Page 131</p> <p>1 MR. CUSICK: Not to -- to jump in, but is</p> <p>2 there a chance for a quick restroom break at the</p> <p>3 point we have a natural stop?</p> <p>4 THE DEPONENT: No.</p> <p>5 MS. BROYLES: Yeah, that's fine. We can</p> <p>6 go off. I have a granola bar, so I just kind of</p> <p>7 roll, but if you'll need to take a longer break,</p> <p>8 it's 12:30. This may be a point to --</p> <p>9 MR. CUSICK: We're happy to do a short</p> <p>10 one. I don't know if they flagged. I think we</p> <p>11 also have food for everyone.</p> <p>12 MS. BROYLES: I know that okay.</p> <p>13 MR. CUSICK: So let me go check the food.</p> <p>14 MS. BROYLES: Okay sure.</p> <p>15 MR. CUSICK: We're happy to do maybe,</p> <p>16 like, a 30 minutes or short, you know.</p> <p>17 MS. BROYLES: Yeah -- yeah. I can just</p> <p>18 take it. Since I've got to do all the talking, if</p> <p>19 I eat, I will fall asleep to my own voice at this</p> <p>20 point.</p> <p>21 MR. CUSICK: I may run to check.</p> <p>22 MS. BROYLES: Okay.</p> <p>23 MR. CUSICK: You need to use the</p> <p>24 restroom, Bill?</p> <p>25 THE DEPONENT: I might as well.</p>
<p style="text-align: right;">Page 130</p> <p>1 as to form.</p> <p>2 THE DEPONENT: Well, I'm looking at the</p> <p>3 demographics of -- of Arkansas. I'm not living in</p> <p>4 an alternative reality. So I fully understand</p> <p>5 that one could draw a plan that met every single</p> <p>6 traditional redistricting principle, that split</p> <p>7 fewer counties, more compact, fewer municipal</p> <p>8 splits. It just stacks up superior to the</p> <p>9 enactment plan on all counts -- on all counts.</p> <p>10 And for that reason, I wanted to make that point.</p> <p>11 And I think I only make that point because of</p> <p>12 something you said earlier.</p> <p>13 BY MS. BROYLES:</p> <p>14 Q. Well, you made the point before you've</p> <p>15 ever met me, because it's in your report.</p> <p>16 A. Right. And just -- just leave it in</p> <p>17 there. Just -- just for the record, to show the</p> <p>18 demographic reality of Arkansas, setting aside the</p> <p>19 law, setting aside everything else under the sun,</p> <p>20 there's no question that the Black population</p> <p>21 could be joined together in a district that would</p> <p>22 be about 38 percent Black and adhere to every</p> <p>23 single traditional redistricting principle.</p> <p>24 Q. Okay. So where are you -- well, never</p> <p>25 mind, we will go forward.</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. CUSICK: Just break.</p> <p>2 MS. BROYLES: Thank you.</p> <p>3 (WHEREUPON, a recess was taken.)</p> <p>4 BY MS. BROYLES:</p> <p>5 Q. Okay. Dr. Cooper, we're back on the</p> <p>6 record. And so let's go ahead and return to the</p> <p>7 specific plans that you've recommended, all one,</p> <p>8 two, and three. You said in here something with</p> <p>9 respect to a stipulation is on page 8, a</p> <p>10 stipulation that the legislature didn't have</p> <p>11 regarding minimal deviation, is that back to the</p> <p>12 one to one claim or excuse me not one to one, but</p> <p>13 the one person one vote, we've talked about that,</p> <p>14 right?</p> <p>15 A. Well, yeah, you know, because there are</p> <p>16 some states which essentially require you to draw</p> <p>17 zero deviation claims. In other words, no more</p> <p>18 than one person over or under the ideal district</p> <p>19 size, which is crazy, but they do it. And I</p> <p>20 applaud Arkansas for being in the forefront to not</p> <p>21 have zero deviation plans.</p> <p>22 Q. So turning to page 9, along those lines,</p> <p>23 you have here that the enactive plan is well</p> <p>24 within the deviation range approved by the Supreme</p> <p>25 Court and the tenant case, right?</p>

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<p style="text-align: right;">Page 133</p> <p>1 A. Absolutely.</p> <p>2 Q. Okay. And then on to B, you -- that</p> <p>3 covers the crafting issue that we'll delve into</p> <p>4 further detail, but that's what B is covering,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. C is in reference to cont -- contiguous</p> <p>8 districts. And you say that like the enacted plan</p> <p>9 or excuse me, that the enactive plan is</p> <p>10 contiguous.</p> <p>11 A. Exactly.</p> <p>12 Q. And the enactive plan as well is</p> <p>13 reasonably shaped and compact?</p> <p>14 A. Yes.</p> <p>15 Q. Then you say goes to the communities of</p> <p>16 interest. And again, that goes to the cracking</p> <p>17 point there in sub part E.</p> <p>18 A. Right.</p> <p>19 Q. Okay. So we'll get to that detail too.</p> <p>20 E and F really, I think goes to cracking and then</p> <p>21 resulting communities of interest issue. Are</p> <p>22 those really distinct or are they kind of the same</p> <p>23 thing. I mean, if you like, let's say, the Court</p> <p>24 were to find -- I mean, would there be an instance</p> <p>25 where you'd have cracking, but not a communities</p>	<p style="text-align: right;">Page 135</p> <p>1 A. Well, it does. As -- as does the</p> <p>2 alternative plan. It's entirely acceptable to</p> <p>3 have a plan that only has a 73 percent core</p> <p>4 retention rate, all other things equal. So the</p> <p>5 alternative plans are just fine. In that regard,</p> <p>6 in my opinion, it's not a -- it's not a</p> <p>7 traditional redistrict principle, and there is no</p> <p>8 bright line rule as to what would constitute a</p> <p>9 unreasonably modified change because all other</p> <p>10 things equal, the legislature could adopt a plan</p> <p>11 with 35 percent core retention.</p> <p>12 Q. So going into page 12, under enacted</p> <p>13 plan, there in the figure 1. I'm a little conf --</p> <p>14 confused. You've got 1981 benchmark and the 1990</p> <p>15 census.</p> <p>16 A. Right.</p> <p>17 Q. Should that be 1980?</p> <p>18 A. Well, I would have had to add another row</p> <p>19 there with the from the 1980 census. And that</p> <p>20 say, what page of 20 --</p> <p>21 Q. 2012, it's 12.</p> <p>22 A. Oh, 12.</p> <p>23 Q. And I'm -- there in the parents. I guess</p> <p>24 because 2021 says 2020 census, and then 2011</p> <p>25 benchmark says 2020 census, and then 2001 says</p>
<p style="text-align: right;">Page 134</p> <p>1 of interest issue or vice versa?</p> <p>2 MR. CUSICK: Objection.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. Does that make sense? I'm not sure how</p> <p>5 to ask the question.</p> <p>6 A. Well, there would generally, if</p> <p>7 there's -- if there's cracking, there's going to</p> <p>8 be a community of interest issue.</p> <p>9 Q. Okay. Is the reverse true that if you</p> <p>10 have communities of interest, then I mean, can you</p> <p>11 have communities of interest issue without having</p> <p>12 a cracking issue?</p> <p>13 A. Well, you could. It might be in the</p> <p>14 context of another kind of lawsuit.</p> <p>15 Q. Okay. And then we've already talked</p> <p>16 about there's no issue with pairing incumbents.</p> <p>17 But you do say in paragraph 15 on page 10, to the</p> <p>18 extent practicable, election plan should keep the</p> <p>19 core population together in new districts. And</p> <p>20 then, like the enacted plan, they have high levels</p> <p>21 of core retention.</p> <p>22 A. Right.</p> <p>23 Q. So I mean, meaning too, that the action</p> <p>24 plan has high levels of core retention, is that</p> <p>25 fair?</p>	<p style="text-align: right;">Page 136</p> <p>1 2010 census. So I'm good I guess I'm just a</p> <p>2 little confused.</p> <p>3 A. Yeah. It's a little confusing, but when</p> <p>4 the legislature met in 2001 to draw what became</p> <p>5 the plan -- the 2001 plan that lasted all the way</p> <p>6 through the decade of 2000, they initially started</p> <p>7 with a map that reported data from the 2000</p> <p>8 census. In other words, they had the 1991</p> <p>9 benchmark plan that they were working with, but</p> <p>10 using the 2000 census.</p> <p>11 And so they created a plan that was in</p> <p>12 place all through the 1990s that was based on the</p> <p>13 2000 census. And then in 2001, that benchmark</p> <p>14 plan would have would have been in place all the</p> <p>15 way through to 2011, and -- and that plan would</p> <p>16 have been based on the -- the benchmark would have</p> <p>17 been based on the 2010 census when it was adopted.</p> <p>18 I could have added another row in there</p> <p>19 that showed the 1980 benchmark. I mean, the --</p> <p>20 the 1980 census for the 1971 plan or whatever.</p> <p>21 But I mean, you can only go I I think I've made</p> <p>22 the point just with those five decades.</p> <p>23 Q. So Section 3 on demographic profile of</p> <p>24 Arkansas, As it relates, is it relevant at all to</p> <p>25 the actual allegations in the case? I mean, in</p>

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<p style="text-align: right;">Page 137</p> <p>1 the sense that the only thing that they're</p> <p>2 complaining about is the 2021 enacted plan. So</p> <p>3 how does any of this relate to the actual</p> <p>4 alternatives that you recommended?</p> <p>5 MR. CUSICK: Objection as to the form.</p> <p>6 THE DEPONENT: It's just a it shows the</p> <p>7 population change over time over the past 35</p> <p>8 years, and/or actually going back yeah, all the</p> <p>9 way back to '99. And it shows that the Black</p> <p>10 population has grown somewhat, and the white</p> <p>11 population has shrunk.</p> <p>12 So to that extent, it it's demonstrating</p> <p>13 that there's nothing changed in terms of the</p> <p>14 overall percentage of Black population in the</p> <p>15 state that would any reason somehow or another</p> <p>16 justify the way the enacted plan was drawn. And</p> <p>17 it's really just for general information purposes</p> <p>18 so someone could look at discharge and see how the</p> <p>19 population has changed.</p> <p>20 BY MS. BROYLES:</p> <p>21 Q. So I guess what -- the way that I mean,</p> <p>22 you say 1980s to 2020s, cracking the black</p> <p>23 population. I mean, it's -- I guess my point is,</p> <p>24 it appears that you're -- you're making the effort</p> <p>25 to suggest that the Arkansas legislature has been</p>	<p style="text-align: right;">Page 139</p> <p>1 to the influx of the Latino population.</p> <p>2 Q. Well, and is some of this also explained</p> <p>3 by people in the Delta moving over to Central</p> <p>4 Arkansas?</p> <p>5 MR. CUSICK: Objection as to form.</p> <p>6 BY MS. BROYLES:</p> <p>7 Q. Or moving out of the Delta, wherever they</p> <p>8 go. But certainly, there's the population of the</p> <p>9 counties of CD2 excuse me CD4, is going -- has</p> <p>10 gone down.</p> <p>11 MR. CUSICK: Objection as to form.</p> <p>12 THE DEPONENT: It's gone it's gone down</p> <p>13 and there has been some out migration. And you</p> <p>14 can see that in the table, looking at Pulaski</p> <p>15 County, which is over on page that's on. I can</p> <p>16 find that. There's a table there. It breaks out</p> <p>17 Pulaski County.</p> <p>18 And you can see how in in 1990, the Black</p> <p>19 population in Pulaski County was 26.3 percent and</p> <p>20 in 2020, it had climbed to 38 percent. So it's</p> <p>21 gone up in Pulaski County, and some of that would</p> <p>22 have been, although I can't give you a precise</p> <p>23 number, but I'm sure some of that would have</p> <p>24 involved out migration from the Delta Counties</p> <p>25 into Pulaski.</p>
<p style="text-align: right;">Page 138</p> <p>1 racist all this time, and they still are.</p> <p>2 MR. CUSICK: Objection as to form.</p> <p>3 THE DEPONENT: I'm not making that</p> <p>4 allegation. I'm just reporting the fact that over</p> <p>5 the past 30 plus years, the population in a given</p> <p>6 district, which for the first three decades, was</p> <p>7 CD4 beginning with the 1981 benchmark as reported</p> <p>8 under the 1990 Census, it was 24.66 percent. That</p> <p>9 was the highest percentage in any one of the</p> <p>10 congressional districts in Arkansas.</p> <p>11 By the 2021 plan, the district with the</p> <p>12 highest percentage is now still CD2 at 20.33</p> <p>13 percent. So about 4.5 points have been lopped off</p> <p>14 of the BVAP percentage in any particular</p> <p>15 congressional district when compared against the</p> <p>16 1981 plan.</p> <p>17 BY MS. BROYLES:</p> <p>18 Q. But can I --</p> <p>19 A. I'm not accusing anyone of being a</p> <p>20 racist. It's just a demographic fact.</p> <p>21 Q. Okay. Well, I guess --</p> <p>22 A. Even -- even though the black population</p> <p>23 has increased a little bit in terms of percentage,</p> <p>24 and the white population has fallen quite a bit in</p> <p>25 terms of percentage. A large part of that is due</p>	<p style="text-align: right;">Page 140</p> <p>1 BY MS. BROYLES:</p> <p>2 Q. So paragraph 22, the hypothetical plan</p> <p>3 and figure 3, that is not one of the one, two, and</p> <p>4 three alternative plans that you're recommending.</p> <p>5 It's just a hypothetical plan. We talked about</p> <p>6 that?</p> <p>7 A. I would highly recommend it, but I</p> <p>8 realized that it doesn't exactly fit into the</p> <p>9 context of this case from a legal standpoint. I'm</p> <p>10 not a lawyer, but I do understand that. I just</p> <p>11 wanted to point out the demographics of it all and</p> <p>12 the reality that the Black population could be put</p> <p>13 into a plan that is adhering to all the</p> <p>14 traditional reading principles.</p> <p>15 All of them to a better extent than the</p> <p>16 enacted plan or even any of the alternative plans.</p> <p>17 And it would be, as I said earlier, unassailable,</p> <p>18 somebody might try to sue over something, but it's</p> <p>19 a perfect plan from the standpoint of regional</p> <p>20 redistrict principles.</p> <p>21 Q. But that's not what you were asked to do</p> <p>22 in this case.</p> <p>23 A. I was asked to provide some demographic</p> <p>24 background which would include looking at</p> <p>25 population change by county over time. And so</p>

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<p style="text-align: right;">Page 141</p> <p>1 that is part of the demographic backdrop. That in 2 reality, you could have a district in Arkansas 3 that is over 38 percent Black and probably going 4 higher over the course of the decade.</p> <p>5 But you don't. In fact, you hardly even 6 have any district that's even in the teens. So 7 there is clear cracking of the Black population 8 that extends beyond Pulaski County. But this 9 lawsuit is only about Pulaski County, so we want 10 to fix that first. We, but I mean, I'm just 11 suggesting using the Royal way, I'm not involved 12 in any sort of decision making in terms of legal 13 plans for the future.</p> <p>14 Q. So let's go ahead to -- what is excluding 15 unpopulated splits? I'm not -- you've got a 16 asterisk there at the bottom of page 18. I'm just 17 not sure what that means.</p> <p>18 A. Well, it just means that there are some 19 municipalities that are split. I think maybe 20 there's only one that shows up in this case, but 21 that there may only be one instance where that's 22 happened where a VTD boundary is split or a 23 municipality is split.</p> <p>24 And in this case, because I don't split 25 any VTDs, really, it's almost -- almost of no</p>	<p style="text-align: right;">Page 143</p> <p>1 testifying that he's not offering this as part of 2 his expert report?</p> <p>3 MS. BROYLES: He -- he said that.</p> <p>4 THE DEPONENT: Oh, I'm sorry. Is part of 5 the expert report. What it's not being offered is 6 as a one of the alternative plans.</p> <p>7 BY MS. BROYLES:</p> <p>8 Q. Right. So I just want to -- I'm just 9 asking you between 2011 and 2021. These two 10 columns on this chart.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. County splits goes from 10-5, 13 correct?</p> <p>14 A. That is true. It goes from 10-5.</p> <p>15 Q. And then voting district splits goes from 16 one in 2011 to zero.</p> <p>17 A. Right.</p> <p>18 Q. I see obviously, you know, you've got 19 that the municipalities increased?</p> <p>20 A. Well, there is a typo there. The split 21 municipalities would be six. Mr. Bryan pointed 22 out, and the municipal split of 12, because you 23 have six split towns, including Little Rock and in 24 North Little Rock.</p> <p>25 And you have -- therefore, you have 12</p>
<p style="text-align: right;">Page 142</p> <p>1 importance, but -- but sometimes you end up 2 making -- doing a split, and the one of the splits 3 doesn't have any population in it. So because it 4 had no population in it, it really has no impact 5 on voters, at least at the time of the 2020 6 census.</p> <p>7 Q. Going to figure 7, at least on eight -- 8 page 18, you know, I'm setting aside the 9 hypothetical plan, column and just looking at what 10 you've got for 2011 to 2021, Total split counties 11 is decreased to two, correct?</p> <p>12 A. Between the 2011 benchmark and the 2021 13 plan, that is correct. It goes from 5-2. As you 14 can see, the hypothetical plan just drops all the 15 way down to one.</p> <p>16 Q. And I want to I -- I get that, but since 17 you're not offering it as an.</p> <p>18 A. That's okay.</p> <p>19 Q. So I just -- I want to look at the chart 20 for this part of it okay?</p> <p>21 A. That's fine.</p> <p>22 MR. CUSICK: Objection.</p> <p>23 THE DEPONENT: But there's an objection.</p> <p>24 MS. BROYLES: What's the basis of that?</p> <p>25 MR. CUSICK: To the extent you're</p>	<p style="text-align: right;">Page 144</p> <p>1 splits, because you're putting them in two pieces. 2 It's really it another way to look at it is split 3 municipalities and municipal pieces that are parts 4 of different congressional districts. So it's -- 5 it's six and 12, not 12 and six, that's all. It's 6 just a typo.</p> <p>7 Q. Okay. And then core based statistical 8 area splits decrease from 13-11?</p> <p>9 A. Yes.</p> <p>10 Q. School district splits has decreased from 11 100-84?</p> <p>12 A. Yes.</p> <p>13 Q. One person, one vote deviation. Can you 14 explain I mean, that -- that's an improvement, 15 correct?</p> <p>16 A. Yes. It is. It takes what would be 17 major violation of one person one vote 18 requirements, which happens almost every state 19 congressional plan. Because the 2011 plan under 20 the 2020 census had an overall deviation of 20.26, 21 by dropping it down to 0.09 percent, the 22 legislature got it right within that, you know, 23 very close to minimal deviation and well within 24 the range spelled out by Supreme Court in 25 Jefferson County -- Jefferson County, West</p>

<p style="text-align: right;">Page 145</p> <p>1 Virgina, not all.</p> <p>2 Q. I'm glad you said that because that does</p> <p>3 get kind of confusing.</p> <p>4 A. Yeah. A lot of Jefferson Counties.</p> <p>5 Q. So DRA compactness, 41-59, so that's</p> <p>6 better, correct?</p> <p>7 A. That's right.</p> <p>8 Q. For retention, it's better, correct?</p> <p>9 A. Well, it's -- that's.</p> <p>10 Q. Or not applicable to 92.16 percent. So</p> <p>11 that's I mean, that's very good. I believe you</p> <p>12 said did you say anything over 90 is good?</p> <p>13 A. Well, to me, there's no -- there's no</p> <p>14 fixed figure. Anything -- virtually anything, all</p> <p>15 of the things equal would be okay. 73.5 percent</p> <p>16 is clearly okay as we're looking at the</p> <p>17 hypothetical plan. The -- the three judge panel</p> <p>18 in Milligan in Alabama.</p> <p>19 Q. Hold on. We got a --</p> <p>20 A. All right. Well, go ahead -- go ahead.</p> <p>21 Okay.</p> <p>22 MR. CUSICK: Hold on. I think you should</p> <p>23 just let the witness finish answering the</p> <p>24 question. He's in the middle of answering your</p> <p>25 question.</p>	<p style="text-align: right;">Page 147</p> <p>1 if the only thing that mattered is core retention,</p> <p>2 then the active plan is is very good. But very</p> <p>3 few states require you to do a measure of core</p> <p>4 retention as part of the redistrict process, in</p> <p>5 other words, they're not going to -- they're not</p> <p>6 going to enact a plan that they're not holding</p> <p>7 fast to some figure that has to be met.</p> <p>8 Apparently, Mr. Bryan has pointed out</p> <p>9 that in in Wisconsin. There's some sort of a</p> <p>10 stipulation that it has to be nine percent. I I</p> <p>11 don't know. I mean, that's -- that's what he</p> <p>12 says, though, I have no way of knowing that.</p> <p>13 BY MS. BROYLES:</p> <p>14 Q. Regardless, there's nothing wrong with</p> <p>15 that.</p> <p>16 A. No. There's not just looking at the</p> <p>17 number.</p> <p>18 Q. And then CD2, either 22.64 percent to</p> <p>19 20.33. Is there a standard deviation that is</p> <p>20 required for that line item?</p> <p>21 A. No. That's not a -- that's not a</p> <p>22 traditional redistricting principle, either.</p> <p>23 That's why figure 7 says, redistricting metrics as</p> <p>24 opposed to traditional redistricting principles,</p> <p>25 because core retention is not as traditional</p>
<p style="text-align: right;">Page 146</p> <p>1 MS. BROYLES: He's going beyond what the</p> <p>2 question is.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. You're allowed you can finish, but they</p> <p>5 can ask you any questions they want once I'm done.</p> <p>6 And I'm trying to get through Mo so go ahead and</p> <p>7 finish.</p> <p>8 A. Well, I'm just saying that the three</p> <p>9 judge panel, in the Milligan case in Alabama, had</p> <p>10 a special master draw plan -- a special</p> <p>11 master draw plan, had an 87 percent core retention</p> <p>12 rate. And the Court had no problem with that.</p> <p>13 And they ordered that plan rather than the state</p> <p>14 plan into place.</p> <p>15 Q. So at least from a core retention</p> <p>16 standpoint, the 2021 does better than the</p> <p>17 hypothetical plan?</p> <p>18 A. It does. That's true. Based on core</p> <p>19 retention, but core retention is not a traditional</p> <p>20 reissuing principle.</p> <p>21 Q. But you've got it here and it's not</p> <p>22 worse, is that fair to say?</p> <p>23 MR. CUSICK: Objection. As to form.</p> <p>24 THE DEPONENT: I mean, just if you look</p> <p>25 it is clearly okay. I mean, it's 92 percent. So</p>	<p style="text-align: right;">Page 148</p> <p>1 redistricting principle, and CD2 BVAP or even BVAP</p> <p>2 district by district, is not taken alone a</p> <p>3 traditional redistricting principle. And</p> <p>4 incumbent conflicts aren't either. So those three</p> <p>5 items are really not traditional redistricting</p> <p>6 principles.</p> <p>7 Q. Well, but for all the others that you've</p> <p>8 included, at least between 2011 and 2021, the only</p> <p>9 item that you criticize is split municipalities,</p> <p>10 correct?</p> <p>11 A. Well, I'm not necessarily criticizing</p> <p>12 split municipalities, except to the extent that</p> <p>13 municipalities are being split in Pulaski County,</p> <p>14 along with the three way split in the total number</p> <p>15 of county splits. The three way split in Pulaski</p> <p>16 County.</p> <p>17 Q. So you don't actually criticize the fact</p> <p>18 that it goes from 6-12, the only criticism is it</p> <p>19 specifically Pulaski County.</p> <p>20 A. Well, that's part of it. It go -- it</p> <p>21 goes -- there -- there are five split</p> <p>22 municipalities in the 2011 benchmark and 10</p> <p>23 municipal splits. And in the 2021 plan, there are</p> <p>24 six split municipalities and 12 municipal split.</p> <p>25 To recall, I have an error in that table</p>

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<p style="text-align: right;">Page 149</p> <p>1 transposing those two rows. So there are six</p> <p>2 split municipalities in the 2021 plan versus five</p> <p>3 in the 2011 plan. So on that score, the 2011 plan</p> <p>4 is better. Because it splits fewer</p> <p>5 municipalities.</p> <p>6 Q. It's 6-12. But you compared --</p> <p>7 A. Well, see the six here should be abo --</p> <p>8 six and 12 should be flipped so that there are</p> <p>9 five split municipalities in Arkansas, under the</p> <p>10 2011 plan, and yet there are six under the 2021</p> <p>11 plan. So one more municipality has been split</p> <p>12 under the 2021 plan.</p> <p>13 And that means that you have a total of</p> <p>14 12 municipal splits, in other words, 12 pieces</p> <p>15 versus just 10 in the 2011 plan. So on that</p> <p>16 metric, involving how one splits municipalities in</p> <p>17 a voting plan, the 2011 plan is slightly better.</p> <p>18 Q. Well, I mean that you take --</p> <p>19 A. But I'm not saying that you can look at</p> <p>20 that table, just look at those two lines and say</p> <p>21 that a plan necessarily fails because it splits</p> <p>22 one more municipality?</p> <p>23 Q. Right.</p> <p>24 A. I mean, which we're constantly balancing</p> <p>25 factors. And there could be occasions where you</p>	<p style="text-align: right;">Page 151</p> <p>1 there could be, you know, 20 seems like too many,</p> <p>2 but it is two, you know, I don't know. So that's</p> <p>3 why I'm asking you, is there an acceptable</p> <p>4 deviation amongst experts, do you know? Somewhere</p> <p>5 to the 0.79 percent?</p> <p>6 A. No. That's that's the only one that is a</p> <p>7 hard and fast rule. And there really is no</p> <p>8 precise measure for any of the others that would</p> <p>9 necessarily disqualify a plan on that measure</p> <p>10 alone. And the fact that the 2021 plan splits two</p> <p>11 counties into five pieces. If you just looked at</p> <p>12 in the abstract, you could not necessarily say the</p> <p>13 2021 plan fails.</p> <p>14 The reason why you have to say that it</p> <p>15 fails is because it splits Pulaski County three</p> <p>16 ways dividing up neighborhoods when there are</p> <p>17 other alternatives that could be in place that</p> <p>18 would not split Pulaski County, indeed, ones that</p> <p>19 would split as few as one county, as you see in</p> <p>20 the hypothetical plan, and the alternative plans</p> <p>21 would just split two.</p> <p>22 Q. So there's no standard that dividing a</p> <p>23 county more than -- into more than two voting</p> <p>24 districts is unacceptable?</p> <p>25 MR. CUSICK: Objection as to form.</p>
<p style="text-align: right;">Page 150</p> <p>1 would -- it would be okay to go ahead and split</p> <p>2 one more municipality in one plan versus another.</p> <p>3 Q. All right. So that's a good point. So</p> <p>4 with respect to total county splits, and I'm not</p> <p>5 even saying 5-2, is there an accepted standard</p> <p>6 deviation amongst demographers or redistricting</p> <p>7 experts like yourself as to what is acceptable?</p> <p>8 MR. CUSICK: Objection as to form.</p> <p>9 THE DEPONENT: There is not. But what</p> <p>10 is -- what can be seen --</p> <p>11 BY MS. BROYLES:</p> <p>12 Q. Hold on. What about total county splits?</p> <p>13 Is there a standard deviation that is acceptable?</p> <p>14 A. Well, one I was using the term standard</p> <p>15 deviation, which is a statistical term. I think</p> <p>16 what you mean is is there a difference maybe or</p> <p>17 some other probably we should probably be using</p> <p>18 some other word than standard deviation. There is</p> <p>19 none, though. There are congressional plans that</p> <p>20 are enacted and not problematic that would have</p> <p>21 more split counties than the 2011 benchmark even.</p> <p>22 Q. Well, so in a lot of your charts, like</p> <p>23 even the hypothetical plant, you've got percent</p> <p>24 deviations, and I want to use the term standard</p> <p>25 deviation. Because my point is to some degree,</p>	<p style="text-align: right;">Page 152</p> <p>1 THE DEPONENT: Well, not -- not just</p> <p>2 looking across all congressional plans nationwide.</p> <p>3 I mean, you have to look at why -- that why that</p> <p>4 split occurred. And here it seems.</p> <p>5 BY MS. BROYLES:</p> <p>6 Q. But you don't know why because you don't</p> <p>7 have any information as to why when that isn't --</p> <p>8 A. Well, I know the end -- I know the end</p> <p>9 result that Black neighborhoods in Pulaski County</p> <p>10 have been placed into three congressional</p> <p>11 districts for the first time ever, then at least</p> <p>12 going back into the 1960s. And it has nothing to</p> <p>13 do with needing to arrive at a better deviation</p> <p>14 number.</p> <p>15 It has nothing to do with producing fewer</p> <p>16 county splits because there are actually 10 county</p> <p>17 splits in the -- in the I'm sorry, there are a --</p> <p>18 there -- there are five county splits in the -- in</p> <p>19 the 2021 plan, three in Pulaski County, one in</p> <p>20 Sebastian, then there's another county. So you're</p> <p>21 still producing more splits than necessary.</p> <p>22 Q. But voting district splits, I guess, how</p> <p>23 are you balancing municipal splits as more</p> <p>24 important than voting district splits?</p> <p>25 MR. CUSICK: Objection as to form.</p>

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<p style="text-align: right;">Page 153</p> <p>1 THE DEPONENT: First of all, when you're</p> <p>2 using the term voting district, do you mean voting</p> <p>3 tabulation districts and as in VTDs, or do you</p> <p>4 mean congressional districts?</p> <p>5 BY MS. BROYLES:</p> <p>6 Q. Sorry, VTDs.</p> <p>7 A. VTDs. Well, there's really no problem</p> <p>8 with the 2021 plan. It doesn't split any VTDs.</p> <p>9 And there's probably no -- no problems with the</p> <p>10 2011 plan because it just splits one.</p> <p>11 Q. Well, so are you -- is there any kind of</p> <p>12 priority amongst experts for the literature or any</p> <p>13 standards that you're aware of that says county</p> <p>14 splits are prioritized over municipalities or</p> <p>15 municipalities over VTDs. I mean, is there any</p> <p>16 kind of standard as to how to weigh those</p> <p>17 balancing factors?</p> <p>18 MR. CUSICK: Objection to form.</p> <p>19 THE DEPONENT: No. It's -- it's a --</p> <p>20 it's case to case. There's no -- there's no</p> <p>21 bright line rule. And the only bright line rule</p> <p>22 would be one person one vote That now that I</p> <p>23 understood that you don't need to hit zero per</p> <p>24 deviation. There's variation there. So there's</p> <p>25 not even a bright line -- rule there except for</p>	<p style="text-align: right;">Page 155</p> <p>1 And if you draw a plan that doesn't meet</p> <p>2 the core retention rate of an enacted plan, then</p> <p>3 that's okay if there's another reason why the plan</p> <p>4 should be changed beyond that 92 percent core</p> <p>5 retention rate, which is what we're arguing here,</p> <p>6 because we've shown that a plan that would be</p> <p>7 perfectly acceptable in terms of core retention,</p> <p>8 i.e. Alternative point 1, I believe it is, has an</p> <p>9 87 percent core retention rate. I've got it</p> <p>10 listed here. I can --</p> <p>11 Q. Well, I guess, again, I'm going back to</p> <p>12 you. Please listen to my question.</p> <p>13 A. Well --</p> <p>14 Q. Here you go. What expected norm are you</p> <p>15 talking about? What is the expected norm?</p> <p>16 A. Something that I would consider to be</p> <p>17 normal for a change in plan between 2011 and 2021</p> <p>18 in a small congressional plan like Arkansas has.</p> <p>19 Q. What is that?</p> <p>20 A. Well, I think anything -- I mean, there</p> <p>21 is no hard number, but I think clearly anything</p> <p>22 over 50 percent would be okay under certain</p> <p>23 circumstances. In fact, as I suggested earlier,</p> <p>24 the legislature can do anything they want to.</p> <p>25 They can't do anything they want to do on</p>
<p style="text-align: right;">Page 154</p> <p>1 the Supreme Court case Tenant V Jefferson County</p> <p>2 that allowed a 0.79 percent deviation.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. When you say in paragraph 30 on page 19,</p> <p>5 within an expected norm, what is an expected norm?</p> <p>6 What are you using as a standard?</p> <p>7 A. Well, there is no -- I mean, I think it</p> <p>8 holds up well when compared against other plans,</p> <p>9 particularly, those that had been drawn to meet a</p> <p>10 Jingles' one lawsuit where you have to have</p> <p>11 traumatic changes in the existed -- in that plan.</p> <p>12 There simply is no core retention rate that I'm</p> <p>13 aware of that has to be met.</p> <p>14 Q. So --</p> <p>15 A. I mean if you can point me to one, I'll</p> <p>16 reconsider, but, I mean, the core retention rates</p> <p>17 generally aren't even discussed in a lot of cases.</p> <p>18 It's kind of a new thing. And --</p> <p>19 Q. Why is it --</p> <p>20 A. -- just because a plan was drawn ten</p> <p>21 years ago, which would then have problems based on</p> <p>22 the 2020 census, doesn't mean that you need to do</p> <p>23 a plan that has a 90 percent core retention.</p> <p>24 There is no hard-and-fast rule at all. It's not a</p> <p>25 traditional redistricting principle.</p>	<p style="text-align: right;">Page 156</p> <p>1 compactness, but if they want to draw a plan that</p> <p>2 has 20 percent core retention, they could do that.</p> <p>3 I think, as I understand it --</p> <p>4 Q. So --</p> <p>5 A. -- there's no limit to how they might</p> <p>6 change the plan as long as it's admissible in</p> <p>7 terms of one person in one vote compactness</p> <p>8 contiguity. They don't need to draw exactly the</p> <p>9 same plan that they had in 2011. Obviously, they</p> <p>10 do have to make minor changes along the way just</p> <p>11 to deal with one person one vote. If they can go</p> <p>12 way beyond that.</p> <p>13 Q. Well, I guess my point is, that's a</p> <p>14 subjective opinion that you have about what is the</p> <p>15 expected norm. There is no "norm."</p> <p>16 A. There -- yeah. I do not have a chart</p> <p>17 that shows exactly what the norm is nationwide.</p> <p>18 That's right, but I think in my opinion, all the</p> <p>19 plans I've drawn would be within the expected</p> <p>20 norm. I have no doubt that that would hold up.</p> <p>21 Q. But you don't know what that is?</p> <p>22 A. I don't have the -- I don't have a full</p> <p>23 chart showing core retention of all the plans</p> <p>24 nationwide, no.</p> <p>25 Q. So if you're saying it doesn't matter,</p>

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<p style="text-align: right;">Page 157</p> <p>1 why did you include it?</p> <p>2 MR. CUSICK: Objection as to form.</p> <p>3 THE DEPONENT: Well, because I think it's</p> <p>4 within the expected norm. After eliminating</p> <p>5 cracking of the Black population in Central</p> <p>6 Arkansas and the Delta. Well, she be in</p> <p>7 central -- Central and Southeast Arkansas.</p> <p>8 Central and Southeast Alaska County, excuse me.</p> <p>9 BY MS. BROYLES:</p> <p>10 Q. But again, you can't say what the</p> <p>11 expected norm is or point to any literature cases</p> <p>12 or any other expert that -- that shares any</p> <p>13 opinion with you on what what the norm is.</p> <p>14 A. Well, I've worked on a number of</p> <p>15 congressional plans since 2020 in Louisiana,</p> <p>16 Georgia, Arkansas now. I've looked at a couple of</p> <p>17 others, maybe, and I can say comfortably that it's</p> <p>18 within the expected norm, but I'm not going to</p> <p>19 give you a suggested range because I've not looked</p> <p>20 at every single state and tried to, you know, any</p> <p>21 plan that's enacted right now is arguably within</p> <p>22 the norm. So if there's another state out there</p> <p>23 was a for retention rate of 50 percent, then that</p> <p>24 would be the norm, as of today. It's like</p> <p>25 Illinois and compaten scores.</p>	<p style="text-align: right;">Page 159</p> <p>1 statistical data collected by the Office of</p> <p>2 Management Budget and the Census Bureau that shows</p> <p>3 commuting patterns. And by defining regions based</p> <p>4 on commuting patterns, that shows kind of an</p> <p>5 economic relationship and is a way to examine</p> <p>6 regional community of interests that go beyond</p> <p>7 just reporting county splits.</p> <p>8 Q. So what did you observe about Arkansas</p> <p>9 regarding core based statistical area?</p> <p>10 A. Well, I observed that the 2011 plan had</p> <p>11 split 13 core based statistical areas, and the</p> <p>12 enacted plan improved it a little bit down to 11.</p> <p>13 The hypothetical plan gets it down to nine. The</p> <p>14 alternative plan is the winner -- alternative plan</p> <p>15 3 is the winner on this metric because the core</p> <p>16 based statistical area split under the alternative</p> <p>17 plan 3 drop to three. I'm -- I'm sorry. Yeah.</p> <p>18 Dropped to three. So it's really a major</p> <p>19 improvement over that metric.</p> <p>20 Q. On that isolated metric?</p> <p>21 A. Well, it's not isolated. It's target.</p> <p>22 You've heard of references to the Little Rock MSA,</p> <p>23 right? Somewhere along the line? Yeah. Well,</p> <p>24 isn't that relevant, that you read information</p> <p>25 about -- about population changes in the -- in the</p>
<p style="text-align: right;">Page 158</p> <p>1 Q. So the norm is always subject to change?</p> <p>2 MR. CUSICK: Objection.</p> <p>3 THE DEPONENT: It would be -- it would</p> <p>4 be. Potentially.</p> <p>5 BY MS. BROYLES:</p> <p>6 Q. What are CDSAs?</p> <p>7 A. Those are regions of the state that are</p> <p>8 defined by the Office of Management and Budget and</p> <p>9 the Census Bureau based on commuting patterns,</p> <p>10 which would be a kind of community of interest</p> <p>11 that can be quantified that as explained in</p> <p>12 footnote 7 of my declaration. And so I was</p> <p>13 just --</p> <p>14 Q. What's the relevance of it?</p> <p>15 A. -- measuring the number of splits.</p> <p>16 MR. CUSICK: Objection.</p> <p>17 BY MS. BROYLES:</p> <p>18 Q. What's the relevance of it?</p> <p>19 A. What's the relevance of it?</p> <p>20 Q. Well, you -- yeah. I'm -- I'm just --</p> <p>21 I'm not suggesting there is or isn't. I'm --</p> <p>22 that's just my question. You talked about core</p> <p>23 retention, not being a major factor in your mind,</p> <p>24 is CBSAs a aspect of core retention?</p> <p>25 A. Not really, no. CBSAs are based on</p>	<p style="text-align: right;">Page 160</p> <p>1 Little Rock MSA or new transportation quarters in</p> <p>2 the Little Rock MSA, that sort of thing. I mean,</p> <p>3 it's -- it's highly relevant.</p> <p>4 Q. Well, didn't you -- you've already</p> <p>5 testified earlier that the most important</p> <p>6 traditional principle is one person one vote,</p> <p>7 correct?</p> <p>8 A. That's -- that's right.</p> <p>9 MR. CUSICK: Objection as to form.</p> <p>10 Council.</p> <p>11 BY MS. BROYLES:</p> <p>12 Q. And which plan in figure 7 does the best</p> <p>13 on that?</p> <p>14 A. On what?</p> <p>15 Q. One person one vote.</p> <p>16 A. In -- on one person one vote, the plan</p> <p>17 that is in figure 7, the plan that is closest to</p> <p>18 perfect deviation, which I - I would suggest is</p> <p>19 not necessary, would be the 2021 enacted plan.</p> <p>20 But if you want to plan that --</p> <p>21 Q. No.</p> <p>22 A. -- no. Well, let me finish my case</p> <p>23 because the I -- I specifically created an</p> <p>24 additional county split in alternative plan. One</p> <p>25 to deal with the issue you're raising that somehow</p>

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<p style="text-align: right;">Page 161</p> <p>1 or another, we've not drawn a plan that was as</p> <p>2 close to perfect deviation as the 21 enacted plan.</p> <p>3 And alternative plan 1 takes the deviation down to</p> <p>4 the double digits. So it is closer to zero</p> <p>5 population than the 2021 enacted plan. And still</p> <p>6 has fewer county splits.</p> <p>7 Q. In every one of these plans, so in</p> <p>8 alternative 1 plan, what was the most important</p> <p>9 factor you took into consideration?</p> <p>10 A. I'm constantly balancing factors. There</p> <p>11 is no importance. Other than being aware that I</p> <p>12 could only, you know, fall within that range</p> <p>13 roughly of 0.7 percent or 0.79 0.7 percent</p> <p>14 deviation, there is no one factor that I was</p> <p>15 prioritizing. And I was balancing these things</p> <p>16 across a number of all the traditional</p> <p>17 redistricting principles.</p> <p>18 And also -- and also simultaneously</p> <p>19 making sure that I didn't divide neighborhoods in</p> <p>20 Pulaski County that don't need to be split or</p> <p>21 dividing neighborhoods anywhere in the state.</p> <p>22 Because I don't -- I don't create any kind of sub</p> <p>23 county neighborhood split anywhere else in the</p> <p>24 state at all in the -- in the alternative plans</p> <p>25 I've drawn.</p>	<p style="text-align: right;">Page 163</p> <p>1 what we have in the enacted 2021 plan.</p> <p>2 So the alternative plans are acceptable</p> <p>3 for Pulaski County in the sense that the Black</p> <p>4 population remains in one single congressional</p> <p>5 district. And so the cracking of the Black</p> <p>6 population at the sub county level within the</p> <p>7 alternative plans is fixed.</p> <p>8 But the overall cracking of the Black</p> <p>9 population in neighboring Jefferson County, which</p> <p>10 is part of what is known as a combined statistical</p> <p>11 area, which means that it is an MSA with a close</p> <p>12 connection to -- to Little Rock. In other words,</p> <p>13 there's a -- there's a commuting link there.</p> <p>14 That particular county could easily be</p> <p>15 included in a plan along with Pulaski County and</p> <p>16 serving as the bridge into the Delta, where as we</p> <p>17 see in the hypothetical plan, you could have a</p> <p>18 district that is about 38 percent black. But I</p> <p>19 mean, we're getting back to the hypothetical plan</p> <p>20 here.</p> <p>21 Q. You are, okay?</p> <p>22 A. Well, no, no. I'm -- you ask me -- you</p> <p>23 asked me questions.</p> <p>24 MR. CUSICK: Objection for a moment.</p> <p>25 BY MS. BROYLES:</p>
<p style="text-align: right;">Page 162</p> <p>1 There are whole county plans. There, of</p> <p>2 course, is that split of Sebastian County. And in</p> <p>3 a couple of plans, I just left it exactly the way</p> <p>4 the state threw it. But there's no municipality</p> <p>5 split there. And essentially, it's the same as</p> <p>6 enacted 2023.</p> <p>7 Q. Explain to me how you get the numbers on</p> <p>8 as to paragraph 30 excuse me not 30, 32.</p> <p>9 A. Paragraph 32.</p> <p>10 Q. Because what does it matter to include</p> <p>11 1981?</p> <p>12 A. It matters because it's showing that</p> <p>13 there is an actual demographic reality that the</p> <p>14 Black population has been cracked in Arkansas for</p> <p>15 decades. And I've just shown the 1980 numbers up</p> <p>16 to the 1980 plan up to 2020 -- up to 2021.</p> <p>17 And you can see that there were</p> <p>18 alternative ways of drawing that plan that would</p> <p>19 not crack in the Black population that would</p> <p>20 keep -- that would -- that would keep Pulaski</p> <p>21 County whole. And that's all the hypothetical</p> <p>22 plan is doing. It's just showing demographic</p> <p>23 reality and showing that a plan could be drawn</p> <p>24 today that would be about 20 percentage points</p> <p>25 higher in terms of BVAP in CD1 than that -- than</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. I asked what is the relevance of</p> <p>2 including 1980 to a hypothetical plan and</p> <p>3 comparing it as well to 2021.</p> <p>4 A. Ask and answered.</p> <p>5 Q. It's not.</p> <p>6 A. Ask and answered. I've answered it.</p> <p>7 I've answered repeatedly. And you complained</p> <p>8 about my referring to a plan that could have been</p> <p>9 created at any point over the past 40 years. I've</p> <p>10 made the point. I don't need to go beyond that,</p> <p>11 because to a certain extent, it is certainly</p> <p>12 beyond the focus of this particular lawsuit.</p> <p>13 Q. You understand that you put it in the</p> <p>14 report, so I have to ensure and verify what you --</p> <p>15 you're saying is beyond this lawsuit. So which</p> <p>16 parts of your report are beyond this lawsuit?</p> <p>17 A. No parts.</p> <p>18 MR. CUSICK: Objection as to form.</p> <p>19 THE DEPONENT: This this is demographic</p> <p>20 reality that I placed in my -- in my -- in my</p> <p>21 declaration. And it's explaining where the Black</p> <p>22 population lives, explains how the Black</p> <p>23 population is being cracked in the enacted plan in</p> <p>24 the benchmark plan in the 1990 plan in the 1981</p> <p>25 plan and probably going back in time.</p>

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<p style="text-align: right;">Page 165</p> <p>1 That's all it's doing. It's given you a</p> <p>2 picture of where the Black population lives in</p> <p>3 Arkansas. Simple as that. But we can move on</p> <p>4 from that. Because the focus of this is just</p> <p>5 trying to fix this extra cracking that suddenly</p> <p>6 appears out of nowhere when Pulaski County split.</p> <p>7 Split three ways. Why three ways? Why not two?</p> <p>8 Why have you split it at all? There's no</p> <p>9 answer. I've not seen any answer from your side</p> <p>10 from anyone that can that can explain what</p> <p>11 happened there and why? Because it certainly</p> <p>12 doesn't have anything to do with deviation, has</p> <p>13 nothing to do with the number of county splits,</p> <p>14 has nothing to do with core based statistical area</p> <p>15 splits, has nothing to do with compactness. So</p> <p>16 why did they do that? That's the question, the</p> <p>17 unanswered question. If you can tell me, I would</p> <p>18 be very pleased.</p> <p>19 BY MS. BROYLES:</p> <p>20 Q. I can't testify I'm the attorney but at</p> <p>21 the point is that you don't know either.</p> <p>22 MR. CUSICK: Objection. Argumentative.</p> <p>23 THE DEPONENT: Let you know, perhaps</p> <p>24 you'll get somebody who can explain why they did</p> <p>25 that. We'll see.</p>	<p style="text-align: right;">Page 167</p> <p>1 don't know is, did it do better under -- did --</p> <p>2 did the 2011 plan do better on one person one vote</p> <p>3 than the 2020 plan based on the 2010 census when</p> <p>4 the plan was enacted. But it's really almost --</p> <p>5 it's almost immaterial because I'm not complaining</p> <p>6 in my declaration at all about the deviation that</p> <p>7 was the final result of the 2021 enacted plan.</p> <p>8 It's fine. The -- the one -- it meets one person</p> <p>9 one vote. I have no -- no complaints about that.</p> <p>10 Q. So the percent population Figure 11, I</p> <p>11 guess, how it says 2021 caliper, where does that</p> <p>12 copyright come from?</p> <p>13 A. That comes from the Maptitude software</p> <p>14 that I was using that -- that is there. A little</p> <p>15 logo that shows up when you produce a map based</p> <p>16 on -- on using their plan. And I developed the</p> <p>17 map. I put the percentages in there, but I was</p> <p>18 using the caliper program, Maptitude for</p> <p>19 redistricting to produce the map.</p> <p>20 Q. How -- where did you get the percent --</p> <p>21 how did you get to the percentages?</p> <p>22 A. Well, I just took the population of the</p> <p>23 individual counties in 2010, and then I had the</p> <p>24 2020 data. So I, you know, looked at 2020</p> <p>25 population, got the -- subtracted 2010 from 2020,</p>
<p style="text-align: right;">Page 166</p> <p>1 BY MS. BROYLES:</p> <p>2 Q. Your Paragraph 38 talks about population</p> <p>3 laws in many rural counties along the Delta, Lower</p> <p>4 Arkansas, parts of OSR, coupled with strong grove</p> <p>5 in Northwest Arkansas, meant that the</p> <p>6 congressional math would have to change after the</p> <p>7 2020 census to comply with one person one vote.</p> <p>8 Did I read that correctly?</p> <p>9 A. Yeah. True statement.</p> <p>10 Q. And the plan -- the enacted plan,</p> <p>11 performed better than 2011 with respect to one</p> <p>12 person one vote, correct?</p> <p>13 A. Well, I don't know if -- I don't know if</p> <p>14 the -- the deviation range in the 2011 plan. I'm</p> <p>15 not sure what the deviation was in that plan based</p> <p>16 on the 2010 census, but clearly, it had to change</p> <p>17 because there was -- there was an imbalance in the</p> <p>18 population of the congressional plan, not just in</p> <p>19 Arkansas, probably in -- and probably in every</p> <p>20 state in the country.</p> <p>21 Q. Look at Figure 7, and that's -- and</p> <p>22 that's the specifically what we're talking about</p> <p>23 there. And just confirm that 2021 did better on</p> <p>24 one person one vote than 2011.</p> <p>25 A. Under the 2020 census to four what I</p>	<p style="text-align: right;">Page 168</p> <p>1 and then looked at how the population had changed</p> <p>2 in terms of percentages since 2010. And so you</p> <p>3 can see, as -- as you just mentioned, I think</p> <p>4 everybody agrees, there's been very significant</p> <p>5 population loss just in the past decade in the</p> <p>6 rural counties along the Mississippi River, and</p> <p>7 elsewhere in lower Arkansas, and even -- even into</p> <p>8 the Ozarks in a couple of spots. The Central</p> <p>9 Arkansas has more or less hardly changed, really.</p> <p>10 So that's the other reason why one wonders why</p> <p>11 they bother --</p> <p>12 Q. You said Central Arkansas hardly changed?</p> <p>13 A. Well, Central Arkansas being CD2, I mean,</p> <p>14 it was very close to being okay by deviation</p> <p>15 standards. All you had to do is remove Van Buren</p> <p>16 County and make a minor change, and -- and you're</p> <p>17 good to go. The -- the driver of population grows</p> <p>18 in Arkansas, as we all know, is Northwest</p> <p>19 Arkansas, the Deep Greens.</p> <p>20 Q. What's Figure 12?</p> <p>21 A. That is the benchmark plan. That's a</p> <p>22 2011 plan.</p> <p>23 Q. And what are the numbers in there?</p> <p>24 A. Oh, that shows population by county under</p> <p>25 the 2020 census.</p>

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<p style="text-align: right;">Page 169</p> <p>1 Q. And did you type all that in there?</p> <p>2 A. No. I did not.</p> <p>3 Q. Okay. How does that get there?</p> <p>4 A. I just tell the program to label the</p> <p>5 populations. And so I had it labeled the county</p> <p>6 populations, and it's almost an instantaneous</p> <p>7 operation. So it was very easy to do. It's just</p> <p>8 helpful. I found it helpful to have total</p> <p>9 populations in there so that people can see how</p> <p>10 the districts were changed and which counties were</p> <p>11 moved around.</p> <p>12 Q. Is there a recognized deviation and</p> <p>13 population that as far as, like, a above a certain</p> <p>14 amount, would be almost an anomaly?</p> <p>15 A. Well, I mean, you could have dramatic</p> <p>16 population in some areas of Arkansas or elsewhere,</p> <p>17 where it would seem like, you know, you could have</p> <p>18 huge population growth somewhere and it would get</p> <p>19 in a high double digits, for sure. I mean, I</p> <p>20 can't think of a state necessarily where that</p> <p>21 happens, but it could.</p> <p>22 And the population growth in Northwest</p> <p>23 Arkansas was pretty -- pretty major. I mean, the</p> <p>24 deviation, go back to that table, but most of the</p> <p>25 deviation has -- was caused by the big jump in</p>	<p style="text-align: right;">Page 171</p> <p>1 the critical factor. So that you could have</p> <p>2 resolved any issues relating to one person one</p> <p>3 vote in Congressional District 2 by simply</p> <p>4 removing Van Buren County from CD2.</p> <p>5 And you would have ended up with a</p> <p>6 district that was 714 persons over the ideal</p> <p>7 district size well within the 0.79 -- 0.79 or 0.7</p> <p>8 percentage deviation range, it would have been</p> <p>9 fixed. That's it. No need it would have been</p> <p>10 like -- for CD2 itself, it would have been a core</p> <p>11 retention rate if I had been probably 99 percent</p> <p>12 for CD2.</p> <p>13 Q. You don't know that because you didn't</p> <p>14 look at any of the other traditional factors.</p> <p>15 A. Oh, but I did. I did. I mean, the --</p> <p>16 the fact is, if you did that the deviation would</p> <p>17 be --</p> <p>18 Q. Let me finish my question.</p> <p>19 A. Well, okay. Go ahead.</p> <p>20 Q. This paragraph is not one of your</p> <p>21 alternative maps, correct?</p> <p>22 MR. CUSICK: Objection. Asked and</p> <p>23 answered.</p> <p>24 THE DEPONENT: No, but it is --</p> <p>25 BY MS. BROYLES:</p>
<p style="text-align: right;">Page 170</p> <p>1 population in -- in CD3. Right? I mean, we'd</p> <p>2 have to go back to one of those tables that has</p> <p>3 the deviation under the -- under the benchmark</p> <p>4 plan. I mean, we're just looking at it. Where is</p> <p>5 it?</p> <p>6 Q. In Paragraph 48, on Page 28, is there a</p> <p>7 plan that that is referring to one of your</p> <p>8 alternative plans?</p> <p>9 A. Paragraph 48?</p> <p>10 Q. Yes.</p> <p>11 A. Yes. And in -- in a sense, I -- I have</p> <p>12 almost another plan buried within the text here.</p> <p>13 I didn't present it as an alternative plan, but if</p> <p>14 you wanted to fix the deviation problem in CD2,</p> <p>15 all you really had to do was put Van Buren County</p> <p>16 into another district, because that would have</p> <p>17 reduced the size of CD2 to 714 persons. Done.</p> <p>18 You could have just -- you could have just locked</p> <p>19 in that CD2 as drawn with that one move and never</p> <p>20 gotten gone any further with it, overdone with.</p> <p>21 That's all you need to.</p> <p>22 Q. And that's only based on BVAT?</p> <p>23 A. No. It has nothing to do with BVAT,</p> <p>24 nothing to do with BVAT. All you have to do is --</p> <p>25 is focus solely on one person one vote, which is</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. Hold on. Correct?</p> <p>2 A. Well, you asked me correct. So I was</p> <p>3 going to answer you.</p> <p>4 Q. Okay. That you did answer, and so let me</p> <p>5 ask my next question.</p> <p>6 MR. CUSICK: Hold on, I would -- I would</p> <p>7 say, again, I think, Bill, were you planning to</p> <p>8 say anything else?</p> <p>9 THE DEPONENT: Yeah I don't -- I don't</p> <p>10 think you did allow me to respond to your</p> <p>11 question, but I would like you to repeat it one</p> <p>12 more time because now I've lost the question you</p> <p>13 asked.</p> <p>14 BY MS. BROYLES:</p> <p>15 Q. Okay. Paragraph 48, you just -- you've</p> <p>16 already testified that you did not offer an</p> <p>17 alternative map. That is what you have stated in</p> <p>18 Paragraph 48?</p> <p>19 A. I -- I did not. But what I am saying is</p> <p>20 that if you removed -- if you remove Van Buren</p> <p>21 County from CD2, that's all you need to do to fix</p> <p>22 one person one vote. If they -- if -- if the</p> <p>23 legislature were truly concerned about one person</p> <p>24 one vote, that's all you need to do. That fixes</p> <p>25 CD2.</p>

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<p style="text-align: right;">Page 173</p> <p>1 Now, they could -- they had -- they would</p> <p>2 have had to do other things in other congressional</p> <p>3 districts to correct the deviation there. But CD2</p> <p>4 would be fixed. There would be no split Pulaski</p> <p>5 County, right? So -- so it would be fixed. Over</p> <p>6 and done with.</p> <p>7 Q. Only Pulaski County?</p> <p>8 A. No. No. No. CD2 would be over and done</p> <p>9 with. It would be -- it would be a district that</p> <p>10 it was over by 714 persons. Lock that in and then</p> <p>11 do whatever else you need to do in the rest of the</p> <p>12 plan. There was no need to go beyond that. And</p> <p>13 so in a sense, that is an alternative plan. You</p> <p>14 call it alternative Plan 1A for Pulaski County.</p> <p>15 Q. So that -- that you are adding that as a</p> <p>16 new plan now?</p> <p>17 MR. CUSICK: Objection. Mischaracterizes</p> <p>18 testimony.</p> <p>19 THE DEPONENT: It's not a plan. But it's</p> <p>20 a component of a plan that I would say indicates</p> <p>21 to me that a plan that started that way, would</p> <p>22 probably or could still continue to be a plan that</p> <p>23 adhere to all traditional redistricting</p> <p>24 principles.</p> <p>25 BY MS. BROYLES:</p>	<p style="text-align: right;">Page 175</p> <p>1 You just take -- you just take Van Buren County</p> <p>2 out. The reason why I did not do an alternative</p> <p>3 plan like that is because well, I mean, Van Buren</p> <p>4 is -- is significantly Republican, right? So if</p> <p>5 you take Van -- Van Buren out of CD2, then the</p> <p>6 partisanship in CD2 would end up being about the</p> <p>7 way it is under the 2011 enacted plan, in fact, a</p> <p>8 little bit worse, right?</p> <p>9 And since you only seem, you know, the</p> <p>10 legislatures seem to be really hyper focused on</p> <p>11 partisanship, so it would not have been a plan</p> <p>12 that they would necessarily have considered, even</p> <p>13 though there would have been every reason to take</p> <p>14 that approach had they not been so obsessed with</p> <p>15 partisanship. Because they were already electing</p> <p>16 a Republican under the 2011 enactment plan.</p> <p>17 So I don't -- I don't even know, it's</p> <p>18 just mind blowing that they felt the need to make</p> <p>19 the plan even more partisan because it was already</p> <p>20 consistently electing a Republican. But it is</p> <p>21 what it is. And for that reason, even though this</p> <p>22 was a simple solution that would have left CD2</p> <p>23 unscathed, it would have had probably 99 percent</p> <p>24 core retention. I didn't offer it as an</p> <p>25 alternative plan because it didn't -- it didn't</p>
<p style="text-align: right;">Page 174</p> <p>1 Q. Where is your data reflecting what would</p> <p>2 happen in other parts of the state?</p> <p>3 A. My data is in my head, knowing that</p> <p>4 that's all you would need to do to effectively</p> <p>5 draw a plan that met traditional redistricting</p> <p>6 principles, reasonably compact. One person one</p> <p>7 vote would be okay, about the same number of</p> <p>8 votes --</p> <p>9 Q. For CD2.</p> <p>10 A. CD2. It's just CD2 but you'd have to</p> <p>11 fill in the rest of the map.</p> <p>12 Q. What about so you don't have any idea or</p> <p>13 your report does not have any information about</p> <p>14 what result that would cause in any other</p> <p>15 congression?</p> <p>16 A. Well, let me explain why I didn't use</p> <p>17 this simple solution which should have been what</p> <p>18 the legislature would do. I mean, if they really</p> <p>19 wanted to keep CD2 --</p> <p>20 Q. By some what?</p> <p>21 A. Again let me --</p> <p>22 MR. CUSICK: Can you let him finish this</p> <p>23 is the fourth time.</p> <p>24 THE DEPONENT: I mean, the point is that</p> <p>25 there was no need to hardly change CD2 at all.</p>	<p style="text-align: right;">Page 176</p> <p>1 make the partisan split even wider in CD2. It's</p> <p>2 all very unfortunate. That's all I say, very</p> <p>3 unfortunate, very simple solution, but it was not</p> <p>4 good enough for the legislature.</p> <p>5 BY MS. BROYLES:</p> <p>6 Q. Does that not in and of itself, show</p> <p>7 partisan thing the factor?</p> <p>8 MR. CUSICK: Objection as to form.</p> <p>9 THE DEPONENT: I -- I, you know --</p> <p>10 BY MS. BROYLES:</p> <p>11 Q. That doesn't -- I mean, I guess my point</p> <p>12 is that what you just said explains why there's no</p> <p>13 racial motivator here, clear?</p> <p>14 MR. CUSICK: Objection as to form.</p> <p>15 BY MS. BROYLES:</p> <p>16 Q. Because as you just said, what you</p> <p>17 somewhat suggested in 48 does not perform even</p> <p>18 better than 2011, correct?</p> <p>19 MR. CUSICK: Hold up. One second.</p> <p>20 There's multiple questions there. Do you mind</p> <p>21 asking him one single so that I can object to it</p> <p>22 and then allowing him to answer?</p> <p>23 BY MS. BROYLES:</p> <p>24 Q. Paragraph 48, which you said you did not</p> <p>25 offer as an alternative because it would perform</p>

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<p style="text-align: right;">Page 177</p> <p>1 worse than the benchmark in 2011 on a partisan --</p> <p>2 MR. CUSICK: I object.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. -- on a partisan basis, correct?</p> <p>5 MR. CUSICK: Objection as to form.</p> <p>6 You can answer.</p> <p>7 THE DEPONENT: Yeah. Well, there would</p> <p>8 be a minor reduction in the Trump-Biden vote count</p> <p>9 for CD2. Percentage insurance. Oh, it would be</p> <p>10 very minor.</p> <p>11 BY MS. BROYLES:</p> <p>12 Q. Do you know what it is?</p> <p>13 A. I don't have it off the top of my head,</p> <p>14 but it would be less than the Trump-Biden vote</p> <p>15 count in the enacted plan. Obviously not the</p> <p>16 enacted plan, it would be less than the -- the</p> <p>17 margin would be less than in the benchmark plan,</p> <p>18 but very little difference. Very little</p> <p>19 difference because it's only 15,000 people.</p> <p>20 Q. How do I know that from anything that on</p> <p>21 paper here?</p> <p>22 A. You would know it if you researched the</p> <p>23 percentage of the population -- voting population</p> <p>24 on election day in 2020, you would see that Trump</p> <p>25 won handily in Van Buren -- Van -- Van Buren</p>	<p style="text-align: right;">Page 179</p> <p>1 within a certain distance as far as their</p> <p>2 functions and behaviors?</p> <p>3 MR. CUSICK: Objection to as to form.</p> <p>4 THE DEPONENT: I don't -- I don't really</p> <p>5 understand the question at all. So I have not</p> <p>6 done that.</p> <p>7 BY MS. BROYLES:</p> <p>8 Q. Okay. On paragraph 2 in page 29 down in</p> <p>9 your footnote 11, you said I estimated</p> <p>10 neighborhood populations by overlaying a shape</p> <p>11 file onto 2020 census blocks. What can you</p> <p>12 explain that?</p> <p>13 A. Yes. I got the shape file from the City</p> <p>14 of Little Rock showing neighborhoods and Little</p> <p>15 Rock. And then I examined those neighborhoods</p> <p>16 that are right on the line between CD2 and CD4 and</p> <p>17 determine which -- which neighborhoods were on the</p> <p>18 line and being excluded from CD2 for the first</p> <p>19 time in a number of decades. And so I report</p> <p>20 that.</p> <p>21 Q. How did you estimate it, though?</p> <p>22 A. Well, the thing is that some of these</p> <p>23 neighborhood lines split census blocks, so it's</p> <p>24 not absolutely precise, but it's very close to</p> <p>25 being correct.</p>
<p style="text-align: right;">Page 178</p> <p>1 County. So taking that county out would enhance</p> <p>2 democratic voting strength in CD2, but only a at a</p> <p>3 very minor level, compared to the 2011 enacted</p> <p>4 plan, which had a margin that clearly favored</p> <p>5 Trump in 2020.</p> <p>6 Q. Is there a standard deviation that's</p> <p>7 acceptable as far as establishing what is the norm</p> <p>8 for partisan improvement -- or partisan advantage?</p> <p>9 A. I'm not a political scientist.</p> <p>10 MR. CUSICK: Sorry. Let me just object,</p> <p>11 and then I'll let you --</p> <p>12 THE DEPONENT: Yeah.</p> <p>13 MR. CUSICK: Objection.</p> <p>14 You can answer.</p> <p>15 THE DEPONENT: I'm not a political</p> <p>16 scientist, so I will not opine on that.</p> <p>17 BY MS. BROYLES:</p> <p>18 Q. You don't know if there is or?</p> <p>19 A. I don't think there is, but --</p> <p>20 Q. Have you done any analysis on how people</p> <p>21 function within the various districts that you've</p> <p>22 addressed. So as, for instance, someone might</p> <p>23 live in one part of CD2, but every part of their</p> <p>24 engagement with their community is in a different</p> <p>25 congressional -- how do you know that they stay</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. What's the accepted standard deviation?</p> <p>2 MR. CUSICK: Object to form.</p> <p>3 THE DEPONENT: There is no accepted</p> <p>4 standard deviation.</p> <p>5 BY MS. BROYLES:</p> <p>6 Q. So what -- where is your data on on what</p> <p>7 you estimated the populations to be?</p> <p>8 A. Your expert has the shape file of the</p> <p>9 neighborhoods. So --</p> <p>10 Q. Are there -- are there any figures in</p> <p>11 here that --</p> <p>12 A. Well, I mean, I do have -- I do have the</p> <p>13 percentages in here, Dona.</p> <p>14 Q. Well, what did you say was the</p> <p>15 population?</p> <p>16 A. Well, the --</p> <p>17 Q. How do I know what?</p> <p>18 A. I looked at I looked at 23 VTDs that were</p> <p>19 on the border but between CD2 and CD4, where the</p> <p>20 neighborhoods are. And that area has a total</p> <p>21 population comprised of 23 VTDs that is 64 black</p> <p>22 with a total population of 71,506.</p> <p>23 Q. Did you look at -- I mean, how do you</p> <p>24 know how many people live there? Is there a</p> <p>25 number that you or data that you pulled that from</p>

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<p style="text-align: right;">Page 181</p> <p>1 or you get --</p> <p>2 A. Yes. I -- I used 2020 block -- block</p> <p>3 data to arrive at that since it's block data.</p> <p>4 Q. So why do you say estimated?</p> <p>5 A. Because the file I got from the City of</p> <p>6 Little Rock does not, in all spots, follow census</p> <p>7 block boundaries. So because of that, because</p> <p>8 some census blocks are split, the number I'm</p> <p>9 giving you here is not 100 percent precise. And I</p> <p>10 don't guess we could ever really know what the</p> <p>11 precise number is, but it's pretty close to it.</p> <p>12 Q. How do you know its close to it?</p> <p>13 A. Because there are not very many split</p> <p>14 census blocks.</p> <p>15 Q. So you said there's some information in</p> <p>16 here that you say what you estimated each of the</p> <p>17 neighborhoods to be -- their population to be?</p> <p>18 A. Well, I just reported the aggregate total</p> <p>19 there. Your experts got it, he may come up with</p> <p>20 some other number. Maybe he comes up with only</p> <p>21 70,382. I'm just pulling out of the num -- out --</p> <p>22 out of the air, and it's only 62 percent black. I</p> <p>23 don't know. But if that were the case, I still</p> <p>24 wouldn't -- it wouldn't change my opinion at all</p> <p>25 that black neighborhoods are being divided as a</p>	<p style="text-align: right;">Page 183</p> <p>1 neighborhood, the population number?</p> <p>2 A. The shape file does not, which is why I</p> <p>3 overlaid the shape file on the census blocks and</p> <p>4 then tag those blocks based on whether or not they</p> <p>5 were within the neighborhood or at least partly</p> <p>6 within the neighborhood. And because some census</p> <p>7 blocks are split, this is an estimate and not a</p> <p>8 perfect count as these neighborhoods were counted</p> <p>9 in the 2020 census, because the Census Bureau does</p> <p>10 not count population below the census block level.</p> <p>11 Q. Do you take into account where the actual</p> <p>12 residential areas are on these in each of these</p> <p>13 neighborhoods?</p> <p>14 A. Well, yes. I mean, I'm -- I'm counting</p> <p>15 populated areas there. You can say that's an area</p> <p>16 with a fairly dense population once you get in</p> <p>17 closer to the city and within the city itself.</p> <p>18 Q. So in whatever you provided on the shape</p> <p>19 overlay or what have you, Mr. Bryan would be able</p> <p>20 to pull it up and precisely see what you</p> <p>21 calculated as the population?</p> <p>22 A. That's right.</p> <p>23 Q. So you have --</p> <p>24 A. He would not he would not necessarily</p> <p>25 come up with exactly the same number, but it would</p>
<p style="text-align: right;">Page 182</p> <p>1 result of the unnecessary split of CD2 and CD4,</p> <p>2 and CD1. I mean, you've got people who were</p> <p>3 previously in CD2, those neighborhoods, a lot of</p> <p>4 them are being placed into CD4 or CD1.</p> <p>5 Q. How would one be able to evaluate the</p> <p>6 percentage you reach?</p> <p>7 A. What do you mean? I mean, I'm just --</p> <p>8 Q. We don't know your starting numbers. And</p> <p>9 so how do we know, how can we verify the percent</p> <p>10 that you have stated?</p> <p>11 A. Well, you have an expert who could do</p> <p>12 that. So that -- that -- there's no published</p> <p>13 result. I'm just telling you based on my</p> <p>14 experience, I do this kind of analysis a lot for</p> <p>15 different projects that -- that percentage of</p> <p>16 population that has been shifted from I mean,</p> <p>17 there's another tailor figure 17, that breaks it</p> <p>18 out even further showing you that in CD1 now.</p> <p>19 Q. We're going to get there.</p> <p>20 A. Okay. Okay. Well, anyway, it's an</p> <p>21 estimate, but it's very close to being accurate.</p> <p>22 And if it's not accurate, we'll hear from</p> <p>23 Mr. Bryan tomorrow.</p> <p>24 Q. The the shape file, if you open it, does</p> <p>25 it show the number you've assigned to each</p>	<p style="text-align: right;">Page 184</p> <p>1 be something close to it. So in other words,</p> <p>2 the -- well, I'm telling you to that because I</p> <p>3 testify in a lot of cases and I do a lot of</p> <p>4 demographic work that's unrelated to</p> <p>5 redistricting. As I mentioned earlier, I work</p> <p>6 that do a project with Food Research and Action</p> <p>7 Center every year based on identifying areas of</p> <p>8 the country that are potentially able to receive a</p> <p>9 special subsidy from the federal government to</p> <p>10 open up summer feeding programs. I'm not hyper</p> <p>11 focused just on redistricting. I do work on</p> <p>12 school -- school level redistricting like</p> <p>13 Mr. Bryan. So I'm not a single purpose plan</p> <p>14 drawer, I do other things, and I'm confident that</p> <p>15 these numbers are correct or close to correct. I</p> <p>16 don't think you could ever come up with an</p> <p>17 absolutely correct number because census blocks</p> <p>18 are split, and there's no way to know which side</p> <p>19 of the census block that population actually lives</p> <p>20 in when -- when a neighborhood splits a census</p> <p>21 block. I -- I don't know if I made myself clear,</p> <p>22 but I'm confident these numbers are roughly</p> <p>23 correct.</p> <p>24 Q. So in figure 17, is it your -- are you</p> <p>25 saying that the color code, the VTDs are touch one</p>

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<p style="text-align: right;">Page 185</p> <p>1 another, those three or tell me --</p> <p>2 A. Well, well, okay. Figure 17 do this is</p> <p>3 based on VTDs, not neighborhoods. And so I am</p> <p>4 really confident with these numbers because census</p> <p>5 block groups -- census blocks are not split by</p> <p>6 VTDs. So we know that from the old CD2 under the</p> <p>7 enacted plan 3 VTDs were shifted out of CD2 and</p> <p>8 put into CD1, that's yellow, like the map. And</p> <p>9 you can see that population amounted to 8,612</p> <p>10 persons of whom 60.7 percent were black. So these</p> <p>11 are predominantly Black VTDs that have been moved</p> <p>12 into CD1. Then you can go down into the blue</p> <p>13 area. That's the other part that was shifted out</p> <p>14 of CD2 into CD4. And you can see there that the</p> <p>15 total population shifted out was 22,523 persons of</p> <p>16 who 58.1 perecent are black. And then you get a</p> <p>17 bottom line total of 71,506 persons, shifted, I'm</p> <p>18 sorry. That that's the total for that general</p> <p>19 adjacency area to actually get the number of</p> <p>20 black -- get the population that was shifted out</p> <p>21 of CD1 and CD4 into CD -- shifted out of CD2 into</p> <p>22 either CD1 or CD4, you'd have to add up to two</p> <p>23 subtotals there, 8,612 persons plus 22,523. And</p> <p>24 the point is, it's a majority black population</p> <p>25 that was moved out of CD2 into CD and a majority</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. Right. But I want to know whether 11 is</p> <p>2 beside 47.</p> <p>3 A. Whether 11 --</p> <p>4 Q. Which one of those is 11, do you know?</p> <p>5 A. I don't -- I don't have the VTD numbers</p> <p>6 on there, so I can't tell you exactly. I'm not</p> <p>7 sure why that matters.</p> <p>8 Q. Well, I'm -- I'm trying, do you know</p> <p>9 which one is 47?</p> <p>10 A. Well, we know that 11, 47, and 55 are</p> <p>11 associated with CD1. So you can see that those</p> <p>12 are North Little Rock precincts.</p> <p>13 Q. How do I know -- how can I verify that</p> <p>14 because those numbers aren't on this diagram?</p> <p>15 A. The best way would be to check with your</p> <p>16 expert, but I reserve a right to criticize</p> <p>17 anything he does because some of the things he</p> <p>18 does are incorrect.</p> <p>19 Q. Well, do you have any diagram of that</p> <p>20 with that information on a chart or a figure or a</p> <p>21 file or anything of that sort?</p> <p>22 A. I do not have a document that has the</p> <p>23 district -- the precinct numbers on it. No. I</p> <p>24 don't think so.</p> <p>25 MR. CUSICK: When you come to a natural</p>
<p style="text-align: right;">Page 186</p> <p>1 Black population that was moved out of CD4 -- out</p> <p>2 of CD2 into CD4.</p> <p>3 Q. Do you have a map in here that shows all</p> <p>4 of the VTDs by district number?</p> <p>5 A. No. I do not. I think maybe Mr. Bryan,</p> <p>6 may I don't know if he has district numbers</p> <p>7 though. I don't think he does. I'm not sure. I</p> <p>8 do not know. You mean but when -- when? What was</p> <p>9 your question again? You said district number.</p> <p>10 I'm sorry. Excuse me. I thought you said</p> <p>11 precinct number. Would you say that again?</p> <p>12 Q. Sorry. I -- I don't know. Do you have a</p> <p>13 figure in here that represents the VTD, each of</p> <p>14 the number of VTDs as far as where they are in</p> <p>15 relation to one another?</p> <p>16 A. Well, yes. Actually, Figure 18 is</p> <p>17 showing VTD boundaries. And unfortunately, the</p> <p>18 color copier made CD2 very dark green, so it's a</p> <p>19 little hard to see, but those blue lines that you</p> <p>20 see on the map are 2020 VTDs.</p> <p>21 Q. I know, but we don't know what number</p> <p>22 each of those are, is what I'm saying.</p> <p>23 A. Well, we -- we do. We -- we actually --</p> <p>24 we don't know the individual ones, but we know the</p> <p>25 bottom line totals from Figure 17.</p>	<p style="text-align: right;">Page 188</p> <p>1 break, maybe we can take five whenever -- whenever</p> <p>2 you makes sense for your outline.</p> <p>3 MS. BROYLES: Yeah, we can go off the</p> <p>4 record.</p> <p>5 MR. CUSICK: Come back in five.</p> <p>6 (WHEREUPON, a recess was taken.)</p> <p>7 BY MS. BROYLES:</p> <p>8 Q. Ready.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Let's turn to page 35 of your.</p> <p>11 A. Time out for one moment. I wanted to</p> <p>12 clarify one thing about the VTD maps. That is, I</p> <p>13 think that -- that Mr. Bryant has a map in there</p> <p>14 showing VTDs in South and Central Glaski County.</p> <p>15 And I know there are numbers on it. I don't know</p> <p>16 if they are VTD numbers or not, but if they're</p> <p>17 population numbers and not VTD numbers and true</p> <p>18 population numbers, then you can just match those</p> <p>19 population totals to the chart in my declaration</p> <p>20 by population. And then this chart on page 17.</p> <p>21 So if you see a precinct that has a total</p> <p>22 population of 3,822 people in it, then that would</p> <p>23 match up with VTD 11, because the population</p> <p>24 totals and all the VTs are going to be different.</p> <p>25 So that's another way to get to your answer about</p>

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<p style="text-align: right;">Page 189</p> <p>1 the VTD number, even if there's not a VD number on</p> <p>2 his map. But the VTD number might be on there.</p> <p>3 There are numbers on it. I know that.</p> <p>4 Q. I was just wondering what you had to that</p> <p>5 effect.</p> <p>6 A. Well, I mean, I could produce a map like</p> <p>7 that, but I didn't -- I didn't think it was</p> <p>8 necessary.</p> <p>9 Q. So in --- on this page on paragraph 35,</p> <p>10 you talk about composite comess measures. Can you</p> <p>11 please explain what that is?</p> <p>12 A. Yes. That is a calculation that comes</p> <p>13 from Dave's redistricting website that takes the</p> <p>14 ROC score and Pols B Popper scores, and normalizes</p> <p>15 both. In other words, a zero is awarded to a</p> <p>16 district that has a ROC score of 0.1, which is</p> <p>17 quite low. It might be 0.15, and 100 is awarded</p> <p>18 to a district that has a ROC score of 0.5 or</p> <p>19 higher. Poly Popper, I think, it runs from 0.10</p> <p>20 to 0.15. And then those are put onto a scale,</p> <p>21 awarding points, so that you then have a composite</p> <p>22 score four each district, that is, in effect,</p> <p>23 calculating a combined score for Rakapol Popper.</p> <p>24 And then you add up those scores across the plan</p> <p>25 and divide by the number of districts, and you get</p>	<p style="text-align: right;">Page 191</p> <p>1 at my rebuttal declaration, you'll see that the</p> <p>2 alternative Plan 3, I think, ranks maybe eighth in</p> <p>3 the country in terms of compactness. And active</p> <p>4 plan does okay. It's within the norm. The worst</p> <p>5 states are in terms of compactness, are Texas and</p> <p>6 Illinois, according to the composite scores of</p> <p>7 compactness. And those are both two states where</p> <p>8 your expert, Mr. Bryant, work for the</p> <p>9 legislatures, so I will -- I will point out that.</p> <p>10 I don't know his involvement exactly in those</p> <p>11 cases, but those are really the two worst states.</p> <p>12 Texas may not be as bad as Illinois, but Illinois</p> <p>13 is like ten. I have to look at my rebuttal</p> <p>14 report. Discos are in there.</p> <p>15 Q. So where do you get the data for these</p> <p>16 composite compacts measures.</p> <p>17 A. We I upload the plan into Days</p> <p>18 redistricting, and then as I explained, I think,</p> <p>19 in my declaration, there is an article written by</p> <p>20 one of the developers of Days Redistricting that</p> <p>21 describes how they arrive at that figure that's</p> <p>22 published in online article, which is in my</p> <p>23 footnote. Explains how they arrive. I basically</p> <p>24 explained it just now, but he goes perhaps into a</p> <p>25 little more detail, Bal Gramsy, who wrote the</p>
<p style="text-align: right;">Page 190</p> <p>1 an average score, and that's the composite score.</p> <p>2 This particular metric has been used by doctor</p> <p>3 Bernard Rafman and doctor Sean Trendy, two well</p> <p>4 known experts. Rafman has been around since</p> <p>5 Jingles lawsuit, the Garza lawsuit back in the</p> <p>6 80s, with lots of different plans all over the</p> <p>7 country. Doctor Trendy has been used by the</p> <p>8 Republican Party primarily, I think, certainly</p> <p>9 over the past ten years, particularly over the</p> <p>10 past five. And they submitted a letter to the</p> <p>11 Virginia Supreme Court describing their work in</p> <p>12 the Virginia. In the -- with the Virginia</p> <p>13 Congressional plan and their work on that plan in</p> <p>14 conjunction with the Virginia Rediscion</p> <p>15 Commission. The Virginia have redis Commission.</p> <p>16 Bottom line is they referenced those scores. And</p> <p>17 I referenced those scores in Milligan V Allen, and</p> <p>18 it's my understanding that doctor Trendy didn't</p> <p>19 have any trouble with my use of those figures.</p> <p>20 It's a good way to simplify the different measures</p> <p>21 by taking the Rock and the Poly Popper and putting</p> <p>22 it into a an understandable no an understandable</p> <p>23 range 0-100. So 100 would be perfect. You never</p> <p>24 see any plan like that, and zero would be the</p> <p>25 worst. In this case, in Nationwide, if you look</p>	<p style="text-align: right;">Page 192</p> <p>1 article. And it was rubber stamped by doctor</p> <p>2 Rafman and doctor Frendy. And I think it's a good</p> <p>3 approach to take because these compative scores do</p> <p>4 get confusing. You can have a great Brock score</p> <p>5 and a great palsy popper score, and the other one</p> <p>6 is really bad. And this is a way to kind of</p> <p>7 average things out into an understandable metric.</p> <p>8 Q. So, where did the numbers come from?</p> <p>9 A. Do we have my rebuttal declaration? Oh,</p> <p>10 that's it. Yeah. This is a figure Figure 4. You</p> <p>11 can see that it's sort of split in half, but you</p> <p>12 can see that the worst state is Illinois.</p> <p>13 Q. I don't care about other states.</p> <p>14 A. Yeah. What came from Dave three dist in</p> <p>15 just 1 second.</p> <p>16 MR. CUSICK: Can you let him finish for.</p> <p>17 MS. BROYLES: I just I want to know I</p> <p>18 just said, where did you get the numbers for I</p> <p>19 don't want to hear about other states. I -- I</p> <p>20 just want to know where these numbers came from.</p> <p>21 MR. CUSICK: Well, I am as I think it's</p> <p>22 getting a little argumentative. This is now the</p> <p>23 sixth time. We've had to talk about you cutting</p> <p>24 them off in between. All I'm just asking is Bill</p> <p>25 will answer the question, when he's finished</p>

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<p style="text-align: right;">Page 193</p> <p>1 answering, you can say, you can object if you want 2 to the extent it's not responsive, but he's 3 entitled to say his answer. And if you don't like 4 it, you can ask a follow up question or disagree. 5 And just for the record, if Bill, I don't think 6 this has been introduced, yet, so I don't know 7 if -- if you want to introduce this as an exhibit, 8 yet? Is rebuttal ret. Should I don't know I 9 don't know what papers you have in front of you. 10 THE DEPONENT: Well, I'm just going to 11 read out the score for Arkansas. That's that's 12 well, that's actually in my report, too, but it 13 would rank the Arkansas plan fairly high, 14 certainly within the norm with the score of 59. 15 The numbers come from Dave's redistricting 16 application on the Internet. And if you go to I 17 imported all the states in the country to analyze 18 these compactness scores. So this table was 19 created by me using Dave's redistriing 20 application. And I -- I used the 2024 plans for 21 all states that have at least three re is a three 22 congressional districts. And that so you can get 23 the bottom line number. And you can do that for 24 any plan, not just -- not just an enacted plan. 25 You can import any plan into it, which is what I</p>	<p style="text-align: right;">Page 195</p> <p>1 And it -- it so it it's fair to say that just 2 because the plan scores 59 and a plan that I 3 developed, the hypothetical plan scores of 66 4 doesn't necessarily mean that the hypothetical 5 plan or alternative Plan 3 or whatever, which I 6 think has a higher compacts score than the enacted 7 plan, somehow or another. So much more compact 8 that the compactness score for the enacted plan is 9 not acceptable. It clearly is acceptable. It's 10 within the norm and above average. When compared 11 against all 50 states or -- or the 37, 36 states 12 that have at least three congressional districts. 13 Q. Do you recall in the article, it says the 14 ratings are meant to be comparable across states? 15 A. I don't -- I don't I have not seen that. 16 Is that -- that in there? 17 Q. It is. 18 A. Oh, that's interesting. 19 Q. It says, moreover, the ratings aren't 20 meant to be comparable across states, how good or 21 bad maps can be on each of the dimensions, and 22 what the trade offs are between the dimensions, 23 depends on the political geography of each state, 24 and type of map, congressional, state upper, and 25 state lower house.</p>
<p style="text-align: right;">Page 194</p> <p>1 with the alternative plans because I developed or 2 report the positive compacts score for the three 3 plans I drew. And I was on at the outset, I was 4 just stating that -- that the worst state in the 5 country is Illinois. And doctor Mr. Bryant was 6 one of the experts or consultant in that case, 7 although it may have just may have just involved 8 see that. I hope not though, because he's made a 9 major error in his calculations here in Arkansas. 10 And then the Fworth State is Texas coming in at 11 26. And in that case, I, you know, I I think 12 Mr. Bryant was working pretty closely with the 13 plan drawers there because he was a special 14 consultant or something to the State Center. So 15 that's a very low score. But they're all within 16 the norm, technically. I mean, because all these 17 plans are currently in place, not been struck. 18 BY MS. BROYLES: 19 Q. Have you read this article that you have 20 cited here recently? 21 A. I have. 22 Q. Did you -- do you recall the limitations 23 of the numbers? 24 A. Well, there -- there will be some 25 limitations in the sense that it's an average.</p>	<p style="text-align: right;">Page 196</p> <p>1 MR. CUSICK: Objection. Ask to form. 2 THE DEPONENT: Okay -- okay. Well, I 3 will say this much. 4 BY MS. BROYLES: 5 Q. Do you recall them. 6 A. I -- I don't recall reading that, but let 7 me make one thing clear. I'm comparing in effect, 8 just the plans that were developed for Arkansas. 9 In other words, Arkansas is the same state, no 10 matter whether it's alternative plan, three, two, 11 one, or the enacted plan. So in that sense, it's 12 perfectly justified to compare the plans in my 13 declaration, using the Fave district Composite 14 score, because it's the same state. 15 Q. The article also says, rating scales are 16 subjective. There's nothing magical about our 17 ratings. As you will see below, we had to make a 18 bunch of decisions about what scale to use to 19 normalize raw measurements and to zero to 100 20 ratings. All our decisions are well motivated, 21 but at the end of the day, they are also 22 subjective. 23 A. Okay. Let me I just reiterated that -- 24 that point or made that point earlier when I 25 described the range that the DRA compactness score</p>

<p style="text-align: right;">Page 197</p> <p>1 generates. In other words, I think it goes 0.10 2 to 0.5 for Poly Popper. And 0.15 to 0.504 Rio. 3 Q. Where is that? 4 A. Well, it's in the -- it's in the article 5 that I've that -- I've foot that I referenced. 6 Q. Where is it in your report? 7 A. Well, the footnote has the has -- has the 8 reference to the article, right? You're reading 9 it, and it's in the article. 10 Q. It says, the bottom line is that ratings 11 are not a substitute for critical thinking, use 12 your judgment. What critical? 13 A. Well, first of all. 14 Q. I haven't asked the question yet. 15 A. Okay. Go ahead. 16 Q. What information did you put in to 17 analyze none of the numbers you came up with, is 18 that true? 19 A. Well, let me let's back up a little bit. 20 That paragraph you just read was referencing not 21 just the compactness scores, but also partisan 22 scores and other things that Dave redistricting 23 application will generate. And I'm not producing 24 any of those results. I'm just producing the 25 compactness scores. And so I do agree that</p>	<p style="text-align: right;">Page 199</p> <p>1 Polsby and Popper. And they take it a little 2 higher for Reock up to, I believe, 0.20 to 0.50, 3 and I may not have those numbers quite right, but 4 that's I mean, I -- I could look it up, but in any 5 event, it's it's a it's a logical approach has 6 been used by experts. And in this case, I'm 7 focused not on other states, just on Arkansas and 8 all of the alternative plans that I've developed 9 are within arranged, it should be acceptable in 10 Arkansas. Because the lowest score of all the 11 ones that I examined, composite score was actually 12 the 2011 enactment plan, which was the norm for 13 Arkansas for ten years. And so 0.43 should be 14 acceptable. And all the plans I've drawn are 15 above 0.43, as is the enactment plan. So you're 16 not going to get anywhere on -- on compactness 17 with plans I've developed at all. I mean, that's, 18 you know, you can try something else, but not on 19 compactness. Those plans are extremely compact. 20 All of them. 21 Q. What's winner's bonus? 22 A. What's winner's bonus? What are you 23 talking about? I've never heard that. 24 Q. It says one additional rate that as part 25 of the rating process, we adjusted the simple</p>
<p style="text-align: right;">Page 198</p> <p>1 there's some subjectivity. And you do if you're 2 comparing across states, you do have to make 3 allowances because some states just are generally 4 not very compact looking to begin with, which 5 would make it more problematic to match up with 6 another state that is nice and square like 7 Arkansas or Iowa. But there are extremes in the 8 nation in terms of the composite compact scores. 9 I can't think of a good reason why Illinois would 10 have a compact score composite average of 0.1. I 11 can't think of any reason why Texas would have 12 such a low average. It's not exactly a state with 13 a lot of geography that would lead to weird 14 unusual shapes. But I digress ahead with whatever 15 you're saying. 16 Q. What measurements does the study or this 17 compact -- raw compact miss measurements. Do you 18 understand how they do that? I mean, that's with 19 in the system. 20 A. Yes, I do. Yes, I do. I understand it 21 completely. They start with the Reock and the 22 Polsby Popper score. They normalize it between a 23 range of 0.10 for the Polsby Popper and 0.5 for 24 the Polsby Popper because anything below 0.10 is 25 starting to get pretty -- pretty low in terms of</p>	<p style="text-align: right;">Page 200</p> <p>1 disproportionality to incorporate it two times 2 winners bonus, like the efficiency gap. In other 3 words, the greater the state-wide vote share, the 4 more you expect the seats wind to be 5 disproportionately more than the vote share. 6 MR. CUSICK: I think we should print out 7 the article here, because you're just relying on 8 your testimony of what you're introducing it. I 9 think it'd be helpful if you actually, if you're 10 introducing this as an exhibit, so you can see it. 11 MS. BROYLES: No. He said he read it. 12 THE DEPONENT: Well. Okay. 13 MR. CUSICK: Hold up a second. 14 MS. BROYLES: If he doesn't remember, he 15 doesn't remember. If you want to print it and ask 16 him about it, you're welcome to when I'm done. 17 THE DEPONENT: No, I would just say that 18 it does not matter because I only used the 19 composite scores as they relate to compactness. I 20 did not rely on the partisan measures or 21 proportional measures or any of the other ratings. 22 I'm just focusing on compactness because it 23 simplifies the final analysis of whether or not a 24 plan is compact. And I did read that particular 25 article a long time ago, and I think I read the</p>

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<p style="text-align: right;">Page 201</p> <p>1 whole thing, but I was not paying any attention, 2 really, with any detail to the scores for 3 proportionality or communities of interest or -- 4 or minority strength or whatever they raised? I 5 was only looking at compactness as a simple 6 solution to a sometimes confusing problem about 7 whether Reock is good, score, Polsby Popper, or 8 not so good. Is that a good plan or a bad plan? 9 This is a way to simplify.</p> <p>10 BY MS. BROYLES:</p> <p>11 Q. How did you change their -- how did you 12 account for what you did or did not include with 13 respect to compactness when it's offered as a 14 single number? What did you make it do?</p> <p>15 A. Yeah. What I did is, I upload a plan, 16 like the enacted plan or alternative plan 2 or 3. 17 And then Dave's redistricting website will 18 generate the composite compactness score. So 19 that's it. I just take the composite compact 20 score that's generated by Dave's redistricting 21 website.</p> <p>22 Q. And it's saying that it includes things 23 that you're saying, you don't include in your 24 number, but they are there because that's the 25 number -- that's the source of whatever number.</p>	<p style="text-align: right;">Page 203</p> <p>1 somewhere in the 380s, maybe. So overall, there's 2 no possible argument about compacts in Arkansas. 3 It's a dead horse. I mean, you may have some 4 other legal angle or something, but the plans I've 5 produced adhere to traditional redistrict 6 principles across the board, and you can try all 7 you want, but you're not going to get anywhere 8 with me if you try to claim that somehow or 9 another, my plans are not roughly the same, if not 10 better in terms of traditional redistrict 11 principles than the enacted plan.</p> <p>12 Q. Where in your report does it say how you 13 adjusted for the composite scores that were 14 produced by -- well, first of all, you did not 15 produce the composite scores, correct?</p> <p>16 A. Correct.</p> <p>17 Q. So --</p> <p>18 A. I didn't produce the Polsby Popper 19 scores.</p> <p>20 Q. What did you -- how --</p> <p>21 A. Nor does Mr. Bryan? We just use a number 22 that's generated by generally understood software 23 module. I don't I don't know if -- if Mr. Bryan 24 is using Maite for register, not there are other 25 programs out there. He might use RGIS, but -- but</p>
<p style="text-align: right;">Page 202</p> <p>1 A. No -- no, you -- you're really terribly 2 confused. That is not talking at all about 3 compactness. And if you scroll down, you'll see 4 how they describe compactnes. What you're reading 5 is how they rank minority proportionality or how 6 they rank partisanship. And I did not look at any 7 of those scores. I'm not a political science, so 8 I'm not really ranking proportionality in my 9 testimony. I am looking at compactness. It's a 10 simple way to do it, but you can also just break 11 out Reock and Polsby Popper, and you can look at 12 those scores, and you will see unquestionably that 13 every plan I have produced falls within the norm 14 when it comes to compactness, because we have 15 tables that Mr. Bryan has produced that rates or 16 shows some of the -- some of the rankings for the 17 enacted plan, and it also shows other scores. 18 There's one score for the enacted plan, one of the 19 congressional districts that ranks 400 -- number 20 402 nationwide. That is, you know, out of 435 21 districts. So that's pretty darn low, but it is 22 the enacted plan. So technically, it's within the 23 norm. And none of my plans go anywhere near the 24 400 level in terms of the Reock score or the 25 Polsby Popper score. I think the worst is</p>	<p style="text-align: right;">Page 204</p> <p>1 I'm just accepting the number that's generated. 2 Q. You've got to let me finish my question. 3 A. Well, let me let me jump in first. 4 Q. No. 5 A. I'm just I'm going to tell you that I did 6 not do any adjustment at all, just to make that 7 clear.</p> <p>8 MR. CUSICK: Just let her finish and then 9 we're going to chance to answer her.</p> <p>10 THE DEPONENT: Yeah.</p> <p>11 BY MS. BROYLES:</p> <p>12 Q. So tell me what you -- so you took what 13 plan you took the enacted plan, and you loaded it 14 into Dave's redistricting?</p> <p>15 A. Exactly.</p> <p>16 Q. And then what did you say -- what did you 17 tell Dave's redistricting to generate for you?</p> <p>18 A. I hit a tab called analyze once the plan 19 was imported, and it produced a set of results 20 that included proportionality, compactness. I 21 think minority proportionality or something like 22 that. I utilized only one of their five or six 23 different rankings, and as you're reading off the 24 page, you can see what they are. And that was the 25 core -- that -- that was the compactness score,</p>

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<p style="text-align: right;">Page 205</p> <p>1 which I call composite compactnes because it</p> <p>2 includes Reock and Polsby Popper. I didn't do any</p> <p>3 kind of adjustment. I just took the score as</p> <p>4 reported from Dave's redistricting software.</p> <p>5 Q. Right. And so you did not do anything,</p> <p>6 but take information for Dave's, right?</p> <p>7 A. That's right -- that's right. Like --</p> <p>8 like Dr. Grofman and Dr. Trende.</p> <p>9 Q. So --</p> <p>10 A. Like Mr. Bryan and myself when we were</p> <p>11 when we were reporting Polsby Popper and Reock</p> <p>12 scores. If -- if the composite compacts score is</p> <p>13 for some reason or other unacceptable, then okay.</p> <p>14 We'll just go look at the Reock and Polsby Popper</p> <p>15 scores. And if you do that, you have to walk away</p> <p>16 saying, okay, all of the alternative plans are</p> <p>17 reasonably compact and end of story, as is the</p> <p>18 enacted plan. The problem with the enacted plan</p> <p>19 is not the compactness score. It is the</p> <p>20 inexplicable division of Pulaski County into three</p> <p>21 parts for no reason, and it cannot be a reason of</p> <p>22 trying to strengthen partisanship because</p> <p>23 alternative plan 3 is on the table that has, at</p> <p>24 least, according to the Trump Biden metric, as</p> <p>25 well as the US State Senate metric, a better</p>	<p style="text-align: right;">Page 207</p> <p>1 A. Yeah. Okay. So --</p> <p>2 Q. So you take this one and you disregarded</p> <p>3 this stuff. Is that what you're saying?</p> <p>4 A. Yeah. That's 106th congress. So that's</p> <p>5 not the present congress. You can't use that for</p> <p>6 analyzing.</p> <p>7 Q. I'm not -- I'm not.</p> <p>8 A. Yeah.</p> <p>9 Q. What I'm saying is Dave's redistricting</p> <p>10 when you pressed analyze, generated a circle with</p> <p>11 various numbers by those five, let's see what is</p> <p>12 it? The dimension that it's picked.</p> <p>13 A. Right. And if you look there, you see</p> <p>14 there is a score for compactors, and that's the</p> <p>15 number that you see in the tables and charts that</p> <p>16 I produced, that bottom line total. Or bottom</p> <p>17 line average, it's actually an average.</p> <p>18 Q. But you have no knowledge of how Dave's</p> <p>19 redistricting gets to that number?</p> <p>20 A. Oh, yes, I do. It's in it's in that</p> <p>21 article. It explains that they take the Reock and</p> <p>22 Polsby Popper scores and rank them in a range of</p> <p>23 anything below ten, zero, and anything for -- for</p> <p>24 Polsby Popper or anything below ten is zero, and</p> <p>25 anything above below ten. I'm sorry, anything</p>
<p style="text-align: right;">Page 206</p> <p>1 partisan score than the enacted plan. Slightly</p> <p>2 better, not way better, but it's better.</p> <p>3 Q. Why did you include this information?</p> <p>4 A. Why did I include it? To support my</p> <p>5 argument that there is no violation of traditional</p> <p>6 redistricting principles in the plans that I have</p> <p>7 presented. In fact, they all score very well when</p> <p>8 matched up against the enacted plan or the 2011</p> <p>9 plan, or any of the states.</p> <p>10 Q. So this article references ratings and,</p> <p>11 like, a target position, do you have that for all</p> <p>12 of the states?</p> <p>13 A. Ratings and target position.</p> <p>14 Q. That's what they say it looks like.</p> <p>15 A. That's right. That's why I got the</p> <p>16 score. Exactly right there.</p> <p>17 Q. So --</p> <p>18 A. Yeah. What is North Carolina?</p> <p>19 Q. Do you have that for all the states this</p> <p>20 diagram.</p> <p>21 A. That's what I got. You see this 36 is it</p> <p>22 36 for North Carolina? Okay. So if you go to</p> <p>23 figure Are you looking at the enacted plan, the --</p> <p>24 Q. This is just from the article. So what</p> <p>25 I'm trying to decide is --</p>	<p style="text-align: right;">Page 208</p> <p>1 below ten for Polsby Popper is zero, and anything</p> <p>2 above 50 is -- is 100. So Within that range then,</p> <p>3 you can -- you can get these composite scores</p> <p>4 after normalizing them to a zero to 100 range. I</p> <p>5 don't know the exact math that they used to arrive</p> <p>6 at that, but I know that I I do know that other</p> <p>7 experts have used it, and it makes sense.</p> <p>8 Q. So you -- that's my point. You don't</p> <p>9 know what math they use.</p> <p>10 A. No. I'm -- that's that website's been</p> <p>11 there for, like, four years now. That article was</p> <p>12 published in 2020 in Media Magazine, and if there</p> <p>13 were an error, I'm sure they would have fixed it.</p> <p>14 Q. You don't know how they reach that</p> <p>15 number?</p> <p>16 A. Yes, I do. They normalize it to a zero</p> <p>17 to 100 scale and took the average. But it doesn't</p> <p>18 matter. You can forget about that and just score,</p> <p>19 go line by line, comparing the Polsby Popper and</p> <p>20 Reock compactness scores for my plans and the</p> <p>21 enacted plan, and you will see that, generally</p> <p>22 speaking, my plan outperforms district by</p> <p>23 district, the Reock and Polsby Popper scores in</p> <p>24 the enacted plan. There are differences. It's</p> <p>25 clearly within the norm. Any plan arguably, that</p>

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<p style="text-align: right;">Page 209</p> <p>1 is a currently enacted plan that will have 2 elections this November will be within the norm on 3 Reock and Polsby Popper, which means that there's 4 no way that my plan could be determined to not be 5 within the norm. Now, if you want to say the norm 6 is really the mean average, and here's where 7 Mr. Bryan's report, rebuttal for or whatever is 8 way off. He claims that for somehow or another, 9 because the ranking by Reock and Polsby Popper in 10 one or two of my districts. I'm not sure which 11 one or which measure. Dropped by 100 points. Oh, 12 that's not within the norm. Well, sure, it was. 13 You had a very high score and the Reock and Polsby 14 score that I produced for that district or 15 whatever, dropped by 100 points. So instead of 16 being in the hundreds, it's in the two hundreds. 17 Well, that's the average of 435 congressional 18 districts. This is just a silly argument. And 19 I'm getting too animated, so I'll stop.</p> <p>20 Q. With respect to how they conduct their 21 averaging, you don't know what numbers they put 22 together to reach an average score, correct?</p> <p>23 MR. CUSICK: Objection. Asked and 24 answered.</p> <p>25 THE DEPONENT: I -- I don't have their</p>	<p style="text-align: right;">Page 211</p> <p>1 reason and dividing up all the neighborhoods and 2 precincts in the south end of the county. It 3 there's no I cannot think of any way you can 4 explain that away. You might have been able to if 5 you had actually reduced the number of county 6 splits, somehow or another, dramatically improved 7 compactness or reduced municipal splits, but that 8 didn't happen. There has to be another reason. 9 It remains to be seen what that reason is, but I'm 10 sure you will have people up there testifying to 11 explain exactly why they did that.</p> <p>12 Q. What was the composites for -- for the 13 enacted plan?</p> <p>14 A. Fine. It's 59. I'm not I'm not 15 disputing that. It's 59. I -- I have a compact 16 score of, I think, what was the 62 an alternative 17 plan 2, maybe it's alternative plan 1. You know, 18 that's fine. There's no problem with that. I'm 19 not saying the enacted plan is not compact. What 20 I'm saying is what they've done in Pulaski County 21 clearly is odd, unusual, and inexplicable to me, 22 if the point of doing that was to draw a compact 23 plan, or if the point of that plan was to draw a 24 plan which met one person, one vote or to reduce 25 county splits because there are ways to do all of</p>
<p style="text-align: right;">Page 210</p> <p>1 calculations, but I have confidence that it's an 2 acceptable compactness measure.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. Do you know where they get their numbers?</p> <p>5 A. Yes. That they get their numbers from 6 the Reock and Polsby Popper compactness scores, 7 normalize it to a zero to 100 percent range, and 8 then apply 100 points to any Reock score that's 9 over 0.5 and zero to under 0.10, on, for example, 10 Polsby Popper. So that's how they arrive at their 11 numbers. And it makes sense because 0.10 on 12 Polsby Popper is pretty low, but it can happen and 13 even a score hundred 0.10 sometimes can be okay if 14 it involves say a river like the Mississippi River 15 with lots of twists and turns. So there's just no 16 argument about whether or not my plans were 17 compact. In fact, you can just look at the plan 18 and see they're compact. They're regularly 19 shaped, they involve whole counties, and there is 20 no need no need at all to split Pulaski County 21 three ways. But I will say just to be nice, that 22 the compactness scores on the enacted plan are 23 okay, even though they split Reock and Polsby -- 24 even though they split Pulaski County. What's not 25 okay is going into Pulaski County for no good</p>	<p style="text-align: right;">Page 212</p> <p>1 that, and even still have roughly the same or 2 superior partisan scores, which is not apical 3 reducing principle, anyway. So I mean, in my 4 mind, this case should be over because we've 5 demonstrated that you can draw a plan that has the 6 same partisan effect or higher, and we've met all 7 of the original redistrict principal requirements, 8 and we avoided splitting Pulaski County. And it 9 would be easy for the state to fix it. Might have 10 to go into a special session.</p> <p>11 Q. Anything else on that?</p> <p>12 A. No. Nothing else. At this point, unless 13 you have further questions.</p> <p>14 Q. Why did you only look at one political 15 one -- one election?</p> <p>16 A. Because I think that was the election 17 that was used in Alexander V, South Carolina, had 18 been told that. And that's a perfect metric to 19 use because it's well known contest Trump Biden. 20 And I think that pretty much shows the partisan 21 divide precinct by precinct County by County.</p> <p>22 Q. So --</p> <p>23 A. And I did -- I did not only use the 2020 24 election. I also looked at the US Senate contest 25 from 2022. Once I received Mr. Bryan's rebuttal</p>

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<p style="text-align: right;">Page 213</p> <p>1 that had that information in it. I did not have</p> <p>2 access to precinct level returns when I was</p> <p>3 working on my initial re when I was working on my</p> <p>4 initial report.</p> <p>5 Q. How did you not have access to it? And</p> <p>6 you just didn't know he was going to say something</p> <p>7 about it as?</p> <p>8 A. No. No. I -- I I was not aware that</p> <p>9 there was a website that actually had that</p> <p>10 information that would allow for the numbers to be</p> <p>11 exported into a common to limited fight. I'd seen</p> <p>12 earlier elections in Arkansas where it seemed like</p> <p>13 it was always in a PDF format, which made it</p> <p>14 really kind of difficult to convert.</p> <p>15 Q. So these numbers, the 43.3 percent for</p> <p>16 all of that. Where did you take that data?</p> <p>17 A. 43.3 percent for what?</p> <p>18 Q. The vote that data got versus.</p> <p>19 A. Well, it's I -- I took that from -- from</p> <p>20 the redistrict Data Hub, as I -- Indicated, that</p> <p>21 compiled folks for --</p> <p>22 Q. It doesn't say that.</p> <p>23 A. It does. There's -- there's a reference</p> <p>24 in there. If it's not in there, it's in my</p> <p>25 exhibit that describes the methodology. It is</p>	<p style="text-align: right;">Page 215</p> <p>1 A. Yes, I did. I looked at some photos on</p> <p>2 another website that's well respected, called</p> <p>3 Plans Cort just to see what the difference might</p> <p>4 be. And it was identical.</p> <p>5 Q. So you're saying that Redistricting Data</p> <p>6 Hab did not have any information about any of the</p> <p>7 other races.</p> <p>8 A. It had some information about 2016, 2018</p> <p>9 contests. But nothing else about the I think</p> <p>10 there I actually, did have information, I believe,</p> <p>11 about the 2020 senate contest, but I had to</p> <p>12 discard that because there was no Democratic</p> <p>13 candidate running, so made no point. There was no</p> <p>14 point in producing a total for 2020 US Senate.</p> <p>15 Tom Cotton, Senator Cotton ran, and the Democratic</p> <p>16 candidate apparently fell ill or something and was</p> <p>17 not in the race at the end. So I -- I discounted</p> <p>18 that.</p> <p>19 Q. But you didn't look to see if there was</p> <p>20 any data for any other races?</p> <p>21 A. Well, there would have been if I had gone</p> <p>22 back to 2016, but my point is, as I understand it,</p> <p>23 the Trump Biden contest was important in</p> <p>24 Alexander, South Carolina case, and so that's the</p> <p>25 data set that I -- Initially looked at, and once I</p>
<p style="text-align: right;">Page 214</p> <p>1 basically just the 2020 election results,</p> <p>2 desegregated by voting age to pre six. And then</p> <p>3 reaggregated backup. And so that's and it's a</p> <p>4 head to head to head contest. I did not include</p> <p>5 third party candidates. So my numbers may differ</p> <p>6 slightly from what Mr. Bryan has, but that's</p> <p>7 because I'm only looking at Trump Biden because</p> <p>8 that's the clear partisan divide. And if there</p> <p>9 was a libertarian candidate there or something</p> <p>10 like that, there may have been then you're not</p> <p>11 it's not really clear.</p> <p>12 Q. Well you go to where you're talking about</p> <p>13 where you say that you have the source for this</p> <p>14 information because there's not a footnote, so</p> <p>15 Well, k.</p> <p>16 A. It's it's in the it's in Exhibit B. It</p> <p>17 says -- it's on page three. It says for the 2020</p> <p>18 presidential contest results are relied on a data</p> <p>19 set prepared by election Data Social science and</p> <p>20 available via the redistrict Data Hub link below.</p> <p>21 And there's the link. So there is.</p> <p>22 Q. Which number was that.</p> <p>23 A. Paragraph 11, Exhibit 3.</p> <p>24 Q. Do you -- so did you do anything to</p> <p>25 verify the data?</p>	<p style="text-align: right;">Page 216</p> <p>1 got to 2022, US Senate contest, which did have a</p> <p>2 Democrat running. I reported that in my rebuttal</p> <p>3 declaration.</p> <p>4 Q. Is it your opinion though that as far as</p> <p>5 dilution goes, that impact is on the state level</p> <p>6 elections, not the larger federal elections?</p> <p>7 MR. CUSICK: Objection. As to scope</p> <p>8 calls for legal conclusion.</p> <p>9 THE DEPONENT: I don't know what you</p> <p>10 mean. I didn't understand the question. John</p> <p>11 did. But I didn't understand the question.</p> <p>12 BY MS. BROYLES:</p> <p>13 Q. Why was Trump Biden important in the</p> <p>14 Alexander case based on your understanding?</p> <p>15 MR. CUSICK: Objection to the extent it's</p> <p>16 being offered as a legal conclusion.</p> <p>17 THE DEPONENT: I'm -- I'm only saying</p> <p>18 that because I -- I think that it was utilized as</p> <p>19 a measure of partisan performance.</p> <p>20 BY MS. BROYLES:</p> <p>21 Q. Did was there anything in the opinion</p> <p>22 that you're aware of that limited the scope of the</p> <p>23 analyzing political advantages to one single race?</p> <p>24 MR. CUSICK: Same objection.</p> <p>25 THE DEPONENT: Yes. I'm not -- I'm not</p>

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<p style="text-align: right;">Page 217</p> <p>1 sure. I mean, I -- I have not really carefully</p> <p>2 looked at the Alexander opinion.</p> <p>3 BY MS. BROYLES:</p> <p>4 Q. So alternative plan one, how did you --</p> <p>5 what did you do to create this plan?</p> <p>6 A. As you can see, Alternative Plan 1 is not</p> <p>7 all that different from the -- from the 2011 plan,</p> <p>8 and in many ways, not all that different from the</p> <p>9 2021 enacted plan. Let me bring up alternative</p> <p>10 plan one here. I'll find it. Yes. There you</p> <p>11 are. You can see it. And it looks like -- a lot</p> <p>12 like the existing plan, the enacted plan. I</p> <p>13 removed Van Ver County, as I was suggesting. And</p> <p>14 I think I added White County compared to the --</p> <p>15 let's see. Let me go back to the 2011 benchmark</p> <p>16 plan. Fumbling around here finding it.</p> <p>17 No. I did not add -- I did not add White</p> <p>18 County. That was already in there. I took Va</p> <p>19 Buren out. And also, because I wanted to hit</p> <p>20 something in the double digits on deviation so</p> <p>21 that you couldn't due to some technicality</p> <p>22 complaint that I did not match one person and one</p> <p>23 vote measure. So I did create a split, in my</p> <p>24 mind, an unnecessary split and removed a single</p> <p>25 precinct from White County so that the deviation</p>	<p style="text-align: right;">Page 219</p> <p>1 maybe if I experimented a little more, I could</p> <p>2 improve on that. I don't know. It may have been</p> <p>3 ways to get much closer to the enacted plans for</p> <p>4 District three. And if so I could have gotten</p> <p>5 very close. I mean, it -- it could have been</p> <p>6 extremely close. I probably should do an</p> <p>7 alternative plan one B. I think we've already</p> <p>8 discussed one A, which is basically CD2 as I drawn</p> <p>9 it in and I mean, one A is what we were talking</p> <p>10 about a while ago is is basically alternative plan</p> <p>11 1, in so far as -- as CD2 is concerned, except</p> <p>12 that I did remove one precinct in White County to</p> <p>13 make sure that it was a double digit deviation</p> <p>14 instead of triple digit. So there may I think</p> <p>15 alternative plan one is as compact or more compact</p> <p>16 than the enactive plan is it not? Let's see the</p> <p>17 table. Exactly the same in terms of combates, 59</p> <p>18 according to the DRA compat score.</p> <p>19 Q. What page did you turn to look at?</p> <p>20 A. Figure 25. 59. I've repeatedly said</p> <p>21 there's no problem with the compat score in the</p> <p>22 enacted plan 59 is fine. And the compat scores</p> <p>23 that I've generated in my three alternative plans</p> <p>24 and the hypothetical plan are also fine.</p> <p>25 Q. So when you prioritize core retention,</p>
<p style="text-align: right;">Page 218</p> <p>1 in -- in alternative plan 1, which you can see in</p> <p>2 Table figure 24, is only in the range of plus 51</p> <p>3 persons and for District one and -31 for District</p> <p>4 three, and it is for all intents and purposes,</p> <p>5 perfect in District two over by 20 people. So</p> <p>6 that's it. That was that was the only way -- I</p> <p>7 that's all I did to change CD2. And then I -- I</p> <p>8 of course, I had to fix the -- I had -- I had to</p> <p>9 correct the overall deviation. So I did make some</p> <p>10 changes to CD3 and CD4 and CD1. To do that.</p> <p>11 Q. So okay. Let's slow down a second. So</p> <p>12 you have here, it prioritizes core retention</p> <p>13 without splitting Sebastian County. So how do you</p> <p>14 what does prioritize mean? Respective to the</p> <p>15 other traditional well, first of all, you've</p> <p>16 already told me it's not a traditional principle,</p> <p>17 right? So why then did you prioritize core</p> <p>18 retention?</p> <p>19 A. Well, because for one thing, I -- I knew</p> <p>20 that the alternative plan had a 92 percent core</p> <p>21 retention. So I did one that was basically in the</p> <p>22 same league, 87 percent, and I knew that was more</p> <p>23 than the court ordered remedial plan in Alabama V</p> <p>24 Milligan, which is also around 87 percent, so I</p> <p>25 thought that was sufficient. I would imagine that</p>	<p style="text-align: right;">Page 220</p> <p>1 how are you balancing the other factors? How do</p> <p>2 we know what weight you put each of the other</p> <p>3 factors?</p> <p>4 A. Well, to a certain extent, it's it is</p> <p>5 subjective, but you can look at the numbers. The</p> <p>6 enacted plan split two counties. I split two</p> <p>7 counties, arguably, one of them was not necessary.</p> <p>8 And so there are a total of five county splits in</p> <p>9 the enacted plan, whereas there are only four</p> <p>10 county splits in the alternative plan. There are</p> <p>11 two splits in Sebastian County and two splits. I</p> <p>12 well, there are two pieces in Sebastian County and</p> <p>13 two pieces in White County under my plan. And</p> <p>14 your plan, there are two pieces in Sebastian</p> <p>15 County and three pieces in Sebastian County.</p> <p>16 So again, I reiterate why was it</p> <p>17 necessary to split Plaske County three ways when</p> <p>18 there were other options, or why didn't you just</p> <p>19 split last County two ways? That'd be less bad.</p> <p>20 Still bad, but I'm curious about that. There are</p> <p>21 clearly fewer split municipalities, the</p> <p>22 alternative plan one, three versus six, in terms</p> <p>23 of core based area splits, 11 versus nine, Unified</p> <p>24 School District splits, 84 versus 71. So the</p> <p>25 alternative plan one is winning on all of those.</p>

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<p style="text-align: right;">Page 221</p> <p>1 It's also technically winning on one person one</p> <p>2 vote, tie on compactness, slight edge to the</p> <p>3 enactive plan on core retention. So really, when</p> <p>4 you get right down to it, Alternative plan one is</p> <p>5 across the board superior to the 2021 plan, except</p> <p>6 for the core retention rate, which is not a ritual</p> <p>7 rest principle.</p> <p>8 Q. So why did you start with it then?</p> <p>9 A. Why? Just to demonstrate that there was</p> <p>10 a way to draw a plan that adhered to traditional</p> <p>11 redistrict principles, that did not require a</p> <p>12 three way split in Plaske County. That's what</p> <p>13 this case is about. That's all.</p> <p>14 Q. What about political advantage? Did you</p> <p>15 assess political advantage for alternative plan</p> <p>16 one?</p> <p>17 A. Only after the fact. After I drew it, I</p> <p>18 said, wonder what it is, because I thought it</p> <p>19 would probably be pretty close. That's pretty</p> <p>20 close.</p> <p>21 Q. What is it?</p> <p>22 A. Trump Biden, would be defined it. Well,</p> <p>23 I think I must have -- I did not -- see I did --</p> <p>24 the purpose of alternative plan one was -- was not</p> <p>25 to focus on partisan performance at all, but I --</p>	<p style="text-align: right;">Page 223</p> <p>1 report. I'm asking.</p> <p>2 A. Well, I do.</p> <p>3 Q. I do, but I can still ask.</p> <p>4 A. I've already instructed you what I did.</p> <p>5 I drew the plan without looking at the partisan</p> <p>6 performance because I knew there couldn't be much</p> <p>7 different difference. And then in the end, when I</p> <p>8 was working on my rebuttal report, I did look at</p> <p>9 it and confirm that basically the compact the</p> <p>10 partisan score that Bryan reports in his report is</p> <p>11 correct, except that he's not looking at head to</p> <p>12 head contest, so I think there's a slight</p> <p>13 difference.</p> <p>14 Q. So alternative plan 2 prioritizes</p> <p>15 partisan goals over traditional redistricting</p> <p>16 criteria?</p> <p>17 A. No. It does not. IT -- it takes that</p> <p>18 into consideration, but --</p> <p>19 Q. But it's literally the words from your</p> <p>20 pot page 41 --</p> <p>21 MR. CUSICK: Let finish again. You asked</p> <p>22 the question. He said, no, and he was explaining</p> <p>23 why and then you --</p> <p>24 THE DEPONENT: Let me get to --</p> <p>25 MS. BROYLES: The actual form was I</p>
<p style="text-align: right;">Page 222</p> <p>1 I.</p> <p>2 Q. You didn't do that.</p> <p>3 A. Well, yes, I -- I I did check it in the</p> <p>4 end. But I knew it couldn't be very different</p> <p>5 because I only changed one county. So then I went</p> <p>6 over I but in my rebuttal declaration, I do</p> <p>7 explain that I -- I think I have a -- a table in</p> <p>8 here that shows the partisan performance do or not</p> <p>9 for alternative plan one and all plans. The</p> <p>10 alternative plan one Well, I did not report it.</p> <p>11 Did I? I just see two and three in there. I</p> <p>12 did -- I did check it, though. It's slightly</p> <p>13 lower, but not much because the plan only changes.</p> <p>14 Q. What was it?</p> <p>15 A. What is the Partisan performance in,</p> <p>16 let's see. The partisan performance in In the</p> <p>17 enacted plan, Trump is 56.7 percent. I believe</p> <p>18 that and I'm just guessing here, I can get it. I</p> <p>19 think it's like 55.8 or maybe not -- not quite 56</p> <p>20 percent. So it's like seven tenths of a</p> <p>21 percentage point lower. It's in Mr. Bryan's</p> <p>22 report, by the way, so we don't need to speculate.</p> <p>23 We can just refer that because whatever --</p> <p>24 whatever is in his report appears to be accurate.</p> <p>25 Q. I'm just -- I don't care what's in his</p>	<p style="text-align: right;">Page 224</p> <p>1 didn't get to finish my question because he keeps</p> <p>2 jumping in. But importantly, I am literally</p> <p>3 reading off of his paper.</p> <p>4 BY MS. BROYLES:</p> <p>5 Q. So please slow down. And let's get</p> <p>6 through this. And I'm sorry for interrupting you.</p> <p>7 But you're experienced, you probably know where</p> <p>8 I'm going, but I have to get a very distinct</p> <p>9 understanding of what methods you follow. So I'm</p> <p>10 trying to understand these parts of your report.</p> <p>11 A. Okay. I like the thing --</p> <p>12 MR. CUSICK: I would say is if you're</p> <p>13 going to read his report as you represented right</p> <p>14 there, it'd be helpful to direct him to that so he</p> <p>15 can follow along.</p> <p>16 MS. BROYLES: I just said page 41 before</p> <p>17 we even started, he's been -- we -- we've been</p> <p>18 going page to page the whole time.</p> <p>19 THE DEPONENT: Okay.</p> <p>20 MS. BROYLES: But --</p> <p>21 THE DEPONENT: Go ahead with paragraph</p> <p>22 70.</p> <p>23 BY MS. BROYLES:</p> <p>24 Q. Okay. Read paragraph 70 out loud from</p> <p>25 page 41.</p>

<p style="text-align: right;">Page 225</p> <p>1 A. Alternative plan to demonstrates that, 2 even if the legislature prioritized partisan goals 3 over traditional redistricting criteria. Splitting 4 Pesci County was still unnecessary. That's a true 5 statement, and it doesn't say that I prioritized 6 it.</p> <p>7 What it does say is that I was able to 8 draw an alternative plan 2 adhering to traditional 9 redistricting principles, that basically had the same 10 partisan margin as the enacted plan. Not quite 11 the same, but -- but almost the same.</p> <p>12 Q. Okay. So how did you prioritize the 13 other traditional redistricting criteria?</p> <p>14 A. I don't know what you mean. I -- I 15 adhere to traditional redistricting principles, 16 but I determined to draw an alternative plan to 17 that would score a little bit higher on Trump bid 18 closer to the enacted plan.</p> <p>19 Q. How do you do that in Maptitude? Are you 20 putting in the result you need, like, if -- if 21 you -- for instance, if you need the number to be 22 close to 59. You put in 59, and it spits a map 23 out to you. Is there how -- how are you?</p> <p>24 A. Oh -- oh, yeah. Well, you -- you just, 25 basically, point and click until you get to a</p>	<p style="text-align: right;">Page 227</p> <p>1 Q. No. I'm -- you haven't answered the 2 question. When you go into Maptitude, and you're 3 trying to get a score of 100 on one factor, like 4 here, the way that I'm reading this, the 5 alternative plan 2, the goal was to get as close 6 to the partisan advantage as the enacted plan; is 7 that correct?</p> <p>8 MR. CUSICK: Objection. As to the form.</p> <p>9 THE DEPONENT: Well, the goal was to 10 follow traditional redistricting principles. In other 11 words, don't split more than one county or two 12 counties.</p> <p>13 BY MS. BROYLES:</p> <p>14 Q. So do you --</p> <p>15 A. And have a good compactness score and 16 simultaneously have a partisan advantage that is 17 about the same as the existing plan, if not 18 better. And I don't remember if I was, actually, 19 looking at the Trump, Biden results as I was 20 developing the alternative plan. In fact, I 21 don't -- I don't think I was, but I did look at it 22 obviously after -- after the fact.</p> <p>23 And I knew that when I went North -- when 24 I went North into the Ozarks, I was confident that 25 picking up some of those counties would result in</p>
<p style="text-align: right;">Page 226</p> <p>1 configuration that you think may -- may result in 2 a higher partisan effect. And I don't -- I don't 3 know if I even was looking when I was drawing 4 alternative plan 2 at partisan scores until after 5 the fact. And you can see that under alternative 6 plan 2, Trump had 55.7 to by this 44.3 so --</p> <p>7 Q. Okay. So let -- let me ask the question 8 here. So in making this map, what did you put in 9 to Maptitude to get this result?</p> <p>10 A. I didn't -- I didn't put anything into, 11 although at some point, and I don't remember if it 12 was before or after I did alternative plan 2. I 13 had the redistricting data -- dataset that 14 included the results of the 2020 presidential 15 election. And so I did -- I certainly had that in 16 the -- in the alternative plan 3, where I was 17 playing -- paying great attention to partisan 18 impact. In this particular table, I was still 19 focused on -- on trying to develop a plan that 20 adhere to traditional redistricting principles, 21 and also somewhat some way improve the partisan 22 margin.</p> <p>23 Q. Okay. I must not be asking it correctly.</p> <p>24 A. I -- I probably don't understand, but 25 you're getting repetitive.</p>	<p style="text-align: right;">Page 228</p> <p>1 a higher compactness score because I know those to 2 be predominantly Republican in nature. The Oz, I 3 live in Appalachia, and Appalachia is a heart of 4 Trump country right now and so are the Ozarks, I 5 think.</p> <p>6 There are a lot of similarities between 7 the Ozarks and the Appalachians. So I have no 8 problem making the assumption that I could push 9 North with District two and enhance the partisan 10 effect, and I succeeded.</p> <p>11 Q. I'm going to ask it, again.</p> <p>12 A. I ask and answer, but I'll try. Again, I 13 don't know what you want me to answer.</p> <p>14 Q. What do you tell Maptitude to do to 15 generate the plan back? What I don't understand 16 is if you're trying to get an end result related 17 to partisan goals. How are you -- what are you 18 telling the system to do as far as those other 19 factors? What -- how do you manipulate that?</p> <p>20 MR. CUSICK: Objection.</p> <p>21 THE DEPONENT: Well, it -- it --</p> <p>22 MR. CUSICK: I just can answer on a Bill 23 and continuing to mischaracterize this testimony. 24 Go ahead, Bill.</p> <p>25 THE DEPONENT: Yeah. I mean, the way I</p>

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1 do it with Maptitude, is I started with the
 2 redistrict data sub -- dataset, imported it so
 3 that I had desegregated votes down to the block
 4 level, using that -- that's fine.
 5 BY MS. BROYLES:
 6 Q. Aggregated?
 7 A. No, they did. And that -- that dataset
 8 has been used over and over in case after case.
 9 And when I tallied it up, it matched the totals
 10 that I saw in plans for. So I know those numbers
 11 are correct, and that's that. So I do that, and
 12 then I can get like I'm looking at population
 13 total, as I'm moving blocks around precincts
 14 around or counties around. I can see what the
 15 Trump total is and the Biden total is and the
 16 percentage that went for both. I mean, using math
 17 just as -- just as I would know how many people
 18 are at it. I know how many votes were add it.
 19 Now, I was not doing it laser focused on
 20 alternative plan 2 as oposed to alternative plan
 21 3, where I really was paying attention because I
 22 wanted to make sure that there was at least one
 23 plan on the table that was even better than the
 24 enactment plan that did not split any
 25 neighborhood, black or white anywhere in the state

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1 in an unusual and inexplicable fashion, or any
 2 fashion for that matter, because there are no
 3 split neighborhoods in alternative plan 2 or
 4 alternative plan 3, or alternative plan 1.
 5 I -- I don't know what more I can say. I
 6 mean, I'm -- I'm looking at it is possible to --
 7 to take the data from redising Data Hub, import it
 8 into Maptitude and get instant readouts of
 9 population votes as you're changing precincts in
 10 case.
 11 Q. Do you know where redistricting Data Hub
 12 got its information?
 13 A. From the stat redis -- from the state --
 14 is from the Secretary of State. It's in the -- I
 15 have a link there. If you go to the link, you'll
 16 see a --
 17 Q. Where's the link?
 18 A. Well, the link is in -- is in my -- in
 19 the -- in the Appendix B attached to my
 20 declaration that we just went over. If you go
 21 there, there will be a link to the redision and
 22 data where you can download that file, and also
 23 embedded in that ZIP file is a text file that
 24 explains their methodology.
 25 In effect, all he did was take the

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1 precinct level data and desegregate it to the
 2 block level by precinct based on voting age, and
 3 then it's reaggregated as you click on counties
 4 back up to the county level. And.
 5 In this case, it's okay to do that
 6 process because even though there might be some
 7 possible errors in how the -- the desegregation is
 8 developed at the precinct level. In the end,
 9 there wouldn't be. It's all washed out in the --
 10 vote totals match up.
 11 Q. Where did Plan Score get it stated?
 12 A. I don't know where Plan Score got it
 13 stated, but I do know that redistrict Data Hub has
 14 11 -- has the -- has numbers that match Plan
 15 Score.
 16 Q. And did Plan Score get their data from
 17 redistricting Hub?
 18 A. I -- I don't know. I don't know. I
 19 mean, the -- the percentages that I've generated
 20 are very similar to the percentages that Mr. Bryan
 21 has generated, except that I'm using a
 22 head-to-head contest because I feel like that's
 23 more meaningful. I think there was someone else
 24 on the ballot for president anyway, in 2020, aside
 25 from Trump and Biden, there was. I believe it was

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1 a Libertarian candidate, maybe. And it's not
 2 really clear to me how that person would vote if
 3 they had no other choice, but to vote for Trump or
 4 Biden. So I did -- did discounted those votes.
 5 Q. What did you do with the numbers to
 6 discount the votes?
 7 A. I just did not count the votes that went
 8 for the Libertarian candidate. Had I done so, I
 9 think it's likely the Libertarian candidates would
 10 probably lean toward Trump. I mean, if those
 11 voters had to fix one or the other. Which would
 12 mean my plan alternative plan 2 is even more
 13 partisan in favor of -- of the Republican Party
 14 than as I've presented it.
 15 Q. Where's your numbers on which one --
 16 where's that number? Where -- tell me where is
 17 this better?
 18 A. Well, I mean, if we go to -- I got to go
 19 to -- those numbers are, actually, reported in my
 20 rebuttal declaration. And you can see that
 21 alternative plans.
 22 Q. Why did you put it in with the plan where
 23 that was your goal?
 24 A. Good question. I didn't, but it's --
 25 it's in figure five, so it doesn't matter. You

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<p style="text-align: right;">Page 233</p> <p>1 know, 55.7 percent was the -- was the figure for 2 Trump Biden. 3 Q. What page do you want vote? 4 A. On Page 10, paragraph 20. It is about 5 one percentage point less than the 2021 enacted 6 plan. 7 Q. So it's not as good? 8 A. Not quite as good, but good enough, very 9 close, and it's really not going to be that 10 predictive when it's that close. So that's why I 11 developed alternative plan 3. 12 Q. Okay. We'll find enough. 13 A. And if you look at alternative plan 3. 14 By your standards, Trump smokes in that district. 15 He's got 58.3 percent. It's -- it's -- you know, 16 it's almost two percentage points or 1.5 17 percentage points higher than alternative than the 18 enacted plan. More than that, it's -- well, it's 19 1.5, yeah. 1.6. 20 Q. So by what standard are you talking 21 about? 22 A. Well, the 2021 plan head-to-head, Trump 23 garnered 56.7 percent of the votes. Under 24 alternative plan 3, Trump garners 58.3 percent. 25 So it's a more partisan plan. Not by lot, but it</p>	<p style="text-align: right;">Page 235</p> <p>1 simultaneously adhering -- 2 Q. What's the best metric out there? 3 A. I say the best metric out there because 4 it's very current 2022. 5 Q. What is the best metric? 6 A. The Trump Biden election in 2020. And 7 this plan is superior on that metric, and it's 8 superior on most -- 9 Q. Is not, though? 10 A. Yes, it is. 11 Q. The -- the number is lower. 12 A. What are you talking about? Alternative 13 plan 3 is 58.3 percent Trump. 14 Q. I thought we were still -- I'm not at 15 three. I -- I'm trying to -- 16 A. Yeah, you might as well just give over 17 three. I mean, let's go to three because that's 18 the one where there's no question. 19 Q. Are you trashing in two? 20 A. No, I'm not -- I'm not trashing any days. 21 And -- and again, I would reiterate, you know, 22 it'd be wonderful if the legislature would meet 23 next week and adopt the hypothetical plan because 24 that plan is the only one that does not crack 25 Black voters statewide -- black population</p>
<p style="text-align: right;">Page 234</p> <p>1 is more partisan. And that's all I need to show 2 because 2021 is already by lot compared to the 3 Fitch plan, which I think was around 55 or so, 54, 4 maybe. 5 Q. That's your opinion about it being close 6 enough. There's no -- 7 A. Well, I'm -- I'm not a political 8 scientist, but -- but by your standards, it -- 9 it's easily close enough because Trump got 58.3 10 percent of the votes. 11 Q. What standards? 12 A. That's -- well, it's common knowledge in 13 political. 14 Q. You're saying milestone -- 15 A. In political parlance, it's common 16 knowledge to call a 6/40 election, a landslide 17 election. This election is 58.3 percent to 41 18 percent, 41.7 percent. Again, a higher margin 19 than the enacted plan, which only has a 13.4 20 percentage point margin. 21 Here, we've got a 16.6 percent margin. 22 So there's no question that alternative plan 3 is 23 better on partisanship, at least looking at that 24 one metric, which is probably the best metric out 25 there, then the enacted plan. While</p>	<p style="text-align: right;">Page 236</p> <p>1 statewide. 2 Q. I got time for the legislature to meet 3 next week. I got to much other thing. 4 A. Question. I -- I mean, I'm being 5 facetious. I'm not thinking that they're going to 6 do that. 7 Q. I know. I'm being facetious. Okay. So 8 let's go to your Exhibit B and method -- 9 methodology of sources. 10 A. Okay. Yes. 11 Q. You -- have you ever used Autobound? 12 A. One time I was sort of forced to try to 13 use it over a web connection when I was consulting 14 with the Miami-Dade County Commission, I think, 15 both in 2001 and 2011 and drawing their drafting 16 and drawing their redishion plans. 17 Miami-Dade County Commission, by the way, 18 is Republican. I was working with them along with 19 the Democratic representatives to come up with 20 a -- with a new commission plan. I involved 21 several different redistrict call consultants. 22 The final arbiter was a -- their official 23 redistrict consultant was a guy named Pier Mo 24 Homadio. 25 Q. Or is it less more sophisticated. I</p>

<p style="text-align: right;">Page 237</p> <p>1 mean, how would you compare Autobound to Maptitude 2 for redistricting?</p> <p>3 A. I can't compare it because I really 4 haven't worked with it since 2011. I found it to 5 be not as good as Maptitude 15 years ago. I don't 6 know that now.</p> <p>7 But that's partly because that's the 8 program I always use. It's always easier to use 9 the program you're using, right? Generally 10 speaking.</p> <p>11 Q. So before a map is drawn, are there, 12 like, empty box, like, what I'm picturing is, you 13 know, directives or some kind of instruction, 14 you're getting it to generate the map. And so 15 how -- how does that work?</p> <p>16 A. Well, you -- you always see the map on 17 screen, but then you can if you want to like --</p> <p>18 Q. And what is the map? Where -- what is 19 the starting point that you're seeing before you 20 go in to make adjustments?</p> <p>21 A. Well, it -- it depends on, I mean, if you 22 just load the precincts and the county boundaries, 23 that's all you're going to see. And then as you 24 click on a county or precinct, you're going to 25 sign a color to it. So ultimately in the end, you</p>	<p style="text-align: right;">Page 239</p> <p>1 set that up to show total population, population 2 by race. You can ask it to show where college 3 dorms are, where prisons are. So you can get that 4 kind of information that comes from the PL 94171 5 redistricting file. And that's -- that's the file 6 that you get with Maptitude.</p> <p>7 And presumably that's a file that you 8 would get with autobound. But you could also get 9 that same information independently directly from 10 the Census Bureau to use with any other software 11 and create your own dataset.</p> <p>12 Q. So but like -- so for a county split, for 13 instance, would someone just zig zag a line 14 magically, and it would tell you what percentage 15 of the population is black and white on each side, 16 or --</p> <p>17 A. Well, no. I mean, you -- after you've 18 done a plan or in the process that you're doing a 19 plan, there's a module in Maptitude called 20 reports, and you can get it to give you a report 21 on county splits, report on municipal splits. And 22 that's -- that's like these plans here that are in 23 my -- these exhibits that I produced show the -- 24 like this one shows split counties under -- I'll 25 see which plans is.</p>
<p style="text-align: right;">Page 238</p> <p>1 have a map that is multicolored and completely 2 filled in as the maps I produced, and the maps you 3 see that the state produced in color.</p> <p>4 Q. Yeah.</p> <p>5 A. That's how you do it.</p> <p>6 Q. No, I know. So you're just clicking 7 until you add up to a total or something and then 8 you say --</p> <p>9 A. That's right. But you don't have to do 10 it one by one. I can -- I can do a sweep and -- 11 and, you know, get all the precincts and I can 12 click in a county and get all those precincts in 13 one fell swoop, or I can do a Lasso and get a 14 whole bunch of counties in, say North Arkansas, 15 along the Mt. Missouri line into one district.</p> <p>16 So you do -- you could prose a Arkansas 17 Congressional Plan real fast using map or any 18 other -- any other redistrict applications because 19 they're just four county. Four congressional 20 districts, and there's no need to do any kind of 21 significant county splitting.</p> <p>22 Q. And then what do you say as you click, 23 there's data on the side or something -- you said 24 there -- there's some sort of side thing --</p> <p>25 A. Well, there is a data view, and you can</p>	<p style="text-align: right;">Page 240</p> <p>1 Under the hypothetical plan, I just 2 happened to open up and there are two split -- 3 there's one split county, Sebastian County, and 4 split two ways, and you get a population total. 5 So -- but there are other tables in here that do 6 the same thing with the enacted plan, and with, 7 you know, you can also look at the school district 8 splits, and, of course, those are much more 9 complicated because there are a lot of school 10 districts.</p> <p>11 Then that's automated. And that's one 12 good thing about Maptitude for redistricting is 13 why I like it really is you can get these 14 automated reports, and they're very detailed, and 15 you really -- I don't think you can get that kind 16 of report exactly from Dave redistricting.</p> <p>17 Q. If you --</p> <p>18 A. You -- you can get the total count, but 19 you don't get the detail on a particular unified 20 spot.</p> <p>21 Q. If data is uploaded from Dave's 22 redistricting into your map, does that change how 23 Maptitude generates numbers?</p> <p>24 A. It wouldn't, but I rarely would ever 25 import information directly from Dave's</p>

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<p style="text-align: right;">Page 241</p> <p>1 redistricting because I already have, generally</p> <p>2 speaking, the shape file or a block equivalency</p> <p>3 file from another expert or something if I'm</p> <p>4 analyzing plans. However --</p> <p>5 Q. I thought on the compactness score, for</p> <p>6 instance, it does.</p> <p>7 A. On the compactness score -- on the</p> <p>8 compactness score, I don't need to load it into</p> <p>9 Maptitude. But if I want to get a compactness</p> <p>10 score on a plan, I don't have that's posted on</p> <p>11 Dave's redistricting website, and I wanted to I</p> <p>12 come up with something other than XX or pulse pop</p> <p>13 because this score they are actually reported on</p> <p>14 Facebook.</p> <p>15 If I wanted to get say, convex hull or</p> <p>16 one of the lesser known compactness scores that --</p> <p>17 that can be generated by Maptitude, then I would</p> <p>18 have to import that from days redistricting into</p> <p>19 Maptitude using a file called either shape file</p> <p>20 and the best way to do it is use a block</p> <p>21 equivalency file. And it takes about, you know, a</p> <p>22 minutes to load it in the Maptitude and would take</p> <p>23 to generate compactness scores another minutes,</p> <p>24 real fast process.</p> <p>25 Q. Do you know how redistricting data hub</p>	<p style="text-align: right;">Page 243</p> <p>1 just rely on Maptitude for redistricting, which is</p> <p>2 used by state legislatures all over the country.</p> <p>3 Q. What about days redistricting? Have you</p> <p>4 seen the limitations that it places on the data</p> <p>5 that -- that is uploaded?</p> <p>6 MR. CUSICK: Objection as to form.</p> <p>7 THE DEPONENT: Well, I mean, they -- they</p> <p>8 would have that disclaimer. I'm sure, as -- as</p> <p>9 would most websites that are distributing data,</p> <p>10 just because there's, you know, mistakes can be</p> <p>11 made.</p> <p>12 BY MS. BROYLES:</p> <p>13 Q. But you don't undertake any analysis to</p> <p>14 verify the data that given to you from those</p> <p>15 sources?</p> <p>16 A. Well, yes, I did. I double checked on</p> <p>17 plan score and saw that the -- the vote totals for</p> <p>18 Trump in 2020 and Biden in 2020 were identical to</p> <p>19 the desegregated total -- desegregated blocks that</p> <p>20 I was working with from redistricting data. And</p> <p>21 then I also looked at Mr. Bryan's report and so</p> <p>22 noticed minor differences. And that's because he</p> <p>23 was not doing a head to head analysis. He was</p> <p>24 doing the percentage that Trump got, I think,</p> <p>25 including the other candidates that was in the</p>
<p style="text-align: right;">Page 242</p> <p>1 desegregates data sets?</p> <p>2 A. Yes. They did. They -- they desegregate</p> <p>3 the voting age population. They -- they</p> <p>4 desegregate data sets but as I've mentioned, in</p> <p>5 terms of precinct level election data down to the</p> <p>6 block level based on voting age.</p> <p>7 Q. Have you reviewed the terms and</p> <p>8 conditions on the Maptitude redistricting hub</p> <p>9 website?</p> <p>10 A. You mean the -- the redistrict data hub</p> <p>11 website?</p> <p>12 Q. Excuse me, yes.</p> <p>13 A. I have not read the terms and conditions,</p> <p>14 at least not -- not recently anyway.</p> <p>15 Q. Are you aware of the -- they're</p> <p>16 basically -- they all say we're not -- we're not</p> <p>17 making any warranties, that the data contained</p> <p>18 there is correct.</p> <p>19 A. Well, it wouldn't surprise me. They have</p> <p>20 a lot of data up there. So it's not -- it's not a</p> <p>21 surprise that they might say that. When they're</p> <p>22 working with something other than direct census</p> <p>23 data, which presumably, it would be correct. I</p> <p>24 don't ever use the census boundaries or anything</p> <p>25 like that directly from redistrict data, but I</p>	<p style="text-align: right;">Page 244</p> <p>1 contest and body.</p> <p>2 So it was a three way contest, not head</p> <p>3 to head. I think that's correct. I could be</p> <p>4 mistaken about that. There's not much difference</p> <p>5 between what I have and what Mr. Bryan has on the</p> <p>6 parts of performance.</p> <p>7 Q. So the maps as far as the old plans,</p> <p>8 these are -- that's just something you took off of</p> <p>9 a website that you didn't make those plans.</p> <p>10 A. I did make those maps. I took them</p> <p>11 directly from the US Census Bureau. I looked at</p> <p>12 the 1990 census and the annual -- they -- they</p> <p>13 have block assignments for every single census</p> <p>14 block in Arkansas, to which district it's in. And</p> <p>15 I merged that into into Maptitude, and those are</p> <p>16 the maps we get. And so I'm almost 100 percent</p> <p>17 certain that those plans represent what the Census</p> <p>18 Bureau replay -- reported in the 1990 census 2000</p> <p>19 census, and the 2010 census, because I was using</p> <p>20 block level assignments.</p> <p>21 Q. So on the population summary report, I</p> <p>22 guess, Exhibit D1, this is all related to the</p> <p>23 hypothetical plan and nothing else; is that</p> <p>24 accurate?</p> <p>25 A. Let's see Exhibit D1. Let's see what I'm</p>

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<p style="text-align: right;">Page 245</p> <p>1 looking at. This is Exhibit --</p> <p>2 Q. D1.</p> <p>3 A. What's -- what's the name of the table</p> <p>4 you're looking at? Population summary, Arkansas</p> <p>5 Hypothetical plan? Yeah. I think so.</p> <p>6 Q. Okay. So this is just about that plan.</p> <p>7 It's not undertaking any comparison, right? It's</p> <p>8 just data.</p> <p>9 A. Straight from the US Census 2020, right.</p> <p>10 Q. Okay. Well, you have here no citizen</p> <p>11 voting age and citizens all ages percentages are</p> <p>12 disaggregated. Where is that from?</p> <p>13 A. That is from the redistrict data hub, and</p> <p>14 because those numbers are taken down to the block</p> <p>15 level and then reaggregated back up to the</p> <p>16 congressional level, which is an average district</p> <p>17 size of 751,750 some people. I'm confident that</p> <p>18 those numbers for the Latino population are very</p> <p>19 close to being accurate.</p> <p>20 What is not accurate are the maps that</p> <p>21 Mr. Bryan has in his initial declaration</p> <p>22 purporting to show turnout, because you cannot</p> <p>23 disaggregate CVAP from the block group level down</p> <p>24 to the block level based on all ages voting age,</p> <p>25 because you then end up allocating non citizens to</p>	<p style="text-align: right;">Page 247</p> <p>1 it's his initial declaration or report, or</p> <p>2 whatever he calls it, those maps are not</p> <p>3 trustworthy. Some of the numbers could be right,</p> <p>4 but wherever there's a big Latino population, and</p> <p>5 there is a significant Latino population in South</p> <p>6 Central -- you have to take that with a grain of</p> <p>7 salt.</p> <p>8 Q. Explain to me, Exhibit D4.</p> <p>9 A. D4.</p> <p>10 Q. And what the sources for it.</p> <p>11 A. D4 is simply overlaying all of the towns</p> <p>12 in the source is mapped to -- all these reports</p> <p>13 that have this kind of a -- of a heading on it or</p> <p>14 are from Maptitude. So that's it's a report</p> <p>15 generated by Maptitude.</p> <p>16 Q. But what's the source of this data is?</p> <p>17 A. Was a 2020 census. All these population</p> <p>18 numbers I report in my declaration, come directly</p> <p>19 from the 2020 census except for the citizen voting</p> <p>20 age population, which comes from the 2018, 2022,</p> <p>21 five year survey, which is not a complete count.</p> <p>22 It's -- it's an estimate based on a survey sample,</p> <p>23 but I think it goes to one out of every 40</p> <p>24 households every year.</p> <p>25 Q. What -- so you've got District 2,</p>
<p style="text-align: right;">Page 246</p> <p>1 precincts that -- that are all citizens, and vice</p> <p>2 versa. And the vice versa is really the one that</p> <p>3 matters.</p> <p>4 Q. Non citizens, what do you mean?</p> <p>5 A. Because you look at voting age, non</p> <p>6 citizens are reported in voting age. And so when</p> <p>7 you disaggregate from the voting age at the --</p> <p>8 when you disaggregate a block group, CVAP down to</p> <p>9 the block level based on voting gauge, you're</p> <p>10 creating an error at the precinct level almost</p> <p>11 always if you have a high Latino population</p> <p>12 because unfortunately, many of them are not</p> <p>13 citizens. And so his maps are incorrect. They</p> <p>14 have to be.</p> <p>15 I don't really consider a major issue in</p> <p>16 this case, but in fact, they are. But when he</p> <p>17 reports other -- other numbers for citizens, like</p> <p>18 at the congressional district level, those errors</p> <p>19 are washed out because you're combining literally</p> <p>20 thousands of precincts, and -- and ultimately the</p> <p>21 error is washes out if that makes any sense.</p> <p>22 So I -- I think the numbers I'm reporting</p> <p>23 here for a Latino CVAP are correct. I think that</p> <p>24 many of the numbers that he's reporting for</p> <p>25 precincts in his map that is in his -- I guess</p>	<p style="text-align: right;">Page 248</p> <p>1 Alexander 3, Alpena 4, Alexander 4, Alpena,</p> <p>2 what -- what does that mean?</p> <p>3 A. Well, that means that those are pounds</p> <p>4 that were split between district -- Alexander is</p> <p>5 split between Districts 2 and 4, which is 220</p> <p>6 people going into two and four people going into</p> <p>7 District 4 not four people with 3,165, and with</p> <p>8 Alpena, 84 people are in District 3, and Alpena</p> <p>9 also sent 290 people to District 4. Now, I do</p> <p>10 know that Alpena is actually a town that is split</p> <p>11 by a county. And so arguably, there's no split</p> <p>12 there because the town is already split by</p> <p>13 counties.</p> <p>14 So if you take out -- if you take out the</p> <p>15 splits -- the split if -- if you eliminate If you</p> <p>16 stop county -- if you don't count towns that cross</p> <p>17 county boundaries that are already split, then</p> <p>18 hypothetical plan has zero splits, because both</p> <p>19 Alexander and Alpena are split by a county line,</p> <p>20 and are assigned one county to one district in</p> <p>21 another county to another. So I mean --</p> <p>22 Q. What difference is that split made?</p> <p>23 A. Well, it may not make any difference at</p> <p>24 all.</p> <p>25 Q. Do you know of any Black people live in</p>

<p style="text-align: right;">Page 249</p> <p>1 Alpena?</p> <p>2 A. I could have -- I could find that out.</p> <p>3 I -- I think it's in -- is it in Northern or not?</p> <p>4 Isn't it -- it's kind of in -- in Northern</p> <p>5 Arkansas, I believe.</p> <p>6 Q. Do you know where the population</p> <p>7 densities lie within these cities?</p> <p>8 A. Yeah. Well, yes. I mean, we know that</p> <p>9 the part of Alpena that is in one county, and I</p> <p>10 don't know the name of the county, that is in</p> <p>11 District 4, has 290 people in and the part that's</p> <p>12 in another county is 84. So it's a very tiny</p> <p>13 town.</p> <p>14 Q. Did you look at -- so you didn't</p> <p>15 undertake to look to see how many of the 220</p> <p>16 people were -- what the racial demographics were</p> <p>17 of these groups?</p> <p>18 A. No, I'm not obsessed with race at all</p> <p>19 in -- in my work. Actually, I -- I think it's</p> <p>20 probably predominantly white because I believe</p> <p>21 Alpena, I guess we can look at the map and I think</p> <p>22 Alpena is in the north. And so it's predominantly</p> <p>23 white population, I'm sure.</p> <p>24 Q. So you're not -- you're not including,</p> <p>25 for instance, the split between Alexander and</p>	<p style="text-align: right;">Page 251</p> <p>1 A. Well, that's -- that's Exhibit E.</p> <p>2 Q. I know what's the source?</p> <p>3 A. US Census Bureau. You see that, it's an</p> <p>4 official US Census Bureau publication. And it</p> <p>5 shows each MSA, along with smaller counties that</p> <p>6 have at least an urban center of 10,000 people.</p> <p>7 These are called micropolitan statistical areas.</p> <p>8 And then there's a broader area that would show</p> <p>9 connections between two MSAs and occasionally</p> <p>10 between an MSA and micropolitan statistical areas</p> <p>11 are called combined statistical area.</p> <p>12 And you can see that Pine Bluff would be</p> <p>13 joined with the Little Rock -- North Little Rock</p> <p>14 area as a region, that would be known as a</p> <p>15 combined statistical area because there is a at</p> <p>16 least a five percent commuting pattern on a daily</p> <p>17 basis between the two counties or between this two</p> <p>18 MSAs.</p> <p>19 Q. Okay. What about -- so the population</p> <p>20 summary report in Exhibit 1. This is just stuff</p> <p>21 taken around maptitude?</p> <p>22 A. Yes. This exact same report. It's --</p> <p>23 it's not a direct spread out from maptitude. I</p> <p>24 take it from maptitude, and then copy and paste it</p> <p>25 into an Excel Spreadsheet, because it looks better</p>
<p style="text-align: right;">Page 250</p> <p>1 Alpena as concern or excuse me, Alexander between</p> <p>2 two and four as issue?</p> <p>3 A. I don't -- I don't consider it an issue,</p> <p>4 especially when you take into consideration that</p> <p>5 towns are already split by different -- by the</p> <p>6 county line goes right down through the town. So</p> <p>7 it's -- it's a town that's in two -- in two</p> <p>8 counties and just like I live in a town called</p> <p>9 Bristol, and Southwest Virginia, that's in two</p> <p>10 states.</p> <p>11 Q. And so is this hypothetical Plan 3 that</p> <p>12 this is from?</p> <p>13 A. No. This is the hypothetical plan, the</p> <p>14 one that does not split the Black population</p> <p>15 statewide because it adds Pulaski and Jefferson</p> <p>16 County into a district with the counties in the</p> <p>17 Delta. It does not split any counties. It has a</p> <p>18 higher compactness score, it's across the board,</p> <p>19 higher on everything. That has to do with</p> <p>20 regional redistricting principals.</p> <p>21 Q. With respect to anything -- that's again,</p> <p>22 that's my hypothetical plan.</p> <p>23 A. See this Exhibit shows the core-based</p> <p>24 statistical areas.</p> <p>25 Q. What's this found?</p>	<p style="text-align: right;">Page 252</p> <p>1 to you read in the maptitude report I think. But</p> <p>2 the number should be the same.</p> <p>3 Q. So on the on that population summary</p> <p>4 report, it does not reference Citizen all ages</p> <p>5 percentages?</p> <p>6 A. It does not, but I could have. I could</p> <p>7 have done that.</p> <p>8 Q. Why did you not -- why did you do it for,</p> <p>9 hypothetically on that one?</p> <p>10 A. What -- what do you make? I'm sorry.</p> <p>11 What's the.</p> <p>12 Q. When you look at the hypothetical Exhibit</p> <p>13 D1, it says, citizen voting age and citizen all</p> <p>14 ages percentages are desegregated from the</p> <p>15 block-group level, but that does not say it on</p> <p>16 Exhibit F1.</p> <p>17 A. That that's true. I probably should just</p> <p>18 have cut out that last part there.</p> <p>19 Q. Which part?</p> <p>20 A. Well, well, this does not show all ages</p> <p>21 citizens. It just shows -- what is that?</p> <p>22 Q. I thought you said you couldn't -- that</p> <p>23 you had to break those out?</p> <p>24 A. No. We where you see all ages on here?</p> <p>25 That's what I'm a little bit confused about.</p>

<p style="text-align: right;">Page 253</p> <p>1 Q. Under your hypothetical point on D1.</p> <p>2 A. D1.</p> <p>3 Q. On your source, it says it references</p> <p>4 citizen on all ages percentages, and that's not St</p> <p>5 Exhibit F, and I'm just curious why?</p> <p>6 A. Well, I have that information, but in a</p> <p>7 redistricting case, typically, you would only look</p> <p>8 at citizen voting age, particularly in a say a</p> <p>9 ingles one case where you need to show a district</p> <p>10 that is a majority -- minority. And sometimes you</p> <p>11 can do that with voting age, and, it might be real</p> <p>12 close to fifty percent and there might be some</p> <p>13 issue, so you might want to report that the</p> <p>14 district is actually fifty percent black SVAP, as</p> <p>15 opposed to 50.01. Voting age black so that,</p> <p>16 that's why that's in there. I use this table in</p> <p>17 all the declarations I file.</p> <p>18 Sometimes I report citizen population</p> <p>19 because that may give -- that's in a way, a</p> <p>20 leading indicator of how the voting age population</p> <p>21 might change in coming years, because typically</p> <p>22 the Latino citizen all ages percentage is higher</p> <p>23 than the citizen voting age population percentage.</p> <p>24 Because when someone has come to the United States</p> <p>25 and still is not a citizen. They may have</p>	<p style="text-align: right;">Page 255</p> <p>1 good match for the citizenship rate at the time of</p> <p>2 since.</p> <p>3 Q. The benchmark, Congress, Exhibit F3?</p> <p>4 What is this from 2011?</p> <p>5 A. Yes. This is just the same set of</p> <p>6 tables. F1, F2, F3, F4, Exhibit 6, I think for --</p> <p>7 for the benchmark plan, based on the 2020 census.</p> <p>8 So we can see that the benchmark plan, if you look</p> <p>9 at F3, indicates there are five split Counties.</p> <p>10 Q. Explain to me the communities of</p> <p>11 interest, How -- what are you doing to put</p> <p>12 something in or outside a community of interest?</p> <p>13 A. Well, it's a broad category, and there's</p> <p>14 no clear cut way to define a community of</p> <p>15 interest. I have put in there in my report a</p> <p>16 fairly good solid statement from the Brennan</p> <p>17 Center. But for a community of interest, I</p> <p>18 would -- you know, I think you can subsume</p> <p>19 community of interest or subsume political</p> <p>20 subdivisions into, in effect, communities of</p> <p>21 interest, because at the county level, and even at</p> <p>22 the city level, there is a community there.</p> <p>23 So to the extent you can avoid splitting</p> <p>24 a county or avoid splitting a municipality. You</p> <p>25 are in a way protecting a community of interest.</p>
<p style="text-align: right;">Page 254</p> <p>1 children who are citizens who are, like, anywhere</p> <p>2 from 60-70 or something, and they will become</p> <p>3 eligible to vote because they were born here.</p> <p>4 Q. What is -- what is the significance of</p> <p>5 referencing a survey midpoint of July 2020? What</p> <p>6 does that mean?</p> <p>7 A. Well, the -- the ACS is distributed by</p> <p>8 the Census Bureau to households on an annual</p> <p>9 basis, and one year is not enough to arrive at a</p> <p>10 reliable estimate for the citizenship -- the</p> <p>11 community. You need really more surveys. So they</p> <p>12 combine those five years surveys, five years worth</p> <p>13 of surveys every year and release a new batch.</p> <p>14 So the most recent batch, which will be</p> <p>15 the 2019, 2023 ACS, will come out, I think in</p> <p>16 early December. And so these numbers change on a</p> <p>17 yearly basis. So over the course of the decade,</p> <p>18 even though the population may not change, you get</p> <p>19 updates from the American Community Surveys</p> <p>20 showing what the citizen building age population</p> <p>21 is.</p> <p>22 Q. What's the mid? Why does it say when?</p> <p>23 A. Well, the midpoint is the midpoint of the</p> <p>24 survey, like 2018, 2022, so the survey midpoint</p> <p>25 would be since this year 2020. So it is it's a</p>	<p style="text-align: right;">Page 256</p> <p>1 Because people who live in one County often have</p> <p>2 something in common that they want to accomplish</p> <p>3 for their town, like, I don't know, a new high</p> <p>4 school football field or whatever.</p> <p>5 Q. So really down to the municipality level,</p> <p>6 how are you assessing community communities of</p> <p>7 interest?</p> <p>8 A. Well, one way to do it is to first of</p> <p>9 all, look at the municipality and see if it's</p> <p>10 split. And I have split as we just saw, a couple</p> <p>11 of very tiny towns, Alpena and Alexander. So</p> <p>12 there is a community of interest there, even</p> <p>13 though we are different community different</p> <p>14 counties, there is a community of interest there,</p> <p>15 so that is a split of a community of interest.</p> <p>16 A way. But it is not, by any means,</p> <p>17 anywhere near as severe as a split of community of</p> <p>18 interest in South, East and Central Arkansas,</p> <p>19 where there are three districts involved, not just</p> <p>20 two, and where there is a large population that is</p> <p>21 split off from their neighbors and their</p> <p>22 neighborhoods into one of three districts.</p> <p>23 Q. So this community of interest, this</p> <p>24 Exhibit F4, you're saying that all of these towns</p> <p>25 are communities of interest to one another?</p>

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<p style="text-align: right;">Page 257</p> <p>1 A. No. They are communities of interest 2 within themselves. And so there's Tiller with 32 3 people in it in District 1, and Tiller in District 4 4. These are very tiny towns for the most part. 5 So that Tiller has a town has a total of but these 6 are municipalities, not just -- they're not just 7 see Census Bureau has defined municipalities in 8 the in -- the PL941715. 9 But they also defined unincorporated 10 places. And this particular exhibit, I just took 11 the municipalities, that actually have a mayor 12 presumable a municipality Mayor of Tiller. There 13 are 32 people there in District 1 and 140 in 14 District 40. 15 Q. So what makes these okay? 16 A. Well, it'd be better if you didn't. 17 Q. And how do you know whether the split was 18 correct? 19 A. Well, I'm -- I'm trusting the report 20 that -- that Maptitude generates. And these kinds 21 of tables have been. 22 Q. Besides the community of interest? 23 A. No. No, I decide. I mean, I -- I told 24 Maptitude to show me every single municipality in 25 the state of Arkansas that is split by the</p>	<p style="text-align: right;">Page 259</p> <p>1 split towns. That's what it is. 2 Q. And you are okay with all of this? 3 A. You know, this is a -- the score is okay. 4 And I don't have any -- I don't have any problem 5 with the numbers generated in the enacted plan 6 or -- except for Pulaski County. It doesn't 7 affect very many people, and in many cases, the 8 splits really are as a result of a county line, 9 whereas, with the enacted plan, the major splits 10 involve parts of Little Rock and North Little 11 Rock, and it's not a county line, it's just t CDs 12 and neighborhoods. 13 Q. Did you -- did you, make any 14 determination on how the -- how these are split? 15 Like, based on a county line or something like 16 that? 17 A. You know, initially, I did. I've done 18 that before and just eliminated all of those 19 places that are in two counties, and just to 20 clarify whether the split involved a county line 21 or if it's just a split of a county that's already 22 split. Really, in Arkansas, for the most part. 23 The only time you're going to have a 24 split county -- Split city is when there's a 25 county split because almost all the counties are</p>
<p style="text-align: right;">Page 258</p> <p>1 Benchmark Congress. And this is what he got back. 2 So it's not very minute. So I, you know, it -- it 3 it's not that big of a deal, but it could be a big 4 deal for somebody who lives in Fairfield Bay. We 5 just slip 2-1 under the. 6 Q. They tried it all the time. They're 7 probably having to be split. 8 A. They do? 9 Q. Yes. 10 A. Okay. 11 Q. Do you -- so how do you tell it to 12 generate that information? 13 A. I just I -- just that there's a reporting 14 module in Maptitude, and I go to the level of 15 geography that I'm interested in, which in this 16 case, would be the city and town boundaries, and I 17 tell Maptitude. And I just say, select all 18 Places in Arkansas that are actually 19 incorporated. And it does that in just a couple 20 of seconds. And then I say produce a report 21 showing every one of those municipalities. I 22 think it's 501. It shows every -- every single 23 Municipality of the state that is split. And 24 under the benchmark Congress, there are -- I don't 25 know what well, there are 10 town splits and five</p>	<p style="text-align: right;">Page 260</p> <p>1 whole. In other states, that's particularly 2 legislative plans, you can't tell whether a split 3 involves a town that crosses into another county, 4 you can, but there could be many instances where 5 there's a split, and it doesn't involve county 6 plans is what I'm saying. 7 Q. On your communities of interest, based on 8 the schools, where you have population, how are 9 those being drawn? 10 A. Same thing. Anytime there's a split of a 11 school district between two districts. That split 12 is tallied. And there's no, you know, the subset 13 is the same regardless. You have I know, I guess 14 it's what 296 school districts in the state, 15 maybe? 16 Q. When was this data generated? 17 A. Well, this all this is from the 2020 18 census. So if -- if the school district's 19 boundaries have changed, or if a school district 20 was eliminated, then since 2020, that would be 21 different. I mean, the same would hold true for 22 municipal splits, if there's been an annexation or 23 something like that. 24 This is what the Arkansas legislature 25 assuming they had the Maptitude, software and I</p>

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<p style="text-align: right;">Page 261</p> <p>1 don't know if they did, but this is the kind of</p> <p>2 report they would have generated in November of</p> <p>3 2021?</p> <p>4 Q. They use AutoBound?</p> <p>5 A. Okay. Well, probably with AutoBound.</p> <p>6 The same thing. They would have been working for</p> <p>7 the 2020 data. So they would have not -- they if</p> <p>8 they reported anything having to do with county</p> <p>9 splits, or city splits, it would have been based</p> <p>10 on the 2020 data, which had just come out two</p> <p>11 months earlier. And so it should match up almost</p> <p>12 perfectly with these reports.</p> <p>13 Q. Do you know the differences in, like,</p> <p>14 statistical sensitivity? Between what the</p> <p>15 capabilities are Maptitude versus AutoBound?</p> <p>16 A. I do not. As I mentioned, I briefly</p> <p>17 experimented with it a little bit using an online</p> <p>18 version of AutoBound when I was working as a</p> <p>19 consultant to the Miami-Dade County Commission,</p> <p>20 because they were using software, so sometimes I</p> <p>21 had to import a plan into that software. But I</p> <p>22 didn't really work with it very much. Internet</p> <p>23 was slower back in those days. It was kind of</p> <p>24 annoying anyway.</p> <p>25 Q. On the Exhibit F population summary</p>	<p style="text-align: right;">Page 263</p> <p>1 think Bryan has indicated that he starts with the</p> <p>2 enacted he starts with the 2011 plan and goes to</p> <p>3 the enacted plan, but the results are the same.</p> <p>4 Q. Did you tell Matt, you or Magnitude</p> <p>5 besides communities of interest?</p> <p>6 A. Matt has a report they call communities</p> <p>7 of interest.</p> <p>8 Q. And you don't know how it other than by</p> <p>9 a -- you know, a city boundary line, you don't</p> <p>10 have any information on how they decide what a</p> <p>11 community of interest is?</p> <p>12 A. Well, they're -- they're just using that</p> <p>13 terminology for the report. And in this instance,</p> <p>14 it's showing at least in detail, we're looking at,</p> <p>15 the municipal splits, which I think is a</p> <p>16 legitimate sort of community of interest, but it's</p> <p>17 also just a political subdivision split. And you</p> <p>18 can do that, not just with municipalities, you can</p> <p>19 do it with core based statistical areas. You can</p> <p>20 do it with any kind of region that is got</p> <p>21 geographic benefits.</p> <p>22 Q. Other than the geographic boundaries,</p> <p>23 what a community of interest is, you don't know</p> <p>24 how it would make that determination, other than</p> <p>25 just a geographic boundary?</p>
<p style="text-align: right;">Page 262</p> <p>1 report, it was -- it doesn't say the source, but I</p> <p>2 guess it's the same as everything else.</p> <p>3 A. Well, yes, the -- the source of all of</p> <p>4 these exhibits is the 2020 PL 94-171 data file.</p> <p>5 As delivered by Maptitude -- by the Calico</p> <p>6 Corporation in the software notice Maptitude for</p> <p>7 district.</p> <p>8 Q. Okay. All right. Go to your bones.</p> <p>9 A. Did you need that? Did you give this to</p> <p>10 me?</p> <p>11 Q. Core constituencies, how is that done</p> <p>12 within Magnitude?</p> <p>13 A. That report that -- that's a direct</p> <p>14 report from Magnitude, and it just shows how the</p> <p>15 population in a given district was shifted around.</p> <p>16 The shaded areas are the pieces that have the</p> <p>17 largest population that stayed together from the</p> <p>18 enacted -- from the benchmark plan to the enacted</p> <p>19 plan. Shaded areas show that. So the way to get</p> <p>20 the core retention number, unfortunately, it</p> <p>21 doesn't get directly reported in Magnitude for</p> <p>22 reing is to just export that to an Excel file,</p> <p>23 filter the gray rows and tally it up, and then you</p> <p>24 get the core retention. That's the number that</p> <p>25 stay together from one plan to the next. And I</p>	<p style="text-align: right;">Page 264</p> <p>1 A. Well, and a population base, that's</p> <p>2 right. Yeah.</p> <p>3 Q. The Exhibit J 1, is this for an aptitude</p> <p>4 or how did you come to this result?</p> <p>5 A. The Exhibit J 1 would have been from an</p> <p>6 Excel spreadsheet, just reporting what I had</p> <p>7 already reported in the declaration, but</p> <p>8 summarized in a in a single page.</p> <p>9 Q. What is the Exhibit J -- J2?</p> <p>10 A. Exhibit J 2 is just the most recent</p> <p>11 report from the American Community Survey, one</p> <p>12 year survey for the State of Arkansas, comparing</p> <p>13 socioeconomic characteristics statewide of non</p> <p>14 Hispanic whites, and I believe that's showing also</p> <p>15 African Americans and Latinos. Can I see that</p> <p>16 again?</p> <p>17 Q. Sure.</p> <p>18 A. What's a headache?</p> <p>19 Q. I don't.</p> <p>20 A. Yeah. Okay. No, never mind. She</p> <p>21 showing black population and white population. I</p> <p>22 saw economic characters.</p> <p>23 Q. Did -- did this come into play in any of</p> <p>24 the reports?</p> <p>25 A. It did not. It was there for general</p>

<p style="text-align: right;">Page 265</p> <p>1 information. I always report that kind of 2 information for Jingles lawsuits. In this case, 3 it's just the most recent data. I just came out 4 like it came out like one or two days before -- 5 before I filed my declaration. 6 Q. So you didn't like upload this to 7 Magnitude or something like that? 8 A. No. Typical -- typically, I would upload 9 it. I I had a little more time, I would have just 10 summarized it in chart format, which is what I 11 usually do. But in this case, I just I just gave 12 we gave you the table. 13 Q. So why did you draw Map 3, alternative 14 plan 3. 15 A. Well, my intention was to see if I could 16 exceed the partisan effect in a plan that adhere 17 to the disinal resting principles, that didn't 18 split any more counties than the enacted plan, and 19 that did not split Fluke County and had 20 compactness scores that were as good or better and 21 was contiguous, meeting all the original reging 22 principles, while at the same time, having a 23 higher partisan advantage based on Trump, Biden 24 and the 2022 US Senate race. And so that's it, 25 and I think I succeeded.</p>	<p style="text-align: right;">Page 267</p> <p>1 impression, maybe I'm jumping to a conclusion, but 2 I think it almost meant like the school district 3 itself. And then -- 4 Q. Yeah, you have to have a number of 5 students, and so based on that, there's nothing 6 that you're attributing to the legislature as it 7 relates with respect to the enacted plan upon 8 which you're suggesting people would leave the 9 Delta just in general? 10 A. -- well, I'm just basically making the 11 point that there is institute at the University of 12 Virginia that has done population projections by 13 state. It's -- it's a well recognized demographic 14 center. Looking at they look at data Nationwide, 15 they've produced estimates for all states, and 16 it's named in Weldon Cooper, but there's no 17 relation to me unfortunately. 18 Q. Well, if a bunch of people leave the 19 Delta just move and continue to consolidate in 20 central and Northwest Arkansas, isn't it possible 21 that you would need more splits in those areas in 22 order to be more -- you know, to divide up the 23 population densities? 24 MR. CUSICK: Objection, ask the form. 25 THE DEPONENT: I -- I really don't think</p>
<p style="text-align: right;">Page 266</p> <p>1 Q. What is that based on? 2 A. What is it based on? Well, it's based on 3 Trump, Biden. 4 Q. And where is that? Which data? 5 A. Well, it should be in my in -- my 6 rebuttal report. I mean, it's it's a -- there's a 7 table in the rebuttal report. 8 Q. And I should add on Section four 9 regarding a 2030 redistricting plan, you have no 10 idea what that would be, correct? 11 A. Well, I -- I've just -- yeah. Well, 12 there's no way to predict the future. I mean, it 13 does appear to me that the Mississippi River 14 Counties are losing population. I mean, I just 15 stumbled across a couple of days ago in article in 16 it and online a news weekly maybe describing a 17 school district in southeast Arkansas, maybe in 18 Decca County that may have to shut down in the Sha 19 city. It's in -- it's in the -- it's -- I think 20 it's called Arkansas advocate. I don't -- I don't 21 know anything about the publication, but they 22 interviewed the school superintendent and there 23 was just a general concern that if you don't get 24 enough students, you're going to have to shut down 25 one of those schools, and I sort of got the</p>	<p style="text-align: right;">Page 268</p> <p>1 you need more splits in Arkansas. I could be I 2 mean -- 3 BY MS. BROYLES: 4 Q. It's 2030. 5 A. -- well, who knows, but I think it's 6 likely that you wouldn't really need more -- more 7 splits in Arkansas, that you could you could get 8 things to work pretty close to zero deviation 9 without doing additional splits. You might have 10 to split different counties for sure, but I mean, 11 the point I was trying to make is that Arkansas 12 population is projected to grow a little bit. And 13 unfortunately, that this Cooper Center doesn't 14 break it down at the county level. But the 15 Arkansas Economic Development Institute at -- at 16 University of Arkansas Little Rock, and did that 17 in 2010, but they have yet to do it in 2020. I 18 mean, there is already county level estimates in 19 2010 for the Year 2020, but that we need 2020 we 20 need 2030 estimates by County, which they will do 21 at some point, probably later in the decade, I 22 assume, because they did it in 2010. So the 23 University of Virginia is projecting a modest 24 increase from 3,084,000 -- I'm sorry, 25 3,011,524-3,084,795. So that's 73,000 people,</p>

<p style="text-align: right;">Page 269</p> <p>1 statewide, and a lot of that gross would come</p> <p>2 probably from Northwest, Arkansas, possibly from</p> <p>3 Pulaski County, who knows? But it's going to mean</p> <p>4 maybe that well, it'll be to see what they do with</p> <p>5 the three of. If the enacted plan is still in</p> <p>6 place, how will that be handled? That's that's</p> <p>7 the open question I have. How will that be</p> <p>8 handled? We don't know, of course.</p> <p>9 Q. So you have quite a few more splits in</p> <p>10 your alternative Plan 3 as compared to the</p> <p>11 connective plan?</p> <p>12 A. I think it's about I think it's like two</p> <p>13 more splits, isn't it? We looked at.</p> <p>14 Q. One and two, for some -- you know, to</p> <p>15 you, have been characterized as severe 2-1 in</p> <p>16 parts of your report?</p> <p>17 A. Well -- well -- wait. I'm sorry. I --</p> <p>18 I'm sorry, that the number of split counties in</p> <p>19 alternative Plan 3 is just one, right? I have to</p> <p>20 look at the table.</p> <p>21 Q. I'm sorry. No, I -- I'm going for so the</p> <p>22 cities and towns. So you've got 16 on the cities</p> <p>23 and towns?</p> <p>24 A. Yes. And again, I think almost all of</p> <p>25 those splits are cities and towns that are split</p>	<p style="text-align: right;">Page 271</p> <p>1 2.</p> <p>2 Q. I've just asked you the questions in your</p> <p>3 report. I haven't any thing about anything,</p> <p>4 because I don't know what any of that means.</p> <p>5 A. Well -- okay. Well, you seem to be very</p> <p>6 focused on court retention, and this does have a</p> <p>7 lower court retention rate. But it is, again,</p> <p>8 slightly more compact than the enacted plan. And</p> <p>9 doesn't have any incoming conflicts. It has a</p> <p>10 higher partisan margin for Trump than the enacted</p> <p>11 plan, which is apparently an important issue.</p> <p>12 Q. Did you have any information regarding</p> <p>13 how many people were moved under each of your</p> <p>14 plan?</p> <p>15 A. What do you mean by moved?</p> <p>16 Q. Moved out that congressional dishes 2</p> <p>17 under each of your plans?</p> <p>18 A. Well, that -- that particular number is</p> <p>19 sort of summarized in the core retention.</p> <p>20 Q. In what way?</p> <p>21 A. Well, 92 percent of the population stayed</p> <p>22 together under the enacted plan, whereas in</p> <p>23 alternative Plan 3, 73.5 percent of the population</p> <p>24 stayed together.</p> <p>25 Q. So what is that in -- what's the number?</p>
<p style="text-align: right;">Page 270</p> <p>1 by county line.</p> <p>2 Q. Do you have any data to show that?</p> <p>3 A. In my mind, I did look at that number</p> <p>4 initially, and I think it may be all of them</p> <p>5 except for two towns. So it's not a problem.</p> <p>6 Q. For you?</p> <p>7 A. Well, that -- that's true. But this --</p> <p>8 and this is -- this is, again, is just looking</p> <p>9 at -- at the number of municipalities as opposed</p> <p>10 to total population. So I think it would it would</p> <p>11 definitely be lower than -- than eight splits if</p> <p>12 you discounted the towns and split by accounting.</p> <p>13 That it drops to, like, two split municipalities</p> <p>14 and four municipal splits.</p> <p>15 Q. Where does alternative Plan 3 perform</p> <p>16 worse than alternative 2?</p> <p>17 A. It compared to alternative Plan 2, it</p> <p>18 splits three more unified school districts, but</p> <p>19 that's essentially the same, right?</p> <p>20 Q. Well, I'm just -- I'm trying to</p> <p>21 understand why you even need both of them. I</p> <p>22 don't understand why you need two and three.</p> <p>23 A. Well, two has a slightly higher core</p> <p>24 retention rate. You've made a big issue of that,</p> <p>25 so that's one reason to consider alternative Plan</p>	<p style="text-align: right;">Page 272</p> <p>1 A. Well, I -- I mean -- I -- I'm not very</p> <p>2 good just doing stuff in my head, but it's 92</p> <p>3 percent of 755,000 or whatever it is for the</p> <p>4 enacted plan versus 73 percent. So whatever that</p> <p>5 number is, I guess it's like almost 75,000 in the</p> <p>6 enacted plan and well, above that in alternative</p> <p>7 Plan 3. But core retention is not a traditional</p> <p>8 reducing principle. And there's no bright line</p> <p>9 rule as to what is or is not a an acceptable core</p> <p>10 retention.</p> <p>11 Q. Is there acceptable standard deviation,</p> <p>12 some to that degree with respect to the number of</p> <p>13 people to move in and out of the district?</p> <p>14 A. No. Because that is essentially what a</p> <p>15 court retention figure represents.</p> <p>16 Q. So the amended complaint says that fewer</p> <p>17 than 16,510 residents need to be moved out of D 2</p> <p>18 to achieve one person, one vote parity after the</p> <p>19 2020 census. Which one of your plans supports</p> <p>20 that allegation?</p> <p>21 MR. CUSICK: Objection as to form.</p> <p>22 THE DEPONENT: Well, alternative plan one</p> <p>23 does.</p> <p>24 BY MS. BROYLES:</p> <p>25 Q. How many did it move?</p>

<p style="text-align: right;">Page 273</p> <p>1 A. Out of CD 2, it's actually in the -- it's</p> <p>2 in the paragraph that we were looking at earlier</p> <p>3 today where I suggested all they had to do was</p> <p>4 move -- move Van Buren County out. And so that</p> <p>5 number is in my report.</p> <p>6 Q. That's 16 510?</p> <p>7 A. Yeah, that's -- that's it. That's all</p> <p>8 that really needed to be moved.</p> <p>9 Q. Can you show me what page, sorry.</p> <p>10 A. I got too far into it. It's definitely</p> <p>11 in there. I don't know why I can't put my hand on</p> <p>12 it. Because we discussed it. So one of the</p> <p>13 paragraphs that you singled out.</p> <p>14 Q. The only thing I recall is speaking with</p> <p>15 respect to percentages that you had, but I didn't</p> <p>16 see anything as it related to the number of people</p> <p>17 in there.</p> <p>18 A. Oh, it's definitely in there. No, I</p> <p>19 don't -- I can't find it. I think it -- maybe</p> <p>20 it's where I discussed the Benchmark plan. Must</p> <p>21 be. So it's really further in this report. Yeah.</p> <p>22 It's in -- on page 27, where I say, for example,</p> <p>23 Rural Van Buren County, population 1,579,060.05</p> <p>24 Black could have been the perfect candidate for a</p> <p>25 minor modification shift out of CD2.</p>	<p style="text-align: right;">Page 275</p> <p>1 were better than the enact plan. And I could have</p> <p>2 done that with all the plans, but it would have</p> <p>3 required one more precinct split, perhaps,</p> <p>4 somewhere.</p> <p>5 Q. With respect to any criticisms that you</p> <p>6 have of Mr. Bryan's report, what are all of those</p> <p>7 stated in your rebuttal?</p> <p>8 A. No. They wouldn't be all stated in real,</p> <p>9 but I just had some highlights. He just makes</p> <p>10 some claims that don't mesh with reality. As we</p> <p>11 were discussing earlier, how he defines the term</p> <p>12 norm. Is doesn't match up with my definition of</p> <p>13 norm.</p> <p>14 Q. Well, I think --</p> <p>15 A. We reviewed that.</p> <p>16 Q. Why that's an issue, right?</p> <p>17 A. Well, it shouldn't be an issue, but he's</p> <p>18 made it an issue, so I've explained why I think</p> <p>19 the plans that I've drawn are within the normal</p> <p>20 compacts.</p> <p>21 Q. And those are your norms, right? I</p> <p>22 mean --</p> <p>23 A. No, those are the Mr. Bryan has a table</p> <p>24 in there showing the Palsy Copper scores and Ro</p> <p>25 scores for all 435 districts in the country. And</p>
<p style="text-align: right;">Page 274</p> <p>1 Q. But they say 16,510 residents. So do you</p> <p>2 know what that's numbers based on?</p> <p>3 A. Who's they?</p> <p>4 Q. This is in the amended complaint.</p> <p>5 A. Well, that's probably to get down to zero</p> <p>6 deviation.</p> <p>7 Q. Do you have any idea?</p> <p>8 A. I think that may be it, because if you</p> <p>9 just move Van Buren County out and you're left</p> <p>10 with 714 person over the ideal district size. So</p> <p>11 you could choose to do as I did with alternative</p> <p>12 plan one and try to reduce that further by</p> <p>13 splitting a county, which is what I did in White</p> <p>14 County, and took a precinct out so that it gets</p> <p>15 right down to being just 20 persons over the ideal</p> <p>16 district size. In retrospect, I would suggest</p> <p>17 that that's not necessary, and White County should</p> <p>18 be kept whole. But just to be on the safe side, I</p> <p>19 went ahead and did that because of -- and this</p> <p>20 isn't related to anything you said or done. I've</p> <p>21 just experienced that kind of complaint, that if I</p> <p>22 don't draw a zero deviation plan, and it's exactly</p> <p>23 zero deviation plan. There's some sort of a red</p> <p>24 flag. So I did a alternative plan one to make</p> <p>25 sure that the deviations in the four districts</p>	<p style="text-align: right;">Page 276</p> <p>1 I don't want to belabor on this, but arguably,</p> <p>2 because those are enacted plans, those are the</p> <p>3 norm. That would include some incredibly low</p> <p>4 scores in places like Texas and apparently in</p> <p>5 Illinois. I don't know why they would be so low</p> <p>6 in Illinois. Or Texas for that matter, except</p> <p>7 maybe along the coast. But anyway, if you look at</p> <p>8 those tables carefully, you'll see that no plan</p> <p>9 that I've drawn has a ox score or a Palsy Copper</p> <p>10 score that would be anywhere close to the bottom</p> <p>11 35. There's no o Palsy Copper score that I have</p> <p>12 that is anything worse than somewhere in the three</p> <p>13 80s. And in most cases, they're in the two 50s or</p> <p>14 higher. And if you're in the two 50s, you are</p> <p>15 exactly roughly. A little bit below the average</p> <p>16 score nationwide. So it doesn't doesn't make any</p> <p>17 sense.</p> <p>18 Q. So for the purpose of your opinions, the</p> <p>19 only alternative plans that you're suggesting are</p> <p>20 the ones titled A 1, 2, and 3?</p> <p>21 A. That is my belief. I guess we would</p> <p>22 reserve the right to somehow or another, make a</p> <p>23 modification, but that's all I have right now, as</p> <p>24 what we speak today.</p> <p>25 Q. Well, we can't continue to keep changing</p>

<p style="text-align: right;">Page 277</p> <p>1 it, right? At what point do we decide that how</p> <p>2 many more times are you going to need to change</p> <p>3 it?</p> <p>4 A. I don't even know if I need to change it.</p> <p>5 But if there's some objection to alternative plan</p> <p>6 three that I'm not aware of, then I could take</p> <p>7 another look. I mean, there are probably other</p> <p>8 ways to either enhance the partisan effect by</p> <p>9 maybe splitting another county or somehow or</p> <p>10 another modify alternative plan three at the</p> <p>11 county level. What I do know, is there cannot</p> <p>12 possibly be a good reason for splitting Lassie</p> <p>13 County three rules. No way at all by traditional</p> <p>14 redistricting principles, or by partisan effect.</p> <p>15 So I don't know why we're here.</p> <p>16 Q. We'll see.</p> <p>17 A. I guess we will.</p> <p>18 MS. BROYLES: Let me just double check</p> <p>19 real quick with everything, and then I think we'll</p> <p>20 be good. I don't know if all you all going to ask</p> <p>21 questions if you are, then I can just look at my</p> <p>22 notes while you all are going. How long do you</p> <p>23 think y'all are going to go?</p> <p>24 MR. CUSICK: Yeah. I think we'd probably</p> <p>25 need about maybe a ten, 10-15 minute break so we</p>	<p style="text-align: right;">Page 279</p> <p>1 THE DEPONENT: Yeah. I think I have</p> <p>2 things significantly disorganized here, now, go</p> <p>3 ahead.</p> <p>4 BY MS. BROYLES:</p> <p>5 Q. Just we set off the record before we took</p> <p>6 a break or after we took the break yesterday, we</p> <p>7 produced the supplemental report of Mr. Bryan to</p> <p>8 your third plan, and based on what we said off the</p> <p>9 record is my understanding, you have not seen that</p> <p>10 or reviewed any of that.</p> <p>11 MR. CUSICK: I have not. I just for the</p> <p>12 record, I'll ask afterwards. As we stated in the</p> <p>13 e mail correspondence, we didn't think it would be</p> <p>14 fair for Mr. Cooper to have less than 24 hours</p> <p>15 with the supplemental report, especially because</p> <p>16 he and Counsel were traveling at times anywhere</p> <p>17 4-6 hours, and so getting the report at 4:00 P.M.</p> <p>18 Yesterday just made that logistically difficult.</p> <p>19 And not able to do from my understanding in</p> <p>20 Mr. Jacobs initial correspondence with us. He</p> <p>21 would not be asked any questions on the</p> <p>22 supplemental report from Mr. Bryan in the initial</p> <p>23 outreach. I don't know if that has changed, but</p> <p>24 for the record, we'll continue in addition to the</p> <p>25 correspondence we had with Mr. Jacobs to reserve</p>
<p style="text-align: right;">Page 278</p> <p>1 can just streamline the questions we have and we</p> <p>2 might have about 10:10 minutes or so.</p> <p>3 MS. BROYLES: A questions?</p> <p>4 MR. CUSICK: Maybe. I just want to --</p> <p>5 MS. BROYLES: I'm not going to hold you</p> <p>6 to it. I just -- I didn't know if it was going to</p> <p>7 be like an hour or something. I mean, you can</p> <p>8 take as long as you want. I just was trying to</p> <p>9 kind of think through what with the rest of.</p> <p>10 MS. ADEN: But we need a quick break.</p> <p>11 MR. CUSICK: Yeah.</p> <p>12 THE DEPONENT: My responses could run to</p> <p>13 30 or 40 minutes per question. Oh, I know.</p> <p>14 MR. CUSICK: We'll go off record for a</p> <p>15 moment. You want to meet back in 15, then, and by</p> <p>16 then, hopefully, we'll have.</p> <p>17 MS. ADEN: Use the rest room, and then</p> <p>18 we'll try to.</p> <p>19 MS. BROYLES: I don't have anywhere to</p> <p>20 be, but at my hotel. I really do not mind. So</p> <p>21 I'm not in a rush in that sense. I just was</p> <p>22 trying to see if I need to walk around the corner</p> <p>23 and just like hit some fresh air or something.</p> <p>24 (WHEREUPON, a recess was taken.)</p> <p>25 MS. ADEN: Ready, Bill?</p>	<p style="text-align: right;">Page 280</p> <p>1 the right for Mr. Cooper to address that</p> <p>2 supplemental report in a declaration separately.</p> <p>3 And then we can discuss how to handle it tomorrow</p> <p>4 separately off the record, but I'll let Bill work</p> <p>5 if there's something you want to say back.</p> <p>6 MS. BROYLES: Well, yeah. I was just</p> <p>7 going to say, our correspondence was that we would</p> <p>8 provide it to you on the first and we did. And so</p> <p>9 Mr. Bryan is prepared to answer any questions that</p> <p>10 you may have. If Mr. Cooper needs to send</p> <p>11 something that's fine, we'll reserve the right to</p> <p>12 take his deposition on that limited basis and we</p> <p>13 would do it by Zoom, most likely, if it's even</p> <p>14 necessary. We'll just need some indication as to</p> <p>15 when we would know if he's going to reply because</p> <p>16 we obviously have summary judgment in all those</p> <p>17 deadlines, and so, you know, just kind of</p> <p>18 coordinating in that sense, but as far as I'm</p> <p>19 concerned, that you all -- Mr. Bryan is ready to</p> <p>20 testify on all of it, and so feel free to ask him</p> <p>21 any questions you want. I mean, that's your</p> <p>22 prerogative, of course, but he is certainly</p> <p>23 prepared to give any opinions as necessary. I</p> <p>24 just wanted to make sure on the record that it</p> <p>25 wasn't something that was reviewed, you know,</p>

WILLIAM COOPER

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<p style="text-align: right;">Page 281</p> <p>1 after kind of going through all the materials.</p> <p>2 MR. CUSICK: One question. I just want</p> <p>3 to understand if this is a change in our</p> <p>4 correspondence in Mr. Jacobs September 24 e-mail.</p> <p>5 He says that we do not plan to ask any questions</p> <p>6 of that supplemental report in his declaration.</p> <p>7 And he says, we will not need to seek to further</p> <p>8 depose Cooper running anything in that report</p> <p>9 declaration in response to supplemental reports.</p> <p>10 I just want to understand, is that a change</p> <p>11 position as of today?</p> <p>12 MS. BROYLES: No. It's just -- I have no</p> <p>13 idea what he's going to say. If he decides to</p> <p>14 come up with a whole another alternative plan that</p> <p>15 then, you know, that's just kind of -- I don't</p> <p>16 think we will need to. I'm just saying that it</p> <p>17 really depends on what his response is. I expect</p> <p>18 discovery has to end, it can't continue to bounce</p> <p>19 back and forth. So, you know, we can figure that</p> <p>20 out, but I'm certainly not super concerned about</p> <p>21 it, absent it generating a whole new opinion that</p> <p>22 hasn't already been disclosed in some respect.</p> <p>23 BY MS. BROYLES:</p> <p>24 Q. Okay. The last thing, when you testified</p> <p>25 earlier, when you were drawing R2-- O2, you did</p>	<p style="text-align: right;">Page 283</p> <p>1 MR. CUSICK: Objective as to form.</p> <p>2 THE DEPONENT: But as it does.</p> <p>3 MS. BROYLES: Okay. Well, just let the</p> <p>4 report speak for itself. Okay. That's all I got.</p> <p>5 MR. CUSICK: I just have a few questions.</p> <p>6 I'll just begin. If you don't mind. I'll use the</p> <p>7 Exhibit markers for a moment.</p> <p>8 FURTHER EXAMINATION</p> <p>9 BY MR. CUSICK:</p> <p>10 Q. Mr. Cooper, I'm quickly just going to</p> <p>11 mark as Exhibits 3, your initial report dated</p> <p>12 September 16th. I'll mark as Exhibit 4 all the</p> <p>13 underlying exhibits that were attached to that,</p> <p>14 including your CV.</p> <p>15 (WHEREUPON, Exhibit 3, Exhibit 4 were</p> <p>16 marked for identification.)</p> <p>17 THE DEPONENT: Okay.</p> <p>18 BY MR. CUSICK:</p> <p>19 Q. And then as the fifth Exhibit, this is</p> <p>20 your rebuttal declaration dated September 23rd,</p> <p>21 2024.</p> <p>22 A. Yes.</p> <p>23 Q. If I could have you turn to Exhibit 3,</p> <p>24 which is your initial report to Paragraph 8 Page 4</p> <p>25 for a moment, if you can go to that. Paragraph 8</p>
<p style="text-align: right;">Page 282</p> <p>1 not look at partisan data as the initial goal; is</p> <p>2 that correct?</p> <p>3 A. No. That's not correct. I wanted to</p> <p>4 produce O2 to show that I could approach or</p> <p>5 possibly exceed the partisan impact that is</p> <p>6 present in the enacted plan using Trump bide</p> <p>7 metric, and also adhered to the original reducing</p> <p>8 principle.</p> <p>9 Q. But again, so you did that with both O2</p> <p>10 and three, but still could not achieve greater</p> <p>11 than the enacted plan?</p> <p>12 MR. CUSICK: Objection. Ask to form.</p> <p>13 THE DEPONENT: Well, with all two, I was</p> <p>14 just trying to meet it, really. And -- and I</p> <p>15 thought that would be good enough because it's</p> <p>16 under a percentage point. And it's in the mid</p> <p>17 50s. You know, like a 56 45 split or something</p> <p>18 like that. So, you know, that's pretty big</p> <p>19 spread. But I you know, at some point, I guess it</p> <p>20 became apparent that maybe we needed to do one</p> <p>21 that actually exceeded one. So I prepared</p> <p>22 alternative plan three. Which also adheres to the</p> <p>23 original plan isinal redistrict perc.</p> <p>24 BY MS. BROYLES:</p> <p>25 Q. But it doesn't exceed an active plan.</p>	<p style="text-align: right;">Page 284</p> <p>1 on Page 4.</p> <p>2 A. Yes.</p> <p>3 Q. And do you recall being asked questions</p> <p>4 in relation to the last part of that paragraph</p> <p>5 where it says, "As well as additional materials, I</p> <p>6 considered in forming my opinions other than those</p> <p>7 cited in this report?"</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall -- you were asked questions</p> <p>10 about PowerPoints that you reviewed --</p> <p>11 A. Yes.</p> <p>12 Q. -- do you recall that testimony?</p> <p>13 A. Yes. I did see a PowerPoint. I did not</p> <p>14 have -- I think I saw that on a Zoom call.</p> <p>15 MR. CUSICK: I'm going to mark as Exhibit</p> <p>16 6 and 7.</p> <p>17 THE REPORTER: Can you repeat your</p> <p>18 answer?</p> <p>19 MS. BROYLES: I'm sorry. I'm sorry. I</p> <p>20 couldn't hear it. Did you say a Zoom call?</p> <p>21 THE DEPONENT: Yes. I don't know if I</p> <p>22 actually have the document on the computer but I</p> <p>23 might.</p> <p>24 BY MR. CUSICK:</p> <p>25 Q. If you can take a moment to review first</p>

WILLIAM COOPER

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<p style="text-align: right;">Page 285</p> <p>1 Exhibit 6, which is the first PowerPoint. Does 2 that refresh your recollection for what you might 3 have reviewed? 4 A. Yes. Yes, it does. That first part. 5 Q. And if you could go to the last page, all 6 the way on the back. 7 A. All the way on the back? 8 Q. Yeah. 9 A. Okay. 10 Q. Yeah. Do you see the contact information 11 there? 12 A. Yes. 13 Q. And who is the contact information for? 14 A. Well, it's -- it's for the individuals, I 15 think, who were involved in preparing this -- this 16 pamphlet, you know, a series of PowerPoints, 17 maybe. Yes. I -- I remember that whoever put 18 this together was associated with a state agency 19 and Lori Bowen (phonetic) sounds like. 20 I mean, it's been, you know, several 21 weeks since I looked at it, but these would -- 22 this seems to be the same document. Although, in 23 some ways, I don't -- I think it was in a somewhat 24 different format. It didn't have everything kind 25 of on the state capitol, so it was easier to read,</p>	<p style="text-align: right;">Page 287</p> <p>1 state -- within the Secretary of State's purview, 2 but its legislature. 3 Q. You can -- you can put that down. 4 Mr. Cooper, you were asked some questions about 5 your qualifications. How many cases have you 6 served as an expert? 7 A. Well, served as an expert would be, you 8 know, we -- we're in the hundreds. Those would be 9 cases where -- I mean, I've testified and I think 10 close to 70 trials in federal courts of which some 11 have not been Section II Gingles cases, but the 12 majority have been and some of those testimony -- 13 and -- and that is -- that is strictly the voting 14 related cases because I have testified in federal 15 court on desegregation cases. 16 And it seems like I'm leaving something 17 out. I mean, I've testified in State Court on 18 redistricting work in New Mexico, and in 19 Mississippi, and in -- not in Virginia -- 20 Mississippi and in New Mexico. Mississippi, that 21 was actually an annexation case, but it -- 22 And so I -- I think I'm leaving something 23 out here. I -- I've testified in Federal Court on 24 a food stamp issue. That's the very first time I 25 ever appeared in federal court. This is in the</p>
<p style="text-align: right;">Page 286</p> <p>1 right? 2 Q. Yeah. The pronouns or not targeted -- 3 A. You got words that are obscured by trees, 4 actually. I mean, it's not behind its trees, but 5 you are going to be very careful to be in the 6 right light to see what the woods are. 7 Q. And then I'm going to hand you what is 8 Exhibit 7 which is a similar PowerPoint. Do you 9 recall that one? 10 A. You know, I -- I recall -- I recall 11 seeing the text and seeing a blurry map. I just 12 don't recall seeing the state capitol in the 13 background. Maybe -- maybe it was and I just 14 don't -- but go ahead. 15 Q. Just I know the printout is very 16 difficult, but on the front page, do you see what 17 the contact information is for the entity that 18 created that? 19 A. Yeah. Matthew Miller, Michelle 20 Davenport, Bureau of Legislative Research. I 21 probably said Secretary of State in my testimony 22 but that's only because I just -- I didn't really 23 exactly -- I knew it was a state level office, but 24 I -- I just didn't remember the name of the -- and 25 I think -- well, it wouldn't be within the</p>	<p style="text-align: right;">Page 288</p> <p>1 1980s before Judge Merhige in Virginia. 2 The attorney was Anne Holton, of the 3 Virginia Legal Aid Society, who was the spouse of 4 Tim Kaine and former Secretary of Education in 5 Virginia, if that's any help. Probably not. Just 6 trivia. 7 Q. And Mr. Cooper, for the cases you've 8 testified in, you were -- you ever not credited as 9 an expert? 10 A. The only one that comes to mind was a 11 judicial case in Alabama where the judge 12 determined that I was not credible when it comes 13 to communities of interest because I spent a lot 14 of time in that case, for some reason, I'm not 15 sure why the attorney did it, but we focused a lot 16 on my usual information, demographic information, 17 which includes socioeconomic data. 18 And we went over a lot of socioeconomic 19 data by way of charts, and I thought the judge 20 understood it was quite interested in it, but in 21 his opinion, he did -- he did knock that. So 22 that's -- I mean, I -- I don't -- I mean, it 23 wasn't like he didn't take my testimony at all. 24 He didn't ask me to leave a stand or 25 anything. He's very friendly, and I -- I don't</p>

<p style="text-align: right;">Page 289</p> <p>1 know. I mean, I but I don't think -- I mean, I</p> <p>2 think that's one case where the judge he just</p> <p>3 pointed out that one opinion, and then the rest of</p> <p>4 it was really more oriented towards legal issues</p> <p>5 as to whether Alabama would be required to change</p> <p>6 from what is it at large judicial system to a</p> <p>7 district based system, because they don't have</p> <p>8 appellate or Supreme Court districts designed</p> <p>9 at -- by district. It's all at large.</p> <p>10 Q. And that's one case out of 70 or 100?</p> <p>11 A. Well, out of my trial testimony, yes,</p> <p>12 that's the only -- only time I can think of that.</p> <p>13 I mean, there may have been, I recall in the East</p> <p>14 Ramapo School District case in New York State, I</p> <p>15 had hurriedly put together what I thought might be</p> <p>16 correct statistics to infer the percentage of the</p> <p>17 students in the school district in Westchester</p> <p>18 County.</p> <p>19 Who Jewish, and I was looking at the</p> <p>20 status from the state and had an estimate in mind,</p> <p>21 and I was somehow or another in that case,</p> <p>22 producing numbers for various schools, and I said</p> <p>23 that it looked like, I don't know, several dozen</p> <p>24 of the Jewish kids went to the Hackley School, and</p> <p>25 I should have known better.</p>	<p style="text-align: right;">Page 291</p> <p>1 case that we won on summary judgment, so I never</p> <p>2 really testified in the Yakima case.</p> <p>3 Q. And, Mr. Cooper, you were recently cited</p> <p>4 in the US Supreme Court decision based on the</p> <p>5 three judge panel of being highly credible for a</p> <p>6 redistricting case?</p> <p>7 A. Yes.</p> <p>8 Q. And what case was that?</p> <p>9 A. Milligan -- Miligan v Allen.</p> <p>10 Q. And based on some questions about</p> <p>11 partisanship and partisan performance, I just want</p> <p>12 to make sure the record is clear, Mr. Cooper,</p> <p>13 you're not a political scientist?</p> <p>14 A. I am not. And I do not opine on partisan</p> <p>15 metrics other than just to report them. I mean, I</p> <p>16 will -- I can import them into my software and --</p> <p>17 and run a set of numbers, but I'm not going to try</p> <p>18 to interpret them beyond just what any basic</p> <p>19 citizen might do when looking at something like</p> <p>20 Trump -- Trump v Biden.</p> <p>21 Q. And you only measured political</p> <p>22 performance in your original report based on the</p> <p>23 2020 presidential elections?</p> <p>24 A. That's right.</p> <p>25 Q. And you're offering no opinion on how to</p>
<p style="text-align: right;">Page 290</p> <p>1 That's a highly costly and I -- I don't</p> <p>2 know how academically high it is, but it's</p> <p>3 extremely expensive in Westchester County. And</p> <p>4 the judge, who's from Westchester County,</p> <p>5 collected that. But she -- she did she mentioned</p> <p>6 it in the declaration, but she did -- I mean, we</p> <p>7 won the lawsuit, and I drew the plan.</p> <p>8 Although, apparently, what I thought was</p> <p>9 all my work may have also involved some of Thomas</p> <p>10 Bryant's (phonetic) work because he's claiming</p> <p>11 that he drew the plan and I just discovered that</p> <p>12 in his declaration. I didn't know he was on the</p> <p>13 other side. He's been on a lot of cases I've been</p> <p>14 involved in.</p> <p>15 He's been in the background, and it's</p> <p>16 only recently that I've discovered that he's been</p> <p>17 involved in these cases, like in the Yakima County</p> <p>18 case where the judge ordered my plan into effect</p> <p>19 in 2015.</p> <p>20 Apparently, he was working in that case</p> <p>21 for Dr. Larson drawing voting plans. I've always</p> <p>22 wondered who that person was, and it was Thomas</p> <p>23 Bryant. And the judge agreed with our arguments</p> <p>24 and the plan that we drew.</p> <p>25 And it didn't even go to trial. That's a</p>	<p style="text-align: right;">Page 292</p> <p>1 interpret those elections for forecasting purposes</p> <p>2 or any other purpose other than just aggregating</p> <p>3 them and reporting them in your report?</p> <p>4 A. That's correct.</p> <p>5 Q. And then in your rebuttal report, you</p> <p>6 also include 2020 election results for the</p> <p>7 alternative Precinct 3, correct?</p> <p>8 A. 2020. And then I added in the 2022 US</p> <p>9 Senate contest as well --</p> <p>10 Q. And --</p> <p>11 A. -- then I -- that I didn't -- I did not</p> <p>12 have the information when I did the supplemental</p> <p>13 report. I mean, when I did the initial</p> <p>14 declaration.</p> <p>15 Q. And that was based on reviewing</p> <p>16 Mr. Bryant's report?</p> <p>17 A. Yes. And the data he had compiled</p> <p>18 precinct by precinct from the 2022 election --</p> <p>19 Q. And like --</p> <p>20 A. -- that he got from the Secretary of</p> <p>21 State website apparently.</p> <p>22 Q. And like the 2020 election results data,</p> <p>23 you are not opining on how to interpret the 2022</p> <p>24 election results for performance, partisan</p> <p>25 performance, other than simply aggregating those</p>

<p style="text-align: right;">Page 293</p> <p>1 results?</p> <p>2 A. Well, aggregating and determining which</p> <p>3 one was higher, right? I -- I can tell the</p> <p>4 difference between higher and lower, but beyond</p> <p>5 that, I'm not -- I'm certainly not a political</p> <p>6 scientist.</p> <p>7 Q. You were asked questions about</p> <p>8 traditional redistricting principles and whether</p> <p>9 there was any prioritization. Do you recall that</p> <p>10 testimony?</p> <p>11 A. I do. We rambled on for those so long.</p> <p>12 I -- I recall it.</p> <p>13 Q. Do I recall your testimony that you did</p> <p>14 not prioritize any one traditional redistricting</p> <p>15 principle over another when drawing alternative</p> <p>16 maps, 1, 2, or 3?</p> <p>17 THE DEPONENT: That's right.</p> <p>18 MS. BROYLES: Object to the form.</p> <p>19 BY MR. CUSICK:</p> <p>20 Q. You can answer.</p> <p>21 A. Yes. I repeatedly said, I think during</p> <p>22 my testimony today that I was constantly balancing</p> <p>23 this principles and not -- not trying to</p> <p>24 prioritize one thing or another, other than I did</p> <p>25 understand that above all else, I had to hit one</p>	<p style="text-align: right;">Page 295</p> <p>1 BY MR. CUSICK:</p> <p>2 Q. Do you recall getting questions about,</p> <p>3 and I heard you had testimony about compactness</p> <p>4 and partisanship questions, and I think at one</p> <p>5 point, your testimony might have referenced that</p> <p>6 there would have been some confusion based on what</p> <p>7 was being represented in this report and how it</p> <p>8 related to compactness. Do you recall that</p> <p>9 testimony?</p> <p>10 A. Well, yes. The -- the State's attorney,</p> <p>11 reviewed some text in this article. And well, I</p> <p>12 think I did read the whole article at some point</p> <p>13 over the past year.</p> <p>14 My only interest in this article for the</p> <p>15 purposes of this lawsuit and really any other</p> <p>16 lawsuit would be the compactness scores. And I</p> <p>17 did not -- I -- I think if you read the text of</p> <p>18 the article, when it went, there's discussion in</p> <p>19 there about ratings, and scales, and all that that</p> <p>20 is covering not just compactness, but more</p> <p>21 importantly, more complicated conclusions which</p> <p>22 one might draw from things like proportionality or</p> <p>23 competitiveness.</p> <p>24 And when you start comparing one state to</p> <p>25 another on something like competitiveness or</p>
<p style="text-align: right;">Page 294</p> <p>1 person one vote that would be in within an</p> <p>2 acceptable range.</p> <p>3 Q. You don't consider partisanship a</p> <p>4 traditional redistricting principle?</p> <p>5 A. Oh, absolutely not.</p> <p>6 Q. And you were only reporting partisanship</p> <p>7 performance based on election results, correct?</p> <p>8 MS. BROYLES: Object to the form.</p> <p>9 THE DEPONENT: Well, that's correct. I</p> <p>10 only had partisan -- I only had partisan</p> <p>11 information by the election results. I did not</p> <p>12 have any information by total registration, for</p> <p>13 example, which I don't think -- I think is not</p> <p>14 tabulated in Barton.</p> <p>15 BY MR. CUSICK:</p> <p>16 Q. Mr. Cooper, in footnote 12 of your</p> <p>17 original report, do you recall questions about the</p> <p>18 composite score and the article -- the underlying</p> <p>19 article you cited in that?</p> <p>20 A. Yes.</p> <p>21 MR. CUSICK: I'm going to mark as Exhibit</p> <p>22 8, the article from footnote 12.</p> <p>23 (WHEREUPON, Exhibit 8 was marked for</p> <p>24 identification.)</p> <p>25 THE DEPONENT: Uh-huh.</p>	<p style="text-align: right;">Page 296</p> <p>1 proportionality, probably would not allow for a</p> <p>2 very good state-to-state comparison. But I think</p> <p>3 compactness would, once the understanding of that</p> <p>4 some states do have more regular boundaries than</p> <p>5 others.</p> <p>6 So there are factors that would -- I mean</p> <p>7 that you should sort of take the -- the 37 state</p> <p>8 table with some -- some grain of salt, although I</p> <p>9 think you could assume that the Number 1 state is</p> <p>10 better than the, say the number 20 state.</p> <p>11 Q. Mr. Cooper, you do you recall being asked</p> <p>12 questions about your hypothetical plan in your</p> <p>13 original report?</p> <p>14 A. Yes.</p> <p>15 Q. As you understand it, your expertise in</p> <p>16 this case is not to assess the relevance of how</p> <p>17 your expert report or rebuttal report is going to</p> <p>18 be used to support any plaintiff's claim in this</p> <p>19 case, correct?</p> <p>20 A. What was the question? What was the --</p> <p>21 Q. Your understanding of your expert report</p> <p>22 here or your expert test in this case is not to</p> <p>23 assess the relevance of how your report might be</p> <p>24 used to support any of the plaintiff's claims in</p> <p>25 the lawsuit?</p>

<p style="text-align: right;">Page 297</p> <p>1 MS. BROYLES: Objection to form.</p> <p>2 THE DEPONENT: Well, that's true. I just</p> <p>3 put that in there primarily as a way to take</p> <p>4 another look at the demography of Arkansas, and --</p> <p>5 and to Take note of the fact that the Delta is</p> <p>6 left out of the equation in this particular case.</p> <p>7 BY MR. CUSICK:</p> <p>8 Q. And that's because you're not a lawyer,</p> <p>9 correct?</p> <p>10 A. Exactly. Nor may I ever attempted to be</p> <p>11 one.</p> <p>12 Q. Do you recall being asked some questions</p> <p>13 about what the Arkansas General Assembly's intent</p> <p>14 or motives maybe during the map drawing process?</p> <p>15 A. And -- and maybe in a roundabout way. I</p> <p>16 hope I explained that I had no direct knowledge of</p> <p>17 the legislature's intent or indirect knowledge.</p> <p>18 Q. And so you're not offering any expert</p> <p>19 opinion on the intent of the Arkansas General</p> <p>20 Assembly for the enacted map?</p> <p>21 A. No. I mean, I -- I sort of got the idea</p> <p>22 that they were aiming to have a higher partisan</p> <p>23 margin in -- in Congressional District 2, and they</p> <p>24 wanted to also split fewer counties. But I don't</p> <p>25 even really know the source of the latter point,</p>	<p style="text-align: right;">Page 299</p> <p>1 expert report is based on your expertise, your</p> <p>2 experiences, and the publicly available</p> <p>3 information before you?</p> <p>4 A. That's it. Yes.</p> <p>5 Q. Based on that expertise, Mr. Cooper, did</p> <p>6 I hear you say that not splitting political</p> <p>7 subdivisions is a traditional redistricting</p> <p>8 principle that is considered across the country?</p> <p>9 A. Or at least being cognizant of political</p> <p>10 subdivisions. And when in the process of</p> <p>11 balancing traditional redistrict principles, when</p> <p>12 you try to minimize political division splits.</p> <p>13 Q. Do you recall a few errors or</p> <p>14 inconsistencies that were identified in</p> <p>15 Mr. Bryan's rebuttal report?</p> <p>16 A. Yes. Somehow or another, I think I</p> <p>17 inadvertently left a population estimate for the</p> <p>18 total population in table. What is my point? And</p> <p>19 figure --</p> <p>20 Q. Figure 2?</p> <p>21 A. Figure 2, yes, which I will get to</p> <p>22 somewhere here. Yes. Figure 2. I'm not sure how</p> <p>23 it happened, but the number for the total</p> <p>24 population in that figure for 2020 is incorrect.</p> <p>25 And it's not reported anywhere outside of this</p>
<p style="text-align: right;">Page 298</p> <p>1 but somewhere along the line, I thought that that</p> <p>2 was something that the legislators had wanted to</p> <p>3 do. But not based on anything directly I heard</p> <p>4 from the legislator.</p> <p>5 Q. And you're not?</p> <p>6 A. I've had no conversations with any</p> <p>7 legislator in Arkansas that I know of.</p> <p>8 Q. And that's because you don't know</p> <p>9 what's -- what was of the minds of the legislators</p> <p>10 during the map drawing process?</p> <p>11 A. No, that's right. No. I have no idea.</p> <p>12 Q. In fact, you don't know what public</p> <p>13 facing data or aside from public facing data, you</p> <p>14 don't know what data the Arkansas General --</p> <p>15 General Assembly relied on during the map drawing</p> <p>16 process?</p> <p>17 A. No. It was only today that I learned</p> <p>18 they were relying on auto bound for their</p> <p>19 redistrict package, and I don't know what data</p> <p>20 they had as they were drawing the plans.</p> <p>21 Q. And you have no direct knowledge of the</p> <p>22 Arkansas General Assembly's objectives during the</p> <p>23 map drawing process?</p> <p>24 A. No direct knowledge. No. No at all.</p> <p>25 Q. And so to sum up your testimony and your</p>	<p style="text-align: right;">Page 300</p> <p>1 table. In other words, it has nothing to do with</p> <p>2 any of the plans I've drawn or any of my analysis</p> <p>3 at all.</p> <p>4 MS. BROYLES: Which value, like what --</p> <p>5 say which column you're talking about?</p> <p>6 THE DEPONENT: Well, it's it's the third</p> <p>7 from the right column saying 2020 number.</p> <p>8 Mr. Bryan pointed this out, it should be 3,011,000</p> <p>9 and x. I don't have the number of my head. And</p> <p>10 this has 3,013,544.</p> <p>11 So the total population number is</p> <p>12 actually the change from 90-2020 is actually a</p> <p>13 couple thousand people, less than 662,000, but</p> <p>14 still over 60 -- still about a little bit over</p> <p>15 660,000, I think. The minority subtotal is also</p> <p>16 affected by that error -- error. So the minority</p> <p>17 population in Arkansas is going to be a little bit</p> <p>18 higher actually than reported.</p> <p>19 I'm sorry. That that's not -- that's not</p> <p>20 correct. It would be a little bit lower. So the</p> <p>21 percentage would change a little bit, and the</p> <p>22 total pop change and the minority population would</p> <p>23 change slightly.</p> <p>24 Other than that, the totals report for</p> <p>25 non-Hispanic white, Latino, and any part Black are</p>

<p style="text-align: right;">Page 301</p> <p>1 not erroneous, so that table would be just a</p> <p>2 matter of fixing those spots, and I think maybe</p> <p>3 somewhere in the text here, I've referenced back</p> <p>4 to that table, but I'm not 100 percent sure, so</p> <p>5 there may be one spot where the text may need to</p> <p>6 be slightly changed.</p> <p>7 I mean, we are talking about tenths of a</p> <p>8 percentage point. So it has no impact on</p> <p>9 anything, but I'm glad he pointed out what was an</p> <p>10 error.</p> <p>11 BY MR. CUSICK:</p> <p>12 Q. And that's, I think the other figure you</p> <p>13 were referring to is it could be figure ten that</p> <p>14 Mr. Bryan pointed out, which has the similar or</p> <p>15 repeated error in the --</p> <p>16 A. Yes. That is true. There is the other</p> <p>17 table in here that has an error. But there could</p> <p>18 be an error in the text somewhere. But I don't</p> <p>19 know if I'm going to put my hand on it, but I can</p> <p>20 fix it. I actually started fixing it, so it can</p> <p>21 be fixed. I mean, it's -- again, it's a minor</p> <p>22 error. I'm sorry it happened.</p> <p>23 Q. So you'd be able to easily correct with a</p> <p>24 declaration for?</p> <p>25 A. Easily, yes.</p>	<p style="text-align: right;">Page 303</p> <p>1 around 1941, I think there were like six</p> <p>2 congressional districts, and Pulaski County was</p> <p>3 not split in any of those. So at least for a</p> <p>4 century, it has not been split. I did not look</p> <p>5 back into the 19th century.</p> <p>6 MR. CUSICK: That's it for me. Thank</p> <p>7 you.</p> <p>8 FURTHER EXAMINATION</p> <p>9 BY MS. BROYLES:</p> <p>10 Q. So I think we clarified this, but you did</p> <p>11 not undertake or review the other plans that were</p> <p>12 proposed in the legislature to be considered for</p> <p>13 the 2021st enacted?</p> <p>14 A. Well, I look at the -- I --</p> <p>15 MR. CUSICK: I'll just say objection to</p> <p>16 form. I don't know if that was covered in my</p> <p>17 redirect. Looking at alternatives.</p> <p>18 MS. BROYLES: Well, he said that he</p> <p>19 reviewed plans as it related to any prior plan</p> <p>20 that split Pulaski County?</p> <p>21 MR. CUSICK: No, dating back to the ones</p> <p>22 for the hypothetical map from 2021-1981 in those</p> <p>23 maps. Was it never split?</p> <p>24 MS. BROYLES: Right.</p> <p>25 THE DEPONENT: No. It was not. It was</p>
<p style="text-align: right;">Page 302</p> <p>1 Q. I believe you were also asked questions</p> <p>2 about a potential error with the total number of</p> <p>3 Municipal splits. Do you recall that testimony</p> <p>4 when it was six and 12 or --</p> <p>5 A. Yeah. Yeah. That one was just a stupid</p> <p>6 late night copy and paste error or something. I</p> <p>7 just transposed, and it's easy to figure out what</p> <p>8 happened.</p> <p>9 Q. And that also could be easily</p> <p>10 supplemented with --</p> <p>11 A. Yes. Yes.</p> <p>12 Q. -- correct declaration? Other than that,</p> <p>13 Mr. Cooper, the last two questions I have for you.</p> <p>14 Do you recall the testimony about Pulaski County</p> <p>15 and it being split in the active map?</p> <p>16 A. Well, I do recall talking about the</p> <p>17 enacted map and the splits, yes.</p> <p>18 Q. Was it split in the benchmark plan?</p> <p>19 A. No.</p> <p>20 Q. In the maps that you reviewed going back</p> <p>21 to 1981, was Pulaski County ever split?</p> <p>22 A. No. And I think I also looked at earlier</p> <p>23 maps that one can see on the Secretary of State's</p> <p>24 website, going back to a time where there were</p> <p>25 more congressional districts in Arkansas, back to</p>	<p style="text-align: right;">Page 304</p> <p>1 never -- it was ne -- Pulaski County has not been</p> <p>2 split, as best I can tell, since at least 1940,</p> <p>3 maybe one further back in time.</p> <p>4 BY MS. BROYLES:</p> <p>5 Q. I'm about to establish this foundation.</p> <p>6 So my point is, you did not go back and look at</p> <p>7 any of the maps to see what had been recommended</p> <p>8 if anything as far as breaking up Pulaski County</p> <p>9 and the other proposed plans?</p> <p>10 A. You mean the proposed plans from 2020s or</p> <p>11 proposed -- or something from in the past?</p> <p>12 Q. 2020.</p> <p>13 MR. CUSICK: The same objection. I don't</p> <p>14 think that was within the pre director act.</p> <p>15 MS. BROYLES: Okay. It's still a</p> <p>16 deposition, so it's okay.</p> <p>17 BY MS. BROYLES:</p> <p>18 Q. But anyway, you didn't go back and look</p> <p>19 at those?</p> <p>20 A. Well, I looked at four senate plans that</p> <p>21 were introduced as a as a senate bills and every</p> <p>22 single one of them split Pulaski County three</p> <p>23 ways.</p> <p>24 Q. Do you know who recommended those plans?</p> <p>25 A. I do not.</p>

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<p style="text-align: right;">Page 305</p> <p>1 Q. Did you include in your report anywhere</p> <p>2 that you looked at any plans?</p> <p>3 A. No. I, in fact, may have not looked at</p> <p>4 those plans until after my report was filed. I</p> <p>5 can't remember now. I just looked at them and It</p> <p>6 was just interesting to me that there were four</p> <p>7 plans and all four appear to split Pulaski County</p> <p>8 in three ways. Now, there may have been many</p> <p>9 others that were developed within the legislature.</p> <p>10 These -- these became senate bills.</p> <p>11 And I saw the house bills about the same</p> <p>12 time. I think they were house bills, but it had</p> <p>13 less detail. And I think maybe some of those</p> <p>14 house plans did not split Pulaski County, but I</p> <p>15 could be wrong. I didn't have shake files, so I</p> <p>16 couldn't really do much with.</p> <p>17 Q. Are you aware that there was a lawsuit</p> <p>18 filed in State Court challenging the 2021</p> <p>19 redistricting plan?</p> <p>20 A. Yes.</p> <p>21 MR. CUSICK: Objection, outside the</p> <p>22 scope, and also to the extent it calls for legal</p> <p>23 conclusion.</p> <p>24 BY MS. BROYLES:</p> <p>25 Q. What do you know about that lawsuit?</p>	<p style="text-align: right;">Page 307</p> <p>1 complaint, either. There are lots of cases out</p> <p>2 there, and I -- I got enough trouble with the ones</p> <p>3 I'm in.</p> <p>4 Q. Okay. Are you familiar with Edge 2020</p> <p>5 professional redistricting?</p> <p>6 MR. CUSICK: Objection. Again, this is</p> <p>7 continuing to be outside the scope of the</p> <p>8 redirect.</p> <p>9 MS. BROYLES: Are you telling him not to</p> <p>10 answer or you're just --</p> <p>11 MR. CUSICK: Go ahead.</p> <p>12 THE DEPONENT: No. I'm not familiar with</p> <p>13 it. What is it?</p> <p>14 BY MS. BROYLES:</p> <p>15 Q. So I was just going to show you, this is</p> <p>16 what, like an auto bound report looks like. So</p> <p>17 this is SV 743. Have you seen any of -- like, it</p> <p>18 just says Edge 2020 down in the corner. So if</p> <p>19 that look familiar to you at all?</p> <p>20 A. Well --</p> <p>21 MR. CUSICK: Same objection.</p> <p>22 THE DEPONENT: I mean, the -- the plans I</p> <p>23 saw were not quite as clear as that one maybe, but</p> <p>24 they could have been produced by Edge. I don't</p> <p>25 know. I didn't really look to see exactly who</p>
<p style="text-align: right;">Page 306</p> <p>1 MR. CUSICK: Same objections.</p> <p>2 THE DEPONENT: I just know it was filed.</p> <p>3 And that -- and ultimately dismissed. I believe I</p> <p>4 know that too.</p> <p>5 BY MS. BROYLES:</p> <p>6 Q. Have you reviewed any of the documents</p> <p>7 from this case?</p> <p>8 MR. CUSICK: Same objections.</p> <p>9 THE DEPONENT: No. I don't think I have.</p> <p>10 BY MS. BROYLES:</p> <p>11 Q. How do you know about the case?</p> <p>12 A. Thanks to -- no, thanks to American</p> <p>13 Redistricting project, I can see cases that have</p> <p>14 been filed that have something to do with voting</p> <p>15 rights, and also on -- on democracy docket. And</p> <p>16 I'm pretty sure that I did see that that case was</p> <p>17 filed.</p> <p>18 I don't know if I actually looked at</p> <p>19 the -- I -- I certainly haven't looked at the</p> <p>20 complaint or any of the documents since I signed</p> <p>21 the retainer agreement with LDF. And I'm not even</p> <p>22 sure if I looked at the -- at that -- at that</p> <p>23 complaint or -- or the -- there's another case in</p> <p>24 Federal Court also, right? So I'm aware of that,</p> <p>25 and I don't remember if I even looked at that</p>	<p style="text-align: right;">Page 308</p> <p>1 produced it or why other than they were sending</p> <p>2 those. So that's all I have.</p> <p>3 MS. BROYLES: That is all the questions I</p> <p>4 got. Thank you.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</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</p>

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